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15.10 General Policies for Acquiring Personal Services from Outside Consultants

15.10.10

July 1, 2001

Authority for these policies

Personal services are to be procured and awarded by state agencies in accordance with the requirements of Chapter 39.29 RCW.

15.10.15

July 1, 2005

Special definitions

Agency - Any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, and commissions, and educational, correctional, and other types of institutions.

Approval - OFM's authority to analyze the filed contract or amendment and to approve or disapprove based on compliance with the competitive procurement, filing and other requirements of Chapter 39.29 RCW.

Client Services - Services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing. Clients are considered to be those individuals who the agency has statutory responsibility to serve, protect, or oversee. Clients are members of the public, external to state government, who have social, physical, medical, economic, or educational needs.

Competitive Solicitation - A documented formal process for award of personal service contracts of \$20,000 or more that provides an equal and open opportunity to multiple qualified parties. The solicitation culminates in the selection of a contractor based on evaluation criteria set forth in the solicitation document that may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

Personal Service Contracts

Consultant - An independent individual or entity contracting with an agency to perform personal services or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the agency except as to the result of the work. The agency monitors progress under the contract and authorizes payment. Generally referred to as “contractor” in personal service contracts.

Emergency - A set of unforeseen circumstances beyond the control of the agency that either: (1) presents a real, immediate threat to the proper performance of essential agency functions or (2) may result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

Evidence of Competition – A documented informal competitive process for award of personal service contracts of \$5,000 to \$19,999 that demonstrates the agency has solicited responses from a minimum of three firms, unless otherwise documented, evaluated responses in selecting a consultant, and awarded a contract.

Personal Service - Professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. This term does not include purchased services as defined below.

Personal Service Contract - An agreement, or any amendment thereto, with a consultant (contractor) for the rendering of personal services. Personal service contracts may render services to state agencies, businesses, providers, other contractors, etc. If, however, services are provided **directly** to agency clients, the contracts are classified as client service contracts.

Purchased Services - Services provided by a vendor to accomplish routine, continuing, and necessary functions. Generally, these services meet more ongoing needs of an agency for general support activities. This term includes, but is not limited to, services acquired under RCW 43.19.190, the authority of the Department of General Administration (GA), Office of State Procurement, or RCW 43.105.041, the authority of the Department of Information Services (DIS).

Examples of GA purchased services include: delivery/courier services, equipment rental, janitorial services, standard laboratory tests, laundry services, and towing services.

Personal Service Contracts

Examples of DIS purchased services include: contract programming, technology support, computer hardware and software maintenance, software installation, data entry, operation of a physical plant, and standard IT training related to hardware or software in use by an agency.

Review - OFM's authority to analyze the filed contract or amendment based on compliance with the competitive procurement, filing and other requirements of Chapter 39.29 RCW. "Review" does not authorize OFM to approve or disapprove the contract filing; however, OFM may request additional information and make suggestions regarding the filed contract or amendment.

Sole Source - Contract awarded without competition, because the consultant providing the professional or technical expertise has skills, knowledge or ability of such a unique nature that the consultant is clearly and justifiably the only practical source to provide the service. The sole source award may also be based on the uniqueness or highly specialized nature of the services, sole availability of a consultant at the location required or other special circumstance.

State Funded - Funded with dollars that are: (1) appropriated by the Washington State Legislature and/or (2) allotted by the agency.

15.10.20

November 1, 2005

Contracts exempt from the requirements of Chapter 39.29 RCW

If the primary purpose or nature of a contract is in one of the categories described below, that contract is exempt from the requirements of Chapter 39.29 RCW.

Exception: RCW 41.06.142, effective July 1, 2005, does not exempt the categories of services below from civil service competitive contracting, with one exception. If agencies want to consider the categories of services described in this sub-section for competitive contracting they may, with the one exception of Interlocal agreements, 15.10.20.c. Most of the services in the below exemptions are provided by contractors, but state employees do provide some of these types of services.

Personal Service Contracts

15.10.20.a

Contracts Totaling Less than \$5,000.

Personal service contracts with a value of less than \$5,000 are exempt. However, two factors are to be considered under this exemption.

