



State of Connecticut

OFFICE OF POLICY AND MANAGEMENT

PROCUREMENT STANDARDS:
For PERSONAL SERVICE AGREEMENTS and
PURCHASE OF SERVICE CONTRACTS

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ABBREVIATIONS & ACRONYMS

| | |
|--------|--|
| AG | Attorney General |
| CGA | Connecticut General Assembly |
| C.G.S. | Connecticut General Statutes |
| DAS | Department of Administrative Services |
| ITB | Invitation to Bid |
| OAG | Office of the Attorney General |
| OPM | Office of Policy and Management |
| OSC | Office of the State Comptroller |
| OSE | Office of State Ethics |
| P.A. | Public Act |
| PO | Purchase Order |
| POS | Purchase of Service |
| PSA | Personal Service Agreement |
| RFP | Request For Proposal |
| RFQ | Request For Quotation |
| RFQC | Request For Qualified Contractors |
| SCSB | State Contracting Standards Board |
| SEEC | State Elections Enforcement Commission |
| SFY | State Fiscal Year |

NOTE: This document is formatted for two-sided printing.

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I. INTRODUCTION

A. PURPOSE

A State agency wishing to enter into a Personal Service Agreement (PSA) or Purchase of Service (POS) contract must adhere to the procurement standards set forth in the Connecticut General Statutes and established herein by the Secretary of the Office of Policy and Management (OPM). The purpose of this publication is to advise State contracting agencies about these procurement standards and to provide guidance on how to implement them.

■ IMPORTANT NOTE

The Office of the Attorney General (OAG) issued Formal Opinion No. 031 on November 9, 2005, stating that there is no legal distinction between a PSA and a POS contract. The opinion further states that both are valid vehicles for entering into binding State contracts, although OPM may choose to establish administrative procedures treating them differently. Because of this opinion, the Secretary of OPM has determined that the procurement standards (established herein) shall apply to both PSAs and POS contracts, and that other additional standards (also established herein) shall apply only to POS contracts. The standards that apply only to POS contracts are so indicated

B. RESCISSION

This document supersedes the Office of Policy and Management's publication, entitled *Personal Service Agreements: Standards and Procedures*, effective January 14, 2005.

C. DEFINITIONS

Key terms used in this publication are defined in Section VI.A. (below).

The words SHALL, MUST, SHOULD, MAY, CAN, and WILL have the following meanings when used in this publication:

- SHALL or MUST indicates **required** tasks or actions.
- SHOULD indicates **recommended** tasks or actions.
- MAY indicates **permissible** tasks or actions.
- CAN means the **ability** to do, make, or accomplish (something); it is not used as a substitute for MAY.
- WILL indicates **anticipated or future** tasks or actions.

D. AUTHORITY

These standards are established by the authority vested in the Secretary of the Office of Policy and Management pursuant to the following:

- C.G.S. §§ 4-212 through 4-219, inclusive, related to Personal Service Agreements
http://www.cga.ct.gov/current/pub/chap_055a.htm

- C.G.S. § 4-70b(c), related to the finance, budget, and management duties of the Secretary of the Office of Policy and Management
~~<http://www.cga.ct.gov/current/pub/chap050.htm#Secs4-70%20and%204-70a.htm>~~
http://www.cga.ct.gov/current/pub/chap_050.htm
- P.A. 07-195, *An Act Concerning the State Purchase of Service Contracts for Health and Human Services*
<http://www.cga.ct.gov/2007/ACT/PA/2007PA-00195-R00SB-01396-PA.htm>
- Governor M. Jodi Rell's Executive Orders (Nos. 1, 3, and 7C) and other policy directives
<http://www.ct.gov/governorrell/cwp/browse.asp?a=1719&bc=0&c=18433>

Field Code Changed

E. SCOPE

These procurement standards address only the requirements established for PSAs and POS contracts pursuant to the authorities identified in Section I.D.

This publication is not a comprehensive guide to all of the State's procurement requirements, regulations, rules, policies, or procedures. Each agency must determine for itself whether it is subject to additional procurement requirements established by another authority (such as the Office of the Attorney General, Department of Administrative Services, Commission on Human Rights and Opportunities, or Office of State Ethics). A partial list of other procurement requirements that may apply to an agency is provided in Section VI.C. Information provided herein about the procurement requirements of other State agencies may not be current, complete, or comprehensive.

Agencies are further advised to monitor the requirements of the State Contracting Standards Board (SCSB), which was established by Public Act 07-01 (now codified in the C.G.S. §§ 4e-1 through 4e-47, inclusive). Effective January 1, 2009, the SCSB has extensive authority and responsibilities with respect to procurements by State contracting agencies, including but not limited to recertifying each contracting agency's procurement process. See C.G.S. § 4e-4(i). More information is available on the SCSB's website at <http://www.ct.gov/scsb/site/default.asp>

F. APPLICABILITY

The procurement standards set forth in this publication are applicable to all State agencies within the executive branch of government, except for the constituents units of higher education.

The constituent units of higher education are the Charter Oak State College, Regional Community-Technical Colleges, Connecticut State University System, University of Connecticut, and UCONN Health Center. The procurement standards are applicable to the Department of Higher Education.

The procurement standards do not apply to State contracts with the following entities:

- contractual services purchased by the Department of Administrative Services, as defined in [C.G.S. § 4a-50](#);
- certain consultants hired by the Department of Administrative Services (DAS) Division of Construction Services, as defined in [C.G.S. § 4b-55](#);
- certain consultants hired by the Department of Transportation, as defined in [C.G.S. § 13b-20b](#);

- agencies of the federal government, State government, or political subdivisions of the State; and
- certain consultants hired by the Department of Administrative Services (DAS), Bureau of Enterprise Systems and Technology (BEST), as defined in [C.G.S. § 4d-30](#).

G. POLICY

The procurement standards provide a uniform approach for State agencies to follow when purchasing services for the benefit of the State agency *itself* (through a PSA) or when purchasing health and human services for the benefit of the State agency's *clients* (through a POS contract).

If any State statute prescribes policies or requirements that differ from the standards established herein by the Secretary, the provisions of the State statute shall control and govern.

H. AGENCY REQUIREMENTS

1. Personal Service Agreements

Pursuant to [C.G.S. § 4-217](#), each agency must establish and the Secretary of OPM must approve written procedures for implementing the procurement standards established herein by the Secretary of OPM. Any amendments thereafter, must be approved by OPM. Whereas the procurement standards address “what” is required and “why,” the written procedures focus on “how” an agency will implement the standards. In other words, the procedures are a “step-by-step” guide for an agency’s employees to follow in order to ensure compliance with the procurement standards.

2. Purchase of Service Contracts ▶ POS Only ◀

Any agency wishing to enter into a POS contract must submit a “procurement plan” to OPM for review and approval. An agency must submit such a plan to the Secretary every three years, with the next procurement plan for POS agencies being due by January 1, 2015. Upon approval, an agency may procure services in accordance with the plan. An agency may request an amendment to its plan at any time. For additional guidance on POS procurement plans, see Section II.C. .

■ IMPORTANT NOTE

Given the Attorney General’s opinion stating that there is no legal distinction between a PSA and a POS contract, all requirements established by OPM or other authorities for PSAs shall apply to POS contracts. An agency’s written procedures for PSAs also shall apply to POS contracts. However, such written procedures may include separate provisions for POS contracts, if an agency chooses to administer them differently within the agency

3. Procurement Training

An agency must provide training ~~guidance~~ for all agency staff charged with procurement responsibilities related to PSAs or POS contracts. The training must educate such staff on the procurement requirements and practices established by OPM’s standards, the agency’s written procedures, and State policies, statutes, and regulations. OPM shall seek to work with Agencies and provide ~~guidance training tools~~ as needed to help ensure State agency training is consistent with Statewide standards and requirements.

Participation in agency training should be made mandatory for any supervisory or non-supervisory agency employee, including program staff, having responsibility for procuring goods, services, or other assets through a contract.

Training topics should include, but are not limited to, evaluating the agency's need for a contract, developing an outline of work, obtaining prior approvals from OPM, writing an RFP, soliciting proposers, evaluating proposals, contract execution, contract administration, contractor evaluation, and the State's ethics and confidentiality requirements.

I. EFFECTIVE DATE

These amended procurement standards (established herein) became effective ~~April 29, 2014~~ December 5, 2014.

J. INQUIRIES

Contact the Executive Financial Officer at OPM for more information about the procurement standards.

E-Mail: efo.opm@ct.gov

US Mail: Office of Finance, OPM, 450 Capitol Avenue MS# 55FIN, Hartford CT 06106

K. DISCLAIMER

Circumstances may arise where the State finds it necessary to take action not specifically designated by the procurement standards (established herein). The Secretary reserves the right to modify the standards at any time, if deemed necessary.

The procurement standards (established herein) are maintained on OPM's website at http://www.ct.gov/opm/fin/procurement_standards. It is strongly recommended that an agency routinely visit OPM's website for updates or revisions to the procurement standards.

■ IMPORTANT NOTE

When any significant change is made to the procurement standards, OPM's Executive Finance Officer will send an e-Alert (e-mail message) to subscribers. To receive such e-alerts, go to OPM's home page at <http://www.ct.gov/opm> and subscribe. On the bottom left corner of the home page, click on the link under E-ALERTS. Follow the online instructions. Check the boxes for FIN PSA and FIN POS. Then click on the Subscribe button.

II. METHODS OF SOURCE SELECTION

A. COMPETITIVE PROCUREMENT

Also known as: Request for Proposals, RFP, RFP procurement, RFP process, RFP solicitation, competitive solicitation, competitive negotiation

In general, terms, a “competitive procurement” is the purchase or acquisition of services by a State agency through an open and fair process, where all responsible sources have an equal opportunity to pursue, and possibly be selected for, a contract to provide the agency with the desired services.

As defined here, the term “competitive procurement” refers to a specific type of acquisition method – namely, one involving a solicitation document called a *Request for Proposals* (RFP).¹

Using an RFP, a State agency publicly communicates (to the market) information about what the agency wishes to procure. Interested parties submit written proposals in response to the agency’s solicitation. The submitted proposals are evaluated and rated according to an agency’s predetermined criteria. The agency selects the proposal that best meets the interests of the State and offers the selected proposer an opportunity to negotiate a contract. The resulting contract should not differ substantially from the agency’s original requirements, as presented in the RFP.

The competitive procurement process is designed to foster an impartial and comprehensive evaluation of multiple proposals, leading to the selection of the most responsible proposer who can provide the best value to the State. This procurement method also eliminates improprieties, favoritism, and unethical practices – *or the appearance of such* – in the State’s contracting processes. No RFP shall specify or contain any feature that ~~inappropriately~~ discriminates, directly or indirectly, against any prospective proposer.

■ IMPORTANT NOTE

Pursuant to statute, a State agency must conduct an RFP process to select a contractor when the anticipated cost or term of a future contract exceeds \$20,000 or exceeds one year. Under ~~limited-certain~~ circumstances, an agency may obtain a waiver from this requirement by submitting a request to OPM. For more information, see Sections II.B.3. and IV.D.2.

B. NON-COMPETITIVE PROCUREMENT

Also known as: sole source selection, single source selection

A procurement is considered “non-competitive” when a State agency purchases or acquires services by means of: (1) a “sole source” selection, (2) an RFP process that results in the submission of fewer than three acceptable proposals and the future contract is greater than \$20,000, or (3) a POS program waiver approved by OPM.

¹ An RFP differs from an *Invitation to Bid* (ITB) and a *Request For Quotation* (RFQ), which are other types of solicitation documents used by State agencies to obtain price, delivery, and other information from potential contractors. These other types are used when discussions with bidders are not necessary, as the specifications of a product or service are already known, and price is the main or only factor in selecting the lowest responsible qualified bidder. ITBs are sealed competitive bids that are state portal and newspaper advertised and opened publicly on a specific due date (per C.G.S. § 4a-57). RFQs are not sealed and are not opened publicly on a specific due date, and newspaper advertising is not required (when the resulting contract is less than \$50,000) (per C.G.S. § 4a-52a(e)).

1. Sole Source

When an agency solicits and negotiates with only one potential contractor, the acquisition method is called a “sole source” procurement. The sole source method is discouraged in favor of competitive procurement, although it is permissible under certain, limited, and well-defined circumstances.

When a State agency wishes to make a sole source procurement and the anticipated cost or term of the contract exceeds \$20,000 or exceeds one year, the agency must request a waiver from competitive solicitation and obtain approval from OPM *before discussions are held with any potential contractor*. In other words, an agency must not begin the sole source procurement process before receiving *prior approval* from OPM.

