



CALIFORNIA STATE COUNCIL ON DEVELOPMENTAL DISABILITIES

CONTRACTING AND PURCHASING POLICIES AND PROCEDURES

Adapted from the:
Demystifying Contracts Handbook
Produced by the California Department of Social Services Contracts and Financial
Analysis Bureau

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TYPES OF CONTRACTUAL AGREEMENTS

A contract is a legally binding agreement between the State Council on Developmental Disabilities (SCDD) and another entity, public or private, for the provision of goods or services. A contract sets forth the terms, conditions, and the statement of all work to be performed.

Proper classification of contracts is necessary as a first step in determining which solicitation process is appropriate for the contract, and what elements are required to be in the contract. There are several types of contracts and services.

1. Interagency Agreement (IA)

An interagency agreement is an agreement between two or more state agencies. State agencies may also include UC or CSU.

Examples include: An IA between SCDD and the Department of Developmental Services (DDS) to provide quality assurance activities.

2. Consultant Services

A contract for consultant services is defined as a contract for services of an advisory nature, which provides a recommended course of action or personal expertise. The contract calls for a "product of the mind" rather than the rendition of mechanical or physical skills. A "product of the mind" may include anything from answers to specific questions to the design of a system or plan.

Examples of consultant services contracts include: Legal services, expert witness services, training and technical assistance, strategic planning, etc.

3. Services Contract (Non-Consulting)

A services contract is a contract in which the contractor provides a duty or labor, of a non-consulting nature, and is usually a rendition of mechanical or physical skills.

For example: janitorial services, moving services, shredding services, and printing services.

4. Subvention Services

To be classified as a subvention services contract, the contract must:

a) provide assistance to local governments and/or aid to the public; and b) directly or through an intermediary, such as a nonprofit organization. Subvention services contracts are exempt from the competitive bidding requirements.

Examples: A contract with California Youth Connection to provide technical and outreach services to foster youth; a contract with the San Diego State University Foundation to provide training to social workers on child welfare services.

NOTE: The Department of General Services (DGS) has determined that grants provided by the SCDD do not qualify under the subvention agreement contract exception.

5. Public Works

An agreement for the erection, construction, alteration, repair, or improvement of any state-owned structure, building, road, or other state improvement of any kind.

Examples include: Electrical/cabling services and assembling modular furniture in State offices.

6. Information Technology (IT) Services

Services performed directly on or pertaining to electronic technology and telecommunications hardware, firmware, and software including but not limited to computerized and auxiliary automated information handling, system design and analysis, data conversion, computer programming, information storage and retrieval, voice, video, data communications, requisite system controls, simulation, electronic commerce, maintenance and repair, software licensing and support, training, and all related interactions between people and machines. Also included are services of an advisory nature requiring a recommended course of action or personal expertise as it pertains to an information technology project and information technology support functions.

SCDD has competitive purchasing authority to conduct bids for IT Services up to \$4,999.99. We also have purchasing authority to utilize the California Multiple Award Schedules (CMAs) and Master Agreements/Master Service Agreements.

7. California Multiple Award Schedule (CMAS) Contracts

The CMAS Program was established in May 1994 to enable State Agencies and local governments to obtain IT (and a limited number of non-IT services) without the need for DGS to issue a specific bid. The objective of the CMAS Program is to streamline purchases of goods and services by removing repetitive, resource intensive, costly and time consuming bid processes. CMAS vendors are approved by DGS, along with a description of the specific services and the maximum rates allowable for the services. Vendors interested in working with the State must apply directly to DGS. In order to obtain services from an authorized CMAS vendor, SCDD issues a request for offer (RFO), which results in a CMAS contract.

8. Memorandum of Understanding (MOU)

The DGS State Contracting Manual defines a memorandum of understanding as "a contract". For SCDD, the MOU usually does not contain dollars or fiscal provisions. The primary purpose of the MOU is to delineate the roles and responsibilities of the parties. Reimbursement for services is from other established sources such as the county administrative claim.

For example, the agreement between SCDD and its Designated State Agency that outlines the roles and responsibilities of each of these two governmental entities is an MOU.