- Competition is not required for personal service contracts under \$5,000, but it is advisable to use a competitive process whenever possible.
- When the cumulative total of sole source personal service contracts and amendments awarded to a contractor by an agency (including all agency divisions) in a fiscal year reaches \$5,000 or greater, the contract or amendment that brings the total to or over the \$5,000 amount, is subject to filing, regardless of its individual amount. Subsequent sole source contracts and amendments awarded to that contractor in the fiscal year are also subject to filing regardless of their individual amount. (For institutions of higher education, the cumulative amount is calculated differently. See Subsection 15.30.30.a.) Agencies are to track personal service contracts under \$5,000, so they will know when the filing threshold is met.

15.10.20.b

Contracts Subject to Tariff.

This exemption is limited to contracts where the fee with a contractor is pre-established by tariff set by the Washington Utilities and Transportation Commission or other public entity and, therefore, the fee structure is fixed. This exemption does not apply to contracts with the contractor where no fixed rate structure is imposed.

15.10.20.c

Interlocal Agreements.

This exemption includes contracts between Washington State agencies or between a Washington State agency and either a unit of local government, another state, the federal government, or an Indian Tribe recognized by the federal government. These contracts may also be referred to as intergovernmental or interagency agreements. More information is available in Chapter 39.34 RCW of the Interlocal Cooperation Act.

15.10.20.d

Services for a Standard Fee.

This exemption applies when a standard fee is established by the contracting agency or any other governmental entity, and a like contract for the standard fee for equivalent services is available to qualified applicants as services are required. Standard fees may include hourly or daily rates or similar fee-for-service rates. Examples: doctors or dentists who agree to provide services to state agency clients at a rate established by the agency and hearings examiners who conduct hearings for a set rate.

Personal Service Contracts

15.10.20.e

Contracts for Collaborative Research.

This exemption may be used when an agency is applying for grant or research funds and names a firm or individual in the written application to perform specific services. Upon approval from the funding source and receipt of funds, the resultant contract with the named firm or individual is not required to be filed with OFM, nor does it require approval by OFM.

Conversely, if a funding authority initiates an agency contract process by providing funds to an agency and requires the agency to utilize a specific contractor, the subsequent agency contract would be designated as a sole source and filed with OFM, if it meets the filing thresholds. It would not be exempt from filing. However, in this instance, a sole source ad would **not** be required if the contract is for \$20,000 or more, since the funding source mandated the contractor to use as a condition of the award. Refer to Subsection 15.20.60.c.

15.10.20.f

Contracts for Client Services.

Client services are defined in RCW 39.29.006(2) as services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing. Client service contracts are entered into for professional or technical services to be provided by an organization or person **external** to state government that will result in the delivery of **direct** services to agency clients. Clients are considered to be those individuals the agency has statutory responsibility to serve, protect, or oversee.

15.10.20.g

Contracts for Architectural and Engineering Services.

This exemption applies to contracts for architectural and engineering services as defined in RCW 39.80.020, and awarded pursuant to Chapter 39.80 RCW.

However, contracts awarded by any state agency for architectural and engineering services, and their amendments, are to be reported to OFM per RCW 39.80.070. The reports are to be submitted quarterly to OFM through the Personal Service Contracts Database (PSCD).

15.10.20.h

Contracts for Expert Witness Services.

Expert witness contracts are those awarded when a subject matter expert is requested to testify as an expert witness for the purpose of litigation or an administrative hearing. The exemption should be used only when a lawsuit or request for an administrative hearing has been filed or there is a known potential lawsuit or administrative hearing for which expert witness services are needed. It should not be used when expert witness services are included as an add-on service strictly as a precautionary measure, in case a lawsuit or request for an administrative hearing could be filed as a result of the contractor's study, research or results.

Personal Service Contracts

Expert witness contracts may also include case consultation, research, legal services, or other related activities, but the purpose of the contract ultimately must be for expert witness services if the case goes to litigation or to an administrative hearing. An expert witness is someone who is a subject matter expert, or has particular knowledge or skills related to a subject, not necessarily any person who might be called to testify in relation to a specific case. This exemption does not include lay witnesses.

15.10.20.i

Contracts for Bank Supervision.

These are contracts entered into by the Department of Financial Institutions to conduct examinations of branches of out-of-state banks that are operating in Washington State, per RCW 30.38.040.

15.10.20.j

Contracts for Interpreter Services and Interpreter Brokerage Services.

