NEVADA DEPARTMENT OF AGRICULTURE
CONTRACTS
POLICY #AG-2-ADM-5

PURPOSE:

Establish a policy and procedure for the execution, enforcement and signatory authority for all contracts that ensures state and federal rules and regulations are complied with and to ensure that the Department pays a fair price and gets good value for contracted services. In addition, the Department wants to ensure that a free, open and transparent competitive process is used in securing contract services, and that all contracting activities and decisions are documented properly.

POLICY:

Contract Definition

The Department recognizes a contract as an agreement between two or more parties that is intended to have a legal effect about what each party is to do, or to refrain from doing, a particular thing in exchange for something of value. The agreement contains an offer and an acceptance (meeting of the minds), consideration for the exchange (something of value), spells out the terms of the agreement without ambiguity, and is signed by authorized representatives of the parties with the proper capacity to enter into the agreement. The written contract is an enforceable document and will clarify all understandings and obligations between the Department and the contractor in order to prevent any misunderstandings. The terms of the agreement –who, what, where, when, and how of the agreement - define the binding promises of each party to the agreement.

Contracting Documents

The types of documents that constitute contracts and that are subject this policy, except where a specific written exception in this policy applies, are the following:

1. Contract for Services with an Independent Contractor
2. Memorandums of Understanding
3. Memorandums of Agreement
4. Non-disclosure Agreement
5. Contracts with Hotels, Convention Centers or other Facilities which require a written agreement.
6. Purchase Agreements
7. Cooperative Agreements
8. Maintenance Agreements
9. Interlocal Agreements

10. Rental Agreements for Goods or Services
11. Sale, Lease, or Donation of Department Goods and Services
12. Good of the State Contracts, including Temporary Services
13. Leases
14. Construction Agreements
15. Software and Hardware agreements

Cooperation and Approval

Employees or staff wishing to enter into negotiations for contracts such as those described above must have the cooperation and approval of program and administrative staff that would be directly or indirectly implicated in the performance of the contract.

Contract Timelines

Contracting for services is not something accomplished overnight. Contracting in government requires transparency, documentation and assurances of fairness and for these reasons there are many statutes, regulations, policies and procedures that have to be met as well as many levels of approval. Oftentimes contracts require research, negotiations, reviews, and corrections before a contract is can be fully executed. And in many cases, program staff, administrative staff and vendors have full workloads and many responsibilities that prevent them from responding to tasks or requests immediately.

Staff should begin the contracting process three or four months out from the expected start date for the desired delivery service. For large contracts, especially those that require Board of Examiners approvals or needing a work program for funding, staff should start the contracting process four to six months out. And for contracts that involve the Purchasing Division, the contracting process can take anywhere from 4 months to over a year to complete.

Documented, Transparent Competitive and Fair Process-Three Bids, or Proposals Required for all Contracts

No matter how small the contract it is important to ensure that the prices we pay are competitive and that the agency is getting a good value. This does not mean that we go with the with the lowest price every time, but only that we pay a fair price and that we document and make transparent how these decisions were made. It is important that we shop around and get what we paid for.

The Department shall, whenever possible, solicit, review and document at least three (3) bids or proposals for each contract, except for minor non-structural remodeling, repair, and maintenance work requiring the use of outside labor and having an

estimated cost of less than $5,000.

Prohibitions and Circumvention

All Department employees shall disclose and abstain from participating in any contracting activities in which they have a commitment in a private capacity (NRS 281A.065, NRS 281A. 420(1). Statute prohibits public officers or employees from participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he or she has a significant pecuniary interest (NRS 281A.400, NRS 333.810).

A contract for services entered into by Department employees contrary to the provisions of Nevada Revised Statutes, the State Administrative Manual, the rules and regulations of the Purchasing Administrator, and Department of Agriculture's policies and procedures shall be void. An employee who actually enters into such a contract or agreement shall be personally liable for any cost incurred.

SCOPE:

This policy applies to all Department of Agriculture employees, contractors, and all other persons who wish to establish a contract between the Department of Agriculture and another party for goods or services.

REFERENCES:

NRS Chapter 277.080 to 277.170; NRS Chapter 281, NRS 281A, NRS Chapter 284.173; NRS Chapter 333, NRS Chapter 353, NRS Chapter 353A, NRS Chapters 616A to NRS 616D, NAC Chapter 284.650, NAC Chapter 284.738, NAC Chapter 284.754, NAC Chapter 284.766, NAC Chapter 333, SAM Chapter 0300, and SAM Chapter 1500.

KEY ROLES AND RESPONSIBILITIES

Director's Office

Only the Director and the Fiscal Administrator or their designee have the authority to sign a contract on behalf of the Department. All contracts must be reviewed and signed by the Fiscal Administrator before going to signature to the Director.

Fiscal Administrator

Approves all RFP documents required for contacts that require a formal RFP as defined by the State Administrative Manual (SAM) before they are sent out to outside entities for

review or for response. Approves all Solicitation Waiver Request.

Budget Analyst

All contracts are to be initiated through the Budget Analyst. The Budget Analyst will determine if there is sufficient budget authority, sufficient funding, and if the nature of the contract meets the purpose of the fees, and will determine if the contract was built into the legislatively approved budget and if not whether or not it is feasible to request additional authority.

The Budget Analyst will review the contract before it is submitted to the Fiscal Administrator for approval. The Budget Analyst will ensure that scope of work is clear, coherent, that deliverables and deadlines are clearly defined and presented, and complies with state and federal regulations. The Budget Analyst will also make sure that the budget is mathematically correct, calculations are shown, and proper and competitive rates are being used.

The Budget Analyst is the final approval on all contract payments. The duty of budget analyst is to make sure there is sufficient evidence that deliverables and the terms of the agreement are being met in relation to the budget and the contract payment being requested.

Agency Contract Manager

Per the State Administrative Manual (SAM) 0322 all state agencies are required to identify an internal, professional level position to function as the agency's contract manager.