VARIOUS COMPONENTS OF THE BIDDING PROCESS

A. Types of Bidding Processes

The most frequently used types of bidding process in SCDD are the Request for Proposals (RFP) Primary and RFP Secondary and Master Agreements. However, other processes may be used as summarized below. For information on which bidding process to use, please see State Contracting Manual, Chapter 5 on “Competitive Bidding Methods.”

1. Request for Proposals (RFP)

The RFP is used to obtain complex services in which professional expertise is needed and bidders may utilize different methods and approaches during performance. Services may be complex, uncommon and/or unique.

An RFP seeks an answer to the following: “Here is what we wish to accomplish. Here are the qualification requirements, performance specifications, time frames, and other requirements that must be met. Describe how you would accomplish the job for us and for how much.”

There are two types of RFPs:

RFP Primary and RFP Secondary - The major difference between the two is the way in which the winner is determined. In the RFP Primary, the contract is awarded to the responsible bidder with the lowest costs. In the RFP Secondary, the contract is awarded to the responsible bidder with the highest scored proposal.

a. RFP Primary

Bidders responding to the RFP Primary must submit their information in two envelopes. The written proposal describing the services and how they will be delivered will be placed in one envelope and the costs for providing the services must be sealed in a separate envelope. The sealed bids will be publicly opened at a later date.

Upon receipt of proposals, the Contracts Analyst will conduct an administrative review to determine if the proposals conform to the format and content requirements specified in

the RFP, such as a table of contents, the correct number of copies, a signed Statement of Intent to Meet RFP Requirements, etc. The Contracts Analyst will also check that the costs information is sealed in a separate envelope. Failure to meet administrative requirements will deem the proposal to be nonresponsive to RFP requirements and disqualified for further consideration.

Proposals meeting administrative requirements are given to the Evaluation Committee for scoring. The Administrative Committee or State Plan Committee, as appropriate, shall serve as the Evaluation Committee in accordance with these policies. The Evaluation Committee will compare the proposals and bidders for conformance to RFP requirements such as minimum experience, professional qualifications, organizational structure, staffing and expertise, service methodology, timeframes, etc., and assign a score for each category. As stated in the RFP, proposals must obtain a minimum score, usually 80 percent, from the Evaluation Committee in order to qualify for the bid opening. All proposals with a score of 80 percent or higher will have their sealed bid publicly opened at the time and place specified in the RFP. The responsible bidder with the lowest costs will be awarded the contract, regardless of the score given by the Evaluation Committee on the proposal.

b. RFP Secondary

The RFP Secondary asks Bidders to submit all their information in one package. There is no need for a separate envelope shielding the costs information since there is no public bid opening.

The Contracts Analyst conducts an administrative review of all proposals received for responsiveness to RFP format and content requirements and gives them to the Evaluation Committee. The Evaluation Committee shall be the Administrative Committee or State Plan Committee, as appropriate. The Evaluation Committee will compare the proposals and bidders for conformance to other RFP requirements such as minimum experience, professional qualifications, organizational structure, staffing and expertise, service methodology, timeframes, etc., and assign a score to each category. The costs for services are also scored in accordance with the formula specified in the RFP. Upon completion of the evaluation process, the contract is awarded to the bidder with the highest scored proposal.

2. Solicitation for Offers (SFO)

The SFO is used to obtain services off the California Multiple Award Schedules (CMAS). CMAS vendors have been preapproved by the Procurement Division of the Department of General Services and may be utilized by state agencies without formal bids. For vendor listings, see: www.pd.dgs.ca.gov

SCDD may issue a SFO that specifies the minimum service requirements and what information the CMAS vendor must provide for consideration of contract award. Typically, the CMAS vendor submits a narrative describing their qualifications, what services they will provide, along with the personnel and corresponding hourly rates.

For SFO's, the award is determined by "best value". Depending on the specific service being requested, "best value" can be defined as either lowest price or highest scored offer received. The decision must be clearly identified in the SFO.

3. Invitation for Bids (IFB)

The IFB is typically used to obtain simple, common, or routine services that may require personal or mechanical skills. An IFB seeks an answer to the following: "Here is exactly what we need to have done. Here are the qualification requirements, performance specifications, time frames, and requirements that must be met. How much will you charge us?"

Examples of services utilizing the IFB process are janitorial and moving services.

