



15.20 Personal Service Contracts — Competitive Procurement Requirements

15.20.10

July 1, 2007

Purpose of this policy

This policy serves as the basis for conduct of competition in award of personal service contracts.

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Competitive procurement requirements

Chapter 39.29 RCW requires that personal service contracts be competitively procured, with few exceptions. This statute reinforces the state of Washington's strong public policy favoring competition in the purchase of its goods and services. Competition is to be conducted with fairness and objectivity, giving attention to even the appearance of fairness, to ensure equal and open competition is achieved. Competition not only provides qualified firms equal opportunity to participate in state contracting, but also provides protection to the state in ensuring receipt of fair market pricing and quality services.

Competitive procurement of personal services involves evaluation of proposals based on multiple factors, rather than relying on price as the determinant factor. Agencies determine the weighted value of evaluation criteria and select a contractor and negotiate the contract based on these criteria. This is a different type of procurement process than opening sealed bids at a public bid opening and basing selection primarily on cost.

Subsection 15.10.20 identifies the categories of contracts that are **exempt** from the competitive procurement requirements. Subsection 15.20.50 lists **exceptions** to competitive procurement.

A documented, informal process called "evidence of competition" is required for contracts of \$5,000 to \$19,999, and a documented, formal, competitive process called "competitive solicitation" is required for contracts of \$20,000 or greater. Both are discussed in more detail in the following sections.

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Evidence of competition – informal competition

For personal service contracts estimated to be \$5,000 or more but less than \$20,000, the informal procurement process known as “evidence of competition” shall be used. This process may be used to award one or more contracts, but each contract must be in an amount less than \$20,000.

15.20.20.a

Written Solicitation

The agency is to prepare and issue an informal, written solicitation document. The document may be in the form of a letter, an electronic memorandum or other format that clearly sets forth the required information in writing. It can be sent electronically, by facsimile, or by mail. At a minimum, the solicitation should include a description of the type of services required, the proposed project schedule, a request for the firm’s qualifications/experience, request for the costs or fees to be charged to perform the service, and the due date and location for written responses to be submitted. The informal competitive process is to be expeditious; however, agencies should provide enough time for firms to submit complete responses. A sample Letter to Request Bids is provided in Additional Contract Resources at:

<http://www.ofm.wa.gov/contracts/resources/default.asp>.

15.20.20.b

Multiple Firms

The agency is to solicit responses from "multiple firms" in selecting a contractor. "Multiple" firms mean a reasonable number of parties considering such factors as type of services needed, cost, schedule, and availability. For informal competition, the offer is to be issued to a minimum of three firms. If fewer than three firms are contacted, an explanation is to be included in the contract file as to why more firms were not invited to participate.

15.20.20.c

Evaluation and Negotiation

The agency is to document the time and date when responses were received at the location specified in the solicitation to validate that they were within the due date and time. The responses are then evaluated by one or more individuals to determine which response most closely meets the requirements described in the solicitation. The successful and unsuccessful firms are then notified of the results. Contract negotiations are conducted by the agency with the apparent successful contractor. A personal service contract is executed by the parties and work begins.

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Documentation

The agency must thoroughly document the process used to select the contractor and retain the appropriate auditable documents in the files, including at a minimum the following:

- Names of the firms contacted and/or solicited.
- Copy of the solicitation document issued.
- Copies of the responses received.
- Description of the evaluation and selection process. Indicate the reason(s) for selection of the successful contractor.
- Copy of the executed contract.

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Report the contract to OFM in the Personal Service Contract Database.

15.20.30 Formal competitive solicitation

July 1, 2007

15.20.30.a Formal Competitive Solicitation

Formal competitive solicitation for personal services of \$20,000 or greater is required, as described in the following subsections.

15.20.30.b Advertising/Notification

In order to provide an equal and open opportunity for qualified consultants to be made aware of agency solicitations, agencies must take reasonable steps to notify them. One of the two methods listed below is required to be used, unless the exceptions at the end of this subsection apply.