This position is responsible for facilitating the agency's RFPs, conducting complex agency solicitations or, in the event of decentralized agency purchasing procedures, the review and approval of agency solicitations and the resulting contracts for compliance with NRS Chapter 333, NAC Chapter 333, and SAM Chapter 0300. This position is responsible tracking all contracts and their progress and is responsible for notifying staff and management when contracts are needed, when contracts need to be amended, or when contract are about to expire.

The Agency Contract Manager is the official keeper and reviewer of all contract documentation. All contract documentation must be reviewed by the agency contract manager before it is submitted for response or approval. The list of documents that must be reviewed by the Agency Contract manger includes, but is not limited to, the following documents in **Table 1-1**:

Table 1-1

• **All documentation related to informal bids, Request for Proposals, Request for Qualifications, Request for Information, and Request for Applications;**
• **All responses to informal bids, Request for Proposals, Request for Qualifications, Request for Information, and Request for Applications;**
• **All questions and answers between the Department and vendors during the request and response process.**
• **Solicitation Waiver Request**
• **Assignments for Contract Evaluations Committee**
• **All scoring and evaluations used in determining contract awards**
• **All notification of awards and letters of intent**
• **All negotiation communications**
• **Final Contract, contract amendments and contract extensions and any all communications related changes to the terms, scope, and budget.**

The Agency Contract Manager will review the contract before it is submitted to the Budget Analyst for review. The Agency Contract Manager will ensure that scope of work is clear, coherent, that deliverables and deadlines are clearly defined and presented, and complies with state and federal regulations. The Agency Contract will also make sure that the budget is mathematically correct, calculations are shown, and proper and competitive rates are being used.

Program Contract Monitor

Apart from the Agency's contract manager, each individual contract has to be a assigned a contract monitor who has direct involvement with the program benefitting from the contract.

The individual contract monitor is responsible for developing the scope of work and budget for the contract and is responsible for monitoring of the contractor's performance, ensuring deliverable's are met.

Contract Teams

To improve communications, to minimize errors and reduce the burden on perspective vendors a contract team is required. For contracts between $0 to $24,999, the contract team will consist of the Budget Analyst, the Agency Contract Manager, and the Program

Contract Manager. The contract team led by the Budget Analyst will create a written contract plan that will outline a timeline, proposal, evaluation and awarding requirements, insurance requirements, scope of work contents and budgets based on the Contract Request submitted by the program staff requesting the contract.

For contracts $25,000 and above, the contract team will consist of the Fiscal Administrator, the Division Administrator, Budget Analyst, the Agency Contract Manager, and the Program Contract Manager. The contract team led by the Fiscal Administrator will create a written contract plan that will outline a timeline, proposal requirements, insurance requirements, scope of work contents and budgets based on the Contract Request submitted by the program staff requesting the contract.

Accounting Staff

The accounting staff using the contract folder and the contract log will make sure that rates and calculations are correct and that there is sufficient balance to make the payment being requested.

Internal Audit Team

At a minimum the internal audit team, as put together by the Fiscal Administrator and ASO III, will conduct an audit of the Department's contracting process based on the Department of Administrations Division of Internal Audits Self-Assessment Questionnaire (SAQ) and the Department's Policies and Procedures. The written results of the audit will be presented to the Deputy Director, the Fiscal Administrator, and the ASO III.

PROCEDURES FOR CONTRACTING FOR SERVICES

Initiating the Contract Process

The Program Contract Monitor needs to initiate the contract process by filling out completely the Department's Contract Request Form and having his or her Supervisor and Division Administrator sign off on the form. Next, the Program Contract Monitor needs to submit the completed form to their assigned Budget Analyst. The Budget Analyst will make a copy of the submitted form for the Agency Contract Manager who enter in the Contract Request Form into the Department's Contracts Database. Next, the Budget Analyst who set up a Contract Coordination meeting with the Program Contract Monitor (attendance by a Supervisor or Division Administrator is optional), the Agency Contracts Manager and the Budget Analyst.

Contract Planning Coordination Meeting(s)

The contract planning coordination meetings should accomplish the following:

1) Develop a Reasonable Timeline for fully execute proposed contract for services;
2) Review past agreements and/or payments for similar services and review past performance of previous vendors;
3) Determine an expected Contract Amount;
4) Determine expected Beginning and End Dates for Contract;
5) Determine if sufficient Budget Authority exists;
6) Identify Source of Funds;
7) Determine Method of Payment;
8) Determine Budget Items, if required, and estimate of budget item amounts;
9) Determine Minimum Insurance Requirements;
10) Determine Solicitation Method;

The Agency Contract Manager is responsible for documenting the planning process, disseminating this information to all parties involved in the planning process after each meeting, and the Agency Contract Manager is responsible for maintaining evidence of the planning process.

Reasonable Timelines for Fully Execute Contracts

The following is a guide to the expected timeline for various contract dollar amounts:

- ***Contracts equal to or less than $1,999.99:*** *Given a full fiscal staff and no issues with the awarded vendor, these contracts should not take more than a month to fully-execute form the time the contract process was initiated.*

- ***Contracts equal to or greater than $2,000.00 and less than $25,000.00:*** *Staff should plan on a contract in this dollar range to take two to three months to be fully executed from the time the contract process was initiated.*

- ***Contracts equal to or greater than $25,000.00 and less than $100,000.00:*** *Staff should plan on a contract in this dollar range to take three to six months to be fully executed from the time the contract process was initiated.*

- ***Contracts equal to or greater than $100,000.00:*** *Staff should plan on a contract in this dollar range to take at least six months to be fully executed from the time the contract process was initiated.*

Review past agreements and/or payments for similar services and review past performance of previous vendors and determine contract amount and expected beginning and end date for contracts

The purpose of this step is two-fold: 1) Develop reasonable cost expectations; and, 2) Identify what worked and did not work in the past.