The bidder specifies the costs for the requested services on the Bid Form, which is included in the IFB. Bidder signs and returns the Bid Form to Contracts Analyst in a sealed envelope by the due date stated in the IFB. Sealed bids are then publicly opened on the due date and a pass or fail determination is made by the Contracts Analyst for responsiveness to IFB requirements. For example, if the IFB specifies a minimum number of years of experience providing a particular service, the bidder must have that experience in order to qualify for the bid opening. The award is then made to the responsible bidder with the lowest costs.

4. Master Agreements

Master Agreements (also referred to as Master Service Agreements) are generally statewide agreements that have been competitively bid and

awarded by DGS. Master Agreements may be for IT Services and Non-IT Services. Each Master Agreement has its own ordering instructions and administrative fee (usually 1 to 2%). Additional information is available on the Department of General Services, Procurement Division website at www.pd.dgs.ca.gov/masters/.

Examples of services available under Master Agreements include unarmed security guards and business and management consulting services such as organization development, strategic planning, and performance measurements and evaluation.

B. *Fundamental Rules for Competitive Bids*

1. A State Agency may not draft any competitive bidding document in a manner that limits bidding directly or indirectly to any one bidder. (Public Contract Code Section 10339)
2. Services may not be split to avoid the need to advertise or obtain competitive bids. In particular, a series of related services that would normally be combined and bid as one job cannot be split into separate tasks, steps, phases, locations, or delivery times to avoid adhering to a state law, policy, or departmental procedure.
3. Sealed bids (and proposals, etc.) must be received by the time stated in the solicitation document. Bids received after the due date and time are not valid regardless of the circumstances causing the late submittal. If you receive a package requested by a solicitation document, please get it to the Contracts Analyst immediately.

C. *Noncompetitively Bid (NCB) Contract*

1. A noncompetitively bid contract is defined as one in which only a single business enterprise is afforded the opportunity to provide the specified services and the typical solicitation processes were not utilized. NCB Transactions of \$5,000 or more must be approved by the Executive Director, the full Council and, the Procurement Division of the Department of General Services (DGS). These approvals must be formally obtained and provided in writing before the contract is developed. For services under \$5,000, no NCB justification is required if fair and reasonable pricing has been established and documented. An NCB justification is required if fair and reasonable pricing cannot be established and documented or two bids cannot be obtained.
2. Approvals for an NCB contract transaction require the following documents:
 - Noncompetitively Bid Contract Justification (three page document from DGS), and
 - Request for Exemption from Advertising (form STD. 821).

3. At a minimum, the following questions must be addressed in the documents specified in #2 above:
 - Why is the requested service restricted to one supplier? Explain why the acquisition was not competitively bid.
 - Provide the background of events leading to this acquisition. Describe the uniqueness of the acquisition (why was the good/service/supplier or contractor chosen?)
 - What are the consequences of not purchasing the good/service or contracting with the proposed supplier?
 - What market research was conducted to substantiate noncompetition, including evaluation of other items considered?
 - How was the price offered or costs for services determined to be fair and reasonable? Describe any cost savings realized or costs avoided by acquiring goods/services from this supplier.
 - If the NCB request could have been competitively bid but was not due to insufficient time to complete the acquisition process, DGS requires a corrective action plan from the SCDD describing how competitive bids and processing of contracts will be managed.

REQUEST FOR CONTRACT SERVICES

Complete Department of Social Services “Request for Contract Services” (GEN 704) and State Council on Developmental Disabilities “Request for Contract Approvals” (GEN 704scdd) forms.

A completed form GEN 704 must be submitted to the Chief Deputy Director.

The GEN 704 consists of three pages.

1. Include the name of the contact person, telephone number, fax number and office number.
2. Indicate the type of request: Is the request for a Procurement/Bid such as a Solicitation for Offer (SFO), Master Service Agreement (MSA), Invitation for Bid (IFB), Request for Proposal (RFP)? Is the request for a contract such as an interagency agreement (IA), standard agreement (SA), CA Multiple Award Schedule (CMAS), memorandum of understanding (MOU), direct pay, or other?

If the request for the contract is to confirm the result of a bid or solicitation, please check the box after “Contracts” and specify the bid/solicitation number.