With the ~~rare~~ exception of procurement for emergency services, waiver requests to make a sole source procurement should be submitted to OPM as soon as possible, but generally no later than 6 months prior to the anticipated start date of the contract. Submission of the request less than 6 months prior to the anticipated contract start date may be a basis for denial of the request or approval of a shorter-term contract than requested.

Sole source procurements that may qualify for a waiver from OPM include, but are not limited, to:

- services for which the cost to the State of a competitive procurement process outweighs the benefits of such a process, as documented by the State agency. NOTE: If the contract cost exceeds \$100,000, detailed justification for citing this reason must be included when submitting the waiver request to OPM;
- services provided by a contractor having special capability or unique experience. NOTE: By use of this category an agency is certifying that competitive procurement would likely result in fewer than 3 qualified proposals;
- services provided by a contractor having proprietary services, or patent rights;
- services provided by a contractor specified through an act of the Connecticut General Assembly;
- emergency services, especially those involving public safety concerns.

2. Fewer Than Three Proposals

A “non-competitive procurement” may also occur when an agency conducts an RFP process and receives fewer than three acceptable proposals in response. The receipt of three acceptable proposals is considered the minimum threshold for a “competitive” procurement. When an agency receives only one or two acceptable proposals and wishes to make a selection, the agency must submit a request to OPM for approval *before selecting the future contractor*. (For more information, see Section IV.D.1.)

3. Program Waiver ▶ POS Only ◀

A “program waiver” exempts a POS agency from the competitive procurement requirement for a specific program, for a specific length of time in accordance with these standards. With a program waiver, OPM gives an agency permission to renew the contracts with all current contractors for a specific program. In other words, a contractual relationship already exists between the agency and the service providers, and

the agency may renew the contracts associated with the program without conducting a competitive procurement process.

An agency requests a program waiver by listing the service in the agency's procurement schedule. (See Section II.C. below.) The Secretary will consider an agency's request for a program waiver for a limited number of services and for any length of time, up to a maximum of five years. Upon approval of the agency's procurement plan (and its associated procurement schedule), an agency is not required to competitively procure the service during the approved timeframe. An agency would need to submit a separate program waiver request to renew the program waiver beyond the timeframe previously approved by the Secretary.

When deciding whether to approve an agency's request for a program waiver, OPM will weigh factors such as the following:

- Whether the services are for clients with chronic conditions requiring ongoing care;
- Whether the State has invested a significant amount of bond money in real property or physical plant for the program;
- Whether the State is contracting with a municipality or other governmental entity; or
- Whether zoning or siting issues make location or re-location of the service problematic.

Agencies may submit a one-time waiver request, for appropriate service types, suggesting utilization of an alternative procurement strategy as a superior means of achieving improvements in service delivery and client outcomes, including through the implementation of new service delivery models, alternative contracting structures and strategic partnerships. The information to be provided to OPM in this regard shall include:

- i. A description of the alternative procurement methodology to be used;
- ii. An explanation as to specifically how and in what ways this alternative procurement methodology, compared to a competitive process, would result in a better procurement outcome for the state and the clients served;
- iii. A description of how this alternative strategy would result in innovations in areas such as service delivery models, contracting structures, strategic partnerships or in other ways;
- iv. An agreement to provide a report to OPM regard the results of the procurement process; and
- v. A description of the steps to be taken to ensure -that:
 1. the services would be procured in a fair, ethical and professional manner, in the best interests on the State and the clients receiving services;
 2. the services would be provided in a manner that will assure the health, safety and well-being of service recipients; and
 3. that service delivery methods and providers in need of improvement would be identified and addressed in a timely and appropriate manner.

■ **IMPORTANT NOTE**

A "program waiver" is different from a "sole source" procurement. With a sole source procurement, OPM gives an agency permission to select and negotiate with a single contractor to provide a service, without conducting a competitive procurement. With a program waiver, OPM gives an agency permission to select and negotiate with all its current contractors for a single program to provide a service, without conducting a competitive procurement. Whether or not an agency has received a "program waiver", each contract with a single contractor within this program category will need to be submitted for approval, as required, through the online PSA/POS approval system.

C. PROCUREMENT PLANS ▶ POS Only ◀

A State agency wishing to purchase health and human services must abide by the procurement standards (established herein) by the Secretary of OPM.

Every three years newly commencing on January 1, 2012, each “POS agency” is required to submit a procurement plan for the purchase of health and human services to the Secretary for review.² The planning period is three State fiscal years (SFY). For example, a plan submitted in January 2012 would cover SFY 2013, SFY 2014, and SFY 2015. A plan submitted to OPM for review and approval must include all the components listed in Section II.C.1 (below).

An agency’s submitted plan is considered a DRAFT until the agency receives notification, in writing, from OPM that the plan is APPROVED. An agency must publish its current, OPM-approved procurement plan on its website.

An agency’s procurement plan must meet its own business (operational) requirements, as well as be in accordance with existing statutes, regulations, and policies. OPM urges agencies to adopt a strategic planning focus, rather than a purely operational one, when developing a procurement plan. Competitive procurement provides an opportunity for an agency to adopt new or innovative service models that promote the agency’s mission and objectives, as well as keep pace with research advancements, changing demographics, and client needs. In developing such new or innovative service models, an agency may, as appropriate, seek input from stakeholder, including service recipients and clients, service providers, and other experts prior to the promulgation of the RFP.

Any newly funded health or human service must be competitively procured. All existing POS services must be competitively procured, unless an agency has obtained a “program waiver” from OPM via an approved procurement plan. An agency may also decide – at other times and for other reasons – to conduct a competitive procurement for an existing service, if an agency deems it necessary, appropriate, or otherwise in the best interests of the State.

■ IMPORTANT NOTE

All POS agencies must submit requests for approval to OPM via the PSA / POS Request Website available at <https://www.appsvcs.opm.ct.gov/psa/>. On the appropriate form, an agency must indicate whether the purchase of service, waiver from competitive solicitation, non-competitive, or amendment request is in accordance with the agency’s current, OPM-approved procurement plan.

1. Plan Components ▶ POS Only ◀

An agency’s procurement plan must include the eight components listed below. The *Suggested Areas of Inquiry* are intended to stimulate the agency’s thinking about each component and to provide guidance about the type of information that OPM expects to find in the plan. While OPM has not prescribed a format for the procurement plan, agencies are asked to label, organize, and number the plan components as follows:

(1) *Purpose*

The Plan shall address the following issues and questions:

² A “POS agency” is one that purchases health or human services from a firm, corporation, private provider organization, or municipality for the benefit of the agency’s clients.

Explain what the agency expects to accomplish (achieve, attain) through its procurement plan. What are the desired outcomes and perceived benefits of the plan? How will the plan help the agency improve or facilitate the purchase of services? What impact does the agency anticipate the plan having on service delivery?

Agency plans should also address, in detail, how the plan will:

- **Ensure Effectiveness of Service Types and Service Delivery Methods.** Describe systems that are or will be implemented to evaluate and implement changes, as needed, in services, services types and service delivery models. Such systems shall include consideration and implementation of new or innovative approaches, research advancements, changing demographics and client needs. Also, factors to be considered in determining whether services should be delivered through community providers or by the state should be identified.
- **Emphasize Client Outcomes.** Describe systems that are or will be implemented to ensure that outcome measures are consistently identified, gathered, analyzed and utilized in procurement decisions.
- **Consider Alternative Contract Structures.** Consider alternative contract structures or arrangements to further enhance service outcomes and cost effectiveness and incentivize strategic partnerships.

(2) *Procurement Process*

Suggested Areas of Inquiry:

Describe the agency's POS procurement process from start to finish. Which organizational units are involved? Where are these units located within the agency? What is the role and responsibility of each unit in the process? What is their relationship to each other? Discuss any "disconnects" (i.e., problems, issues, or challenges) in the current procurement process.

(3) *Planning Approach*

Suggested Areas of Inquiry:

Describe how the agency developed its procurement plan. Who initiated and managed the planning process? Which organizational units participated? Describe the involvement of the agency's key decision makers in the plan's development. How much time was devoted to developing the plan? What problems or difficulties (if any) did the agency experience with the planning effort?

(4) *Procurement Schedule*

Attach the agency's procurement schedule using the template developed by OPM.

An electronic version of the template is available on OPM's website at:

http://www.ct.gov/opm/fin/procurement_POSplans

(5) *Planning Factors*

Suggested Areas of Inquiry:

What issues did the agency consider when developing the procurement schedule? What logic (rationale, thinking, criteria) did the agency use in deciding *how* and *when* to purchase

the services included in the schedule? Which policy objectives weighed most heavily in the agency's planning decisions, and why? What part (if any) did the agency's formal mandates play in the schedule's development? Are there discernable patterns in the resulting procurement schedule? How does the schedule reflect the agency's responsiveness to its key clients (stakeholders, service recipients)?

(6) *Communication Protocol*

Suggested Areas of Inquiry:

Identify the agency's official contact person for the procurement plan. What other organizational units or employees within the agency need to be informed about the plan? Describe how the agency will communicate its procurement plan to its employees, key stakeholders (clients, service recipients), and current and potential contractors. Describe the agency's protocol for answering questions from outside individuals, firms, corporations, private provider organizations, or municipalities about its procurement plan. How will the agency notify / instruct its employees about the prohibition on ex parte communications concerning the RFP process?

(7) *Implementation & Oversight*

Suggested Areas of Inquiry:

Identify the organizational unit responsible for the procurement schedule's implementation and oversight. Describe how this unit will monitor what is done, when it is done, and by whom. Describe how the agency will incorporate the requirements of procurement planning into its current procurement process.

Mandated Area for Inclusion in Plan:

Describe how outcome and other quality measures will be utilized to monitor and manage ongoing contractor performance.

(8) *Additional Considerations (Optional)*

What other information does the agency wish to include in the plan? What is the significance of this information? What is the magnitude of its importance? Whom or what does the information affect.

2. Procurement Schedule ▶ POS Only ◀

The procurement schedule is the key component of the agency's procurement plan.

When deciding *whether* and *when* to competitively or non-competitively procure a service type, an agency is encouraged to weigh factors such as the following:

- the number of years since the last competitive procurement for the service;
- the need to introduce, modify, or discontinue a service or a service delivery methodology;
- the risk of disrupting service delivery by changing contractors;
- the ease or difficulty for (new) potential contractors to enter the market;
- the need for greater efficiency (fewer contractors providing a service); or
- the level of satisfaction or dissatisfaction with a current contractor's performance. Note:

If an Agency has concerns regarding the performance of a particular provider(s) within a service type category, an Agency may determine that it is appropriate to limit the competitive procurement to those particular provider(s) contracts. This provides flexibility to state agencies so they can address concerns with a particular contractor's performance without re-procuring the entire system for that service type.

For each service listed in the procurement schedule, the agency must provide the following information:

- program name (or service type, level of care, region, etc.);
- date of the last competitive procurement;
- total annual dollar amount of all contracts for the program;
- number of current contracts for the program;
- anticipated release date of the next RFP (if competitive);
- number of years in the competitive procurement cycle; and
- waiver narrative (if non-competitive).

Beyond programmatic, fiscal, and administrative considerations, an agency should consider the impact of its procurement schedule on other State agencies. Agencies purchasing similar or identical services, or an agency providing a service funded in part by another agency (or other agencies), should also strive to coordinate their procurement schedules so that delivery of the service is seamless and remains fully operational.

■ **IMPORTANT NOTE**

The situation sometimes arises when an agency purchases multiple services from a single contractor. Some POS agencies "bundle" these services into a single "master" or "consolidated" contract with the single contractor. Any master or consolidated contract must be "unbundled" for inclusion in the procurement schedule. In other words, each procured service must be listed separately.

III. ETHICAL CONDUCT

Each agency is responsible for informing its employees about the State's ethics laws and expectations for high ethical conduct when performing the State's business. The State's Code of Ethics for Public Officials is set forth in the C.G.S., Chapter 10. Additional ethics requirements are outlined in Governor M. Jodi Rell's Executive Order No. 1, dated July 1, 2004.