1. **Advertise the solicitation.** The requirement for advertising is satisfied when a legal notice is published for a minimum of one day in at least one major daily newspaper in Washington State. The newspapers that satisfy this requirement are the Daily Journal of Commerce, Seattle Times, Seattle Post Intelligencer, Spokesman Review, News Tribune, and the Wall Street Journal. The advertisement should clearly describe the scope of work to enable potential bidders to make an informed decision about whether to request the solicitation document. A sample legal notice is provided in Additional Contract Resources: <http://www.ofm.wa.gov/contracts/resources/default.asp>.
2. **GA WEBS.** The Department of General Administration (GA) operates an on-line registration and bid notification system called Washington's Electronic Business Solutions (WEBS) Bid Posting and Vendor Notification System. This system was developed to centralize the location of bid notification information for the convenience and benefit of both state agencies and contractors (vendors). WEBS is a cost-effective alternative to publishing legal notices, and agencies are strongly encouraged to use this system. The system is available at: <http://www.ga.wa.gov/webs/>.

Note: If WEBS does not have the commodity category of personal service needed by an agency, you may contact WEBS Customer Service regarding adding the category.

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When not using WEBS, agencies that publish a legal notice of the solicitation in a major daily newspaper may **also** publish notices in other types of publications, on Internet sites, in professional journals, etc. or they may use an internal agency bidders list. However, these types of notifications are not a substitute for advertising in a major, daily newspaper or using WEBS, per this subsection. Agencies are also encouraged to access the Office of Minority and Women's Business Enterprises' BizNet System for names of firms to contact.

3. **Exceptions.** Exceptions to advertising in a major daily Washington state newspaper or using WEBS are allowed when:
 - Contract services will be provided entirely outside of Washington, Oregon and Idaho, but in the United States, or;
 - Contract services will be provided entirely outside of the United States.

Some form of advertising is still required for the above two exceptions. However, the agency may select the method and publication(s) in which to advertise based on their determination of what is most beneficial for the services being procured. Use of WEBS is also an option.

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15.20.30.c

Direct Notification to Multiple Firms

In order to provide further assurance that businesses are aware of the State's competitive solicitations, agencies must also directly notify/contact firms about the bidding opportunities. Therefore, either the competitive solicitation document or notification regarding the document must be issued or sent directly to multiple firms. "Multiple" firms mean a reasonable number of firms depending on the type of services being solicited. For formal competition, **six** or more firms are to be contacted. If fewer than six are known or available, even after advertising and/or using other methods to locate more, documentation must be placed in the file to support the agency's conclusion. If WEBS has six or more firms in the category needed, then this requirement is met through the use of WEBS. If WEBS has fewer than six firms in the category needed, the agency may notify other firms that provide the service to register with WEBS or they can contact additional firms outside of WEBS.

Simply publishing an advertisement or placing the solicitation document or notification about the solicitation on an Internet site does not satisfy the requirement to directly contact firms. The agency must notify multiple firms directly in written format, either through electronic methods, regular mail, or other available means, to be considered direct notification.

15.20.30.d

Competitive Solicitation Document

A formal solicitation document must be developed to describe the agency's need for services or the problem to be addressed. A well-written, well-considered solicitation document will help ensure responsive proposals and positive results. The document should provide clear, unambiguous statements in order for firms to understand what the agency needs, instructions for submitting proposals, and criteria for proposal evaluation. The two most commonly used documents for personal services are the Request for Proposals (RFP) and the Request for Qualifications and Quotations (RFQQ). **Note:** For ease of reference, the term RFP will be used, as applicable, throughout this policy to indicate a solicitation document.

The RFP is used when the agency has an identified need or problem and is seeking proposals from multiple firms that describes solutions- or approaches to address the agency need or problem. An RFQQ is used when the agency has identified the need and the services to resolve it and is looking only for a firm's qualifications and costs or fees to provide the identified services.

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The competitive solicitation document will vary based on the types of requirements related to the project, the complexity of the services, and the project budget. For example, a competitive solicitation document for a \$300,000 project generally includes more requirements than for a \$30,000 project.

The competitive solicitation document may be amended if changes are necessary. The amendment must be sent to all firms who received the RFP and/or posted on the website with the RFP.

A sample RFP and RFQQ are provided in Additional Contract Resources: <http://www.ofm.wa.gov/contracts/resources/default.asp>.