Fill out the name of the proposed contractor in the contractor information box. Always use the legal name of the contractor. If you know whether or not the contractor is a certified small business or disabled veteran business enterprise, please indicate by checking the yes or no box.

3. Is this an amendment or renewal to an existing service or contract?

If yes, enter the previous contract number and contractor name. If this is an amendment, the contract number to ensure that the right contract file is pulled to verify the contract term and amount prior to writing the amendment.

If this is a renewal to an existing service or contract, please enter the prior contract number to pull the former contract file to help draft the scope of work (SOW).

4. “Contract Term”: Enter the proposed start date and ending date of the service period. You will be contacted and told if the proposed term is not realistic or attainable. For example, if the bidding process requires two months and there is only two weeks between the receipt of GEN 704 and the proposed start date.

If the request is to amend the term, enter the original start date and the revised or proposed end date, not the original end date. If the request is for amendments to revise the funding or scope of work and the term is not affected, enter the original end date.

Amendment effective date: Enter the date for which the change (in scope, increase or decrease in the amount of funding, hourly rate, etc.) is to take place. Provide us with your best estimate. The only rule here is that if you are extending the term, the effective date must be prior to the expiration of the original term, i.e., you want to extend the contract for 12 months, from June 30, 2013 through June 30, 2014. The effective date of amendment can be no later than June 30, 2013. If you have multiple actions like amending the term and increasing the funds, the effective date would be the earliest date in which an action takes place. If the contract ran out of money in March, the amendment date would be March and not June to extend the term.

5. Purpose/necessity of contract/amendment (concise description): Provide a brief and concise description of the contract service, e.g., provide development training and quality improvement services to persons with developmental disabilities. Attach the scope of work and budget detail (more information on SOW and budget after we get through the

instructions on how to complete the GEN 704). Check the box on whether the service is mandated or not and provide the authority/legislative act. (More information on justification of services is found on Page 2). Enter the Index Code, PCA, object code (if known).

Funding, etc.: Identify whether the funds are State, Federal, or both, and the percentage of each. Check Support or Local Assistance; whether the agreement is a payable or receivable contract or N/A (if an MOU); give us the amount of funds available by each state fiscal year and identify the funding source (budget/redirect, etc.)

6. Required Approvals and Signatures: The following signatures are currently required: Chief Deputy Director, Deputy Director of Policy and Planning (if applicable), or Deputy Director of Area Board Operations (if applicable).

On the GEN 704, in the “Required Approvals and Signatures to be Obtained by Requestor” section, write in the following:

“See SCDD Form 704scdd for approvals.”

Complete and attach the Form 704scdd to the GEN 704.

7. Page 2: Required Justification For Contract Services

Check box on whether the service is mandated or not and provide the authority or legislation.

#1, Briefly describe the services to be provided.

#2, Describe why the services are critical or essential to the Department’s mission and goals; Describe expected results or benefits to be achieved.

#3, Describe the consequences if this request for contract is denied.

#4, Describe possible alternatives to contracting.

#5 If required, provide information supporting a conclusion of cost reasonableness.

#6, Describe why services cannot be performed by civil service employees, per Government Code 19130.

The State Constitution generally requires contracting to be limited to those services that cannot be performed by civil service employees except provided for in GC 19130 (a) and (b).

GC 19130(a) allows contracting out of services if the Department can clearly demonstrate that the proposed contract will result in actual overall cost savings to the State.

Standards for use of Personal Service Contracts

A “Personal Service contract” is defined as any contract, requisition, Purchase Order, etc. (except Public Works contracts), under which labor or personal services is a significant, separately identifiable element. The business or person performing these contractual services must be an Independent Contractor and does not have status as an employee of the State. A “cost savings-based Personal Service Contract” is any Personal Service Contract proposed to achieve cost savings and subject to the provisions of Government Code, Section 19130(a).