A. STATEMENT OF FINANCIAL INTERESTS

Any public official or State employee having responsibility for the review, award, or monitoring of State contracts must file a *Statement of Financial Interests* form with the Office of State Ethics (OSE), under the terms provided by [C.G.S. § 1-83](#). The form is available on OSE's website. This policy is pursuant to Governor M. Jodi Rell's guideline for implementing Executive Order No. 1. The guideline was issued on July 19, 2004, and is available at http://www.das.state.ct.us/Home/Ethics_1.pdf

B. ETHICS & CONFIDENTIALITY AGREEMENTS

Agency employees must not participate in an RFP process if they have any interest that substantially conflicts with the proper discharge of their duties in the public interest ([C.G.S. § 1-85](#)).

At the start of the agency's RFP process, all participants must sign an ethics and confidentiality agreement. Any other agency employee who is privy to confidential information pertaining to the RFP must also sign an agreement. In the event that an outside individual participates in writing the RFP, writing the evaluation plan, or evaluating proposals, such an individual must also sign an ethics and confidentiality agreement.

In signing the agreement, participants in the RFP process attest that they will abide by the standards of conduct set forth in the State's Code of Ethics and further attest that they do not have a conflict of interest with the proper discharge of their duties.

The agreements must be reviewed and endorsed by the participants once the identities of the proposers are known (after opening the submitted proposals).

A sample ethics and confidentiality agreement is available on OPM's website at: http://www.ct.gov/opm/fin/ethics_confidentiality. The sample agreement may be modified to meet an agency's requirements.

IV. PRE-AWARD REQUIREMENTS

A. EVALUATING THE NEED

Before entering into a contract, an agency must first evaluate the need to do so. In addition to statutory or other legal requirements, State agencies, when evaluating the need to engage a contractor, should consider factors such as: (1) the costs and benefits of using a contract for the services; (2) the need for outside expertise or assistance, (3) the lack of internal resources, (4) the need for independent judgment or objectivity and (5) collective bargaining issues. In terms of expertise, a contractor may provide special skills or knowledge that an agency's regular, full-time employees do not possess. In terms of resources, a contractor can provide a needed service without diverting the efforts of regular employees who may be already committed to other responsibilities. In terms of objectivity, a contractor can provide an unbiased view of an agency's operations, identify problem areas, or suggest improvements. If an agency's employees lack the necessary expertise or are already fully committed to other responsibilities, a state agency may choose, as permitted, to purchase services through a contract. An agency should also consider whether another State agency has the resources to provide the service, or whether it is possible to purchase it on a collaborative basis with other State agencies.

- ■ IMPORTANT NOTES

When the use of a contractor is required by a State or federal mandate, an agency is not required to evaluate the need for a contract.

The State Contracting Standards Board's statutes ([specifically Section 4e-16](#)) include provisions requiring that a cost effectiveness evaluation or a cost-benefits analysis and business case be developed prior to entering into certain privatized contracts.

B. OUTLINE OF WORK

An agency must develop an outline of work that describes in detail what the agency wants the future contractor to do, provide, or accomplish. At a minimum, the outline of work must include information about the contract's purpose, scope, activities, deliverables, outcomes, and timeline.

Listed below are the components of an outline of work. *Suggested Areas of Inquiry* are provided for each component. The suggested areas are intended to stimulate the agency's thinking about each component and to provide guidance about the type of information an agency should include in the outline of work.

| <i>OUTLINE OF WORK</i> | |
|------------------------|---|
| <i>Component</i> | <i>Suggested Areas of Inquiry</i> |
| • <i>Purpose</i> | What is the need for the contract? What underlying opportunity or deficiency does it address? What problem is the agency trying to solve? |
| • <i>Scope</i> | What are the boundaries of the contract? What is included (and what is not)? Who is involved? What business processes are affected? What agencies, organizations, or stakeholders are affected? |
| • <i>Activities</i> | What does the agency want done? What functions, duties, or tasks are required of the future contractor? What work is to be performed? |
| • <i>Deliverables</i> | What will the future contractor deliver (or not deliver)? What are the tangible (e.g., reports, plans, and products) or intangible (e.g., new processes, operational changes, services) results of the project? |
| • <i>Outcomes</i> | What are the expected accomplishments? What are the anticipated beneficial effects of the project? How will the agency determine and measure the quality of the future contractor's work? |
| • <i>Timeline</i> | When, and in what sequence, will the work be done by the future contractor? Are there any important milestones? What are the deadlines? |

C. COST AND TERM OF CONTRACT

After the outline of work is developed, an agency must determine the anticipated cost and term of the future contract. Depending on its anticipated cost and term, a competitive procurement (RFP) or OPM's *prior* approval may be required.

1. Cost

An agency must develop a cost estimate for the future contract. The estimated cost may be determined using any generally accepted methodology, but it must be expressed as a "not to exceed" amount.

Pursuant to State statutes, any contract with an anticipated cost of more than \$20,000 requires a competitive procurement (RFP) process. Any such contract having an anticipated cost of more than \$50,000 also requires prior approval from the Secretary of OPM before issuing an RFP. For information about how to request a waiver from competitive solicitation, see Sections II.B. and IV.D.

When an agency is required to conduct a competitive procurement, the anticipated cost of the future contract is generally not revealed in the RFP. The cost should typically be held in confidence by participants in the RFP process who are privy to this information. However, under certain circumstances, it may be in an agency's best interest to reveal the cost. For example, when limited funds are available, revealing the cost may serve as an initial screen. Only those proposers who are willing to accept the stated amount to provide the services would submit proposals.

■ **IMPORTANT NOTE** ▶ POS Only ◀

With respect to a future POS contract, an agency may, as appropriate, disclose the amount of funding for the service in the RFP. Information about actual costs is published annually in the POS report prepared by OPM for the CT General Assembly. Competition around cost may be less of a factor, in some cases, for determining which service provider will be awarded a contract. In these instances, proposals may not be evaluated so much in terms of the bottom line (cost), but on how funds will be allocated. It may be, in some cases, preferable for an agency to disclose up front how much money is available and then ask the service provider to propose the amount of service that can be delivered at the specified funding level.

2. Term

Pursuant to State statutes, any contract with an anticipated term of more than one year requires a competitive procurement (RFP) process, unless OPM approves an agency's request for a waiver of this requirement. Any contract having an anticipated term of more than one year also requires prior approval from the Secretary of OPM.

CONTRACTING WITH INDIVIDUALS

Under State statutes, a PSA between a State agency and an individual shall not have a term of more than one year. Any such PSA may be extended or renewed, for an unlimited term, provided certain entities are notified of the extension or renewal. The entities that must be notified are the appropriate collective bargaining representative, the Commissioner of DAS, and the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees ([C.G.S. § 4a-7a\(b\)](#)). A PSA between a State agency and a firm or corporation may have any term. See Section VI.C for other procurement requirements when contracting with individuals.

Before entering into a PSA with an individual, it is essential that an agency first analyze the work to be performed under the PSA to ensure that the individual will truly be working as an independent contractor and not as an employee of the agency. An agency should consult the Office of the State Comptroller's [Memorandum 94-9, Determining a Worker's Status](#) (April 8, 1994), when performing this analysis.

Additionally, prior to entering into a PSA with a current State employee, an agency must obtain prior approval from OPM by submitting a *Request for Personal Service Agreement* via the PSA / POS Request Website. A request must be submitted regardless of the cost or term of the future PSA. If approved by OPM, the agency must fully execute a *Certification for PSA with Current State Employee* ([CT-HR-10](#)). The certification form and instructions are available on DAS's website at <http://www.das.state.ct.us>. From the DAS home page, navigate to DAS CONTENT - HUMAN RESOURCES | EMPLOYEES - HR Forms. See Section VI.C (below) for other requirements when contracting with individuals.

Entering into a PSA with a retired State employee is prohibited. (See OLR, General Notice 2003-15: Re-employment of Retired Employees, April 9, 2003).

■ **IMPORTANT NOTE ▶ POS Only ◀**

Agencies shall not enter into POS contracts with individuals. POS contracts may be used only with a private provider organization or municipality.

D. OPM APPROVALS

There are two situations when an agency must request *prior* approval from OPM:

- (1) For a future contract with an anticipated cost of more than \$50,000 or an anticipated term of more than one year. OPM must approve the request before an agency begins the RFP process; ~~and~~.
- (2) For a sole source procurement when the future contract has an anticipated cost of more than \$20,000 or an anticipated term of more than one year. OPM must approve the request before an agency begins negotiations with the potential contractor.

1. To Begin RFP Process

When a contract has an anticipated cost of more than \$50,000 or an anticipated term of more than one year, an agency must obtain prior approval from OPM *before an RFP can be released*.

To apply for approval in this situation, an agency must submit a request to OPM via the PSA / POS Request Website available at <https://www.appsvcs.opm.ct.gov/psa>. The agency employee submitting the online request must be a chief program officer, chief fiscal officer, or higher level agency official. An agency employee wishing to become an agency requester can receive information about how to register by sending an e-mail to efo.opm@ct.gov.

If an agency submits a request for audit services, OPM must notify the Auditors of Public Accounts and give the State Auditors an opportunity to review the request. The State Auditors may advise the Secretary whether the audit services are necessary and, if so, whether the State Auditors can provide the services.

If the Secretary approves the request, an agency may conduct an RFP process. If the request is denied, an agency must not proceed further.

■ **IMPORTANT NOTE**

If an agency receives fewer than three acceptable proposals in response to an RFP and the anticipated cost of the future contract is greater than \$20,000, the agency must submit a request for a *Non-Competitive* procurement to OPM. The request must be submitted via the PSA / POS Request Website at <https://www.appsvcs.opm.ct.gov/psa> and be approved by OPM before the agency selects a contractor.

2. To Waive RFP Process

An agency may not wish to conduct a competitive procurement and, instead, may wish to negotiate with a single contractor ("sole source") to make a purchase.

In such situations, an agency must submit a request to OPM to waive the competitive procurement requirement when: (1) the anticipated cost of the future contract is greater than \$20,000 and the anticipated term is one year or less, or (2) the anticipated term of the future contract is more than one year. Prior approval must be obtained *before* discussions are held with any potential contractor.

To apply for approval for a sole source procurement, an agency must submit a request for *Waiver from Competitive Solicitation* to OPM via the [PSA / POS Request Website](#).

Any reason given as justification for the sole source procurement (i.e., any radio button checked YES on the form) must be explained in detail. Along with the justification, an agency must explain the process used to determine the rate that the potential contractor will be paid. If the Secretary approves the waiver request, an agency may go forward with the sole source procurement. If the request is denied, an agency must not proceed further.

In the case of emergency services, an agency may ask for an expedited decision on the waiver request.

E. DOCUMENTATION OF PROCUREMENT PROCESS

An agency must establish an official project file once the decision is made to enter into a contract. The project file must contain all the essential documents related to the contractor selection process. The contents of the file must be detailed enough to enable someone with no knowledge of the process (such as a State auditor) to reconstruct an accurate account of what occurred.

At the end of the contractor selection process, all original documents must be retained and placed in the project file. Any duplicate copies may be destroyed.

At a minimum, the project file must include the following documents:

- outline of work
- approvals from DAS (if required)
- approvals from OPM (if required)
- approvals from the AG's Office (if required)
- original contract
- contract amendments (if any)
- affidavits, certifications, or affirmations required by law, executive order, or policy
- final evaluation of the contractor

If an agency conducts an RFP process to select a contractor, the project file must also include the following documents:

- list of all participants in the RFP process
- signed Ethics and Confidentiality Agreements
- RFP document, including any amendments
- evaluation plan, including any amendments
- legal notice and advertising placements
- any mailing list used to distribute the legal notice
- written questions (from prospective proposers, proposers) and answers (from agency)
- list of attendees at the RFP conference (if held)
- any audio recording, transcript, notes, or minutes of RFP conference (if held)
- copies of all RFP-related correspondence, including e-mail

- all proposals received before and after the deadline
- list of proposals received after the deadline (if any)
- final rating sheet used for evaluating proposals
- any forms or notes used to check references
- final ratings and ranking of proposals
- Screening Committee’s recommendations to the agency head
- documentation of the agency head’s selection or rejection of a contractor

The project file is required for three reasons:

- (1) Per State statutes, OPM’s standards must include a provision requiring State agencies to document the entire process for selecting a contractor. Creating and maintaining an official project file satisfies this statutory requirement.
- (2) State statutes also require each agency to maintain certain records used in the conduct of agency business. A contract falls under the category of “agency business.” Agency records must be maintained for prescribed lengths of time (according to a “retention schedule”) until they are destroyed or archived. Each agency has a Records Management Liaison Officer who coordinates the records retention and management activities for the agency. Additional information about the Public Records Management Program is available from the Office of the Public Records Administrator at the Connecticut State Library; [and](#).
- (3) Having an official project file will make it easier for an agency to respond to any requests for information under the Freedom of Information Act (FOIA) or any complaints filed with the [ESP-State Contracting Standards Board](#).

