Washington State
DEPARTMENT OF
ENTERPRISE SERVICES

Enterprise Services Policy No. POL-DES-080-02

Contract Management Policy

Applies to: Any state office or activity of the executive branches of state government, including state agencies, departments, offices, divisions, boards, commissions, institutions of higher education as defined in RCW 28B.10.016 and correctional and other types of institutions. This policy applies to all competitive and non-competitive procurements. For managing contracts that impact the services that have been historically provided by state employees, refer to Competitive Contracting Manual.

Authorizing sources:

- State Law RCW 39.26.080(2)
- State Law RCW 39.26.180(1), (3)

Effective date: August 1, 2023

Last update: N/A

Sunset review date: *5 years from effective date*

Approved by: Tara C. Smith, Director

Reason for Policy

The Contract Management Policy establishes uniform standards for effective and efficient management of agency contracts. To ensure agency business objectives are met during the contracting process, agencies must actively engage in contract management in the following three Contract Life Cycle Phases: 1) Pre-award, 2) Award, and 3) Post-award.

A. Contract Life Cycle Phase One (Pre-award): Agencies must draft solicitations and contracts in a manner designed to achieve agency business objectives during the contracting process.

1. To implement this requirement, agencies must engage stakeholders where appropriate to:

a. Define the scope of the services and/or product specifications that the agency needs to acquire in order to obtain the desired business objectives from the vendor community.

b. Conduct initial market research to define needs, understand applicable laws, determine the most appropriate acquisition method for acquiring goods and services, and achieve the best value.

c. Create an outreach plan to inform the vendor community of the contract opportunity.

d. Define the budget.

e. Conduct risk analysis and develop a mitigating strategy to address potential risks at every phase of the contract life cycle. Coordinate and obtain agency and external authorizations as may be applicable, including Enterprise Services for delegation of procurement authority, and the Office of the Chief Information Officer for information technology oversight.

f. Draft the solicitation and contract documents.

2. **Agencies must appoint a contract manager for each contract.**

    a. The contract manager shall coordinate administration of the contract to ensure the agency's contractual business objectives are met.
    b. Agency personnel who are responsible for managing a contract must complete DES' Contract Management training.

        i. Employees assigned these responsibilities shall complete the required training within 90 days of assignment. This applies to anyone who is responsible for managing a contract and is a new employee, current staff assigned to new responsibilities/duties, or an employee assigned to a new position.

        ii. DES has made the training program available in The Learning Center.

3. **Agencies must include terms, provisions, procedures, clauses, and criteria in the solicitation and contract documents to ensure effective and efficient management of contracts (See RCW 39.26.180 (1)). Agency may use the sample model contract performance terms provided by Enterprise Services or choose to adopt its own model contract terms.**

    a. To the extent practicable, agencies must enter into performance-based contracts. (See definition of performance-based contract in the Definitions Section of the Contract Management Procedure). Performance-based contracts must include deliverables and performance measures or outcomes. See RCW 39.26.180 (3).

    b. Ensure that minority and women-owned businesses are afforded the maximum practicable opportunity to participate in the execution of goods and services contracts directly and meaningfully; and meet agency annual minority and women-owned contracting goals. See Supplier Diversity Policy and Handbook for guidance.

    c. Include information to ensure the following functions are effectively performed at the appropriate phase of the contracting process:

        i. Procedures for selecting contractor(s) and awarding contract.

        ii. Procedures for amending contract at the post-award phase.

        iii. Performance measures criteria and measurable benchmarks to use at post-award phase.

        iv. Clause prohibiting contractors from charging agencies to get access to contract data.

        v. Procedures for resolving complaints and protests at the pre-award phase.

        vi. Penalty clause for non-compliance with the terms and conditions of the contract, including termination procedures.

        vii. Alternative dispute resolution process to adopt in resolving contract issues at the post-contract award phase.

        viii. Criteria for terminating contracts for non-performance.

ix. Procedures for managing other functions, related to contract management, effectively and efficiently.

x. Ensure that all applicable enterprise procurement policies and executive orders (EO) are incorporated and applied during the pre-award, award, and post-award phases.