15.20.30.e

Timeline for Responses

The amount of time between issuing the solicitation document and the due date/time for responses should be reasonable so that firms will have adequate time to prepare thorough and comprehensive responses. The time will vary depending on the complexity of the project.

15.20.30.f

RFP Coordinator Role

The individual named as the RFP Coordinator is to be the sole point of contact in the agency for the solicitation. All questions from prospective proposers regarding the procurement should be directed to the RFP Coordinator for response. Solicitations may include language stating that if other individuals are contacted regarding the solicitation, the firm may be disqualified from participating in the competitive process. Responses to questions are issued only by the RFP Coordinator and are considered an amendment to the solicitation document. The proposals are also submitted to the RFP Coordinator.

15.20.30.g

Evaluation Criteria

Competitive selection of a successful contractor is to be based on pre-established evaluation criteria identified in the solicitation document. Weighting of the criteria should be determined based on the importance of the factors to the successful completion of the contract. No criteria may be used in proposal evaluation that are not included in the RFP. Criteria may include, but are not limited to, the following:

- Experience, ability and capacity of the firm;
- Understanding of the project, project approach, and methodology;
- Quality of proposed work plan and description of deliverables;

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- Project management, internal controls, and team structure;
- Staff qualifications and experience;
- Fees or cost and firm's financial capability;
- Responsiveness to schedule limitations;
- Responsiveness to solicitation requirements;
- Quality of previous performance and reputation;
- Compliance with statutes and rules relating to contracts or services;
and
- Other factors not unnecessarily restrictive to otherwise qualified firms.

Avoid vague or subjective evaluation criteria.

15.20.30.h

Evaluation Team

An evaluation team should be assembled that includes individuals who collectively offer the overall knowledge and expertise to evaluate the proposals effectively and objectively. A minimum of **three** evaluators shall be used to ensure that applicable disciplinary skills, abilities, knowledge, and objectivity are represented. If fewer than three evaluators are used, the agency must document in writing why it did not use three. If, however, only one responsive proposal is received, fewer than three evaluators may be used, if the agency determines that is the appropriate course of action.

For complex procurements, an agency may use separate evaluation teams for each section of the proposals, such as a technical team, management team and/or a cost team, with each evaluation team containing specific expertise applicable to its section of the proposal.

Evaluators must be unbiased and able to evaluate proposals effectively and objectively. Evaluators must also be able to maintain confidentiality during the evaluation process.

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Pre-proposal Conference

A pre-proposal conference is an optional step in the competitive solicitation process and is generally used for more complex procurements. The pre-proposal conference provides a setting where interested parties can ask questions and seek clarification and additional information about the RFP in a public setting. The agency also has the opportunity to provide clarification on complicated issues or requirements of the RFP. Answers given at the pre-proposal conference by the agency are considered tentative. Questions submitted in writing or raised at the pre-proposal conference and final agency answers will be documented as an amendment to the RFP. Amendments are to be provided to all that received the RFP and attended the pre-proposal conference and/or posted on any website where the solicitation is posted.

Attendance at pre-proposal conferences is generally not mandatory, but can be and, if so, must be stated clearly in the RFP.

In situations where few questions are likely to arise as a result of the RFP, the pre-proposal conference is not necessary. Instead of a pre-proposal conference, questions can be submitted in writing to the RFP Coordinator. Answers will be issued to all who received the RFP and/or posted on any website where the solicitation is posted.

15.20.30.j

Receipt of Proposals

Proposals are required to be submitted by a definite time and date and to a specific location or e-mail address. Immediately upon receipt by the agency of hard copy proposals at the location specified in the solicitation, the date and time of receipt should be noted on each proposal with the signature or initials of the individual who received the proposal. This verifies the proposal was received within the due date and time. For electronic proposals, the e-mail date and time **received** are utilized (not the time **sent** by the proposer). Proposals should be secured.

Late proposals should not generally be accepted; however, limited exceptions do exist, as follows:

- The late proposal is the only proposal received;
- Late receipt was due solely to faulty handling of the proposal after receipt by the agency; or
- For electronic submittals, the agency's computer system is not-operational at or around the time proposals are due.

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Agencies are not responsible for delays experienced by any delivery service and, if proposals are submitted electronically, for problems with e-mail when the agency's systems are operational.