These are contracts for interpreter services and interpreter brokerage services awarded for clients of the Department of Social and Health Services who have limited English-speaking skills or are sensory-impaired applicants and who are recipients of public assistance.

15.10.25

July 1, 2004

Agency responsibilities

State agencies subject to Chapter 39.29 RCW are authorized to expend funds for personal service contracts only when the agencies have complied with the competitive procurement and other requirements of the chapter.

The agency director or authorized designee has full responsibility for securing outside contractual help, as required by that agency, in the most effective and economical manner possible. The state officer or employee executing personal service contracts is responsible for ensuring that personal services are procured in accordance with Chapter 39.29 RCW. In addition, those who execute personal service contracts are required to complete personal service contract training. Refer to Subsection 15.10.70.

15.10.30

July 1, 2005

Limitations on personal service contracts

15.10.30.a

Agencies are to procure personal services only to resolve particular agency problems or issues, or to expedite specific projects that are temporary in nature. Prior to procuring personal services valued at \$5,000 or more, the agency must document that:

- The service is critical to agency responsibilities or operations, or is mandated or authorized by the Washington State Legislature.
- Sufficient staffing or expertise is not available within the agency to perform the service.
- Other qualified public resources (governmental entities) are not available to perform the service either more efficiently or cost effectively.

Contracts filed with OFM must include this information in the justification submitted with the filing.

Exception: Personal service contracts awarded as a result of civil service competitive contracting under RCW 41.06.142 and Chapter 236-51 WAC, are not subject to the second and third factors in this subsection. Documentation for such will not be required when filing a personal service contract awarded under RCW 41.06.142.

15.10.30.b A state agency may not enter into a personal service contract under which the contractor could charge additional costs to the agency, the Joint Legislative Audit and Review Committee, or the Office of the State Auditor (SAO) for access to data generated under the contract. For purposes of this requirement, "data" includes all information that supports the findings, conclusions and recommendations of the contractor's reports, including computer models and the methodology for those models.

15.10.30.c RCW 42.52, "Ethics in Public Service," contains requirements and restrictions regarding contracting with current or former state employees. Agencies should familiarize themselves with this statute prior to entering into these types of contracts.

15.10.35

July 1, 2004

Consequences for non-compliance

RCW 39.29.020 provides for a civil penalty for failure to comply with the requirements of Chapter 39.29 RCW. The state officer or employee executing personal service contracts shall be responsible for compliance with the requirements of the chapter.

Personal Service Contracts

Failure to comply with the requirements set forth in the chapter shall subject the state officer or employee to a civil penalty in the amount of \$300. A consultant who knowingly violates this chapter in seeking or performing work under a personal services contract shall be subject to a civil penalty of \$300, or 25 percent of the amount of the contract, whichever is greater.

The State Auditor's office is responsible for auditing violations, and the Attorney General's office is responsible for prosecuting violations of Chapter 39.29 RCW.

15.10.40

July 1, 2005

Consider using public resources

Agencies must consider the feasibility of using qualified public resources before using a private consultant. The following are public resources which may be available to assist state agencies:

- Employees from within the agency;
- Employees from other Washington State agencies with specialized skills, knowledge, or abilities;
- Employees from federal and local agencies with similar functional responsibilities and which have conducted similar projects; and
- Employees from other states that have encountered similar problems or tasks.

Note: Under the 2002 Personnel System Reform Act, agencies still consider use of public resources, but they are not restricted from contracting for services traditionally and historically provided by state employees. Potentially displaced state employees are notified of the business problem or advantage the agency is seeking to address. The employees are then given the opportunity to formally offer improvements (alternatives) to current processes. After management review of the employee proposal, the agency then makes the decision whether to implement the employee proposed improvements or to proceed with competitive contracting. For more information on civil service competitive contracting, see: <http://www.washingtonworks.wa.gov>.

15.10.45

July 1, 2005

Formal contracts are required

15.10.45.a

All contracted personal services, regardless of dollar amount, require a written document specifying the agreement between the agency and the

contractor. Required elements in a personal service contract are identification of the parties, scope of services, maximum compensation, payment mechanism, period of performance, and signatures of responsible parties. Numerous other terms are often included in contract documents to provide additional legal protection to the State.

