

Arkansas State University - Jonesboro

Effective Date: 07/01/97

Number: 05-06

Section: Finance and Administration

Subject: Procurement Services: Professional Consultant Services Contracts

The principal purpose of a Professional Consultant Services Contract is the procurement of the services of an individual(s) by the state agency/university, rather than the procurement of commodities.

No contract for procurement of professional consultant services may be entered into which requires the services of one or more individuals on a regular full-time or part-time work week basis for longer than one year. In the unusual event that the best interest of the State would be served by a contract which exceeds one year, the chief fiscal officer may approve such contract, having first received the review of the Legislative Council or the Joint Budget Committee.

Generally, for any contract in which the total compensation exclusive of reimbursable expenses to be paid by the state agency does not exceed \$10,000, a purchase order may be utilized in lieu of the standard contract form.

PROCEDURES

Services under \$10,000.00:

Services under \$10,000.00 may be procured without seeking competitive bids or competitive sealed bids; however, competition should be used to maximum extent practicable. These will be put on a purchase order and processed normally.

Services between \$10,000 - 50,000.00:

Services between \$10,000 and \$50,000.00 must be bid using a RFQ (Request for Qualifications) or RFP (Request for Proposal).

The RFQ is, in the absence of sole source justification, the procurement method recommended when contracting for architectural, engineering, land surveying and legal services. It may also be used as the selection method for other PCS contracts when it is determined to be the most suitable method of contracting. The RFQ is sent to those vendors whose work resume indicates they are best suited to perform the work specified.

The agency makes its initial selection based upon the respondent's qualifications. Only after the most qualified respondent is identified does cost become a factor in determining the award. Discussions may be conducted with responsible offer or who based upon qualifications submitted are determined to be reasonably susceptible of being selected for the purpose of

clarification to assure full understanding of, and responsiveness to, the solicitation requirements, and to obtain best and final offers.

It is recommended that agencies continue filling out the contract forms with all pertinent information and signatures.

Current law allows state agencies with APO's to procure PCS's using a purchase order. Agencies are required to maintain copies of all purchase orders and will report monthly all such orders.

Sole Source contracts under \$50,000.00 shall be approved by the APO at the agency.

Emergency Procurements of PCS contracts that total \$50,000 or less may be procured using the method as described in R1 19-1-233 (A) through (C).

Services over \$50,000.00:

Services over \$50,000.00 must be bid using the RFP or RFQ process and MUST INCLUDE performance standards. Agencies are encouraged, however as a matter of good procurement principle, to include performance standards in all PCS contracts. The purpose of these standards will be to allow the agency to effectively measure the level of performance provided by the contractor at various stages of the contract.

Performance standards may be standardized for use with similar contacts or may be specifically developed for unique requirements.

Performance standards should measure, at prescribed points throughout the term of the contract, the quality and quantity of work being performed.

Performance standards may be refined by the agency and provider as a part of the contract negotiations.

A provider's inability to meet established performance standards may be sufficient cause for declaring default and may also result in cancellation of the contract.

Contracts that may be exempt from the use of performance standards include:

1. Sole source by law contracts in which the state is compelled as a result of court, state or federal mandate to award for services from a specific provider.
2. Emergency contracts in which the need for expediency does not permit for the development of performance standards.
3. Architectural and Engineering contracts that are awarded using SBS or similar criteria developed by those universities that are exempt from SBS review.

Disclosure Requirement: No contract for services greater than \$25,000 shall be awarded, extended, amended, or renewed by an agency to any contractor who has not disclosed as required in Executive Order 98-04. Contracts with another government entity such as a state

agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

For Emergency Procurements of PCS Contracts that exceed \$50,000, the Agency chief fiscal officer or equivalent may institute a request for emergency action review by providing in writing a request to the Director of State Procurement. The request must detail that to procure using other methods would endanger human life or health, state property or the functional capacity of the agency. The OSP Director may then approve submission of the contract to the Legislative Council. Under its emergency action procedures, the Co-chairpersons of the Legislative Council and/or the Co-chairperson of the Legislative Council Review Committee may review PCS contracts on behalf of the Legislative Council, provided a written report of the review process is presented to the Legislative Council at its next regular meeting.

Revised on 03/26/14.