15.20.30.k

Responsiveness of Proposals

The RFP Coordinator typically reviews the proposals for responsiveness prior to providing to the evaluation team. For a proposal to be responsive, it must meet the minimum requirements of the RFP. Only responsive proposals are submitted to the evaluation team for consideration. If only one proposal is received, evaluation may proceed. If it is non-responsive, it may be rejected. The reason(s) for rejection of a proposal for non-responsiveness must be included in the contract file and the proposer notified.

15.20.30.l

Written Evaluation

The purpose of the evaluation process is to assess the proposals offered by the proposers based on the criteria in the RFP. The evaluation lends integrity to the competitive process and ensures all proposers of fair and equal treatment. Proposals are to be evaluated strictly against the evaluation criteria set forth in the RFP. Weighting of the evaluation criteria should also be included in the RFP.

An evaluation document with numerical scores must be used for evaluation of written proposals to ensure evaluators are consistent in the scoring approach and methodology among the proposals. Scores from the written proposals are used to determine ranking for oral interviews, if applicable, and/or for contract award. A variety of scoring methodologies are available but must be consistent with the RFP and objective, fair and unbiased.

Approaches are:

- The final score for each proposal is determined by adding together the points awarded by each individual evaluator;
- The points awarded by each evaluator for each scored section are totaled and averaged among the evaluation team. The final score for each proposal is determined by adding the average score for each scored section;
- The evaluation team may discuss the proposals as a group and determine a consensus or team score for each section of each proposal; or
- Other similar objective approaches.

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Oral Interviews

To make a final selection from among a field of highly qualified, top-scoring finalists, it may be appropriate to invite the top-scoring firms for oral presentations. If oral interviews are conducted, each interview should be conducted in the same format. Oral presentations may be structured to allow a specified time limit for proposer presentations and for questions from the evaluation panel.

The oral interview may determine the apparent successful contractor or the scores from the oral presentation and the written proposal may be combined to determine the apparent successful contractor. The scoring approach identified in the RFP must be used.

15.20.30.n

Determining the Apparent Successful Contractor and Unsuccessful Firms

Based on the evaluation team's recommendation for award, an apparent successful contractor is selected. The firm should be notified in writing.

Unsuccessful firms should also be notified promptly in writing, as this starts the time for scheduling the debriefing conferences and the protest period. The debriefing and protest processes must be followed in accordance with the terms and schedules outlined in the RFP.

Contract negotiations will then begin with the apparent successful contractor to more precisely define the terms of the contract. If successful, the contract will be finalized and signed by all parties. If negotiations are unsuccessful with the apparent successful contractor, the second scoring firm may be invited to participate in contract negotiations.

15.20.30.o

Documentation

The evaluation and selection process is to be thoroughly documented in order to substantiate that all proposers were treated equally and fairly and that an equitable and impartial competitive process was conducted.

Required documentation, at a minimum, is as follows:

- Copy of the advertisement showing where the ad was placed or the WEBS System Identifier Number through which the bid detail can be displayed in WEBS.
- Copy of the solicitation document.

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- Names of firms that were directly sent the solicitation or notification regarding the solicitation.
- Copies of all proposals submitted. If submitted electronically, a disk with the proposals can be retained.
- Score sheets used for determining ranking of proposals. This may include individual evaluator's score sheets, team score sheets and/or summary score sheets. If oral interviews are conducted and score sheets are used, retain those. If score sheets are not used for the oral interview, documentation of why the successful bidder was selected should be retained.
- Copy of written notification to successful and unsuccessful proposers.

Other types of optional documentation may include:

- Conflict of Interest and Nondisclosure Form signed by each evaluator.
- Pre-award Risk Assessment form.

Required documentation and any optional types of documentation must be retained in accordance with records retention schedules.

15.20.30.p

Debriefing Conferences

Unsuccessful proposers must be provided the opportunity to participate in a debriefing conference within the time limits included in the solicitation document. The solicitation document should clearly specify the terms and schedule for the debriefings. The debriefing conference is generally required before a protest may be submitted.

Debriefing discussions should be limited to a critique of the requesting firm's proposal. This feedback can assist the firm in developing and submitting future proposals that may be more effective. Agency representatives should be able to explain the scoring of the proposal in order to assure the unsuccessful firm that its proposal received a fair and objective evaluation.