Refer to the OFM manual, "Guide to Personal Service Contracting," for an explanation of these and other terms that may be included in personal service contracts. (See also Subsection 15.10.80 of this policy.)

- 15.10.45.b Agencies may choose a contract format appropriate to the services being acquired, provided that the required elements identified in the previous paragraph (15.10.45.a) are included. For example, an agency may wish to use a short-form contract or letter of agreement where the contract is not complex or where the contract consideration is less than \$5,000.
- 15.10.45.c The agency's contract format is to be reviewed "as to form" by the Attorney General's Office (AGO) prior to execution. As long as the AGO-approved contract format is used, it is not necessary that each contract executed by the agency be approved "as to form" by the Attorney General's Office.
- 15.10.45.d Agencies shall not structure contracts to avoid the competitive procurement or other requirements of this policy.
- 15.10.45.e Contract records may occasionally contain personal information about citizens.

Privacy Notice: Safeguarding and disposition of personal information must be consistent with Executive Order 00-03, April 25, 2000, RCW 42.17.310, and other applicable statutes that protect personal information.

15.10.50
July 1, 2005

Liability insurance

- 15.10.50.a Before conducting a personal service procurement, the agency should analyze the type of services required and evaluate the State's exposure to legal liability that may result from the contract. To protect the State's interests, liability insurance requirements should be included in either the solicitation document as a condition of responsiveness and attached as an exhibit to the contract or in the contract document.

Personal Service Contracts

Injury or damage to a third party may result in legal liability to the state if it occurs as a result of a contractor's negligence. Liability insurance covers legal liability of an insured. If a contractor provides liability insurance coverage and names the State as an additional insured on the policy, the State will have insurance protection for many types of tort claims that arise out of the contractor's activities.

- 15.10.50.b The OFM, Risk Management Division (RMD), recommends that agencies include insurance requirements in their contracts, as applicable. At a minimum, RMD suggests that contractors be required to purchase general liability/automobile liability and employer's liability insurance and comply with workers compensation laws. For more information on RMD's suggested insurance specifications, refer to *Contracts: Transferring and Financing Risk*. This manual is available in hard copy through RMD or on the OFM web site at <http://www.ofm.wa.gov/rmd/risk/default.asp>. If you have further questions, you may contact the Risk Management Division at (360) 902-7301. Contract managers should contact internal agency staff who may be knowledgeable about insurance requirements before contacting RMD.

15.10.55

July 1, 2004

Industrial insurance

- 15.10.55.a With few exceptions, Washington State's industrial insurance law, Title 51 RCW, requires that all persons performing work under contract in Washington State be covered by industrial insurance. RCW 51.12.050 holds the contracting agency ultimately responsible for ensuring that such coverage is provided. As appropriate, agencies should incorporate into their personal service contracts a provision stating that the contractor agrees to comply with the industrial insurance requirements of Title 51 RCW.
- 15.10.55.b Contractors are required to provide industrial insurance coverage either through the Department of Labor and Industries (L&I) or as self-insured employers certified by L&I. Industrial insurance coverage is optional for sole proprietors, partners, and corporate officers. Agencies can verify a contractor's compliance by contacting the Contracts Release Unit of L&I in Olympia at (360) 902-4753.
- 15.10.55.c In the event the contractor is found to be out of compliance, the agency may still enter into the contract, but should notify the contractor that no payments for services provided under the contract will be made until the contractor furnishes evidence of full compliance. RCW 51.12.050 and RCW 51.12.070 each give the contracting agency the authority to "collect from the contractor the full amount payable in premiums," for industrial insurance.

15.10.60
July 1, 2003

Account codes for personal service contracts

Sub-objects to be used for reporting expenditures against personal services are as follows:

CA	Management and Organizational Services
CB	Legal and Expert Witness Services
CC	Financial Services
CD	Computer and Information Services
CE	Social Research Services
CF	Technical Research Services
CG	Marketing Services
CH	Communication Services
CJ	Employee Training Services
CK	Recruiting Services
CZ	Other Personal Services

Definitions for these sub-objects are included in this manual in Subsection 75.70.20.

