

AGRICULTURE FAQ'S ON CONTRACTS, as of January 2, 2008

The following is a result of Agriculture staff passing the State Purchasing Certified Contract Managers class, and discussion with State Purchasing staff.

When is a contract required? For practically any service, and commodities over certain dollar values. State Purchasing does recognize obtaining a contract for one time services that do not exceed \$1,000 in a fiscal year can be difficult (however, State Purchasing still recommends having a contract). Many agencies use the agency purchase order process to achieve these small one time services. This can be accomplished through Agriculture's purchase order process, and the vendor still needs to have workers comp insurance (or the waiver), and also insurance as required by Risk Management. Additionally, if services with the same vendor are anticipated to exceed \$1,000 per fiscal year, a contract is required. The State Administrative Manual (SAM) section 1500 provides the limits for services that do not require contracts (which are very few), and direct purchase authority for commodities (including equipment repair). SAM and other publications are available on the Budget Division website under publications: <http://budget.state.nv.us/publications.htm>.

Insurance: All contractors are required to have proof of insurance prior to starting work (unless Agriculture is otherwise advised by Risk Management), including workers comp (or the waiver for sole proprietors). **It is the responsibility of both the contract manager and the contract monitor to insure the contractor has the required insurance prior to starting work (more on contract managers and monitors below).** Risk Management has a really nice guide concerning Insurance & Indemnification, which is used on the latest contract form. It is located at: <http://risk.state.nv.us/State%20Contracting%20.htm>. The Risk Management page is also a great resource for a variety of risk management questions.

Contract approval: Contracts with a total value of less than \$1,999 for the contract period can be approved by the agency, expect about 30 working days from the time the bidding process is started until the contract is considered. State Purchasing recommends sending all contracts to Deputy Attorney General (DAG) for review.

Contracts with a total value of \$2,000 - \$9,999 for the contract period go through our DAG, then to Budget Division and are forwarded to the clerk of the Board of Examiners (Director of Administration, Andrew Clinger) for consideration. Depending on Andrews work load, expect 60 working days from the time the bidding process begins until the contract is considered.

Contracts with an total value of \$10,000 to \$99,999 for the contract period go through our DAG, then to Budget Division and are forwarded to the Board of Examiners (Governor, Secretary of State, and Attorney General), and can take from 45 to 210 working days from the time the bidding process starts until the contract is considered. If an agency has a contract on the Board of Examiners (BOE) agenda, the agency is expected to send a representative (typically the contract manager and other involved staff) to the meeting. The BOE meets once a month.

Contracts with a total value of \$100,000 and above are typically negotiated and facilitated on our behalf by State Purchasing, and usually follow the process for contracts with values of \$10,000 - \$99,999.

Competitive bidding: For contracts between \$0 - 24,999 a year, the agency must show proof that it tried to obtain three bids; contracts valued between \$25,000 - \$99,000 per year require a formal bidding process (Request for Proposal) as specified under NRS 333; and contracts

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valued at \$100,000 and above per year are negotiated on our behalf by State Purchasing. Beside the fact the agency needs to follow state procedures, following bidding requirements becomes imperative if the agency later needs to amend the contract.

Contract language: The latest form (with instructions) is available at: <http://purchasing.state.nv.us/masters.htm>; for independent contractors, please refer to the "Independent Contractor Basic Contract; for interlocal agreements, please refer to the "Intrastate Interlocal Contract Form". Agriculture's Administrative Services Division is ready to assist you with completing the contract forms. The standard contract form cannot be modified, unless reviewed and approved by the DAG. In the majority of cases, there should be no need to modify the standard contract form. If the contract has been signed, by any party, under no circumstances should any part of the contract be changed without approval of each party (which is generally an initial by each party by the change). Many times the contract is simply redrafted for everyone's signature. If a contractor initials in the "Yes" section of any of the seven questions in the contract (the Employee/Employer relationship test), the agency needs to provide a memo indicating why the contractor initialed in the "Yes" column.

Scope of work: The scope of work needs to be specific to insure the contractor delivers the services desired, and the agency receives the anticipated services. A well written scope of work helps to insure a "win – win" relationship between the agency and the contractor.

Length of contracts: Contracts should be re-bid at least every 4 years.

Contract managers and monitors: The agency must assign a person to monitor the contract. This person is generally a program manager, and is responsible to monitor services provided by the contractor, and determine whether or not the scope of work is being met. This person would also approve the services the contractor purports to provide on the invoice have indeed been provided to the satisfaction of the scope of work. Contract invoices should not be processed by the Division of Administrative Services without the contract monitor's approval.

A person is also assigned to manage the overall contract process, and insures the agency has followed the applicable NRS, NAC and State Administrative Manual requirements. This individual should also be in contact with the contract monitor on a regular basis (monthly would be good) to keep abreast of problems or changes needed to the agreement. In Agriculture, the primary contract manager is Margi Scheid and Maureen Groach is the backup.

This is not all inclusive, and there are exceptions to some of these rules, such as emergencies or sole source providers.

Additional Resources: The State Purchasing webpage: <http://purchasing.state.nv.us/>, is the best resources for the latest information concerning contracts, including existing statewide contracts. The Risk Management webpage: <http://risk.state.nv.us/>, is a great resource for providing "insurance, safety, loss prevention and risk management consultation services to state agencies and employees."