F. WRITING THE RFP

The RFP process has three essential tasks: (1) writing the RFP – formally referred to as the “solicitation communication,” (2) writing the evaluation plan for reviewing proposals submitted to the agency in response to the RFP, and (3) reviewing the proposals in accordance with the evaluation plan. Writing the RFP is discussed in this Section; writing the evaluation plan is covered in Section IV.G.; and evaluating proposals is dealt with in Section IV.K.

The collective group of individuals who work on any or all of these tasks is hereafter called the “RFP Team.”

■ IMPORTANT NOTE

Any person, firm, corporation, or private provider organization that assists an agency with the development of an RFP for a new or existing service (for the agency itself or for the agency’s clients) cannot submit a proposal in response to an RFP for that same service.

1. Contractor Qualifications

Pursuant to State statutes, an RFP must include the “required minimum qualifications” of the future contractor. The term “qualifications” refers to any necessary experience, education or training (credentials), knowledge, or skills that the future contractor must have as a condition of eligibility. The tasks or activities contained in the outline of work should help determine what the required minimum

qualifications might be. If a proposer does not meet the required minimum qualifications, the proposal is not eligible for review.

EXAMPLE: Assume that the purpose of an RFP is to select a contractor to provide specialized health services to the agency's clients. It is reasonable to require that an individual proposer have a medical degree from an accredited school and hold a State license as a specialist in the field (or, in the case of a firm, corporation, private provider organization, or municipality, have personnel on its staff with such qualifications). An agency may also require at least five years of experience in providing such services. If a proposer does not have all these qualifications (i.e., does not meet the required minimum qualifications), the agency must deem the proposal ineligible for further review.

Take care when determining the required minimum qualifications. If the bar is set too high, the agency may eliminate otherwise good proposals that fall a little short. If the bar is set too low, the quality of the services delivered may be compromised, ~~and ultimately increase the number of applicants that have to be reviewed.~~

| EXAMPLES OF QUALIFICATIONS | |
|--------------------------------|---|
| Type | Description |
| • <i>Experience</i> | having directly participated in a certain activity for a certain length of time; having a documented "track record" of past performance (that can be taken as an indicator of likely future performance); having provided services of similar type, magnitude, or quality; etc. |
| • <i>Education or Training</i> | having certain knowledge or understanding of certain facts or ideas; having credentials (diplomas, certificates, licenses) that show the future contractor has fulfilled certain requirements and may practice or work in a particular field |
| • <i>Skills or Abilities</i> | having the capacity to carry out or perform certain tasks or responsibilities; having certain levels of proficiency or aptitudes; etc. |

2. Format for Proposals

According to State statutes, an RFP must include instructions about an agency's required format for proposals. As RFPs may vary from agency to agency, and from project to project within an agency, OPM has not established a "standard proposal format" for all agencies. OPM has, however, established a standard RFP proposal format that may be used for POS contract procurements website. Each agency needs to consider the RFP at hand and come up with a suitable format for the proposal. A suitable format is as straightforward as possible, covers all aspects of the RFP, and can be easily followed by proposers. Whatever format an agency decides to use, its structure and its required use must be clearly explained to proposers in the RFP.

A proposal usually consists of two principal parts: (1) a main proposal, which presents information about how the requested services would be provided; and (2) a cost proposal, which presents the price for

providing the requested services. An agency needs to decide how it wishes proposers to present both types of information in their proposals.

MAIN PROPOSAL

The required format should be more than a list of what documents and information to include in a proposal. Rather, the required format should be more akin to a detailed outline. The outline should prescribe not only what documents and information to include in the proposal, but also the order in which to present them. In other words, the format should adhere to an outlining convention (i.e., a standardized system of numbering and indentation) that reflects the logical order and hierarchy of the proposal.

The required format that an agency adopts must be exactly that: *required*. Having a required format not only satisfies the State statutes, it also facilitates the work of the Screening Committee, since the Committee will know where to find certain documents or information in each proposal submitted. A required format makes it immediately apparent if a document or information is missing from a proposal. Following the format also makes it easier for the Committee to locate required documents and information in the proposal during the evaluation process.

Any proposal that does not follow the required format must be deemed “unacceptable” and ineligible for review by the Screening Committee. However, an agency may use its discretion to waive “technical irregularities” with respect to the required format, such as minor errors in pagination or outline numeration. A technical irregularity must not be construed to mean: (1) the failure to use the required format; (2) the failure to include required documents or information; or (3) the failure to submit the proposal before the established deadline. Waiving a technical irregularity must not give a proposer an undue advantage or compromise the integrity of the RFP process. (See also section IV.F.3.)

COST PROPOSAL

An RFP must also indicate the required format for the cost proposal. This assures that all proposers will present their cost information in a uniform way, thus allowing for an “apples-to-apples” comparison of proposals. The appropriate cost format depends on the type of services requested. Again, whatever the required format for the cost proposal, it must be exactly that: *required*.

An agency needs to decide if it wants the cost proposal immediately visible or if it wants the cost proposal initially concealed. A proposal with the cost proposal immediately visible upon opening the proposal is referred to here as a “one-part” proposal. A proposal with the cost initially concealed upon opening the proposal is referred to here as a “two-part” proposal.

With a one-part proposal, the cost is submitted with the main proposal as a single, unified document. All information is at once available to the Screening Committee upon opening the proposal. The proposal is evaluated and rated in its entirety in a one-step process. With a two-part proposal, the cost is submitted with the main proposal, but in separate packets. Not all information is available to the Screening Committee upon opening the proposal. The main proposal is visible, but the cost proposal is kept under a sealed cover. The main proposal is opened, evaluated and rated first. Then the cost proposal is opened, evaluated, and rated. The two separate ratings are then combined into one overall rating.

What are the advantages of each type of cost proposal and when should they be used?

One-part proposals are easier to understand and quicker to evaluate, as full information is available immediately. They should be used for lower-cost or less complicated projects. Two-part proposals should be used for higher-cost or more complicated projects. Two-part proposals enable the Screening

Committee to focus first on the quality of the main proposal, without any bias with respect to its cost. Two-part proposals are used in situations where the quality of the main proposal may outweigh the importance of cost. While low cost is desirable, it may not represent the best value or overall benefit to the State. If an agency's RFP is deemed significant from either a financial or a programmatic standpoint, a two-part proposal is recommended.

3. Submission Requirements

The agency must determine the minimum submission requirements for an "acceptable" proposal. Only acceptable proposals are eligible for review by the Screening Committee. Any proposal that does not meet the requirements must be deemed "unacceptable" and ineligible for review by the Screening Committee. Examples of such requirements include, but are not limited to: (1) meeting the submission deadline, (2) meeting the packaging and labeling requirements, (3) submitting a complete proposal, (4) following the required format, and (5) submitting any required forms, certification, affidavits, or attachments.

When proposals are opened after the deadline, they should receive a preliminary review to determine if they meet the minimum submission requirements. The preliminary review is designed to identify any glaring deficiency in a proposal. The minimum submission requirements are rated either "Yes" or "No." In other words, either a proposal meets a requirement or it does not. If permitted by the evaluation plan (see Section IV.G. below), the Chair may ask the Official Agency Contact to notify any proposer who has submitted a deficient proposal and allow the proposer a limited time to remedy the deficiency. Failure to remedy the deficiency within the time allowed would disqualify and eliminate a proposal from further review.

Later in the evaluation process, a member of the Screening Committee may conclude that a proposal does not meet a minimum submission requirement. In such a situation, the member would bring the alleged deficiency to the full Committee's attention. If permitted by the evaluation plan, the Chair may ask the Official Agency Contact to notify any proposer who has submitted a deficient proposal and allow the proposer a limited time to remedy the deficiency. Failure to remedy the deficiency within the time allowed would disqualify and eliminate a proposal from further review.

Giving a proposer an opportunity to remedy a deficiency should not result in an unfair advantage. It should be granted for only a minor deficiency and for a very short time frame (e.g., 24 hours).

4. Evaluation Criteria

Evaluation criteria are the standards by which the Screening Committee judge the merits of the proposals submitted in response to the RFP. The criteria should be tailored for each RFP.

According to State statutes, an RFP must include the criteria that will be used to evaluate proposals. Including the criteria in the RFP provides additional guidance to proposers about what the agency is requesting.

Only the criteria contained in the RFP shall be used to evaluate proposals. The use of evaluation criteria other than those listed in the RFP is prohibited. The criteria must be applied to the submitted proposals without any changes, deletions, or enhancements.

Whatever criteria are used, they should be: (1) *objective*, meaning they are based on the project's characteristics and requirements; (2) *comprehensive*, meaning they address all key elements of the RFP; (3) *clear*, meaning they are readily understood by proposers and the Screening Committee; (4) *fair*, meaning they treat all proposers equitably; (5) *appropriate*, meaning they are right or suitable for the purposes at hand; and (6) *measurable*, meaning they are quantifiable.

| <i>EXAMPLES OF EVALUATION CRITERIA</i> | |
|---|--|
| • <i>Outline of Work</i> | the quality of the proposed work plan and methodologies to achieve the project's expected outcomes, including the ability to complete the work within the time frame |
| • <i>Contractor Qualifications</i> | previous experience; education and training; special knowledge, skills or abilities; <i>POS Only</i> : community history |
| • <i>Key Personnel</i> | the number, qualifications, and titles of the primary person(s) assigned to the project |
| • <i>Staffing Plan</i> | detailed explanation of how key personnel will be applied to the project, including the number of hours for each task |
| • <i>Financial Condition</i> | the sufficiency or availability of funds or other resources necessary to complete the contract |
| • <i>Cost</i> | the amount of money that a future contractor requests to provide the service |
| • <i>Contract Compliance Requirements</i> | the success or promise of a future contractor to meet the State's contract compliance requirements related to affirmative action and minority business enterprises |
| • <i>References</i> | a formal recommendation by a former employer or associate describing a person's qualifications and dependability (etc.); past performance on State contracts |
| • <i>Other</i> | criteria unique to the agency's RFP |

After the evaluation criteria are determined, they must be weighted – i.e., prioritized – according to their relative importance. For example, if an RFP has a maximum of 100 points, each criterion must be assigned some portion of the 100 available points. Using the criteria listed above as an example, the outline of work may be worth 15 points, qualifications may be worth 20, key personnel may be worth 10, staffing plan may be worth 10, financial condition may be worth 15, cost may be worth 10, contract compliance requirements may be worth 10, and references may be worth 10 – for a total of 100 points.

■ **IMPORTANT NOTE ▶ PSA Only ◀**

An agency needs to decide whether to include the assigned weights in the RFP. According to State statutes, the RFP must include the evaluation criteria, but there is no requirement to disclose the weights assigned to them. Weighting for each section of the RFP should not be disclosed unless there are specific and compelling reasons to disclose such weights for a particular service.

Once finalized, the individuals responsible for writing the evaluation plan must use the criteria and weights to create a standardized rating sheet or some other instrument (e.g., an electronic spreadsheet)

that can be used by the Screening Committee when evaluating proposals. The rating sheets must be approved by the agency head (or designee) before the RFP is released. The plan must include the rating sheets (with the criteria and weights) to be used when evaluating the proposals.

5. Submission Deadline

The RFP must state the deadline for submitting proposals to the agency. All proposals received before the deadline must be stamped with the time and date they are received. The Official Agency Contact must place them – unopened – in a secure location. The proposals must not be opened until the deadline has passed.

Any proposals received after the deadline must also be stamped with the time and date they were received. A list, documenting the date and time that late proposals were received, must be prepared and maintained in the project file. Late proposals must be disqualified and not evaluated by the Screening Committee. Late proposals must not be opened and must be held in a secure location – by the Official Agency Contact – for the duration of the evaluation process. Any proposer who submitted a late proposal must be immediately notified in writing that the proposal has been disqualified.

■ IMPORTANT NOTE ▶ POS Only ◀

For an RFP resulting in a POS contract, there must be a minimum of seven (7) weeks between the date that an agency releases the RFP and the deadline for submitting proposals, unless an emergency situation warrants a shorter length of time.

6. Affidavits & Certifications

OPM has created various forms (i.e., affidavits, affirmations, certifications) to assist executive branch agencies in complying with certain contracting requirements set forth in the Connecticut General Statutes and Gubernatorial Executive Orders. Some of these forms must be included in the proposals submitted to an agency; others must be submitted to an agency at the time of contract execution.

