SECTION 1: OVERVIEW

Getting started right is the most difficult hurdle in the contracting process. Deciding whether a contract is the right way to do business is critical and can get confusing. After looking at all options and deciding that a contract is appropriate, more decisions have to be made. One decision is what type of contract is needed. Is it for services or for professional/technical services? Another particularly important decision is determining the cost of the work needed.

After these two decisions have been made you need to proceed to produce a legal, well-designed, well-written, workable contract to help get the business of the state done.

What is a professional/technical service contract?

Professional or technical services are services that are intellectual in character, including consultation, analysis, evaluation, prediction, planning, programming, or recommendation, and result in the production of a report or the completion of a task. Professional or technical contracts do not include the provision of supplies or materials except by the approval of the commissioner or except as incidental to the provision of professional or technical services (Minn. Stat. § 16C.08, subd. 1).

You can use a variety of different state contract types to obtain professional or technical services. These include: interagency agreements, joint powers agreements, or professional or technical service contracts.

Keep in mind that you can never write a department purchase order for professional/technical services.

What is a service contract?

A service contract is a contract for any nonprofessional or technical services (Minn. Stat. § 16C.02, subd. 16). Examples include snow plowing, copy machine repair, maintenance, and housekeeping.

Unlike professional/technical service contracts, there is no general statutory authority for agencies to enter into service contracts with private vendors. It is the commissioner of Administration that enters into all service contracts, unless specifically provided by statute or delegated by the commissioner of Administration. However, when one agency needs services that can be provided by another agency, an interagency agreement should be used to obtain those services. An example would be an agency that was experiencing unusual protest activities may contract with the agency that provides protection services.

What is an Interagency Agreement?

An interagency agreement is a contract used between two or more state agencies. It is used to document the work desired to be done and the promise to pay for that work. To put an interagency agreement in place all you have to do is write the contract. There are no notice requirements like those for professional/technical agreements. The authority for interagency agreements is the same for joint powers agreements (Minn. Stat. § 471.59).
What is a Joint Powers Agreement?

Joint powers agreements are governed by Minn. Stat. § 471.59, and are defined as two or more governmental units, working together by agreement to exercise any power common to the contracting powers. Governmental units are state agencies, cities, counties, townships, school districts, the University of Minnesota, and other political subdivisions of this state and any other state or the federal government.

What is a Grant Agreement?

Grants agreements may only be written pursuant to specific legislative authority. See the Grant section of this manual for more information.

Alternatives to Contracts

Entering into a self-standing contractual agreement may not always be the most cost-effective or efficient way to obtain professional/technical services. There are other alternatives.

- Another state agency may be able to provide the needed service through an Interagency Agreement, described later in the manual. Another mechanism is the Interagency Request for State Employee Services, which is handled through your human resource office.

- The state may have an existing master contract for the desired services. Review the Materials Management Division website (http://www.mmd.admin.state.mn.us/mn05020.htm) for the list of Master Professional/Technical Services Contracts.

Your agency contract coordinator and the Department of Administration can help you identify alternatives.

Roles, Responsibilities, and Help!

Throughout the contracting process, MMD recommends that you seek help when you are unclear about how to proceed. Even the most basic question, if unanswered, can cause major delays, embarrass you and the agency, and create real problems in accomplishing the task(s) you need done.

Within your agency: Each agency should have an agency contract coordinator. This is an individual designated by the agency head, who is a point of contact for contracting from within the agency and who is the main contact for the commissioner of Administration in dealing with contract questions, issues, and problems. A list of the current agency contract coordinators is available on the MMD website (http://www.mmd.admin.state.mn.us/mn05008.asp). An agency head wishing to designate an agency contract coordinator should notify the Professional/Technical Contracts staff of the Materials Management Division in writing.

PT Coordinators’ Meetings: Meetings of agency PT Coordinators occur on a regular basis, generally every-other month at the Department of Administration. The sessions are a useful way to keep apprised of changes and topics of interest. There is also a PT Coordinators’ mailing list that is used as another mechanism to distribute information. For more information about the PT Coordinators’ meetings or to request inclusion on the mailing list, please contact Betsy Hayes at (651) 201-2407 or betsy.hayes@state.mn.us
The Attorney General's Office: The Attorney General’s Office is available to help you with legal questions and unusual drafting situations. Although the Attorney General’s Office is no longer required to sign contracts as to form and execution, the office is statutorily responsible to periodically review and evaluate samples of state contracts to ensure compliance with laws.

Each agency has an assistant attorney general who supports it. In addition, contract questions may be directed to Patty Nolte of the Public Finance/Opinions Division at 651-757-1285, or email at patricia.nolte@ag.state.mn.us.

The Department of Administration: By statute, the commissioner of Administration is authorized to supervise, control, review, and approve all state contracts and purchasing; and perform all contract management and review functions for contracts, except those functions specifically delegated to be performed by the contracting agency, the attorney general, or otherwise provided for by law. The responsibility of the department begins at the point the agency makes a decision that a contract is required to fulfill its needs and ends when the contract is complete and all post contract reporting has been conducted.

The Professional/Technical Contracts staff of the Materials Management Division (MMD) will be able to assist you with state contract drafting and with questions concerning contracting laws, regulations, and procedures. MMD facilitates regular meetings of agency Professional/Technical Coordinators and maintains a website which provides updates on changes in laws, policies, and procedures. If you would like to be added to the mailing list or have contracting questions, contact:

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