Debriefings may be conducted in person or by telephone and may be limited to a specific period of time.

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15.20.30.q

Protest of the Procurement

In the event an unsuccessful proposer protests a procurement, the agency must carefully follow the protest process and timelines outlined in the solicitation document. Typically, solicitation documents require that unsuccessful proposers must participate in a debriefing conference before being allowed to submit a protest. Protests must generally be submitted based on an issue of fact concerning the following, or other criteria that may be stated in the solicitation document:

- A matter of bias, discrimination, or conflict of interest on the part of an evaluator;
- Errors in computing the scores; or
- Non-compliance with procedures described in the procurement document or agency policy.

Protests that are not based on procedural matters are not considered. The agency should designate an individual(s) who was not involved in the procurement process to review and evaluate the protest.

15.20.30.r

Public Disclosure of Proposals

Proposals are considered public records as defined in chapter 42.56 RCW. In the event a firm desires to claim portions of its proposal exempt from public disclosure, it must clearly identify those portions. Each page of the proposal claimed to be exempt must be clearly identified as “confidential.” The agency has the authority to decide whether any or all of the claimed exemptions are appropriate, based on the exemptions listed in chapter 42.56 RCW. The firm may seek to obtain a court order from a Washington state court prohibiting disclosure of parts of its proposal prior to the execution of the contract incorporating the proposal.

The successful contractor’s proposal generally becomes part of the contract that is subject to public disclosure.

15.20.30.s

Canceling Solicitations

Agencies shall make every effort to include realistic, achievable requirements in personal service solicitation documents and to anticipate any changes in the requirements. If the decision is made to cancel the solicitation, reasonable notice is to be provided to all prospective proposers.

Agencies may cancel a solicitation and reject all proposals after evaluation if there is a compelling reason including, but not limited to, the following:

- Requirements in the solicitation were ambiguous, inadequate or unclear;
- Services being solicited are no longer required;
- The solicitation did not provide for consideration of all factors of cost to the agency;
- All proposals were at unreasonable prices; or
- No responsive proposal is received from a responsible bidder.

15.20.35

January 1, 2008

Requirements of international trade agreements – executive cabinet agencies only

15.20.35.a

The state of Washington adheres to several international government procurement agreements, including the World Trade Organization (WTO) Government Procurement Agreement (GPA) which was entered into as a means of establishing international procedures relating to procurement and to provide expansion of world trade. The terms of these agreements apply only to executive cabinet agencies.

Affected agencies must ensure they will provide the same treatment to foreign contractors of the signatory nations as to U.S. contractors and that no requirements in their solicitations will preclude competition from foreign contractors in countries that participate in the agreements.

Executive cabinet agencies that make purchases of goods and services in the amount of the current WTO threshold of \$528,000 or more (inclusive of all costs and fees, expenses, taxes, etc.) must adhere to the GPA for their competitive purchases, with certain exemptions. This threshold is adjusted every two years.

15.20.35.b

WTO Exemptions

The following goods and services are exempt from the requirements of the WTO GPA:

- Fuel (*Washington state specific exemption*);
- Paper products (*Washington state specific exemption*);
- Boats, ships, vessels (*Washington state specific exemption*);
- Transportation services and restrictions attached to federal funds for mass transit and highway projects;
- Dredging;
- Public utility services, including telecommunications and ADP-related telecommunications services except enhanced telecommunications services;
- Printing services;
- Research and development;

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- Services in support of military forces located overseas;
- Management and operation contracts of certain government or privately-owned facilities used for government purposes, including federally-funded research and development centers;
- Goods and services in support of national security;
- Goods and services in support of general environmental quality;
- Contracts for development of distressed areas;
- Emergency purchases;
- Sole source purchases and other exemptions listed in RCW 39.29.040;
- Contract/purchases from community rehabilitation programs or Correctional Industries;
- Works of art or for reasons connected with protection of exclusive rights, such as patents or copyrights;
- Contracts with philanthropic organizations;
- Intellectual property;
- Minority-owned and women-owned businesses and businesses owned by disabled veterans and small business set asides;
- Products or services of handicapped persons;
- Acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions, and sale and distribution services for government debt;
- National security;
- Public morals and order or safety;
- Human, animal or plant life;
- Philanthropic institutions;

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- Development of distressed areas;
- General environmental quality of the state;
- Non-contractual agreements of any form of government assistance not specifically covered, including grants, loans, cooperative agreements, etc.;
- Contract/purchases conducted by the State on behalf of local government agencies;
- Procurement made by a covered entity on behalf of non-covered entities at a different level of government;
- Acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions, and sale and distribution services for government debt;
- Additional goods or services by the original supplier that are intended either as replacement parts for existing supplies or installations, or as the extension of existing supplies, services or installations where a change of supplier would compel the entity to procure equipment or services not meeting requirements of interchangeability with already existing equipment or services;
- Prototypes or a first product or service which are developed in the course of, and for, a particular contract for research, experiment, study or original development; and
- Services below the \$528,000 threshold.

If personal services are needed that are estimated to meet or exceed the WTO threshold of \$528,000 and are not otherwise exempt in the foregoing list, they are subject to the GPA.

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15.20.35.c

WTO Competition - Executive Cabinet Agencies

Requirements related to WTO competition are as follows:

1. Invite participation by member nations in bid solicitations by either publishing a legal notice or a Notice of Planned Procurement about the upcoming solicitation in a statewide daily newspaper. Where feasible, allow a minimum of 40 calendar days from the date of publication of the legal notice or notice of planned procurement to the date of issuance of the solicitation document.

The legal notice/notice of planned procurement for personal services is to include the following information, as applicable:

- Estimated start and end dates of the proposed contract, including any options to extend;
- The nature and quantity of the services;
- Whether negotiations will be used to award the contract;
- Due date, if any, for notifying agency of entity's interest in receiving the solicitation, and estimated issuance date of solicitation;
- Language in which the proposal must be submitted;
- Indication that the solicitation is subject to the WTO GPA;
- How/where the solicitation document can be accessed. Name and address of awarding agency and contact information; and
- Maximum dollar amount of contract services, if available.

Solicitation documents (e.g. Request for Proposals, Request for Qualifications/Quotations, etc.) subject to WTO GPA requirements, are to include the following elements at a minimum. Those items in bold are additional to other state personal service contracting standards:

- Complete description of need and/or services required;
- **Whether the contract will involve negotiation;**

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- Proposed start and end dates of the contract, including options to extend;
 - Minimum qualifications;
 - Description of specific economic or technical requirements, financial guarantees and related information being requested for submission;
 - Agency's address where proposal should be sent and the specific location for courier delivery, if allowed, or a statement explaining that hand delivery is not accepted. Include where and to whom requests for information should be forwarded including email and telephone numbers with area codes;
 - Format for submission of proposals and whether they must be submitted by mail, by courier or if e-mail is acceptable. **State if the proposal must be written in English;**
 - Due date and time for receipt of proposals, **including time zone;**
 - Length of time the proposal should be open for acceptance;
 - Explanation that amendments to the solicitation document will be made available to all who receive the solicitation; and
 - Evaluation criteria for awarding the contract. Include cost elements to be included in the evaluation of pricing, such as insurance, taxes and **form of currency to be used for payment.**
2. Notify successful and unsuccessful firms about the award status as soon as the evaluation process is completed and an award decision is made.
 3. Handle protests with fairness and equity to all parties in accordance with the solicitation document and WTO guidelines.

A "Notice of Award" of contracts that were subject to the WTO GPA requirements is to be published no later than seventy-two (72) days after the award of the contract.

15.20.40

January 1, 2008

Master personal service contracts and convenience personal service contracts

15.20.40.a

Master Contracts

The term “master” personal service contracts, as used in this policy, refers to personal service contracts competitively solicited according to Subsection 15.20.30 and awarded by the Department of General Administration, the Department of Personnel, and the Department of Information Services for use by other state agencies. To access the services from the contractors available under the master contracts, the agency conducts a second-tier competition for the specific scope of services needed. The second-tier contract documents are not filed with OFM, as the master personal service contracts were filed at time of award. Agencies are encouraged to use master contracts as a way to improve procurement efficiency, maintain quality and reduce costs.