4. Agencies shall develop a contract management plan for each contract.

a. For each contract, agencies shall use the contract management checklist to develop a contract management plan that identifies the appropriate level of administration, monitoring, and relationship management that is consistent with the complexity and level of risk of the contract.

i. Where applicable, the plan shall identify staff (in addition to the contract manager) who will participate in contract monitoring.

ii. The assignment of roles and responsibilities.

B. Contract Life Cycle Phase Two (Award): Agencies must establish a contract that accurately reflects the agreement between the parties and documents the contract performance objectives and standard model terms included in the solicitation.

1. Contract Negotiations:

a. To ensure a bidder offers the best value, an agency may enter into contract negotiations with the lowest responsive and responsible bidder to determine if the bid may be improved.

b. Agencies may not use contract negotiations to:

i. Permit a bidder to change a nonresponsive bid into a responsive bid. See RCW 39.26.160 (6).

ii. Substantially change the scope of the original solicitation or increase the value of the contract.

2. Electronic Signatures:

a. An agency and contractor may execute a contract using electronic signatures. See RCW 39.26.180(4).

3. Transition:

a. The solicitation and contract documents developed at the pre-award phase and other pertinent information must be transferred to the agency-assigned contract manager if the contract manager is not involved in the development of the solicitation, and the procurement coordinator who developed the solicitation will not be assuming the contract manager role.

C. Contract Life Cycle Phase Three (Post-award): Agencies must ensure that each party performs according to their obligations. To implement this requirement, agencies must engage in the post-award activities below where appropriate.

1. **Implement contract administration** – agencies are responsible for ensuring contracts are entered into the electronic contract tracking system used by the agency, setting up internal payment procedures, tracking invoices and payments to the vendors, and tracking the contract budget.

2. **Hold a kick-off meeting** – Agencies should consider scheduling a contract performance kick-off meeting with the vendor's key representatives at the start of the contract. The purpose of a contract performance kick-off meeting is to align the agency's understanding and the vendor's understanding of the contract requirements, to include introducing key resources dedicated to the contract, discussing the work plan and deliverables, as may be applicable to the Statement of Work.

3. **Monitor contract performance –** Agencies are responsible for monitoring contract performance, as defined in the contract and amendments, to ensure that goods and services received from the vendor fulfill the contract requirements.

4. **Receive goods and services –** Agencies are required to inspect and evaluate all goods and/or services at the time of receipt to determine whether the goods and/or services comply with the contract under which they were purchased.

5. **Prompt payment –** Agencies are required to establish procedures to ensure timely, accurate, and cost-effective payment of obligations to vendors. See SAAM 85.32.50**.** Agencies must follow the invoice and payment process outlined in the contract**.**

6. **Contract amendment –** Agencies must have procedures in place to manage contract amendments efficiently and effectively per the terms and conditions outlined in the contract.

7. **Manage contract issues and disputes –** Managing contract issues and disputes is a core function of successful contract management. Agencies should identify problems as they occur and resolve them promptly. Disputes must be well documented and kept as a part of the contract file.
   a. Agencies are to work in good faith with the contractor to resolve the day-to-day issues/disputes. Agencies may involve DES' assigned Contract Specialist in resolving any contract issues related to Statewide contracts that they could not resolve.

8. **Terminate the contract –** When contract issues persist and cannot be resolved, an agency may need to terminate the contract, as outlined in the contract, before the contractual period of performance has ended. Contract termination is a complex decision and should be made only after sufficient analysis and consultation with agency leadership, the agency's contract administrator, and the agency-assigned Assistant Attorney General.

9. **Maintain the contract file -** Agencies must maintain a contract file for all agency contracts. Files must contain relevant documentation to show that contract performance was effectively managed, and that payment was made for only those goods and services received by the state.

Procedure

Procedure: PRO-DES-080-02

Resources and Related Policies

Frequently Asked Questions (FAQ)
WA-State Contract Management Training
DES-170-00 – Complaints and Protests DES'
Model Contract Performance Terms

Appendices

There are no appendices associated with this policy

History

N/A