15.10.65
May 1, 1999

OMWBE requirements

Agencies are to comply with the requirements of the Office of Minority and Women's Business Enterprises (OMWBE) set forth in Chapter 39.19 RCW as they relate to procurement and award of personal service contracts. A listing of certified minority-owned and women-owned businesses is maintained by OMWBE. For more information, contact OMWBE at (360) 753-9693.

15.10.70
July 1, 2005

Training on personal service contracts

15.10.70.a

OFM provides ongoing personal service contract training for state agency personnel responsible for executing or managing personal service contracts. The training covers topics from contract procurement through effective and efficient contract management and contract completion. See Subsection 15.10.80 for a more complete listing of topics covered in the "Guide to Personal Service Contracting" that are also included in the training.

Personal Service Contracts

15.10.70.b

State agencies shall require agency employees responsible for executing or managing personal service contracts to complete the training course to the satisfaction of OFM prior to executing or managing these contracts. Staff who execute contracts are those who sign contracts. The staff who manage contracts are those who have responsibility for the day-to-day activities involved in contracting. These activities may include conducting the procurement, providing technical assistance to contractors, monitoring, reviewing and approving invoices, etc.

Staff who only execute or manage personal service contracts of less than \$5,000 are not required to take the training; however, the training is recommended.

Effective January 1, 2004, no agency employee may execute or manage a personal service contract unless the employee has completed the training course. Staff who have attended either the Personal Service Contract Overview (full day) or the Introduction to Personal Service Contracts (half day) training offered by or through OFM since January 1999 have satisfied this requirement. Managers who execute but do not manage contracts may satisfy this requirement by attending the Contracting for Mid-Level Managers training offered by OFM or equivalent training approved in writing by OFM.

Executive Management training is available to a more limited audience of agency directors and assistant director levels (or the management equivalent) who execute, but do not manage contracts.

Attendance at the half-day *client* service contracts training offered by OFM will not meet the training requirements for staff who manage or execute *personal* service contracts.

Contract Responsibility	OFM Training Class*
Manage personal service contracts	Introduction to Personal Service Contracts (1/2 day) or Personal Service Contract Overview (full-day)
Manage client service contracts	Introduction to Client Service Contracts (1/2 day) or Client Service Contract Overview (full-day)
Execute personal service contracts and client service contracts	Contracting for Mid-Level Managers (1/2 day)
Execute personal service contracts and client service contracts for Agency Directors or Assistant Directors (or management equivalent) only	Executive Management Contract Training (1 hour)
Manage both personal service and client service contracts	One of each class is required to manage each type of contract

- If an agency provides its own OFM approved contract training, then that training satisfies the requirements.

State agency staff may register for training through OFM's web site at:
<http://www.ofm.wa.gov/accounting/training.asp>.

All internal agency procedures for requesting training must be followed prior to registration with OFM.

Agencies may provide their own personal service contract training, if the course is approved in writing in advance by OFM. If agencies provide training, names of staff that attended the training must be reported to OFM.

15.10.70.c

Any request for an employee to be exempt from this training requirement must be submitted to OFM in writing. OFM must grant approval to the agency prior to the employee executing or managing contracts.

The exemption is to be considered a temporary waiver only for an individual. The employee who has been granted the exemption shall attend contract training as soon as feasible after receipt of the exemption from OFM. Multiple requests for exemption for an individual will not be approved. State agencies are responsible to ensure that staff attend training as soon as possible after receiving the temporary exemption.

15.10.75

July 1, 2004

Risk-based audits

OFM, through contracted services, conducts risk-based audits of the contracting practices associated with individual personal service contracts to ensure agency compliance with the "Guide to Personal Service Contracting" referenced in Subsection 15.10.80. A risk-based audit means a review of the management and fiscal controls and contracting practices associated with personal service contracts.

OFM conducts the number of audits deemed appropriate by the OFM Director based on funding provided.

OFM forwards the results of the risk-based audits conducted to the Governor, the appropriate standing committees of the Legislature, and the Joint Legislative Audit and Review Committee.

15.10.80

July 1, 2004

Guide to Personal Service Contracting

15.10.80.a

OFM's "Guide to Personal Service Contracting" contains both the mandatory statutory and policy rules that apply to personal service contracts, as well as best contracting practices. Effective January 1, 2003, all state agencies that award and manage personal service contracts shall follow these guidelines. If agencies choose to deviate from the best practices, they should document their rationale for such deviation in the file.

