

<b>Policy Title:</b>	<b>Public Contracting Authority and Overview for Supplies and Services Contracts</b>			
<b>Policy Number:</b>	DHS-020-001	<b>Version:</b>	2.0	<b>Effective Date:</b> Upon Approval

Signature on File in the office of the Chief Administrative Officer

**Approved:** Jeremy Emerson, Interim CAO

**Date:** July 28, 2009

## Overview

**Description:** Provides policy for supplies and services contracts issued under delegated authority in accordance with contracting code and applicable rules.

**Purpose/Rationale:** Describes the authority of the Department of Human Services' (Department) Office of Contracts and Procurement (OC&P) Administrator, as Designated Procurement Officer (DPO) under the Oregon Public Contracting Code and delegated authority by rule (OAR 125-246-0170(2)(a)(A) and (2)(b)).

**Applicability:** This policy is applicable to all DHS employees.

**Failure to Comply:** Failure to comply with may result in disciplinary action, up to and including dismissal from state service.

## Policy

### 1. Designated Procurement Officer (DPO)

The Designated Procurement Officer has the following responsibilities within the Department of Human Services:

- a) Solicit and prepare contractual documents (e.g. contracts, purchase orders, agreements), and perform required procurement reporting functions.
- b) Determine if specific procurement is for client services and the appropriate method to obtain the client services.
- c) Prepare and perform required procurement reporting functions for:
  - A. Interagency agreements (with other State of Oregon agencies), Interstate, international, intergovernmental, and tribal agreements.
    - i. If the other party (state agency; other state, nation, or government entity; or American Indian Tribe) provides an interagency, interstate, international, intergovernmental, or tribal agreement to the Department, the program office that wishes to enter into such an agreement must contact OC&P for review of the offered agreement prior to Department signature.

- d) Prepare grants and sub-grants to external parties. Prior to preparation of these agreements, OC&P determines whether a specific grant is subject to the contracting code and ensures the appropriate document is developed.
- e) For all solicitations, contracts, and other types of agreements listed in sections (a), (c), and (d) above, the requesting program office is responsible for developing a statement of need and proposed payment provisions, then presenting that information as part of its written request for OC&P to prepare the solicitation, contract, or agreement. Links for instructions on completing the DHS request forms are in the "Forms that apply" section below.

## **2. General Contracting Process**

It is the policy of the State of Oregon to encourage competition that ensures an open and impartial selection process. The Department may purchase supplies and services from contractors through direct award for contracts or purchases not exceeding \$5,000. OC&P will use a selection process authorized by ORS 279A, 279B, or 279C and Oregon administrative rules for supplies and services exceeding \$5,000. OC&P will coordinate with the Department of Administrative Services (DAS), State Procurement Office (SPO) for contracts exceeding \$150,000 unless delegated to DHS.

## **3. Competitive Selection**

A competitive selection is the process for notifying prospective bidders, through an Invitation to Bid (ITB), or proposers, through a Request for Proposal (RFP), that OC&P is accepting bids or proposals to procure supplies or services. OC&P will advertise bids and proposals on the Oregon Procurement Information Network (ORPIN) system.

- a. OC&P will conduct competitive selection processes that assure:
  - A. An open and impartial selection process.
  - B. The selection of the bidder or proposer that is both responsive and responsible, and that offers the lowest cost or highest qualifications as stated in the solicitation document.
- b. The primary methods of soliciting bids or proposals for supplies and services contracts are as follows:
  - A. Intermediate procurement or competitive sealed bids or proposals for contracts exceeding \$5,000 but not exceeding \$150,000.
  - B. Formal procurement or competitive sealed bids or proposals for contracts exceeding \$150,000 when OC&P has specific delegation from DAS or specific statutory authority for the contracting authority.
  - C. Sole source procurement subject to necessary approvals.
- c. OC&P, when it has not been granted specific authority from DAS or does not have specific statutory contracting authority, will send requests exceeding \$150,000 to DAS for completion.

## **4. Evaluation of Bids or Proposals**

- a. OC&P will receive and review all bids resulting from an ITB and determine responsiveness and responsibility. Only bids deemed responsive and responsible will be considered for award. OC&P will notify requestors and selected bidder(s) of the bid

results and post the results on ORPIN.

- b. OC&P will receive and review all proposals resulting from an RFP and determine responsiveness and responsibility. Only proposals deemed responsive will be considered for further evaluation or award. OC&P will notify the program office requestor or contract administrator of that determination. OC&P will provide evaluation packets to the evaluation panel and will facilitate the evaluation panel meeting. When the highest ranked proposer is identified, OC&P will issue an intent to award, handle any protests, and facilitate the negotiation and award process. The results will be posted ORPIN.

## **5. Contract Development**

OC&P will develop a final contract or purchase order that is based on the awarded bid or proposal. OC&P will work with program staff in negotiating the final contract or purchase order.

## **6. Contract Execution**

OC&P will obtain all required signatures.