The results of this review will determine what programmatic and fiscal adjustments are needed to make the new agreement successful and ensure the Department gets the best value possible. Examples of issues to be addressed in the review include analyzing:

- All required tasks and services were completed in accordance with the agreement;
- Program objectives were met'
- There was proper accounting of all funds expended under the agreement;
- Expenditures were in accordance with the laws, rules, and regulations governing the specific program and funding source
- The level of service provided supported the amount paid under the agreement (price/cost analysis).

Determine if Sufficient Budget Authority Exists

Once the a dollar amount or a dollar range has been determined for the proposed contract, the Budget Analyst should verify if sufficient budget authority exist for supporting this contract for its proposed term. If insufficient budget authority exists, then a meeting with the Fiscal Administrator needs to be held to determine if a work program is feasible and to coordinate the timing of the work program with the proposed contract request;

Identify the Source of Funds

The next step in planning is to identify the source of funds for the agreement. Each funding source may have different restrictions. Identification of the source of funds is necessary to determine the specific laws, rules, and regulations that apply and must be included in the agreement.

This information is important. Both the Department and the provider need to fully understand which activities and costs are allowable and which are prohibited.

Determine Method of Payment

This step in the planning process determines which method of payment best ensures the delivery of services and provides the best value for the Department. Each method of payment has its advantages and disadvantages:

- Fixed Amounts on a Periodic Basis (Monthly, Quarterly, etc.). This method creates an even cash flow for the provider, however, requires minimum performance standards. This should be only used if services are being procured competitively and/or if historical costs are available to provide a basis for the fixed price.

- Fixed Rate (hourly, per client, etc.). This method tends to provide the greatest incentive for performance as payment is triggered by performance. This should be only used if services are being procured competitively and/or if historical costs are available to provide a basis for the fixed price.

- Cost Reimbursement. This method means that the vendor or provider is reimbursed for allowable and budgeted expenditures that are directly related to the project. This method requires minimum performance standards and requires more fiscal monitoring due to the review of expenditure submitted for reimbursement.

- Combination. A combination of two or more of the payments methods listed above.

Determine budget items, if required, and an estimate of budget item amounts

This step in the planning process determines what budget items will need to be included as part of the contract. Typical budget items are:

1) Personnel
2) Travel
3) Operating Supplies
4) Printing and Mailing
5) Contracts
6) Equipment

Determine minimum insurance requirements

The Agency Contract manager should be able to make this determination based on Risk Management's requirement list in their Insurance and Indemnification Requirements for Contracts manual found at http://risk.nv.gov/Contracts/CR. If minimum insurance requirements cannot be determined from Risk Management manual, then the Agency Contract manager must consult with the Budget Analyst and Fiscal Administrator before contacting Risk Management directly.

Determine Solicitation Method

The following are the **required** solicitation methods for different contract amounts:

- ***Contracts equal to or less than $1,999.99:*** *Three (3) informal quotes.*
- ***Contracts equal to or greater than $2,000.00 and less than $25,000.00:*** *Informal Solicitation.*
- ***Contracts equal to or greater than $25,000.00 and less than $100,000.00:*** *Formal Solicitation (RFP).*
- ***Contracts equal to or greater than $100,000.00:*** *Formal Solicitation (RFP).*

Sole Source Solicitation Waiver

A sole source solicitation waiver will be used when it has been determined and documented by the Program Contract Monitor and verified by the Agency Contract Manager and Budget Analyst that they reasonably believe there to be only one known qualified vendor.

A qualified vendor shall be one meeting or exceeding the minimum statutory, regulatory, and published or solicited minimum contractor qualifications.

Per SAM 0338, a qualified vendor shall be deemed to mean:

1. The only qualified respondent to a State initiated quote solicitation, proposal solicitation or solicited minimum contractor qualifications;
2. The only qualified respondent to a published RFP;
3. The only qualified vendor otherwise demonstrable in fact.

Solicitations Methods and Requirements

Three (3) Quote Requirement for Contracts Equal to or Less than $1,999.99

Three quotes are required for all contracts equal to or less than $1,999,99. Program contract monitor can solicit quotes verbally, by phone, email, or hard copy. Quotes given verbally or by phone have to be documented on the Informal Quote Form. This requires that the Program Contract Monitor identify the vendor supplying the quote, the date the quote was received, the phone number and address of the quote, the length of time the quote is good for. Once quotes have been received and documented, the Program Contract Monitor needs submit the Informal Quote Form to Agency Contract Manager within three (3 business) days of receiving the quotes.

The Agency Contract Manager is required to verify any quotes received verbally or received by phone within three (3) business days and sign off on the Informal Quote Form once quotes have been verified. If quotes can be verified, then the Agency Contract Monitor will submit the form to the Budget Analyst for approval.

If quotes cannot be verified then the Agency Contract Manager will return the unsigned form back to the Program Contract Monitor to solicit the required quotes and submit the new form with the accurate information for verification and signature.

In the case that three quotes cannot be gathered, the Program Contract Monitor will list the quotes that all the could be gathered and provide an explanation why three quotes could not be collected on the Informal Quote Form and submit it to Budget Analyst for approval. The explanation should identify all vendors contacted that did not or declined to provide quotes and/or provide an explanation why only one vendor can provide this service and submit the Informal Quote Form to their assigned Budget Analyst for approval. The Budget Analyst will verify the Program Contract Monitor's explanation before approving the form. If it is determined that additional quotes or vendors can be solicited they Budget Analyst will return form to the Program Contract Monitor to solicit additional quotes.

Informal Solicitation Requirement for Contracts Equal to or Greater than $2,000.00 and less than $25,000.00

Develop Standard Evaluation Criteria for All Proposals

Before the Informal Solicitation can be published, the evaluation criteria and their weights for all proposals must be determined. For contracts up to $9,999.99, the Program Contract Monitor is charged with the responsibility for developing evaluation criteria and their weights. The methodology for developing evaluation criteria and their weights must be documented.