The Guide includes the following topics:

- A. Accounting methods, systems, measures, and principles to be used by agencies and contractors
- B. Pre-contract procedures for selecting potential contractors based on their qualifications and ability to perform.
- C. Incorporation of performance measures and measurable benchmarks in contracts, and the use of performance audits.
- D. Uniform contract terms to ensure contract performance and compliance with state and federal standards.
- E. Proper payment and reimbursement methods to ensure that the state receives full value for taxpayer money, including cost settlements and cost allowance.
- F. Post-contract procedures, including methods for recovering improperly spent or overspent money for disallowance and adjustment.
- G. Adequate contract remedies and sanctions to ensure compliance.
- H. Monitoring, fund tracking, risk assessment, and auditing procedures and requirements.
- I. Financial reporting, records retention, and records access procedures and requirements.
- J. Procedures and criteria for terminating contracts for cause or otherwise.
- K. Other subjects related to effective and efficient contract management.

15.10.80.b

The "Guide to Personal Service Contracting" is available on the OFM web site at: <http://www.ofm.wa.gov/contracts/default.asp>. To receive a hard copy of the publication, you may send a request via e-mail to: ofm.contracting@ofm.wa.gov.

15.10.85

July 1, 2002

Audit and investigative findings

The State Auditor's Office (SAO) and the Attorney General's Office (AGO) shall annually provide a collaborative report of agency personal service contract audit and investigative findings, enforcement actions, and the status of agency resolution.

The audit findings referenced herein are those issued by the SAO and are not related to the risk-based audits conducted by OFM.

The SAO and AGO shall submit the report to the Governor and the Legislative policy and fiscal committees by November 30th of each year.



15.20 Personal Service Contracts — Competitive Procurement Requirements

15.20.10

July 1, 2004

Competitive procurement requirements

RCW 39.29 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 provides protection to the state in ensuring fair market pricing, higher quality services, and provides equal opportunity for qualified firms to participate in state contracting.

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.

15.20.20

July 1, 2004

Evidence of Competition – Informal Competition

For contracts of \$5,000 to \$19,999, the agency is to issue an informal, written solicitation document. At a minimum, the document should include a description of the type of services required, the proposed project schedule, a request for the consultant'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 document may be issued as a letter, an electronic memorandum or other format that clearly sets forth the required information, but it must be in written format.

15.20.20.a

The agency is to solicit responses from "multiple firms" in selecting a contractor. "Multiple firms" mean a reasonable number of firms or individuals considering such factors as type of services needed, cost, schedule, and availability. In most instances, for informal competition, multiple means at least 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 considered.

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- 15.20.20.a.(1) The agency must thoroughly document the process used in selection of the contractor and retain the appropriate documents, including the following:
- Names of the firms contacted and/or solicited.
 - Copy of the solicitation document issued.
 - Copies of the responses.
 - Description of the evaluation and selection process. Indicate the reason(s) for selection of the successful contractor.
 - Copy of the executed contract.
- 15.20.20.a.(2) The agency must maintain auditable documentation of the competitive process in the contract file.

15.20.30

November 1, 2005

Formal competitive solicitation

15.20.30.a

Formal Competitive Solicitation

Competitive solicitation for contracts of \$20,000 or greater requires a documented, formal solicitation process 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 advertisement is to clearly describe the scope of work to enable potential bidders to make an informed decision about whether to request the solicitation document.
2. **Use the GA WEBS System.** The Department of General Administration (GA) operates an on-line registration and bid notification system called Washington's Electronic Business Solutions

Personal Service Contracts

(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.

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, on DIS listserve, 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, per this Subsection.

Exceptions: Exceptions to advertising in a major daily Washington state newspaper 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 appropriate for the services being procured. Agencies may also use the WEBS system for the out-of-state and out-of country solicitations if desired.

15.20.30.c

Direct Contact with Multiple Firms

In order to provide further assurance that contractors are aware of the State's competitive solicitations, agencies must also directly notify/contact firms, businesses and/or individuals about the bidding opportunities. Therefore, either the competitive solicitation document or notification regarding the document must be issued or sent directly to multiple firms or businesses. "Multiple" firms mean a reasonable number of firms depending on the type of services being solicited, but six is a minimum to satisfy this requirement. