

SUBJECT: Purchased Services Contracting	PAGE <u> 1 </u> OF <u> 5 </u> .
	NUMBER: 22-BUS-14
RULE/CODE REFERENCE:	SUPERSEDES: 22-BUS-14 dated 01/21/13
RELATED ACA STANDARDS: 4-4039	EFFECTIVE DATE: January 8, 2018
	APPROVED: 

I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

II. PURPOSE

The purpose of this policy is to establish responsibility, procedures and documentation for purchase service contracts.

III. APPLICABILITY

This policy applies to all executive staff and managing officers employed by the Ohio Department of Rehabilitation and Correction (DRC) when initiating all service contracts except for the following: (1) contracts for goods only, (2) real property acquisition, and (3) lease agreements.

IV. DEFINITIONS

Competitive Service Contracting - Those services that are amenable to solicitation and subject to uniform and objective impersonal criteria to ensure the proper evaluation of bids. Examples of competitive services may include medical services, mental health services, alcohol and other drug-related services.

Independent Contractors - Individuals or firms that (1) are engaged to perform specific services for a stated fee or contracted amount, (2) provide services to the public, and (3) are subject to Department control only as to the end results, and not the methods of obtaining them.

Non-Competitive Contracting - Those services that are provided a blanket release and permit from the State of Ohio, Department of Administrative Services, Office of Procurement Services. Also services that involve highly skilled judgment or training, artistic ability, or other attributes and whose quality depends on an individual's expertise and knowledge. Examples of non-competitive services may include expert witnesses or dentist.

Single Source - An individual or firm that has a license, trademark or copyright on a given product or service (i.e., educational, programming) however, other similar options exist in the marketplace. A Single Source is not a sole source.

Sole Source - An individual or firm that is the only manufacturer or provider of a commodity or service. Note that an individual or firm may become a sole source as the result of a standard established through a competitive selection process. Documentation of the previous standardization competitive selection process must be provided for each contract/order file and provided to the Office of Acquisition and Contract Compliance (OACC) chief.

V. **POLICY**

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) that contracts shall be solicited on a competitive basis whenever possible. Prior to the issuance of a contract, it must be determined that the services are necessary and cannot be satisfactorily and economically performed or rendered by internal agency sources. Contracts shall only be entered into with independent contractors. Contracts with current DRC employees are prohibited.

VI. **PROCEDURES**

A. **Responsibility**

In accordance with the Ohio Revised Code, section 5120.09, the Director has designated the Division of Business Administration (DBA) with the responsibility of establishing guidelines for the preparation and implementation of Service Contracts.

B. **Limits**

The DRC will abide by the Ohio Revised Code on expenditure limitations as follows:

1. An agency may purchase all services that cost \$25,000 or less directly from a vendor using applicable State Purchasing guidelines.
 - a. Purchases not exceeding \$500 require quotations from at least two (2) potential sources.
 - b. Purchases not exceeding \$25,000 require written quotations from at least three (3) potential sources responding to a DRC approved Request for Quotations (DRC1286).

2. All purchases of services in excess of \$25,000 must be forwarded to the Department of Administrative Services, Office of State Purchasing or Division of Computer Services for determination of procurement method. The Office of State Purchasing may:
 - a. Issue a Competitive Sealed Bid (CSB);
 - b. Issue a Request for Proposal (RFP);
 - c. Grant a "Release and Permit" to authorize the procurement under the direct spending authority of the agency.
 3. DRC shall not make a purchase for services over \$50,000 without the prior approval of the Controlling Board and/or without bid on the agency's behalf by the Department of Administrative Services, Office of State Purchasing or Division of Computer Services.
- C. An independent contract may be used in the following circumstances:
1. When it is not feasible to recruit Civil Service staff to provide the service;
 2. A special service is required that cannot be provided by a Civil Service position;
 3. There is a short term or one time need that will not continue longer than a six (6) months period;
 4. Other circumstances as designated by the Director.
- D. Competitive Contracting

Competitive contracting methods must be used unless justification exists for non-competitive services. Competitive contracting requires a written proposal solicitation. After the vendor has been selected, a standard contract form shall be prepared.