The assigned Budget Analyst and Fiscal Administrator will be the final approval on all evaluation criteria and their weights developed for contracts up to $9,999.99. The methodology for developing evaluation criteria and their weights must be documented and available for review before they can be approved.

For all contracts equal to $10,000.00 or greater, the evaluation criteria and their weights will be determined by the Fiscal Administrator in conjunction at a minimum with the Program Contract Monitor. These criteria and their weights will be developed using the Analytic Hierarchy Process (AHP). The ASO III and the assigned Budget Analyst will be the final approval on all evaluation criteria and their weights for contracts equal to $10,000.00 or greater.

Evaluation Committee Selected

Before the Informal Solicitation can be published, the evaluation committee must be selected. The Program Contract Monitor is responsible for develop a list of potential committee members. When developing a list of potential committee members Program Contract Monitors must make sure the following requirements are met:

1) Must have an odd number of committee members. Three or five committee members is typically the preferred number, depending on the size on the complexity of the contract.
2) No member of an evaluation committee can have any supervisory authority over another committee member on a committee. For example, the Director, Deputy Director, Division Administrator or Supervisor of a committee member would not be eligible to be part of the same committee.
3) One of the committee members must be either the assigned Budget Analyst or Agency's Contract Manager.

Not all committee members must be a Department employee, but they must have documented experience or expertise related to the services being requested. A

resume must be submitted for review before an employee from outside the Department can be approved as a committee member.

Once the Program Contract Monitor has develop their list of proposed committee members they must submit this to the Agency Contract Monitor who make sure the requirements for selection of committee members have been met. If these requirement have been met, then the Agency Contract monitor will forward the proposed list to the Program Contract Monitor's Division Administrator for approval. Next, if the Division Administrator approves the proposed list of evaluation committee members, then the proposed evaluation committee list will be routed to the Fiscal Administrator for final approval.

Identify Potential Vendors and Posting Sites

The Program Contract monitor is responsible for developing a list of potential vendors and posting sites.

This list is to be submitted to the Agency Contract Monitor to route to for approval by the Program Contract monitor's Division Administrator, assigned Budget Analyst, and the Fiscal Administrator for final approval.

Method of Payment and Budget Format for Cost Proposal

The method of payment and budget format for requested cost proposals will be determined by the assigned Budget Analyst and Fiscal Administrator.

Creating the Informal Solicitation

The Program Contract Monitor will be responsible for drafting the Informal Solicitation for any request contracts for services equal to or greater than $2,000 and less than $25,000. The informal solicitation must include, but is not limited to, the following elements:

1) A Scope of Work: Identifies all tasks and/or services that the provider would be required to perform and details the delivery of services, including the delivery schedule and any required documentation required to support the delivery of services;
2) Desired Method of Payment and format for cost proposal;
3) Identify insurance requirements;
4) If applicable, must note that a Nevada Business License is required before execution of contract;
5) Anticipated commencement date, based upon Board of Examiner's approval;
6) Contract period (six months, one year, etc.)

7) Minimum response requirements, that must include, but are not limited to:
    a. Experience providing requested services;
    b. Proof of any required or applicable licenses, certificates, training, etc.
    c. A copy of their Certificate of Insurance
    d. Contract person, and telephone number for service inquiries
    e. Provide a minimum of three references
    f. Company ownership and length of time in business
    g. Presentation of Cost according to method of payment listed above
8) Copy of the State' standard Contract for Services of Independent Contractor form for their review, which include Attachment BB that identifies the minimum insurance requirements that contracted vendors will be expected to maintain for the life of the contract.
9) The Agency's Contract Manager's email contact information concerning this solicitation
    a. Identify that all questions and responses must be in writing
    b. Identify that written responses to all questions will by such and such date to all vendors who submit questions.
10) Statement that incomplete or late proposals will not be considered.
11) A reasonable written proposals due date and time, PST. It is recommended that this time frame be 10 to 14 business days.
12) Written proposals must be addressed to the Agency's Contract Manager.

Developing a Scope of Work

The scope of work identifies all tasks the vendor or provider is to perform and should include instructions on how these tasks are to be accomplished. A properly developed scope of work should remove most, if not all, questions that might arise about the services being contracted.

When developing the scope of work, both the Program Contract Monitor and the assigned Budget Analyst should give careful consideration to the fact that the delivery of all task/services will need to be verified during the monitoring process. A poor scope of work make monitoring very difficult. Careful consideration should be given careful consideration to the documentation needed to adequately support the delivery of services.

All scope of works should:

- Clearly establish **all** task/services that the provider is required to perform. A vague scope of work does not the let the provider know what it needs to do and accomplish;

- Be specific and detail the direction regarding the delivery of services and the documentation required to support the delivery of services.
- Be directly related to the goals and objectives of the program. If the goals and objectives are not directly related to the program, then the mission of the agency or the program will not be achieved.
- Establish minimum performance standards such as staffing levels, minimum qualifications of staff, acres treated, clients served, etc.

Deliverables

A deliverable is an event that triggers a payment. For each task identified in the scope of work there should be an associated deliverable.

Deliverables should:

- ✓ Be directly related to the scope of work;
- ✓ Be used to measure the provider/vendor's progress;
- ✓ Be specific, quantifiable, measurable, and verifiable;
- ✓ Be a necessary part of the provider/vendor's performance;
- ✓ Be identified in the agreement along with a description of what constitutes successful performance of the event;
- ✓ Include minimum performance standards.

Required Reports

Reports are sometimes confused with deliverables. Reports alone may not necessarily be a deliverable, but the means of attesting to the services providing during the reporting period (payment period). The scope of work should clearly describe the timing, nature, and substance of all reports the provider is required to prepare.

When requiring reports the following should be including their description:

- ✓ Dates when reports are due;
- ✓ Standard format for reports;
- ✓ Prescribe the order that records or information is to presented in a report;
- ✓ Require the provider/vendor to maintain documentation to support the information in the reports.