Downloadable versions of the forms and information about them – that is, *who* must submit *which form*, and *when* – is available on OPM's website at:

- Ethics Affidavits & Certifications for State Contracts
http://www.ct.gov/opm/fin/ethics_forms
- Nondiscrimination Certification for State Contracts
http://www.ct.gov/opm/fin/nondiscrim_forms

G. WRITING THE EVALUATION PLAN

An agency must assign responsibility for writing an evaluation plan to one or more individuals. The assigned individual(s) may have been involved in writing the RFP or may be on the Screening Committee – or they may be entirely different.

The written evaluation plan describes the Screening Committee's step-by-step process for evaluating proposals: from the time when the proposals are received by the Official Agency Contact, to the time when the names of the three top ranking proposers are submitted to the agency head. The plan must include the rating sheets (with the criteria and weights) that must be used when evaluating the proposals. The agency head (or designee) must approve the evaluation plan, including the weighted criteria, before the RFP is released.

The evaluation plan should include, but is not limited to, the following steps in the review process:

- Receiving proposals
- Reading proposals
- Individual rating of proposals
- Holding meetings with proposers (optional)
- Committee rating of proposals
- Final ranking of proposals
- Reporting to agency head
- Methodology for a screening or elimination round

■ **IMPORTANT NOTE**

If an agency expects to receive a large number of proposals in response to an RFP and is uncertain whether the Screening Committee will have time to review them all fully, an elimination round may be implemented. The details of the elimination round – i.e., the circumstances that would trigger it and how it would be conducted – must be included in the evaluation plan. A notice that an elimination round may be triggered under certain circumstances must also be included in the RFP. If triggered, the elimination round must be conducted by the Screening Committee and not relegated to technical advisors, other members of the RFP Team, or other agency employees outside the RFP Team.

The elimination round may be structured in any number of ways. One possible way is to evaluate and initially rate, for example, all proposers on just their qualifications. Only the top ranking proposals would be reviewed further. In this example, proposers would be instructed to put information about their qualifications under separate cover when submitting their proposals. If an elimination round is triggered, then the Screening Committee would initially only receive the qualifications of each proposer (from the Official Agency Contact) and no other information contained in the proposal. The rating sheets would also be designed so that the Screening Committee could evaluate and rate the qualifications separately and apart from the other criteria. After rating qualifications, a pre-determined number or percentage of the top ranking proposals would receive a full review by the Screening Committee.

Another way to structure an elimination round is to do a Request for Qualified Contractors (RFQC) process. Interested proposers would submit only their qualifications, the list of key personnel who would be assigned to the project, and a brief description of their approach to the project. The Screening Committee would evaluate and rate the submissions in accordance with an approved evaluation plan. The top ranking proposers would then be asked to submit a full proposal in response to a subsequent RFP.

SUGGESTIONS FOR EVALUATING PROPOSALS

Typically, proposals are initially evaluated and rated by the individual members of the Screening Committee. These individual ratings are then shared in a meeting of the entire Committee. Individual ratings that are widely discrepant are discussed and individual members may (but are not required to) change their ratings as a result of the group discussion. Once all members are satisfied with their ratings, the individual ratings are combined and averaged. The average ratings are then multiplied by the criteria weights. The results are added together to determine the final rating.

When evaluating proposals, the members of the Screening Committee are advised not to review and rate a proposal in its entirety and then proceed to the next one, then the next, etc. It is better to review and rate all the proposals by the first criterion, then the second criterion, and then the next, etc. This enables the members to gain an understanding of how all the proposers responded to an RFP component and

how the proposals compare to one another. Reviewing the proposals one component at a time will make their relative strengths and weaknesses more apparent, easier to compare, and easier to rate.

■ **IMPORTANT NOTE**

All discussions related to the evaluation of proposals are confidential and must not be shared with individuals outside the evaluation process.

H. ADVERTISING FOR CONTRACTORS

A State agency increases the likelihood of procuring the desired services at the most favorable cost when there is an open and fair competition among proposers. Such an open and fair competition can occur only when prospective proposers are aware of the RFP and have an opportunity to respond to it. For this reason, an agency needs to advertise in ways that allow for the greatest possible visibility and distribution of the RFP.

The first step in advertising the RFP is writing a legal notice – i.e., a public announcement about the RFP. At a minimum, the legal notice should contain the following information:

- the agency's name and address;
- a brief description of the project;
- the required minimum qualifications of the contractor;
- the location, date, and time of the RFP conference (if any);
- the person to contact to obtain a copy of the RFP; and
- the deadline for submitting proposals.

Once written, the legal notice may be mailed to individuals, firms, corporations, private provider organizations, or municipalities that the agency believes may be interested in responding to the RFP, but such a mailing should not be done exclusively. Any direct mailing should also include small and minority-owned businesses that have been certified by DAS. Contact the agency's Affirmative Action Officer, Purchasing Officer, or DAS for information about how to access the current lists.

When the anticipated cost of the contract is more than \$50,000, agencies should consider advertising in the print media. Print media advertising must be done for contracts with anticipated costs over \$250,000. Print media include major newspapers having either statewide or regional (multi-state) circulation. An agency may also choose to advertise in any appropriate industry, trade, or professional publication. An agency must also solicit the participation of minority business enterprises, as required by the Regulations of Connecticut State Agencies § [46a-68j-30\(9\)](#). Such solicitation may include advertising in newspapers having circulation primarily among minority-owned business enterprises.

Pursuant to Governor Rell's [Executive Order No. 3](#), all bids, RFPs, related materials, and resulting contracts and agreements must be posted on the [State Contracting Portal](#). The portal is maintained by DAS. Agencies have to get an account number, password, and training from DAS before posting information.

All legal notices and RFPs must also be published on the agency's website. Ideally, a prominently placed hyperlink or clickable image on the agency's "home page" should take the viewer to an "RFP page" where all the agency's legal notices and RFPs are listed. From the RFP page, a viewer should be able to view, download, and print each legal notice and RFP. Be sure to coordinate the timing of any direct mailing with the publication of the legal notice in the print media, on the agency's website, and on the State Contracting Portal. They should occur simultaneously.

Some interested parties may request a hard copy of the RFP from an agency. So as not to discriminate against those without access to a computer, a printer, or the Internet, a hard copy of an RFP must be mailed or given to anyone who requests one. It is advisable to keep a list of all those requesting a hard copy, as this contact information can be useful for updating the agency's direct mailing list or when issuing any amendments to the RFP.

I. COMMUNICATIONS

It is in an agency's best interest to control the flow of information about the RFP. Great care should be taken about what is said about the RFP process and to whom. To ensure the equitable treatment of all prospective proposers, each should receive the same, accurate, and authorized information throughout the RFP process – no more, no less.

1. Official Agency Contact

The agency must designate one of its employees as the "Official Agency Contact" for purposes of the RFP. The principal responsibility of the Official Agency Contact is to handle all communications with outside parties concerning the RFP.

The Official Agency Contact also receives all proposals submitted in response to the RFP and keeps them, unopened, in a secure location until the submission deadline. After the deadline has passed, the Official Agency Contact gives the proposals to the Chair of the Screening Committee. Any proposals received after the deadline must be retained, unopened, by the Official Agency Contact in a secure location.

The Official Agency Contact should be someone who is "disinterested" (meaning, having no interest or involvement) in the RFP process, but who is knowledgeable about it. Having these qualities enables this person to speak for the agency about the RFP when necessary, yet minimizes the possibility of this person influencing – however unintentionally – the outcome of the process.

While appointing a "disinterested" Official Agency Contact is recommended, it may not always be feasible, particularly if an agency has staff constraints. An acceptable alternative is for the Official Agency Contact to be someone who participated in writing the RFP or the evaluation plan. It is not permissible under any circumstances for the Official Agency Contact to be the Chair or a member of the Screening Committee.

2. Ex Parte Communications

It is in an agency's best interest to control the flow of information about the RFP. Great care must be taken about what is said by an agency about the RFP and to whom. To ensure the equal treatment of all prospective proposers, proposers, and potential contractors, all must have access to the same, accurate, and authorized information throughout the RFP process – no more, no less.

Steps should be taken to prevent "ex parte communications." An ex parte communication is the transmission of information that is (1) not part of the public record and (2) not generally available or shared with all participants of the RFP process. An ex parte communication about the RFP can potentially occur between *any* agency employee and an outside party, including, but not limited to, prospective proposers, proposers, current contractors, lobbyists, the media, legislators, agency employees not participating in the RFP process, or employees of other State agencies.

Except as permitted by the RFP document, communication between any agency employee and an outside party about the RFP is strictly prohibited.

COMMUNICATIONS PROCEDURE

Occasions may arise when an outside party attempts to communicate with an agency about its RFP process. An agency must develop and implement a communications procedure for handling such occasions and must instruct agency employees about how to comply with the procedure.

Below is a suggested procedure that may be modified to suit an agency's requirements.

- *Step 1: Designate Official Agency Contact*
Assign sole responsibility to the Official Agency Contact for handling communications about the RFP from prospective proposers, proposers, and other outside parties.
- *Step 2: Instruct Agency Employees*
Notify all agency employees about the assignment and provide them with the Official Agency Contact's telephone number and/or e-mail address. Instruct employees to refrain from discussing the RFP with outside parties. Direct them to refer all communications from outside parties to the Official Agency Contact.
- *Step 3: Advise Outside Parties*
Upon receiving a referral, the Official Agency Contact must advise the outside party about the rules concerning ex parte communications and the agency's established communication procedure for the RFP. The Official Agency Contact can provide only that information permitted by the RFP document to the outside party.

Members of the Screening Committee should be cautious in transmitting any confidential information, opinions, or comments related to the RFP process and ensure that such transmissions occur in a secure manner.

They should also take into consideration both costs to the State and bidders when determining the number of hard copies necessary for the review process.

3. Questions about the RFP

After the RFP is issued, an agency needs to manage inquiries from prospective proposers. An agency should answer these questions as clearly as possible and in such a way as to preserve the integrity of the process. The goal is to make certain that all prospective proposers have equal access to any new information (in the form of answers) provided by the agency, so that no prospective proposer has an unfair advantage over the others. Whatever procedure an agency adopts to answer questions, it must be explained in the RFP.

Prospective proposers must submit their questions in writing by the deadline(s) established in the RFP. The deadline for questions should be at least two weeks after the RFP is issued. This gives prospective proposers sufficient time to read the RFP and submit their questions. The agency should allow prospective proposers to submit questions using a variety of means (e.g., US mail, e-mail, facsimile, an electronic form posted on the agency's website). Questions should not be accepted or answered verbally, in person or over the telephone.

If an agency decides to hold an RFP conference, two separate deadlines for submitting questions may be established. The first deadline may be set before the date of the conference. Any questions received by the first deadline may then be answered at the conference. The second deadline may be set after the

date of the conference. This allows prospective proposers to ask follow-up questions after the conference.

All questions from prospective proposers must be directed to the Official Agency Contact, who is responsible for forwarding the questions to the RFP Team. It is strongly recommended that the Official Agency Contact compile and repackage the questions into a new document without any identifying information about the prospective proposers asking the questions. This practice reinforces the RFP Team's objectivity, enabling members to respond to questions without bias. It also ensures confidentiality, as the identity of the prospective proposer asking the question cannot be inadvertently revealed to other prospective proposers when the answers are released.

All questions received before the deadline(s) must be answered. The agency has the discretion to respond (or not) to questions received after the deadline(s). The agency has the right to combine "like questions" and give only one answer. The agency is not required to answer questions when the source is unknown (i.e., nuisance or anonymous questions).

All questions and answers must be compiled into a written amendment to the RFP and numbered (e.g., Amendment 1), even if there is only one question and answer. If multiple amendments are issued, they must be sequentially numbered (e.g., Amendment 2, 3, etc.). If the answer to any question constitutes a material change to the RFP, the question and answer must be placed at the beginning of the amendment and duly noted as such. Amendments should be reviewed by the agency's management, as appropriate, before release.