## **7. Contract Administration**

The contract administrator has responsibility for administration of the contract including:

- a. Ensuring that the contractor is functioning as an independent contractor, not as an employee.
- b. Approving and accepting the deliverables or work products.
- c. Ensuring compliance with contract terms and conditions of the contract.
- d. Ensuring that the tasks or services provided are within the scope of work of the contract.
- e. Ensuring that the contractor does not perform services before the contract commences or after the contract is terminated or expires.
- f. Initiating amendment requests to modify, correct, change, clarify, or extend the contract.
- g. Ensuring that invoices meet the requirements specified in the contract.
- h. Monitoring expenditures paid against the total contract amount and ensuring expenditures do not exceed the "not-to-exceed" amount without an executed amendment that increases the "not-to-exceed" amount.
- i. Notifying OC&P when the contract administrator assignment changes.
- j. Maintaining all records associated with the duties and activities of the contract administrator per OAR 125-246-0556, including a copy of the feasibility study, if required, in accordance with the SEIU collective bargaining agreement.

## **8. Contract Records**

OC&P is responsible for maintaining the official records for the following:

- A. Approved Department request forms.
- B. Solicitation documents, resultant bids or proposals, and all associated documentation.
- C. Documentation of the award, any protests, and their resolution.
- D. Executed contracts including amendments, approvals, notices, and any other contract documentation.
- E. All ORPIN documents specific to a solicitation or contract.

- F. DAS SPO delegations.
- b. OC&P will update its Contract Status Tracking and Timing (CSTAT) system. This system will also notify contract administrators in advance of contract expiration at 90-, 60-, and 30-day intervals.

## Procedures and policies that apply

- [DHS-020-002](#), SPOTS Purchasing Cards
- [DHS 020-005](#), Contract Administration
- [DHS-040-010](#), Delegation of Expenditure Decision Authority

## Forms that apply

- DHS 0114, Purchase Requisition – [Word](#)
- DHS 0118, Contract Request Form – [Word](#)
- DHS 0118A, Contract Amendment Request Form – [Word](#)
- DHS 0118S, Solicitation Request Form – [Word](#)
- DHS 0118D, Instructions for 118 Series Contracting Forms – [Word](#)

## References

- [ORS 279A, B and C](#), Public Contracting Code
- [ORS 291](#), State Financial Administration
- [OAR 125-246 through 125-249](#), Public Procurement Rules
- [OAR 137-045](#), Review of Public Contracts
- [DAS State Purchasing Policies](#)

## Definitions

**Client Services** – any services and incidental or specialized goods, in any combination thereof, that either directly or primarily support a client, whether the client is the recipient through the provision of voluntary or mandatory services.

**Code** – the public contracting code, defined in ORS 279A.010(1)(z), and means ORS chapters 279A, 279B and 279C.

**Contract** – means an exchange of legally binding promises between two or more parties. Its essentials are competent parties, offer and acceptance, a legal purpose, consideration, definiteness, and mutuality of obligation.

**Contract Administration** – all functions related to a given contract between the Department and a contractor from the time the contract is awarded until the work is completed and accepted or the contract is terminated, payment has been made, and disputes have been resolved.

**Independent Contractor** – a person who provides services to an authorized agency in which the authorized agency neither controls nor has the right to control the means or manner by which work is performed. The authorized agency may control the results of the services, but not control the means or manner of the contractor's performance of the work (see OAR 125-246-0333(2)).

**Personal Services Contract** – a contract, or a member of a class of contracts (other than a contract for the services of an architect, engineer, or land surveyor as defined in ORS 279C.100), where the primary purpose is to acquire specialized skills, knowledge, and resources in the application of technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgment, including without limitation a contract for the services of an accountant, physician or dentist, educator, consultant, broadcaster, or artist.

**Procurement** – the act of purchasing, leasing, renting, or otherwise acquiring supplies and services; architectural, engineering and land surveying and related services; and public improvements. Procurement includes each function and procedure undertaken or required to be undertaken by the Department to enter into a public contract, administer a public contract, and obtain the performance of a public contract under the code. Procurement includes contract administration.

**Responsible Bidder or Proposer** – a bidder or proposer who has or can obtain available resources to meet all contractual responsibilities; has a satisfactory record of performance; has a satisfactory record of integrity; is qualified legally to contract with the Department; and has supplied all necessary information in connection with an inquiry concerning responsibility.

**Responsive Bid or Proposal** – a bid or proposal that substantially complies with the Invitation to Bid or Request for Proposals respectively, and all prescribed procurement procedures and requirements.

**Solicitation** – a request by the Department for the purpose of soliciting offers. This request may take the form of an invitation to bid, a request for proposal, a request for quotation, a request for qualifications or a similar document. A solicitation is the process of notifying prospective offerors that the Department requests such offers or the solicitation document itself. A solicitation and award process uses methods identified in ORS 279A.200 to 279A.220 (cooperative procurement); ORS 279B.055 to 279B.060 (bidding and proposals); ORS 279B.070 (intermediate procurements); ORS 279B.085 (special procurements); ORS 279C.100 to 279C.125 (architectural, engineering, and land surveying and related services); or ORS 279C.300 to 279C.450 (public improvements).

**Supplies and Services** - goods, trade services, personal services, and ordinary construction services separately or in any combination of these terms thereof. "Supplies and services" includes the terms "goods and services," "goods or services," and "personal services" contained in ORS 279A and 279B. This term does not include public improvements or architectural, engineering, and land surveying and related services governed under ORS 279C.

## Contacts

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## Policy History

- **Version 2.0**  
7/28/09 updated to include information from former policy and procedures: DHS-020-003, DHS-020-003-01, Personal Services Contracts Policy and DHS-020-004 and DHS-020-004-01, Trade Services Contracts Policy. The aforementioned policies and procedures are no longer applicable and DHS-020-001 V.2 is in effect.
- **Version 1.0**  
5/10/02 Initial Release