Final Approvals of Informal Solicitation before It is Published

Once the Program Contract Monitor has developed the Informal Solicitation they need to submit to the Agency's Contract Manager who will route the Informal

Solicitation to the for approval by the Program Contract monitor's Division Administrator, assigned Budget Analyst, and the Fiscal Administrator for final approval.

Agency Contract Manager to Post and Advertise Informal Solicitation

When the Informal Solicitation has been approved by the Fiscal Administrator, the Agency Contract Manager will be responsible for posting and advertising the Informal Solicitation according the approved vendor and site list.

All Informal Solicitations have to be posted on the Department's website.

Agency Contract Monitor To Receive and Provide Initial Technical Review of Proposals

All written proposals must be sent to Agency Contract Monitor. The Agency Contract Monitor will provide the initial technical review of proposals to ensure all written proposal submitted are complete, unless otherwise determined by the Fiscal Administrator. Technical review simply means that the Agency Contract Monitor will make sure that all written responses have been provided but will not make any qualitative judgments about completeness.

Agency Contract Manager Required to Reject Any Late or Incomplete Proposals

To ensure fairness to all vendors, any proposals received past the posted date and time will not be considered nor will any incomplete proposals be considered.

Formal Solicitation (Request for Proposals) Requirements for Contracts Equal to or Greater than $25,000.00

Use State's Approved RFP Template to Develop Formal Solicitation

The Department is required to use the approved RFP template to develop a formal solicitation for a contract greater the $25,000.00, which may be obtained at the State Purchasing Division's website at http://purchasing.state.nv.us.

Agency Contract Monitor Will Draft RFP Template

The Agency Contract will be responsible for collecting the required information for the RFP Template and putting it together for review.

RFP Timeline

When establishing the timeline for the RFP, it is recommended that the amount of time from the date the RFP is released until the proposal submission deadline (proposal opening) be six to eight weeks. The minimum timeline as recommended by the State Purchasing Division is four weeks.

Develop Standard Evaluation Criteria for All Proposals

Prior to an RFP being released, the evaluation criteria must be determined and listed in the RFP document in order of importance; weight factors for the evaluation criteria must be established and maintained confidential until a contract has been awarded.

The evaluation criteria and their weights will be determined by the Fiscal Administrator in conjunction at a minimum with the Program Contract Monitor. These criteria and their weights will be developed using the Analytic Hierarchy Process (AHP). The ASO III and the assigned Budget Analyst will be the final approval on all evaluation criteria and their weights.

Evaluation Committee Selected

Before the RFP can be approved, the evaluation committee must be selected. The Program Contract Monitor is responsible for develop a list of potential committee members. When developing a list of potential committee members Program Contract Monitors must make sure the following requirements are met:

1) Must have an odd number of committee members. Three or five committee members is typically the preferred number, depending on the size on the complexity of the contract.
2) No member of an evaluation committee can have any supervisory authority over another committee member on a committee. For example, the Director, Deputy Director, Division Administrator or Supervisor of a committee member would not be eligible to be part of the same committee.
3) One of the committee members must be either the assigned Budget Analyst or Agency's Contract Manager.

Not all committee members must be a Department employee, but they must have documented experience or expertise related to the services being requested. A resume must be submitted for review before an employee from outside the Department can be approved as a committee member.

Once the Program Contract Monitor has develop their list of proposed committee members they must submit this to the Agency Contract Monitor who make sure the requirements for selection of committee members have been met. If these requirement have been met, then the Agency Contract monitor will forward the proposed list to the Program Contract Monitor's Division Administrator for approval. Next, if the Division Administrator approves the proposed list of evaluation committee members, then the proposed evaluation committee list will be routed to the Fiscal Administrator for final approval.

Identify Potential Vendors and Posting Sites

The Program Contract monitor is responsible for developing a list of potential vendors and posting sites.

This list is to be submitted to the Agency Contract Monitor to route to for approval by the Program Contract monitor's Division Administrator, assigned Budget Analyst, and the Fiscal Administrator for final approval.

Method of Payment and Budget Format for Cost Proposal

The method of payment and budget format for requested cost proposals will be determined by the assigned Budget Analyst and Fiscal Administrator.

Review and Final Approvals of RFP Template before Publication

Upon completing the RFP Template, the Agency's Contract Manager will submit the RFP Template to the Program Contract Monitor for a final review. The Program Contract Monitor will submit the RFP back to the Agency's Contract Manager after their review. The Agency's Contract will make any correction or modification requested and will route the RFP Template to the for approval by the Program Contract monitor's Division Administrator, assigned Budget Analyst, and the Fiscal Administrator for final approval.

RFP Publication: The Department versus The Purchasing Division

The Department is in charge of publishing and posting the RFP for contracts equal to or greater than $25,000.00 per year and less than $100,000.00 per year.

When the RFP has been approved by the Fiscal Administrator, the Agency Contract Manager will be responsible for posting and advertising the RFP according the approved vendor and site list. RFPs must be advertised one time in a paper of general circulation. Consideration should be given as to whom the

agency is trying to target for this solicitation, i.e., services in rural Nevada should be advertised in a paper serving that area.

The Purchasing Division is responsible for the publishing and posting the RFP for contracts equal to or greater than $100,000.00.

All RFP's have to be posted on the Department's website.

RFP Opening Public and Submitted Proposals to Remain Confidential

The RFP opening is public; the only information that is made available is the names of the vendors who submitted proposals. Submitted information is confidential and should only be shared with the evaluation committee members.

Question and Answer Period

The RFP must allow for a question and answer period within the RFP timeline. All questions must be received in writing, placing them anonymously into an RFP amendment with the subsequent State response to the questions. This RFP amendment is then forwarded to all prospective vendors who submitted questions and made available to any other interested parties. The template for an amendment to the RFP is available from the Purchasing Division.