15.20.40.b

Department of General Administration (GA)

The GA Office of State Procurement (OSP) awards certain categories of personal services as identified by GA and its customers as areas of need. , GA conducts the competition in accordance with Subsection 15.20.30, awards the master personal service contracts, and files them with OFM. To procure personal services under the master contracts, a second-tier competition is conducted. GA will notify vendors of the second-tier work request on behalf of the requesting agency unless otherwise agreed upon. Agencies are responsible to maintain adequate documentation of the second-tier competitive process when using GA’s master personal service contracts to substantiate that all bidders were treated equally and fairly and that an equitable and impartial competition was conducted.

Upon selection of the successful firm, the agency awards a Work Order contract to the contractor and provides a fully executed copy to GA.

GA reports the services provided under the master personal service contracts to OFM on a quarterly basis.

More information on these contracts is available on the GA website at:

<http://www.ga.wa.gov/purchase/contracts.htm>.

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Department of Information Services (DIS)

For information technology (IT) personal services, DIS conducts the competition in accordance with Subsection 15.20.30, awards the master personal service contracts, and files them with OFM. To procure IT personal services under the master contracts, a second-tier competition is conducted, unless in unusual circumstances sole source can be substantiated under the ISB IT Investment Standards and the OFM sole source requirements. Agencies are responsible to maintain adequate documentation of the second-tier competitive process when using DIS' master personal service contracts to substantiate that all bidders were treated equally and fairly and that an equitable and impartial competition was conducted.

Upon selection of the successful firm, the agency awards a Work Order contract to the contractor and provides a Purchaser Activity Report to DIS.

DIS reports the services provided under the master personal service contracts to OFM on a quarterly basis.

For more information, refer to the DIS TechMall website at:
<http://techmall.dis.wa.gov/services/ITPS.aspx>.

15.20.40.d

Department of Personnel (DOP)

Agencies may also acquire personal services from DOP's master personal service contracts for organizational development services and for employee training, including some IT software training. DOP conducts the competitive process in accordance with Subsection 15.20.30, awards master contracts, and files them with OFM. To procure personal services under the master contracts, a second-tier competition is conducted, unless in unusual circumstances sole source can be substantiated under OFM sole source requirements. Agencies are responsible to maintain adequate documentation of the second-tier competitive process when using DOP's master personal service contracts to substantiate that all bidders were treated equally and fairly and that an equitable and impartial competition was conducted.

After the award decision is made, agencies enter into interagency agreements with DOP, and DOP in turn enters into work orders with the contractor for the work requested by the agency.

DOP reports the services provided under the master personal service contracts to OFM on a quarterly basis.

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15.20.40.e

Second-tier Competitive Process under Master Personal Service Contracts

The second-tier competitive process conducted under the master personal service contracts must comply with the minimum standards noted below. Agencies are responsible to conduct the second-tier competitive process unless other arrangements are made with the agency holding the master contract.

Contract amount \$5,000 to \$19,999:

- Draft written solicitation using format prescribed by agency holding master contract. Solicitation must describe the scope of work, the proposed schedule for services, request for firm's qualifications/experience, commitment to meeting schedule, cost or fees to provide the services, evaluation criteria, and due date/time and address for written responses.
- Issue request to a minimum of three firms under the category of services needed. More is preferable. Document why, if fewer than three firms are issued the solicitation.
- Conduct evaluation of responses (one or more individuals may be involved).
- Document rationale for award decision.

Contract amount \$20,000 or more:

- Draft written solicitation using format prescribed by agency holding master contract. Solicitation must describe the scope of work, the proposed schedule for services, request for firm's qualifications/experience, commitment to meeting schedule, cost or fees to provide the services, evaluation criteria, and due date/time and address for written responses.
- Issue request to a minimum of six firms under the category of services needed. More is preferable. Document why, if fewer than six firms are issued the solicitation.
- Conduct evaluation of responses with a minimum of three individuals.
- Document rationale for award decision.
- Conduct debriefing conferences, if requested.