Before deciding to contract for personal services, as a requestor or initiator of a contract, you must meet one of the following criteria and provide justification to support the selection:

1. 19130(a) Personal services contracting is permissible to achieve cost savings when specific conditions are met. This would require an 11-Point Analysis as required by law for State Personnel Board approval and union review. (This may add an additional 30 - 60 days to the contract process.);

OR

2. 19130(b): Personal services contracting also shall be permissible when any of the following conditions can be met:
 - A.** The functions contracted are exempted from civil service by Section 4 of Article VII of the California Constitution, which describes exempt appointments.
 - B.** The contract is for a new state function and the Legislature has specifically mandated or authorized the performance of the work by Independent Contractors.
 - C.** The services contracted are not available within civil service, cannot be performed satisfactorily by civil service employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the civil service system.
 - D.** The services are incidental to a contract for the purchase or leases of real or personal property. Contracts under this criterion, known as service agreements,” shall include, but not be limited to, agreements to service or maintain office equipment or computers that are leased or rented.
 - E.** The legislative, administrative, or legal goals and purposes cannot be accomplished through the utilization of

persons selected pursuant to the regular civil service system. Contracts are permissible under this criterion to protect against a conflict of interests or to insure independent and unbiased findings in cases where there is a clear need for a different, outside perspective. These contracts shall include, but not be limited to, obtaining expert witnesses in litigation.

F. The nature of the work is such that the Government Code standards for emergency appointments apply. These contracts shall conform to Article 8 (commencing with Section 19888) of Chapter 2.5 or Part 2.6.

G. State agencies need private counsel because a conflict of interest on the part of the Attorney General's office prevents it from representing the agency without compromising its position. These contracts shall require the written consent of the Attorney General, pursuant to Section 11040.

H. The Contractor will provide equipment, materials, facilities, or support services that could not feasibly be provided by the state in the location where the services are to be performed.

I. The Contractor will conduct training courses for which appropriately qualified civil service instructors are not available, provided that permanent instructor positions in academies or similar settings shall be filled through civil service appointment.

J. The services are of such of an urgent, temporary, or occasional nature that the delay incumbent in their implementation under civil services would frustrate their very purpose.

*** Justification Detail Required (Please explain why the above condition applies)

What to Include in a Scope of Work (SOW)

According to the standard contracting format established by DGS, the SOW is specified as Exhibit A in the majority of state contracts. The SOW is a description of the services and work to be performed.

It can be as brief as a paragraph or two, or as lengthy as a book, depending on the type of services and the level of understanding and agreement.

In general, the SOW should address the following:

1. Work specifications, requirements

2. Detailed work plan
3. Personnel, staffing
4. Objectives, major task
5. Results, deliverables
6. Timelines, progress reports
7. Evaluation and acceptance criteria

The Scope of Work should contain a clear, precise description of the work to be performed, services to be provided, problem to be solved, or the goals and objectives to be met as follows:

- Describe in realistic terms what the Contractor is to accomplish, including any desired approach to the problem and the specific functions, tasks, or activities that must be performed.
- Identify any practical and policy information, technological requirements or specifications, and legal limitations if any.
- Identify the specific questions to be answered or issues to be addressed.
- Define the manner in which the work is to be done and how performance of work is to be documented.
- Describe the items to be delivered.
- Specify time schedules, including dates for commencement of performance and submission of progress reports, if any, and date of completion.
- Specify final meeting requirements between Contractor and CDSS when the contractor is to present his/her findings, conclusions, and recommendations (if applicable)
- Specify the format and number of copies to be made of the completed reports or product.
- Describe method of delivery and evaluation criteria for acceptance of service or product.

What to Include in a Budget

The budget format will differ according to the type of contract. The standard budget formats are:

- Lump sum payment upon completion, delivery, and acceptance of service.
- Deliverable-based, i.e., upon completion of each training session at the contracted rate of \$5,000 per session.
- Monthly reimbursement of services, i.e., \$600 per month for janitorial services or \$50 per month for security alarm maintenance.
- Identification of the consultant(s), classification level and hourly rate of pay, up to the maximum amount of the contract or maximum number of hours within the contract period.
- Detailed line item budget showing personnel detail (names, job titles, monthly rate, percentage of time charged to the contract and employee benefits); operating and equipment expenses (rent, telephone, supplies, etc.) and indirect

cost. Detailed line item budgets must include a narrative describing each line item.

CONTRACT REQUEST AND APPROVAL PROCESS

The following specifies SCDD's contract review process and provides customary timeframes for completion.