Agency Contract Monitor to Receive and Provide Initial Technical Review for RFP's not submitted through the Purchasing Division

All written proposals must be sent to Agency Contract Monitor. The Agency Contract Monitor will provide the initial technical review of proposals to ensure all written proposal submitted are complete, unless otherwise determined by the Fiscal Administrator. Technical review simply means that the Agency Contract Monitor will make sure that all written responses have been provided but will not make any qualitative judgments about completeness.

Agency Contract Manager Required to Reject Any Late or Incomplete Proposals

To ensure fairness to all vendors, any proposals received past the posted date and time will not be considered nor will any incomplete proposals be considered.

Solicitation Waiver Justification and Request

If the Program Contract Monitor along with their Division Administrator feel that a particular contract is not compatible with competitive solicitation, then provide written

request and justification for a solicitation waiver to the Fiscal Administrator through their assigned Budget Analyst and the Agency's Contract Manager.

If the Fiscal Administrator determines this is a reasonable and justifiable request, then the Fiscal Administrator will provide written approval to the Program Contract Monitor through their Division Administrator to proceed with completing the Purchasing Division's **Solicitation Waiver Justification and Request Form.**

Upon completion of the Solicitation Waiver Justification and Request Form, the Program Contract Monitor will submit the form to the Fiscal Administrator for final approval. If approved, the Fiscal Administrator will submit the from to the Administrator of the Purchasing Division for approval.

Nevada Administrative Code (NAC) 333.150(2)(a) & (b)(6) authorizes the Administrator of the Purchasing Division to waive the solicitation requirements in instances where contracts by their nature are not compatible with competitive solicitation; such contracts may be sole or single source or a professional service not adaptable to competitive selection. Nevada Revised Statute (NRS) 333.400 provides similar authority with respect to sole source commodity purchases.

The review process is generally completed within ten (10) working days which includes posting the request, if approved, for five (5) calendar days on the Purchasing Division's website. **PLEASE NOTE**: If your request contains an IT component, the review process will be extended to allow for additional review. The Department is not authorized to proceed until the five (5) calendar day period has expired and the Purchasing Division has not received a protest of the contract award. In the event of a protest, the **Fiscal Administrator** will be notified and the authorization to proceed withheld until resolution has been obtained.

Agencies are requested to review NAC 333.150 prior to submitting a Solicitation Waiver to ensure the request falls within the guidelines specified. A request for Solicitation Waiver from the Administrator of Purchasing is not required and should not to be submitted for the professional services described in NAC 333.150(2)(b) (1), (2), (3), (4) or (5).

Evaluation Process

The following lists the evaluation requirements for different contract amounts:

- ***Contracts equal to or less than $1,999.99:*** *Evaluation is done by the Program Contract Manager. If the lowest bidder or lowest quote is not chosen the Program Contract Manger must provide a written justification demonstrating reason for not choosing lowest bidder.*

- ***Contracts equal to or greater than $2,000.00:*** *Evaluation committee members are to evaluate the technical proposal individually, with the Agency's Contract Monitor setting a group evaluation committee meeting in order for there to be a consensus meeting to rank the technical proposals. The next step in the group meeting is to present and score the cost proposals. This may be done at the same meeting; however, when dealing with difficult or complex scopes of work it may require an additional meeting. The outcome of these meetings is the determination of the overall ranking after factoring in the technical proposal and cost proposal scores. The highest-ranking vendor is then issued a letter of intent to contract, at which time the negotiation process may begin.*

Letter of Intent to Contract Process

A letter of intent to contract is not required for contracts for less than $1,999,99.

Along with their evaluations, the Evaluation Committee will submit a summary of their scoring in order of ranking to the Agency's Contract Manager. Based on the summary of scoring and rankings, the Agency's Contract Manager will draft the letter of intent of intent to contract for the highest ranking vendor for review by the Program Contract Monitor. The Program Contract Monitor will review and provides edit or comments to the Agency's Contract Manager. After making edits or comments, if required, the Agency's Contract Manager will submit the letter of intent to contract through the assigned Budget Analyst to the Fiscal Administrator for final approval.

The letter of intent to contract needs to be sent out no later than five (5) business days from when the Agency's Contract Manger receives the scoring and ranking summary form the Evaluation Committee.

Letter(s) of Intent to unsuccessful vendor must go through the same process and must be sent out not later than seven (7) business days from when the Agency's Contract Manager receives the scoring and ranking summary form the Evaluation Committee.

Negotiations

Rarely will a successful proposals be perfect and staff should be ready to negotiate certain terms of a successful proposals before fully-executing the contract. Accepting a proposals without negotiating may result in paying too much for the service. It is not uncommon for a contractor to inflate a price proposal in anticipation of making price concessions during negotiations. Moreover, failing to challenge restrictive terms and conditions may mean the Department is not an equal partner in the final contract. Contractors often include in proposals conditions or general clauses that can be used as throwaway-items that can be traded in exchange for items the contractor values more.

After the most responsive and responsible vendor has been selected and any protest issues are resolved, the Contract Team should begin negotiations. The first step the Contract Team should make in the negotiating process is identifying and agreeing on what items in the proposal need to be negotiated and why. In addition, the Contract Team should choose a chief negotiator. Before the Contract Team can begin negotiations, the Proposed List of Negotiated Items and Chief Negotiator should be submitted through the Agency's Contract Manager to the Program Contract Monitor's for approval and submitted to the Fiscal Administrator for final approval.

Below list some negotiation strategies that should be considered when negotiation the terms of the final contract:

- **Be prepared.** Know the details of the RFP and the contractor's proposal. Decide on the maximum price per contract year that can be paid for the service and the maximum amount for the unit prices or hourly rates and identify all aspects of the RFP that are non-negotiable. Identify any task or obligations in the RFP that could be eliminated from the final contract with little or no effect on the service and use these as bargaining chips during negotiation to retain other provision that are important.
- **Be sure to negotiate with someone who has authority.** If it at all possible, do not negotiate with anyone who does not have the authority to make binding decisions for the contractor. Items agreed on at the negotiating table should not be subject to rejection by a principal of the contractor. Consider canceling the session if no one on the contractor's team has complete authority to negotiate. Do not rely on titles. Many vice-presidents do not have the power to commit the firm to a contract. When in doubt, ask for written evidence of the negotiator's authority to make binding decisions for the contractor.