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15.20.40.f

Convenience Contracts

Convenience or “on call” personal service contracts, for the purposes of this policy, are those that agencies competitively award for their own agency use. Typically, convenience contracts are awarded to multiple firms to provide the agency quick access to personal services on an as-needed or on-call basis. Agencies must first conduct the solicitation in accordance with Subsection 15.20.30. They identify in the solicitation document the method by which services will be awarded under the convenience contracts so that work is distributed fairly and equitably among the contractors.

Methods that can be used include rotating through the contractors as services are needed, sending a scope of work to those on the list in a particular category of service and evaluating and selecting the best response, selecting based on specialized expertise if only one firm is qualified and available, or selecting based on geographical area. Agencies may issue task orders or similar documents under the convenience contracts to authorize specific services for an agreed dollar amount and period of performance. Agencies must file the convenience contracts with OFM, but the task orders issued under the convenience contracts need not be filed.

15.20.50

July 1, 2007

Exceptions to the competitive procurement requirements

The following types of personal service contracts are exceptions to the competitive procurement requirements referenced in Subsections 15.20.15, 15.20.20, and 15.20.30:

- Sole source contracts;
- Emergency contracts;
- Contract amendments;
- Contracts exempt under RCW 39.29.040. Refer to Subsection 15.10.20; and
- Contracts exempt by the Director of OFM, when it has been determined that a competitive procurement process is either not appropriate or not cost-effective. This exemption is intended for exceptional or unusual circumstances that may preclude the use of the standard competitive and filing processes. An agency must submit a request to the OFM director in advance of the proposed contract start date. At a minimum, the request should include:
 - A description of the type of service for which the exemption is requested;
 - An explanation as to why the agency considers the exemption appropriate;
 - Reason(s) why competitive procurement is not appropriate or cost-effective; and,
 - An explanation of the effect or impact of not having the exemption.

OFM will provide the agency with a timely written response. In the event OFM exempts a particular service or category of contracts from competitive procurement, other affected agencies will also be notified.

15.20.60

July 1, 2007

Advertising sole source contracts

RCW 39.29.018 requires that sole source personal service contracts in the amount of \$20,000 or more be advertised for a minimum of one day in either a statewide or regional newspaper. Additional advertisement in other media may also be conducted. This step publicly announces the potential sole source contract and, when no responses are received, helps establish that no other firms are available to provide the service.

The advertising requirement is based on the individual contract amount of \$20,000 or more and is not a cumulative total of sole source contracts with a contractor in a fiscal year. Advertising is required regardless of the source of funds of the contract.

15.20.60.a

Sole Source Advertisement

The sole source advertisement shall include at a minimum:

- The name of the agency;
- A description of the services contemplated for sole source award;
- The proposed period of performance for the services;
- Information on how an interested party may contact the agency; and
- The deadline for an interested party to make such contact.

The name of the proposed contractor may also be included, but is not required. The contractor proposed for sole source award does not need to respond to the advertisement.

A sample sole source advertisement is provided in Additional Contract Resources at: <http://www.ofm.wa.gov/contracts/resources/default.asp>.

15.20.60.b

Response to Sole Source Advertisement

If a formal response to the sole source advertisement is received from a firm, other than the proposed contractor, and the agency determines the firm is also qualified to provide the service, competitive solicitation, as set forth in Subsection 15.20.30.a, shall be conducted. If an agency can demonstrate that the proposed contractor is the only qualified and available firm to provide the service, even though another firm responded, the contract is to be filed with OFM as a sole source with a complete explanation as to how this conclusion was reached.

15.20.60.c

Exemptions to Sole Source Advertisement Requirement

Exemptions from the requirement for advertising sole source contracts include:

- Contracts for services where selection of the contractor is based on an exceptional personal accomplishment or characteristic, such as national experts on a specialized topic or issue, authors of acclaimed books or articles, guest speakers, performers, and artists. This does not apply, however, to contracts for services such as training, facilitation, etc.
- Contracts for services where the funding source mandates with whom the agency shall contract and, therefore, the agency does not have discretion in making the award decision. Examples include requirements set forth in statute (RCWs), budget provisos, federal grant awards, etc.
- Contracts for services that will be provided entirely outside of Washington, Oregon and/or Idaho and/or services provided outside of the United States.
- Contracts that OFM determines are inappropriate for advertising based upon written request from the agency, which request can be submitted as part of filing the contract.
- Sole source contracts under \$20,000.