Upon completion of a GEN 704, Request for Contract Services, the following actions take place (10 – 30 working days):

1. **Preliminary Review of Request:** Preliminary review shall be conducted as follows:

Deputy Director of Policy and Planning: Review of statewide contract requests related to programs under his or her authority

Deputy Director of Area Board Operations: Review of contract requests made by the Director of an Area Board office.

Chief Deputy Director: Review of all other contract requests

The appropriate Deputy shall review all contract requests, supporting documents and timelines to determine whether contract request should be submitted for approval and that materials are complete. Once the review is completed, the reviewing Deputy signs SCDD Form 704scdd and forwards the contract request to the Chief Deputy Director for secondary review, if applicable.

If the position of Deputy Director of Policy and Planning or Deputy Director of Area Board Operations is vacant, the Chief Deputy Director will perform the Preliminary Review duties.

2. **Management Review of Request:** The Chief Deputy Director will review each contract request to ensure that required forms and documentation have been submitted and are consistent the State Administrative Manual, Department of Finance protocols, and SCDD policy. Once the secondary review is completed, the Chief Deputy Director signs and forwards the contract request for legal review.

The Chief Deputy Director shall submit all contract requests to SCDD Legal Counsel. Legal Counsel shall review each contract request to identify any request for a contract that may not be legally permissible under State contracting and SCDD rules (e.g., a request for a contract that proposes to use an independent contractor for work that must be performed by a civil service employee). Once legal review is completed, Legal Counsel will sign and return contract request to Chief Deputy Director.

After the reviews by staff have been completed, if the proposed contract is related to programmatic functions, the Chief Deputy Director includes the completed contract packet for review and consideration at the next Administrative Committee or State Plan Committee meeting, as appropriate, indicating that staff reviews have been completed. The Chairperson of the Administrative Committee or State Plan Committee, as appropriate, shall sign and certify that a full review and action has been taken to recommend approval of the contract.

3. Council Review of Request: The Chief Deputy Director submits the complete contract request package, supporting documentation and certification of Administrative Committee recommendation to the full Council for review and final approval.

If the Chief Deputy Director position is vacant, the Executive Director will perform the Chief Deputy Director review duties outlined above. The Executive Director may delegate these duties to an executive or management employee.

4. Bidding Process: Once the contract request has been approved by the full Council, advertising and/or a bidding process may commence in accordance with the procedures outlined below, depending on type of contract, and in accordance with any applicable law and policies including the Disabled Veteran Business Enterprise (DVBE), Small Business (SB), and Microbusiness (MB) Participation Programs.

Please note: Contracts Analyst does not start writing the contract until full Council approval is obtained.

5. Drafting of Contract: If the scope of work (SOW) and budget information are provided with the GEN 704, the Contracts Analyst will write the contract (5 to 10 working days)

All State of California contracting procedures must be followed including use of required forms (e.g. STD 213, STD 215, etc.)

If the SOW and budget information are insufficient, the Contracts Analyst will contact the submitter for additional information.

6. Review of Contract: A draft of the contract is sent to the following for concurrent review. The specific reviews are determined by the type of service and amount of funds. (5 to 20 working days)
 - Budget Officer (only contracts containing more than \$20,000 per fiscal year).
 - Budget Officer signs the "Agreement/Summary" (STD215) and attaches funding information on the form
 - Legal Counsel
7. Contract Finalized: Once Executive Director confirms that the contract is legally compliant and that budgeted funds are available, the contract is finalized and sent to Contractor for signature (3 to 10 working days)

8. Contract Signed by Vendor: Contract is signed and returned to SCDD. (10 to 20 working days)
9. Contract Signed by SCDD: Once the Contractor's signature has been obtained, the contract is prepared for the SCDD Executive Director's signature. (3 to 10 working days)
10. Review and Approval by DGS: If Department of General Services (DGS) review is not required, the contract is fully executed upon the SCDD Executive Director's signature. Copies of the executed contract are distributed by the Contracts Analyst.