- **Negotiate high priorities first.** Negotiate the critical element first. If negotiations start with the discussion of minor issues, take a firm stand on some of them so that they can be traded later when more critical terms are negotiated.

- **Use the competition.** The contractor knows that the next-ranked firm is waiting in the wings if negotiations are terminated and knows that they may be required to lower cost to obtain the contract.

- **Consider the contractor's terms.** If the contractor proposes an unacceptable term, condition, or price, do not dismiss it outright. Instead, be prepared to present an alternative or modification. Although there are times to take a hard line, repeatedly rejecting proposed terms without discussing alternatives can antagonize the contractor's team.

- **Avoid open conflict.** Negotiation is a potentially volatile exchange that can unexpectedly escalate into confrontation. Remember that after negotiations are concluded, both sides must work together for the life of the contract. Avoid open

conflict with the contractor's team and always work toward an outcome based on respect for the other's position. If a contractor's question or proposal requires research or consultation with other team members, call a caucus and interrupt negotiations, but do this only if absolutely necessary.

- **Put it in writing.** All agreed upon negotiated items must be put in writing in order to avoid having to renegotiate settled issues. All issues resolved during negotiations should be listed at the conclusion of each session and principal negotiators must be required to sign the list. When the negotiations are complete, the documented results become the basis for the final contract.

- **Strive for a win/win situation.** Neither party leaves negotiations with everything it hoped for at the outset. Be prepared to yield on minor points to protect more important requirements. Never try to win it all. Instead, resolve differences through acceptable compromise so that both parties feel satisfied with the outcome.

Sole Source Negotiations

Sole source contracting does not require unconditional acceptance of a contractor's terms, conditions, or prices; there is always room to negotiate. It is almost certain that the contractor has provided the service to another organization or public agency and that agency may have paid less than the price currently being proposed or may have eliminated restrictive language from the proposal. It is worth the effort to try to identify and contact other service recipients and obtain a copy of their agreements. Many sole source providers are quick to provide a list of references.

Acknowledge that the contract is sole source, then advise the contractor that the final decision to contract depends on cost and level of service when compared with other methods of service delivery. As part of a standard package, the contractor may provide more services than desired. Calculate the cost of unnecessary frills and enhancements and negotiate to eliminate them from the contract. Deleting unnecessary items from the package can reduce the price without affecting the desired level of service.

Drafting Contract for Signature and Approval

Following successful negotiations, a contract will be drafted by the Agency's Contract Manager. The following is a list of required items for drafting contract

- The contracting agency and contractor information at the top of page one (1) fo the contract should be filled out completely and should identify: the agency, agency contact and title, address, telephone and fax numbers. The same information should be provider for the contractor.

- Section 3: Contract Term. In this section the date the contract will become effective. This is either prospective (contractor starts work on a date after the

Board of Examiners approval), retroactive (contractor can start work before the Board of Examiners approval), or it is upon/subject to Board of Examiner's approval (contractor can start work date contract is approved). The termination date is the date the contractor is to have completed all work identified within the scope of work (Attachment AA).

- Attachment AA: Agreed upon scope of work based on solicitation scope of work, vendor responses or quotes, and any negotiated items. For contracts that required a formal RFP, the RFP is Attachment AA.

- Attachment BB: Insurance Schedule

- Attachment CC: Vendor's response and/or quotes to the Department's solicitation and negotiated items.

Note: Contracts should not contain retroactive effective dates unless extraordinary circumstances exist that may justify the use of such provisions. All retroactive contracts must be submitted to the Budget Division with a memorandum of justification.

Notification of Award Required for Contracts Equal to or Greater than $25,000.00

When the contract with all required attachments is submitted to the Budget Division, the agency must issue a Notification of Award (NOA). Pursuant to NAC 333.170, the Notification of Award is comprised of a notice posted in three public locations and a letter to the unsuccessful vendors notifying them of who was awarded the contract and the contract amount. The ten-calendar day appeal period, as defined in NRS 333.370, begins the day the notice is posted and the letters are sent. It is at this time that all information pertaining to the solicitation becomes public information. Agencies must be diligent in protecting any information labeled by the vendors as confidential and giving them timely access to any requested information.

Order of Review and Signature Approvals to Fully Execute Contract:

Contracts the submitted by the Agency's Contract Manager for approvals, must include a completed contract summary form. This must be clipped on the top of the contract when submitted for review and/or signature. Contracts are not to be reviewed or approved without a completed contract summary. The following is the required review and signature of approval:

- Awarded vendor providing service;

- Assigned Budget Analyst initializes front page of contract summary certifying that the contract is technical complete, mathematically correct, the correct funding sources have been identified, and sufficient authority exists;

- Fiscal Administrator;

- Director, or designee other than the Fiscal Administrator;

- Deputy Attorney General;

- Board of Examiners

Contract Files

The Agency's Contract Monitor is required to keep the official Contract File. Apart from keeping all solicitation-related documents and communications, the original BOE approved contract, payment logs, the contract files should include copies of letters, meeting notes, and documentation of phone conversations as evidence that conscientious monitoring has occurred. Documentation should be sufficient, reliable, and verifiable. The Program Monitor is required to submit originals of letters, emails, meeting notes and documented phone conversations that have taken place during the for the time period covered in any request for payment from the vendor before payment can be made.

Post-Award Monitoring

Post-award monitoring is a planned, on-going, and periodic activity to determine:

- Compliance by the provider/vendor with the terms and conditions of the contract and any applicable laws and regulations;
- All required activities are being or have been performed in accordance with the agreement;
- Deliverables have been completed;
- Funds have been accounted for and used appropriately
- Program goals and objectives have been met.