The agency must release the answers to questions on the date established in the RFP. The established deadline should give the RFP Team enough time to prepare the answers and have them approved by agency management, as appropriate. All amendments must be distributed to the following: (1) those on any mailing list used to distribute the legal notice or RFP, (2) those who submitted a letter of intent (if any); (3) those who submitted questions; and (4) those who attended the RFP conference (if held). If, however, the RFP required a letter of intent or attendance at an RFP conference, an agency need only distribute the amendment(s) to those who submitted such a letter or attended the conference. If so stated in the RFP, agencies may publish responses to questions and amendments to the RFP on the DAS website and on its own website in lieu of the aforementioned methods of distribution. The release date for the answers to questions about the RFP must be at least two weeks before the deadline for submitting proposals. This gives prospective proposers sufficient time to modify their proposals in accordance with the new information. If answering questions takes longer than anticipated, an agency should consider the amount of time remaining until the submission deadline. When insufficient time remains (i.e., less than two weeks), the agency should establish a new deadline – using an amendment to the RFP to do so.

J. LETTER OF INTENT

A letter of intent (also called a notice of intent) is a letter or form that a person, firm, corporation, private provider organization, or municipality submits to an agency by a specified deadline, indicating that such person, firm, corporation, private provider organization, or municipality may submit a proposal in response to the RFP. The letter is non-binding, as it is only an expression of interest and does not obligate the sender to submit a proposal.

If an agency wishes to receive letters of intent from prospective proposers, it needs to decide whether to make the letter optional or required. If optional, the prospective proposers decide for themselves whether to send the agency such a letter. If an agency chooses this option, the RFP's instructions must clearly state that those who do not to submit a letter are at risk of not receiving subsequent information, updates, or amendments pertaining to the RFP.

If the agency decides to require a letter of intent, the benefits may outweigh the minimal administrative burden on the agency and prospective proposers. Letters of intent provide the agency with an early indication of the interest the RFP has generated. They also allow for the creation of a mailing list that may be used for subsequent communications to prospective proposers. The downside of requiring a letter is that a prospective proposer may learn of the RFP late in the process. Having failed to send the letter of intent by the specified deadline, this potentially worthy prospective proposer would not be allowed to submit a proposal.

OPM does not require an agency to use a letter of intent. The decision to use a letter of intent or not is left to each agency.

K. EVALUATING SUBMITTED PROPOSALS

1. Screening Committee

The evaluation (review) of proposals must be done by a Screening Committee composed of three or more individuals. The agency head (or designee) must appoint the Screening Committee and the committee's Chair. If the RFP involves highly technical or obscure subject matter, the Chair may appoint "technical advisors" to counsel and inform the Committee. Any technical advisor must sign an Ethics & Confidentiality Agreement and complete a Statement of Financial Interest.

Evaluating the proposals submitted in response to an agency's RFP might be the most important – and sensitive – task in the entire process. The agency depends on the Screening Committee to do a thorough and professional job on its behalf. Proposers expect the Committee to evaluate their proposals in a fair and impartial manner.

Below are factors to consider when selecting the Screening Committee and its Chair:

SELECTION FACTORS – COMMITTEE MEMBERS

- *Expertise.* Individuals who have special knowledge of the RFP's subject matter and/or direct experience with the services being provided are essential. In addition, these individuals should have the ability and willingness to share their knowledge with other Committee members.
- *Availability.* The individuals must be able to commit to the time and work requirements of the Committee. Members are expected to attend every meeting.
- *Perspective.* The individuals should understand how the project fits within the agency's mission and organization. While they may not know the day-to-day details, an ability to place the project in an overall context is valuable. An open mind is also needed to fairly and impartially judge the proposals.
- *Professional Standards.* Individuals who have a reputation for good judgment, integrity, and honesty are needed.
- *Other Agencies.* If the agency partners or coordinates with another State agency with respect to the services covered by the RFP, it may make sense to include someone from the partnering or coordinating agency on the Committee.

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- *Size and Number.* The Committee should not have too few or too many members. Three is the minimum and five is the optimal number, allowing for multiple viewpoints without creating logistical difficulties. An odd number avoids tie votes.
- *Reporting Relationships.* Committee members should feel free to voice their opinions. For this reason, it is best to avoid having individuals with direct reporting relationships on the Committee.
- *Diversity.* The Committees should be composed of individuals with differing backgrounds, perspectives, experience, and skill sets.

SELECTION FACTORS – COMMITTEE CHAIR

- *Facilitation Skills.* The Chair should have the ability to lead and guide a discussion, so that all members have an opportunity to participate and contribute to the process.
- *Agency Support.* The Chair should have the full trust and confidence of the agency head.
- *Availability.* While availability is an issue for all Committee members, it is even more important for the Chair. The Chair's responsibilities are substantial and may require a considerable time and work commitment.
- *Attention To Detail.* The responsibilities of the Chair include, but are not limited to, implementing the evaluation plan, calling and facilitating meetings and work sessions, and coordinating communications. The Chair should be able to manage multiple priorities, adhere to a timeline, and keep track of all the details.

2. Evaluating Proposals

The Screening Committee must evaluate the proposals in accordance with the approved evaluation plan. If some circumstance arises that requires deviation from the plan, the Screening Committee may modify the plan by adopting a written amendment. The amendment must be approved by a majority of the members of the Committee, and the agency head (or designee) must approve the amended plan.

After the due date and time for submitting proposals has passed, proposals must be opened by the Chair (or designee) in conjunction with one other Committee member. The Chair and Committee member must conduct a preliminary review of each proposal to verify that the proposal meets the minimum submission requirements, as specified in the RFP. The Chair must advise the Screening Committee about any deficient proposal. At the request of the Screening Committee, the Official Agency Contact may contact any proposer who submitted a deficient proposal and allow the proposer a specified period of time to correct *minor* deficiencies. (An agency may define the term *minor*.) Any such correction must be submitted to the Official Agency Contact within the time allowed (e.g., 24 hours). Failure to submit the necessary correction within the time allowed must disqualify a proposal from further review. Other than to correct a minor deficiency (as described here), no changes shall be made to any proposal after it has been accepted for evaluation by the Screening Committee.

After the deadline for submitting proposals, the Chair should assign a member (or members) of the RFP Team to check each proposer's references. The purpose is to verify the skills, qualifications, work record, or accomplishments of a proposer or to seek other information about the proposer that may be of interest to the Screening Committee. It is recommended that a standardized form be created and used

for checking references. The standardized form assures that all references are asked the same set of questions about each proposer. This is done in the interest of fairness and to prevent any bias, however unintentional, from being introduced into the evaluation process (i.e., asking “hardball” questions about some proposers and “softball” questions about others). Once the reference checks are completed, the findings are reported to the Chair and other Committee members.

If the Screening Committee needs to communicate with any proposer during the evaluation process, the communication must go through the Official Agency Contact.

The Screening Committee may ask clarifying questions of proposers. The purpose of such clarifying questions is to allow proposers to further explain aspects of their proposals causing confusion or misunderstanding. The Chair should designate an RFP team member to collect questions from the Screening Committee and organize the questions into sets by proposer. The Official Agency Contact should send each proposer only those questions concerning his or her proposal. In other words, the proposers should not see all the questions, only the ones directed to them individually. The questions may be sent by US mail, facsimile, or e-mail. Proposers should be given a limited amount of time to respond with their written answers (e.g., three business days). The Screening Committee should review each answer to make sure that it clarifies – and does not alter – the original proposal.

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If the RFP and evaluation plan allows for demonstrations, interviews, presentations, or site visits, such meetings with proposers may be conducted at any time before the final rating of proposals by the Screening Committee and in accordance with procedures established by the Screening Committee before holding any such meetings. Ideally, all proposers whose proposals are under active consideration should be treated equally with respect to these meetings. In other words, if the Screening Committee wishes to conduct interviews, all proposers should be interviewed. The same should hold true for any demonstrations, presentations, or site visits.

When a large number of proposals are under consideration, holding such meetings with all proposers may not be feasible or even warranted. At its option, the Screening Committee may decide to hold such meetings with only a select number of proposers. The selection of proposers should be done in accordance with the evaluation plan’s provisions for such a selection. It is recommended that at least three proposers be selected, as the Committee is required by State statute to report the names of the three top ranking proposers to the agency head at the conclusion of the evaluation process.

FEWER THAN THREE PROPOSALS

If an agency receives fewer than three acceptable proposals in response to an RFP with an anticipated cost of more than \$20,000, then the procurement is considered to be a “sole source.” Before selecting a contractor, an agency must apply for approval from OPM by submitting a *Request for Non-Competitive Personal Service Agreement* through the online PSA/POS Request Website.

■ IMPORTANT NOTE

An agency may wish to enter into a contract with more than one contractor to provide the desired services. In this event, an agency would need to modify the evaluation process in order to select multiple contractors. For example, if any agency was seeking two contractors, the Screening Committee might submit the names of the top four proposers to the agency head, instead of just three. The agency head would then select two contractors, instead of just one, from among the names.

3. Contractor Selection

According to State statutes, the Screening Committee must report the names of the three top ranking proposers for each proposed approved award to the agency head, who must select the contractor from

among these names. In other words, there is a direct reporting relationship between the Screening Committee and the agency head. No other agency personnel shall have any part in evaluating or rating proposals or in determining the names of the three top ranking proposers. After receiving the three names from the Screening Committee, the agency head may, however, consult with the Screening Committee or other agency personnel in making a decision about which of the three names to select.

The Screening Committee's report to the agency head should be succinct, yet contain enough detail so that the agency head feels comfortable about the integrity of the evaluation process and the recommendations being made. Since the report will also serve as part of the official record of the process, it is important that it accurately reflect what occurred. The report must contain the names of the three top ranking proposers and their final ratings. The Chair of the Screening Committee submits the report to the agency head.

After reading and considering the recommendations in the report, an agency head may select the contractor from among the three top ranking proposers. It is advisable that an agency head document (i.e., put in writing) the reason(s) for selecting a particular proposer. This is especially important when the top ranking proposer is not selected – that is, when a second or third ranking proposer is selected over a higher-ranking one.

After the agency head makes a selection, the selected proposer is notified and given the opportunity to negotiate a contract with the agency. Such negotiations may, but do not automatically, result in a contract. Once negotiations begin, unsuccessful proposers must also be notified about the outcome. All such notifications must be sent/mailed on the same date. The Agency must post the results of the procurement on the Agency website within 15 days of contract execution and, in accordance with C.G.S. § 4e-13 on the State Contracting Portal in an effort to improve communication and transparency. The Agency must make a good faith effort to complete the negotiation process within forty-five (45) days of notification of the award and have the resultant contract(s) executed not later than 30 days prior to the contract start date. The selected proposer must not begin work until the contract is fully executed. "Fully executed" means that the contract has been signed by all parties and, if applicable, reviewed and approved by DAS and the AG's office. Any resulting contract must be posted on the State Contracting Portal.

■ **IMPORTANT NOTE**

An agency head has the prerogative to reject any or all of the three top ranking proposers. However, if an agency head does not wish to select one of the top three, then no proposer must be selected and the RFP process must be voided. An agency head may also void the RFP process for any other reason, such as a lack of adequate funding or some unforeseen change in an agency's circumstances or requirements.

V. POST-AWARD REQUIREMENTS

A. POS CONTRACTS ▶ POS Only ◀

1. Standard Contract ▶ POS Only ◀

In collaboration with the POS agencies, OPM has developed a standard contract template that must be used by any agency contracting with private provider organizations or municipalities for the purchase of health and human services. The standard contract template is divided into two parts:

- Part I contains the scope (outline) of services, contract performance, budget reports, and other program and agency-specific provisions. No provision of Part I shall negate, supersede, or contradict any provision of Part II.

- Part II contains mandatory terms and conditions that are applicable to all State agencies using the standard contract template for POS. These provisions in Part II include client-related safeguards; contractor obligations; alterations, cancellation and termination; and statutory and regulatory compliance.

The standard contract template may be revised from time to time, as necessary. Suggested revisions may originate with a POS agency, OPM, or the AG's office. OPM is the single point of contact with the AG's office with respect to the standard contract template. Any revision to the standard contract template must be jointly approved by OPM and the AG's office. No any agency shall unilaterally alter the template.

The current version of the approved standard contract template for POS is available on OPM's website at: http://www.ct.gov/opm/cwp/view.asp?a=2981&q=382982&opmNAV_GID=1806

2. Multi-Year Contracts ▶ POS Only ◀

Until recently, POS agencies typically executed annual contracts with their service providers. Multi-year contracts are now more common. The transition to multi-year contracts is understandable, as many agencies have established long-term relationships with their service providers.

OPM is encouraging agencies to use multi-year contracts when executing new or renewed POS contracts. The benefits of multi-year contracts for both State agencies and service providers are several, including (1) reducing paperwork, (2) stabilizing service provision and contractor relationships, (3) establishing and managing long-term program and performance targets, and (4) staggering the re-procurement of services and contract renewals.

