

Fundamentals of Professional Contracts



OFFICE OF STATE PROCUREMENT

Objectives

- Discuss the different types of Professional Service Contracts
- Understand the importance of correct classification



Laws that Govern OSP – Professional Contracts (OSP-PC)

- Louisiana Constitution
- Louisiana Revised Statutes 39:1551-1755
- Louisiana Administrative Code Title 34, Part V
- Executive Orders
 - JBE 16-36 – Cooperative Endeavors
 - JBE 16-38 – Line Item Appropriations
 - JBE 16-37 – Hudson Initiative
 - JBE 16-55 – Emergency Procedures



Applicability of Law

All expenditures of public funds by the Executive Branch of the State, regardless of their source, must follow the laws that govern OSP-PC contracts.

- Some exemptions in law (RS 39:1554 & 39:1619)



Types of Contracts

- Professional
- Personal
- Consulting
- Social Services
- Interagency
- Intergovernmental
- Cooperative Endeavors



Professional – R.S. 39:1556 (42)

- Lawyers
- Doctors
- Dentists
- Psychologists
- Certified Advanced Practice Nurses
- Veterinarians
- Architects
- Municipal Advisors

- Engineers
- Land Surveyors
- Landscape Architects
- Accountants
- Actuaries
- Claims Adjusters
- Pharmacists
- Visiting Professors



Personal – R.S. 39:1556 (37)

- **Graphic Artist**
- **Sculptor**
- **Musician**
- **Photographer**
- **Writer**
- **Handwriting Analyst**
- **Court Reporter**
- **Foreign Representative**

- **Expert Witness**
- **Paramedical**
- **Therapist**
- **Private Investigator**
- **Sign Language Interpreter**
- **Entertainers**
- **Expert Speaker**



Consulting – R.S. 39:1556 (10)

Management

Finance
(Banking Services)

Revenue
Enhancement
(Claims Recovery)

Planning

Data Processing (IT)

Advertising

Public Relations

Personnel

Accounting

Scientists



Social Services – R.S. 39:1556 (54)

1. Rehabilitation & Health Support
 2. Habilitation & Socialization
 3. Protection for Adults & Children
 4. Improvement of Living Conditions & Health
 5. Evaluation, testing, and remedial educational services
- Teen Pregnancy Prevention
 - Louisiana Rehab Services
 - Day care services
 - Transportation services
 - Victims of family violence
 - Adoption services



Social Services – R.S. 39:1556 (54)

1. Rehabilitation & Health Support
 2. Habilitation & Socialization
 3. Protection for Adults & Children
 4. Improvement of Living Conditions & Health
 5. Evaluation, testing, and remedial educational services
- Energy Assistance / Weatherization
 - Distribution of Food Commodities
 - Identifying, Assessing and Evaluating Handicapped Children
 - Development of Individualized Educational Programs for Disabled or Handicapped Children



Interagency Contracts – R.S. 39:1556 (30)

- Are between executive branch state agencies
- Must be submitted to OSP-PC for review
- Are exempt from RFP regardless of value, but must follow all other contract requirements



Intergovernmental Contracts – R.S. 39:1556 (24)

- Are between state agency and a political subdivision (local or federal)
- Are exempt from OSP review and approval under R.S. 39:1554 J.2 ***except for procurement of social services***
- These agreements can be with police juries and other parishes, as well as other states



Cooperative Endeavor Agreements (CEA/CO-OP) – E.O. 16-36 & 16-38

- Must be sent to OSP-PC for approval
- Line Item Appropriation CEA's must follow the format and guidelines on the OSP-PC website



Minimum Contract Requirements

R.S. 39:1625

- Beginning / Ending dates – real ones, not “shall begin on date of approval and extend for one year”
- Description of work & goals/objectives
- Maximum amount and schedule of payments to be made – negotiate clear payment terms so contractor knows how he can bill and when he can bill
- Itemized budget if cost reimbursement
- Deliverables
- Schedule of deliverables
- Performance Measures



Minimum Contract Requirements

(continued)

- Monitoring Plan
- Responsibility for taxes (LDR# & Tax ID)
- Termination clauses – for cause and convenience
- Remedies for default clause
- Legislative Auditor clause
- Assignability clause
- Any required anti-discrimination language
- Travel requirements – PPM 49 (OR) Travel is included in the cost
- Fiscal funding clause if the duration of the contract crosses a fiscal year
- Act 87 – Discretionary or Non-discretionary



Appropriate Approvals

- Civil Service
- Attorney General – Legal Services
- Office of General Counsel – Legal Services
- Legislative Auditor – for financial auditing services of state agencies
- Office of Telecommunications Management
- Appropriate Governing Board – Board of Regents, LCTCS
- Delegation of Authority – Agency's signer must have authorization to sign



Attachments

- Signed BA-22 form
- Certification letter (if contract is greater than \$5,000)
- Late letter – if submitted to OSP-PC more than 60 days after begin date of the contract
- Board Resolution (corporation)
- Disclosure of Ownership (for-profit corporation unless publicly traded)
- Certificate of Authority (for-profit, out-of-state corporation)
- Resumes for consultants
- Multi-year letter – for contracts that extend beyond 12 months



Performance Evaluation

What does RS 39:1569.1(B) Require?

- Within 60 days of completion of services, a performance evaluation is to be completed. This includes contracts/amendments approved under Delegation of Authority
- Using agency has FULL responsibility for diligent administration and monitoring of contract
- If your contract/amendment was approved by OSP-PC, a copy **MUST** be sent to OSP-PC. A performance evaluation must be submitted to OSP



Questions?



OFFICE OF STATE PROCUREMENT

OSP Contact Information

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