It is the Agency's Contract Monitor's responsibility to provide an objective assessment of the provider/vendor's performance and compliance.
The following is a list, but not all inclusive, of different types of monitoring activities:

- Require vendor/provider to submit progress reports or other appropriate data or reports, based on pre-defined criteria, and review the reports for verification of

services provided and adherence of the contract. Substandard performance should be identified and addressed timely and appropriately.

- Conduct on-site reviews, interview vendor staff to ascertain understanding of program goals, interview clients about services received, review key systems and service documentation, review fiscal records, and observe operations when possible. The results of these visits should be documented in writing and compared with contract requirements.

- Client survey concerning contract service delivery and quality. Require the vendor to resolve complaints. Keep records of both complaint and method of resolution.

- Maintain an open line of communication to review progress on a regular basis. Documentation of these contacts become important when resolving any issue or concern regarding the contract.

- Review any required audit reports and ensure the vendor takes appropriate and timely corrective action.

- Invoice Reviews. Compare billings with the terms agreed upon in the contract. Ensure that costs being charged are within the contract parameters and required services have been performed.

The Program Contract Monitor is responsible to ensure that the delivery of services are being completed according to the terms of the contract.

The assigned Budget Analyst is responsible for determining that funds have been expended in accordance with the contract and all applicable laws, rules, and regulations and is responsible for verifying total payments are within the limits set by the contract.

Corrective Action

Corrective actions are the steps taken to address any problem identified by the Department or vendor. Any problem should be communicated by the Agency's Contract Manager to all parties. Problems should be evaluated and the appropriate corrective action should be taken by all parties immediately before they become recurring or serious. Each party should establish written guidelines and directives for corrective action. If the Agency Contract Manager is unsure of the rights of each party or the corrective action to be taken, they consult with the Fiscal Administrator before communicating any issues or formalize any solution.

Problems warranting corrective typically include:

- Significant audit or monitoring findings;
- Inferior quality of services;
- Failure to perform all or part of the agreement;
- Late performance;
- Late submission of reports, on a recurring basis;
- Inadequate, unclear, or excessive billing;
- Inadequate accounting systems;
- Commingling of funds (the inability to tie costs to the project's specific funding source);
- Questionable expenditures;
- Unqualified staff;
- Ineligible clients;
- Inadequate documentation.

Program Contract Monitors are often the first person to identify problems. To address problems, the Program Contract Monitors should:

- Document all conversations and correspondence;
- Set time frame for corrective action;
- Check to see if applicable laws or regulations direct how corrective actions must occur. If so, comply with the legal requirements;
- Clearly identify the problem in writing. Be specific by using dates, number of occurrences, or other data that quantifies the problem.
- Advise the provider/vendor in writing about the requirements to correct the problem or, if appropriate ask the provider/vendor to submit a corrective action plan, including dates when corrective action will be completed.
- Track all corrective action to ensure completion;
- Follow up in writing immediately if a deadline is missed or corrective action is otherwise not completed. Notify the provider/vendor that a deadline has been missed and ask the provider/vendor when action will be completed. Advise the provider/vendor that failure to comply with the corrective action lead to termination.
  Note: Failure by the Department to follow on corrective action could be interpreted later by a court as a waiver.

- Notify the provider/vendor in writing that resolution has been achieved if the corrective action is successful in resolving problems.

Payment Verification

Accounting staff and the assigned Budget Analyst must review invoices for accuracy and completeness. Invoices must clearly show:

- The description of services provided;
- Number of services units provided;

- Period of Services;
- Payment terms as identified in the contract;
- Payment request/invoice billing period coincide with documentation submitted;
- Invoice amount is in compliance with terms of the contract;

The Budget Analyst is required to verify that all supporting documentation has been submitted, review documentation to gain reasonable assurance that services have been satisfactorily provided within the terms of the contract; and, ensure that all other steps have been satisfactorily completed before approving invoice for payment.

Closeout

Before final payment is made to closeout an a contract, program and fiscal information, must be gathered and analyzed to determine if program goals objectives were met as contracted for and to determine if all the funds were properly accounted for.

The documentation gathered during the closeout process must be maintained in the contract file. Performance and fiscal information gathered through closeout procedures should be used as basis for future agreements.

Program Closeout

Program closeout includes, but is not limited to, determining and documenting that:

- ✓ All deliverables and services have been delivered and accepted in writing;
- ✓ All reports (including financial reports) have been received;
- ✓ Program objectives were met;

Fiscal Closeout

Fiscal closeout includes, but is not limited to, determining and documenting that:

- ✓ Acquired non-expendable property is returned to the State;
- ✓ Advances and/or interest earned on have been recovered or applied against what is owed;
- ✓ Match requirements, if applicable, have been met;
- ✓ Disallowed cost and/or unused funds have been recovered;
- ✓ Final payment to provider/vendor is made **only** after all programmatic and fiscal steps have been completed;

PROCEDURES FOR LEASES

Requests for leased office space or property must be done through the Fiscal Administrator. The Budget Analyst and Agency Contract Manger will make sure leases are executed according to SAM 0328 and SAM 1020.

PROCEDURES FOR USE OF TEMPORARY EMPLOYEES

Requests for use of Temporary Employees will be made by the Division Administrator to their assigned Budget Analyst. The request must have justification and/or identify the need for temporary employee services, must identify hours per week that temporary employee will work, must identify the number of weeks temporary employee is expected to work, and identify rate of pay.

Rate of pay must be competitive and should reasonably not exceed what the Department would pay its own employees to provide similar services.

The assigned Budget Analyst will verify that there is sufficient budget authority and that the temporary request for services is in compliance with the provisions of SAM 0323.

POLICY COMMUNICATION:

This policy will be made available to all employees within the Department of Agriculture and to the public.

DIRECTOR'S POLICY AUTHORIZATION:

Jim R. Barbee, Director — Date: 1/15/15

APPROVED BY THE BOARD OF AGRICULTURE ON 12/3/14.
Effective Date