1. Soliciting Proposals.

When soliciting formal, written proposals from potential suppliers, a Request for Proposal (RFP) shall be prepared by the requesting department in collaboration with Contract Administration and shall contain a description of the technical requirements for the service to be procured. The solicitation shall not contain specifications that restrict competition. The RFP shall include, but not be limited to, the following information:

- a. The date and place to deliver proposals;
 - b. The time, if appropriate, those proposals will be opened;
 - c. A statement that the DRC reserves the right to reject any and all proposals and/or to clarify information with any or all potential suppliers after proposals are received;
 - d. The DRC's standard terms and conditions;
 - e. A statement indicating the evaluation criteria to be used in the proposal evaluations.
2. The Notice of Bid Opportunity or an RFP shall be sent to all potential vendors. A record must be maintained of the suppliers sent the Notice of Bid Opportunity and/or an RFP.

3. The opening of such proposals is a matter of public record. The names of the offerors are recorded, but otherwise the contents of the proposals are not disclosed. In order to ensure a fair and impartial evaluation, proposals are not available for public inspection until after the award of the contract.
4. Appropriate department personnel shall evaluate the proposal(s) and conduct verbal clarification if needed. The contract shall be awarded to the lowest responsive and responsible proposal meeting all bid specifications listed in the request for proposal.
5. After selection, an appropriate contract is prepared by the initiator of the contract.

E. Non-Competitive Contracting

The DBA - Office of Acquisitions and Contract Compliance (OACC) shall be contacted if there are questions regarding whether services can be competitively contracted. The initiator of the contract may be required to justify Sole Source contracts before they are approved. If the DRC's standard contract form is not used, the contract must be reviewed for compliance with legal and fiscal policies. Non-competitive contracting with a single supplier is permitted under the following conditions:

1. The required service is available from only one (1) person or firm;
2. The contract is with another governmental unit or State agency;
3. The managing director competitive contracting methods.

Whenever a competitive selection basis is manifestly impractical, the managing director of that unit may waive the competitive selection process in writing and provide it for the contract/purchase order file. Each written waiver document shall also be provided to the OACC chief.

F. Drafting Contracts

Where the purchase is to be in excess of \$2,500: After selecting the supplier, the requesting department shall draft the standard contract in collaboration with OACC and route the form for funding verification and approval signatures. All contracts must then be submitted to the DBA - OACC, for processing and final approval prior to executing any contract. Standard Contract, Service Contract (DRC1271), and Service/Personal Criteria for Selection (DRC2465), and/or Contract Amendment (DRC1511) along with Contract Amendment Criteria/Selection (DRC1684) forms are available through the DRC's Electronic Forms Catalog.

1. Contracts shall not be executed to exceed the current biennium; however, longer-term contracts may be executed when substantial savings can result or when a special project requires continuing a particular contractor's services for a longer term. Contracts that exceed the current biennium must clearly state in their terms and conditions that future renewals are subject to funds being available, being affirmatively renewed in each biennium and have state purchasing and/or Controlling Board approval.
2. Contracts that provide for reimbursement for travel, meals, or lodging will be paid in accordance with the Office of Budget and Management travel policy.

G. Reviewing Contracts

The OACC shall prepare a contract review form for each contract that requires fiscal, Deputy Director or program administrator and legal review and approval. If approved, the contract will be forwarded to the deputy director of Office of Administration for review and approval. Contracts will be reviewed in accordance with Department policy and procedures and the following considerations:

1. Compliance with all DRC legal and fiscal policies;
2. Fairness of proposed rates of compensation;
3. Determination of whether services could be more satisfactorily and economically acquired by creating a civil service position.

H. Executing Contracts

Contracts shall be approved (signed) by the Director or person(s) designated by the Director. After approval, the contract will be returned to the DBA for final processing. The contract will be returned to the originator for dissemination and implementation.

I. Contract Payments

The administrative unit that receives services from a contract executed under these provisions must adequately review the services being rendered and maintain adequate records of these services. After determining services have been satisfactorily performed, the authorized department employee shall approve the contractor's invoice and forward a request for payment through the business office. Final payment shall not be authorized until the contractor has fulfilled his/her contractual obligations.

A request for payment shall be made by submitting the contractor's invoice(s).

Related Department Forms:

Service Contract	DRC1271
Contract Amendment	DRC1511