The following contracts require DGS review and approval: (add 5 to 10 working days)

- Standard Agreements and Interagency Agreements for \$50,000 and above
 - Contracts that limit the contractor's liabilities or require the State to indemnify or to hold the contractor harmless.
 - Contracts that provide for advance payment for services.
 - Any contract containing hazardous activities that may result in substantial risk of serious injury to persons or damage to property, such as transporting of persons by any mode of transportation (also requires automobile and public liability insurance)
11. Execution of Contract: Upon receipt of the approved contract from DGS, the Contracts Analyst notifies Program and Contractor of execution by sending out copies of the executed contract. (2 to 5 working days)

APPLY APPROPRIATE REGULATIONS AND POLICIES

Disabled Veteran Business Enterprise (DVBE) and Small Business (SB) and Microbusiness (MB) Participation Programs

There are two business enterprise participation programs with which we must interact: Disabled Veteran Business Enterprise (DVBE) and Small Business (SB) and Microbusiness (MB) Enterprise. State agencies are measured on how well they achieve the mandated goals.

1. DVBE Program

The State of California established the DVBE Participation Program as one way to acknowledge disabled veterans for their service. The intent of the program is to further DVBE participation in State contracting by establishing a DVBE participation goal of at least 3% to ensure a portion of the state's overall annual contract dollars are awarded to certified DVBEs. For more information on the DVBE Program, visit the Internet site at <http://www.pd.dgs.ca.gov/dvbe>

Every year, State agencies are required to submit a report to the Department of General Services on the total dollar amount of purchases and contract awards to businesses and the portion of those awards given to certified DVBEs.

2. Small Business (SB) and Microbusiness (MB) Program

Through the enactment of the Small Business Procurement and Contract Act, a fair portion of the total State purchases, contracts, and subcontracts for commodities and services must be placed with certified small businesses or microbusinesses.

State Agencies have a SB/MB participation goal of 25 percent of the total dollar amount expended annually on purchase and contract awards.

A certified small business or microbusiness or a non-small business who subcontracts with a certified SB/MB firm is entitled to claim a five percent preference in bidding on procurements of goods or services. The five percent preference is used only for computation of the bid amount to determine the winning bidder and does not alter the actual amount of its bid.

APPLY STATE ACCOUNTING POLICIES AND PROCEDURES AND BUDGET DEVELOPMENT DIRECTIVES

SCDD, as a State of California government agency, is required to follow all rules of the California Government Code, Public Contracting Code and other applicable state contracting and accounting laws along with standard accounting principles. In addition, SCDD must comply with regulations and rules issued by the California State Controller's Office (SCO) and the Department of General Services (DGS). Under provisions of the Lanterman Act, SCDD's Designated State Agency is responsible for carrying out financial accounting and record keeping of SCDD contract transactions. All financial information and documentation relating to contract payments must be collected, transmitted and retained in a format that is compliant with State of California procedures. For specific information on accounting and record keeping rules and systems, refer to DGS and SCO procedures manuals.

PROGRAM RESPONSIBILITIES AFTER CONTRACT EXECUTION

The contract manager is the authorized representative of SCDD responsible for administering a contract and monitoring the contractor's performance. The contract manager serves as a liaison with the contractor and may perform administrative tasks ranging from the request of contract services through the performance and final payment for completed services. Each Contract Manager must evaluate the Contractor's performance and has the following responsibilities:

A. **Typical responsibilities**

1. After contract is executed, notify Contractor to begin work.
2. Monitor progress of work to ensure that services are performed according to the quality, quantity, objectives, timeframes, and manner specified in the contract; e.g., review progress reports and interim products.
3. Ensure that all work is completed and accepted before the contract expires.
4. Review invoices to substantiate expenditures for work performed prior to approving them. Ensure the invoice contains the contract number, index and PCA codes and is forwarded for payment in a timely manner.
5. Ensure that there are sufficient funds to pay for all services rendered as required by contract. Also ensure that funds are available if there is a change in the funding source specified in the contract.
6. Identify low spending levels and consider partial disencumbrance and reassignment of funds.
7. Notify appropriate SCDD personnel of equipment purchase, if applicable, and ensure property is tagged and inventoried before approving cost reimbursement.
8. Monitor use of Disabled Veteran Business Enterprises (DVBE) subcontractors to ensure attainment of approved contract participation goals.
9. Verify that the Contractor has fulfilled all requirements of the contract before approving the final invoice. The final invoice must include the statement "Final Billing".
10. Invoices must be received by SCDD within 90 days following each state fiscal year, or 90 days following the end of the contract term, whichever comes first.
11. Only for consulting services contracts of \$5,000 or more, complete the Contractor Evaluation form (STD.4) within 60 days of expiration of term.
12. Contact the Contracts Analyst for assistance with contract problems.