Exceptions to the multi-year contracting option may include new service providers with no performance history or existing service providers with whom an agency has experienced performance issues in the past.

The appropriate length of a multi-year contract is best determined by the State agency, within certain limits. An agency should consider a number of factors when determining the length of a POS contract, including, but not limited to (1) the maturity or predictability of the services, and (2) client, contractor, and funding stability. All multi-year contracts must include the usual provisions for amendment and termination.

The total length of a multi-year contract is calculated by adding the initial term of the contract (in years), plus any options to renew (in years). For example, an agency may decide that the initial term will be five years, with an option to renew for two additional years, for a total length of seven years. No multi-year POS contract shall exceed eight years in length, including any options to renew.

■ IMPORTANT NOTE

Executing an option to renew is processed as an amendment to the original POS contract. Failure to execute an option to renew by the scheduled end date of the contract will result in termination of the contract. Once terminated, the original contract cannot be renewed and a new contract must be executed.

Going forward, significant planning and communication will be necessary to implement and institutionalize multi-year contracting. An agency's RFP must clearly state the multi-year nature of the future POS contract, the extended scope of services, any options for renewal (amendments), and annual funding restrictions. In short, the RFP must provide full and complete information that will allow a prospective proposer to submit a sufficiently responsive proposal for the entire duration of the future POS contract.

B. DEBRIEFING and APPEAL PROCESS ▶ POS Only ◀

Within ten (10) days of receiving notification from the agency about the proposer selection, unsuccessful proposers may contact the ~~o~~Official ~~state C~~contact and request additional information about the evaluation and proposer selection process. The e-mail sent date or the postmark date on the notification envelope shall be considered “day one” of the ten (10) days.

If unsuccessful proposers still have questions after receiving this additional information, they may contact the official state contact and request a meeting with the agency to discuss the evaluation process and their proposals. If held, the debriefing meeting must not include any comparisons of unsuccessful proposals with the other proposals. The agency must schedule and hold the debriefing meeting within fifteen(15) days of the request.

The agency must not change, alter, or modify the outcome of the evaluation or selection process as a result of any debriefing meeting.

Within ten (10) days of the debriefing meeting, unsuccessful proposers may appeal the State agency’s procurement process in writing, to the agency head. The proposer must set forth facts or evidence in sufficient and convincing detail for the agency head to determine whether the agency’s process failed to comply with the State’s statutes, regulations, or standards (established herein) concerning competitive procurement or the provisions of the RFP. An agency head must issue a decision, in writing, not later than thirty (30) days after receipt of any such appeal. The filing of an appeal shall not constitute sufficient reason for an agency to delay, suspend, cancel or terminate the procurement process or execution of a contract.

In the event that an agency head determines that a process violation has occurred and that the violation had a substantial effect on the procurement, an agency head shall take corrective action not later than thirty (30) days after the date of such a determination.

In addition, a proposer has the right of appeal, under certain circumstances, to the State Contracting Standards Board, which is statutorily charged with considering and acting upon appeals (See CGS 4e-35, 4e-36, 4e-37).

~~IMPORTANT: Effective June 1, 2010, any bidder or proposer on a State contract may appeal the procurement or award of a contract to a subcommittee of the State Contracting Standards Board.~~

C. CORE-CT PURCHASING MODULE

After the contract is fully executed (i.e., approved and signed by all parties), it must be entered as a contract in Core-CT’s purchasing module. The navigation is as follows:

Purchasing > Procurement Contracts > Add/Update Contracts

To ensure consistent data entry for all State agencies, a standardized numbering schema must be followed when manually entering the contract number in the Contract ID field. Using contract number 09OPM9999AB as an example, the 11-digit number represents the calendar year (digits 1-2), agency acronym (digits 3-5), and contract number (digits 6-11).

After contract is entered and approved in Core-CT, a purchase order must then be created. When a purchase order is created from a contract in Core-CT, contract data will automatically populate data fields in the purchase order. Additional data must be entered to complete the purchase order.

After the purchase order is completed and approved, the amount of the purchase order reduces the amount remaining on the contract. In other words, the maximum amount of the contract, minus the total amount released to the purchase order, will equal the amount remaining on the contract. The amount remaining is available for future encumbrances. One purchase order will be maintained throughout the term of the contract. Chartfields are required on the contract distribution page, and they must be updated annually to reflect current fiscal year coding.

A detailed job aid entitled, *Creating Contracts, Purchase Orders and e-Pro Requisitions in Core-CT* is available at: http://www.core-ct.state.ct.us/user/finjobaids/docs/cntrcts_pos_reqs.doc
Also, go to http://www.ct.gov/opm/fin/corect_links to view *Steps for Creating a Contract in Core-CT*.

D. CONTRACT MANAGEMENT

An agency is responsible for monitoring and evaluating its contractors. *Monitoring* the contractor assures that progress is made according to the established schedule and that the quality of the services delivered meets the agency's requirements. It also involves maintaining communications with the contractor while the work proceeds, so as to identify and resolve problems early. *Evaluating* the contractor's performance upon completion of the contract creates a formal record of the agency's level of satisfaction with the contractor, which can help inform future decisions about using the contractor again.

1. Monitoring Contractors

When the contract and its associated documents are well-written and in sufficient detail, both the agency and the contractor should have a full understanding of what the contractor will do when, for what amount of money, and (perhaps) how the work itself will be done. Even in the best of all possible worlds, an agency cannot simply sign the contract and go about its other business, assuming that the contractor will do exactly what is specified in the contract. In its exercise of due diligence, an agency must assign an employee to monitor each contract. The responsibilities of this employee may include, but are not limited to, the following:

- coordinating the flow of information between the agency and the contractor;
- responding to requests from the contractor;
- authorizing contractor payments against the contract's budget;
- monitoring progress against work schedules or milestones;
- reviewing and approving deliverables;
- taking corrective action when a contractor's performance is deficient;
- resolving disputes in a timely manner;
- maintaining appropriate records; and
- engaging in collaborative discussions geared toward service delivery improvement.

Bottom line, the contract manager assigned to the project must do what it takes to ensure that the contractor meets the requirements of the contract and that the financial (and other) interests of the State are protected.

OPM recognizes that each State agency has its own business process for handling the various responsibilities associated with managing a contract. That said, OPM requires each agency to document its contract management process in its written procedures. (See Section I.H above.) At a minimum, the procedures must identify and describe the types of documentation – e.g., budgets, reports, outcome

measures – that the agency commonly uses to manage and monitor its contractors. The documentation used in association with any particular contractor must be kept as part of the contract management file for the project.

2. Evaluating Contractors

Not later than 60 days after a contractor has completed work on a contract, an agency must prepare a written evaluation of the contractor's performance. An agency must use OPM's form, *Personal Service Contractor Evaluation*, for this purpose. The form is available on OPM's website at http://www.ct.gov/opm/fin/contractor_evaluation

An agency may submit an amended evaluation of a contractor, if necessary. A situation may arise where an agency receives additional information about a contractor after submitting an evaluation to OPM and the additional information is inconsistent with the agency's submitted evaluation. Additional information may include, but is not limited to, financial statements or audit reports related to the contract. To submit an amended evaluation, use the same form (as above) and note that it is an AMENDED evaluation. In the "Other Comments" section, explain why the agency is amending its original evaluation.

A printed (hard) copy of the completed evaluation form must be retained in the official project file.

State agencies are responsible for submitting the electronic evaluations by email to OPM's Executive Finance Officer at efo.opm@ct.gov. In the Subject line of the e-mail, enter "Contractor Evaluation" and the Contract ID number, using the standardized numbering schema to enter a contract in Core-CT.

Example: Contractor Evaluation 08OPM9999AB

Contact your agency's business office for assistance if you do not know the Contract ID number.

Do **not** submit the evaluation form in hard copy to OPM. Any evaluation submitted in hard copy will be returned.

3. Client-Based Outcomes ▶ POS Only ◀

In addition to evaluating contractor performance, POS agencies must measure the outcomes of the health and human services they purchase. Whereas evaluations of *contractors* focus on their performance with respect to service delivery (e.g., quality of work, reliability, cooperation), evaluations of *purchased services* focus on the impact of such services on the clients who receive them.

A common goal of POS agencies is to produce positive changes in the lives of the State's clients. To determine whether this goal is met, OPM has established a minimum requirement that each POS agency must include client-based outcome measures in its POS contracts. It is the responsibility of each POS agency to develop measures related to each purchased service and to determine what data the contractor must collect related to that service. It is the responsibility of the POS contractor to collect the data and report back to the agency in a timely manner. An agency can then use the collected data to assess how well the purchased service meets the agency's stated goal(s) for its clients.

Client-based outcome measures need not be elaborate or complicated. An agency should simply measure the most important (intended) results of the purchased service. Focusing on the most important results will produce a simpler measurement system, with fewer data collection requirements.

Examples of client-based outcomes are as follows:

- Percentage of patients discharged from a mental health facility who are capable of living independently
- Reduction in the incidence of disease following participation in a vaccination program
- Employment rate for clients thirteen weeks after completing a retraining program
- Percentage of seniors remaining in their own homes one year after receiving home care services
- Percent of families who maintain their housing arrangement for one year after participating in a supportive housing program

OPM is not prescribing a uniform approach for all agencies to follow in developing their outcome measures. While agencies are encouraged to use generally accepted models, OPM is giving each agency wide latitude in selecting whatever measurement system, methodology, process, or tool that best suits its needs. In addition to client-based outcome measures, an agency may also choose to include input, output, efficiency, sufficiency, quality, or other performance measures related to purchased services in its POS contracts.

■ **IMPORTANT NOTE**

In the RFP, an agency must notify prospective proposers (and potential contractors) about the requirement for client-based outcome measures. The RFP must provide complete and clear information about how the measures are defined (by the agency), how the data must be collected and reported (by the contractor), and how the reported data will be assessed (by the agency). The recommended placement of this requirement in the RFP is in the “outline of work.”

E. ~~E~~ AMENDMENTS

1. General

An agency may wish to modify an existing contract through an amendment. An amendment is a formal modification, deletion, or addition to an existing (executed) contract that is negotiated and agreed upon by all parties.

An agency is strongly advised to review the status of a contract well in advance of the expiration date to determine if any changes are needed. An amendment must be executed before the original end date of the contract (or, if amended, the end date of the amended contract). An expired contract cannot be amended. It is OPM’s policy to disapprove any request to amend an expired contract.

An amendment to a contract requires approval of the Secretary of OPM when:

- (a) the original cost is greater than \$50,000; or
- (b) the amendment has a cost of 100% or more of the original cost; or
- (c) the amendment increases the cost to more than \$50,000; or
- (d) the amendment extends the term beyond a one-year period; or
- (e) the amendment is the second or subsequent amendment.

To apply for approval for any such amendment, an agency must submit a *Request For Amendment* to OPM via the PSA / POS Request Website available at <https://www.appsvcs.opm.ct.gov/psa/>. The requester must be a chief program officer, chief fiscal officer, or higher level agency official.

After reviewing the request and any necessary supporting information, the Secretary shall approve or disapprove the request for amendment.

Any amended contract exceeding \$3,000 must be approved by the AG's Office. A copy of the original contract must accompany the amended contract when submitted for review and approval. If the original PSA is with an individual, a letter of notice must also be sent to the appropriate collective bargaining representative, the Commissioner of DAS, and the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees if the PSA is extended beyond one year (C.G.S. § 4a-7a(b)).

2. Cost of Living Adjustments ▶ POS Only ◀

An agency may amend a POS contract to add a legislatively mandated cost of living adjustment (COLA). Such an amendment does not require OPM approval. If, however, an agency wishes to make any change(s) to the POS contract beyond a cost of living adjustment, a *Request For Amendment* must be submitted to OPM for approval via the PSA / POS Request Website.

F. REPORTING REQUIREMENTS

State statutes require the Secretary of OPM to report annually to the legislature on the contracting activity of State agencies. Not later than October 1 of each year, the Secretary submits a report to the General Assembly summarizing the data and information that OPM collects from State agencies using Core-CT. It is, therefore, imperative that an agency correctly and completely enter the contract data in Core-CT's Purchasing Module, as described above in Section V.C.

OPM's annual report in October includes the following categories, by agency, for the preceding fiscal year (July–June):

- **Category I:**
 - Agreements with Personal Service Contractors;*
 - Agreements with POS Contractors.*
 - (1) name of the contractor;
 - (2) description of the services provided;
 - (3) term and cost of the contract;
 - (4) method of selecting the contractor;
 - (5) amount of all payments made during the preceding fiscal year to the contractor; and
 - (6) amount of any federal or private funds allocated for such payments.

- **Category II:**
 - Agreements with a "consultant," as defined in C.G.S. § 13b-20b (DOT);*
 - Agreements with a person, firm, or corporation providing "contractual services," as defined in C.G.S. § 4a-50 (DAS);*
 - Agreements with a "consultant," as defined in C.G.S. § 4b-55 (DPW); and*
 - Agreements with an agency of the federal government, of the State, or of a political subdivision of the State.*
 - (1) name of the contractor;
 - (2) description of the services provided;
 - (3) term and cost of the contract;
 - (4) method of selecting the contractor;
 - (5) amount of all payments made during the preceding fiscal year to the contractor; and
 - (6) amount of any federal or private funds allocated for such payments.

VI. APPENDIX

A. DEFINITIONS OF KEY TERMS*agency head*

a State government official who is in charge of the overall direction of a department, board, office, council, or commission within the executive branch

amendment

any modification, deletion, or addition to a Request For Proposal, Personal Service Agreement, POS contract, evaluation plan, procurement plan (etc.)

contractor

see *Personal Service contractor*; *POS contractor*

ethics and confidentiality agreement

a formal statement, signed by participants in the RFP process, promising to conform to ethical standards of conduct and to keep confidential all information related to the process

evaluation criteria

the list of weighted factors used to evaluate proposals submitted in response to an RFP

ex parte communication

the transmission of information that is not part of the public record and not generally available or shared with all participants of the RFP process

letter of intent

a letter written by a person, firm, corporation, private provider organization, or municipality to a State agency stating that it intends to submit a proposal in response to an RFP

outline of work

an overall summary of a project, including the purpose, scope, activities (tasks), outcomes (deliverables), and work schedule (timeline)

Personal Service Agreement (PSA)

a written agreement (contract) defining the services to be delivered by a Personal Service contractor to a State agency

Personal Service contractor

a person, firm or corporation not employed by the State, who is hired by a State agency for a fee to provide services for the benefit of the State agency itself, as compared to providing services for the benefit of the agency's clients

POS agency

a State agency that purchases health or human services from private provider organizations or municipalities for the benefit of the agency's clients

POS contractor

a private provider organization or municipality that is hired by a State agency for a fee to provide services for the benefit of the agency's clients (as compared to providing services for the State agency itself)

procurement plan

a document developed every three years by a POS agency that includes, but is not limited to, (1) a description of the agency's process for purchasing health or human services; (2) a schedule for purchasing such services over the plan's duration; (3) a discussion of how the agency determined its schedule for purchasing services; (4) a description of how the agency will communicate its procurement plan to employees, key stakeholders, and contractors; and (5) a discussion of how the agency will implement and monitor the agency's procurement schedule

procurement schedule

a comprehensive list of health or human services that an agency anticipates purchasing, by competitive or noncompetitive methods, over the duration of its three-year procurement plan

program waiver

an exemption from the competitive procurement requirement for a specific agency program, for a specific length of time, granted to a POS agency by OPM through approval of the agency's procurement plan

proposer

an individual, business entity, nonprofit organization, or municipality that **has submitted** a proposal in response to an RFP issued by a State agency

prospective proposer

an individual, business entity, nonprofit organization, or municipality that **may submit** a proposal in response to an RFP issued by a State agency

Request For Proposals (RFP)

the solicitation communication used in a competitive negotiation process

RFP Team

the collective group of individuals responsible for developing the RFP, writing the evaluation plan, and evaluating the proposals submitted in the response to an RFP

scope of services

see *outline of work*

Screening Committee

the individuals, appointed by an agency head or designee, who evaluate the proposals submitted in the response to an RFP

Secretary

the Secretary of the Office of Policy and Management

service provider

see *POS contractor*

sole source

a contractor who is selected on a noncompetitive basis or who is the single provider of a particular service

State

State of Connecticut

State agency

a department, board, council, commission, institution, or other agency of the executive branch of State government

vendor ID

the unique numerical identifier assigned to an entity doing business with the State

B. PROCUREMENT CHECKLIST

Below is a basic checklist of the procurement standards established (or referenced) herein that an agency **MUST** follow when entering into a contract. The Section No. indicates where information about the requirement is located in this document. The checklist does **not** include the procurement requirements established by other authorities, including, but not limited to, those listed in Section VI.C. (below).

| <i>CHECKLIST</i> | |
|---|--------------------|
| PRE-AWARD | SECTION NO. |
| <input type="checkbox"/> Evaluate need for contract | IV.A |
| <input type="checkbox"/> Develop outline of work | IV.B |
| <input type="checkbox"/> Determine anticipated cost and term of future contract | IV.C |
| <input type="checkbox"/> Obtain prior approval from OPM (if required) | IV.D |
| <input type="checkbox"/> Establish project file | IV.E |
| <input type="checkbox"/> Select individual(s) to write RFP | IV.F |
| <input type="checkbox"/> Select individual(s) to write evaluation plan | IV.G |
| <input type="checkbox"/> Appoint Screening Committee | IV.K |
| <input type="checkbox"/> File statements of financial interest | III.A |
| <input type="checkbox"/> Sign ethics & confidentiality agreements | III.B |
| <input type="checkbox"/> Develop communications procedure | IV.I |
| <input type="checkbox"/> Release & advertise RFP | IV.H |
| <input type="checkbox"/> Evaluate proposals & select contractor | IV.K |
| POST-AWARD | SECTION NO. |
| <input type="checkbox"/> Enter contract data into Core-CT | V.C |
| <input type="checkbox"/> Monitor and evaluate contractor | V.D |
| <input type="checkbox"/> Collect outcome measures ▶ POS Only ◀ | V.D |
| <input type="checkbox"/> Obtain OPM approval to amend contract (if required) | V.E |

C. OTHER PROCUREMENT REQUIREMENTS

In addition to the procurement standards (established herein) by the Secretary of OPM, a State agency may be subject to additional procurement requirements, regulations, rules, policies, and procedures, including, but not limited to, the following:

- Code of Ethics for Public Officials
State of Connecticut, C.G.S., Chapter 10
<http://www.cga.ct.gov/current/pub/chap010.htm>
- Ethics Affidavits and Certifications
(maintained by OPM)
http://www.ct.gov/opm/fin/ethics_forms
- State Procurement Manual
(maintained by DAS)
<http://das.ct.gov/cr1.aspx?page=15>
- Doing Business with the State of Connecticut
(maintained by DAS)
<http://das.ct.gov/cr1.aspx?page=256>
- Public Act No. 07-1, *An Act Concerning Clean Contracting Standards*, September 2007
Special Session (now codified as C.G.S. §§ 4e-1 through 4e-47)
(administered by the State Contracting Standards Board)
<http://www.ct.gov/scsb/site/default.aspxhttp://www.cga.ct.gov/2007/ACT/PA/2007PA-00001-R00HB-08001SS1-PA.htm>
<http://www.cga.ct.gov/2008/sup/chap062.htm>
- Publishing RFPs and contract awards on the State Contracting Portal
(maintained by DAS)
<http://das.ct.gov/cr1.aspx?page=161>
- Cost standards for POS
OPM, *Cost Standards* (September 1, 2006)
http://www.ct.gov/opm/fin/cost_standards
- Contracting with retired employees (prohibited)
OPM, Office of Labor Relations, *General Notice 2003-15: Reemployment of Retired Employees* (April 9, 2003)
(Placement on the regular payroll in a 120-day position is a possible alternative.)
http://www.ct.gov/opm/lib/opm/OLR/Notices/2003_15ReemployedRetirees.doc
- Contracting with individuals (federal rules)
OSC, Memorandum No. 94-9, *Determining a Worker's Status* (April 8, 1994)
<http://www.osc.state.ct.us/memoarchives/9094memos/memo9409.htm>
- Contracting with individuals (requires waiver from the State's classified service)
DAS, Form CT-HR-4, *PSA / Request for Waiver of Classified Service*
http://www.das.state.ct.us/hr/Forms/CT-HR-4_PSA_Request_for_Waiver.pdf

Procurement Standards

- Contracting with current State employees (requires waiver from the State's classified service and certification form)
DAS, Form CT-HR-4, *PSA / Request for Waiver of Classified Service*
http://www.das.state.ct.us/hr/Forms/CT-HR-4_PSA_Request_for_Waiver.pdf
DAS, Form CT-HR-10, *Certification for PSA with Current State Employee*
<http://www.das.state.ct.us/> Then navigate to HUMAN RESOURCES | HR FORMS
- Personal Service Agreements with individuals
<http://www.cga.ct.gov/current/pub/chap057.htm#Sec4a-7a.htm>
- Personal Service Agreements
OSC, Form CO-802A
<http://www.osc.state.ct.us/agencies/forms/pdf/CO-802a.pdf>
- Ethical considerations concerning bidding and state contracts
State of Connecticut, C.G.S. § 1-101nn(b)
<http://www.cga.ct.gov/current/pub/chap010.htm#Sec1-101nn.htm>
- Set-aside programs for small-, minority-, and women-owned businesses (administered by CHRO)
<http://www.ct.gov/chro/cwp/view.asp?a=2525&Q=315904&chroPNavCtr=|#45678>
(certified and pre-certified lists maintained by DAS)
<http://www.biznet.ct.gov/SupplierDiversity/SDSearch.aspx>
- Nondiscrimination Certifications for State Contracts (administered by CHRO and maintained by OPM)
State of Connecticut, C.G.S. § 4a-60(a)(1) and § 4a-60a(a)(1), as amended by Public Act 07-245 and Public Act 07-142, Sections 9 and 10
http://www.ct.gov/opm/fin/nondiscrim_forms
- Freedom of Information (FOI) requests during the RFP process (administered by the FOI Commission)
State of Connecticut, C.G.S. §§ 1-200 thru 1-252
<http://www.cga.ct.gov/current/pub/chap014.htm>
- State contractor campaign contribution and solicitation ban (administered by SEEC)
<http://www.ct.gov/seec/cwp/view.asp?a=3556&q=419310&seecNav=|>
- OAG's review of State contracts ("as to form")
State of Connecticut, C.G.S. § 3-125
<http://www.cga.ct.gov/current/pub/chap035.htm#Sec3-125.htm>
- Retaining and managing State records (administered by CT State Library, Public Records Management Program)
<http://www.cslib.org/recstate.htm>

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D. TEMPLATE FOR PROCUREMENT SCHEDULE ▶ POS Only ◀

1. Definitions ▶ POS Only ◀

- (a) *Program Name*
Enter the program name (or other identifier, such as service type, level of care, region, etc.).
- (b) *Last RFP*
Enter the date of the last competitive procurement for the service.

UNKNOWN or NONE is also an acceptable entry.
- (c) *\$ Amount (Total)*
Enter the total dollar amount of the agency’s contracts for the service in the current State fiscal year.
- (d) *Contracts (Number)*
Enter the total number of the agency’s executed contracts for the service in the current State fiscal year.
- (e) *Next RFP*
Enter the release date (by SFY, quarter) of the RFP for the next competitive procurement.
WAIVER (meaning = waiver request) is also an acceptable entry.
- (f) *RFP Cycle*
Enter the anticipated length, in years, between competitive procurements *going forward*.
If requesting a waiver for the current planning period, leave this box BLANK.

2. Instructions ▶ POS Only ◀

List all services that the agency is requesting to procure using a competitive (RFP) or non-competitive (program waiver) process during the next three fiscal years. Sort the list by program name. In an attachment, provide a rationale for each requested program waiver.

3. Sample ▶ POS Only ◀

Below is a sample template for an agency’s procurement schedule. An electronic version of the template is available on OPM’s website at: http://www.ct.gov/opm/fin/procurement_POSplans

| AGENCY NAME | PROCUREMENT SCHEDULE For SFY 2013, 2014, 2015 | | | | |
|---------------------------------|--|-----------------------------|------------------------------|-------------------------------|--------------------------------|
| (a) Program/ Service Name | (b) Last RFP (SFY, Qtr) | (c) \$ Amount (Total) | (d) Contracts (Number) | (e) Next RFP (SFY, Qtr) | (f) RFP Cycle (In Years) |
| Program A | | | | | |
| Program B | | | | | |
| Program C | | | | | |
| Program D | | | | | |
| Etc. | | | | | |