13. Notify Legal Counsel and the Executive Director of any need for amendment of the contract prior to the contract's expiration.

B. *Contract Manager "Don'ts"*

The Contract Manager is **not** authorized to take the following actions:

1. Do not instruct the Contractor to start work before the contract is executed and approved.
2. Do not informally change the description or scope of work of the contract without an amendment or contacting legal counsel.
3. Do not direct Contractor to do work that is not specifically described in the contract.
4. Do not sign any Contractor's contract form (their version of an agreement).
5. Do not approve payment to Contractor for any work not performed or performed unsatisfactorily.
6. Do not extend the time period of the contract without an amendment.
7. Do not allow Contractor to incur costs over the amount set in the contract.
8. Do not change the dollar amount of the contract without a corresponding change in the scope of work or other consideration (i.e. something of value) to be received.

C. *Retention of Contract Records*

All contracts involving expenditures of public funds in excess of \$10,000 contain a provision that the contract is subject to the examination and audit of the awarding department or its delegate or the State Auditor for a period of three years after final payment under the agreement. Federally funded contracts have a record retention period of up to five years. When a contract audit is in dispute or litigation, the record retention period is extended.

D. *Record Keeping*

1. Label a file folder for each contract administered and include the following:

- a. A log sheet to record any activities related to the contract. Each time you speak with anyone about the contract, make a note of the date of the discussion, and the subject matter discussed.
 - b. A file guide labeled "Invoices." Retain a copy of all invoices in this file guide.
 - c. A copy of the executed contract and other pertinent documentation, such as a copy of the original contract request and any correspondence related to the contract or contractor.
2. Prepare a spreadsheet of expenditures showing the contract amount encumbered and the deduction for each invoice as it is approved for payment.
 3. Document the notification to the Contractor of the start date. Work cannot begin before contract execution and the effective date of the contract. Although initial notification to start work may be verbal, it should also be documented in writing and a copy placed in the file. This practice protects the agency and the Contract Manager in the event of legal problems or an audit.
 4. Monitor and document the performance and nonperformance of contract services in the contract file. If problems are encountered during the contract term, they should be fully documented. Letters to contractors should outline any problems related to substandard or nonperformance. If applicable, use contract specifications verbatim in the letters so that there is no doubt about the services covered in the contract. All letters about nonperformance should be sent by certified mail with copies to all concerned parties. A copy of the letter should be sent to the appropriate payment unit to eliminate the possibility of erroneous invoice payment.

E. *Oversee the completion of the contract*

To finalize or complete the contract process, contact Contractor to determine whether all invoices have been received. After the expiration of the contract, disencumber any remaining funds by notifying the appropriate payment unit at CDSS and the Contracts Analyst of the amount to be disencumbered. A copy should be retained in the contract file. Please note that if the term has not expired and the contract is still in force, any reduction of funds must be made by contract amendment.

F. *Terminate and/or Disencumber a Contract*

1. A contract may be terminated prior to the end (expiration date) of the term by sending a letter to the Contractor at least 30 days in advance of the effective date of termination.

All contracts contain a provision that permits SCDD to terminate the contract without cause provided adequate notice is given. The termination letter should be signed by the Executive Director and sent to the Contractor by certified mail. Upon release of the termination letter, Contract Manager will send a notice to the requesting program, CDSS Budget Bureau informing them of the termination and to request disencumbrance of funds. No amendment is necessary for terminating contracts.

2. If a contract has already expired, program should send a memo to CDSS Budget Bureau to request the disencumbrance of funds by identifying the contract number and the amount of funds to be disencumbered. The effective date for disencumbrance is the contract expiration date. No amendment is required.

G. Contractor Evaluation

Any consultant services contract of \$5,000 or more requires completion of a Contract/Contractor Evaluation (STD.4) within 60 days after completion of a contract. When a negative finding is made, the Contracts will forward a copy to the Department of General Services and the Contractor within five days of completion of the evaluation.

Contract/Contractor Evaluation forms are not public documents and should not be kept in the contract file.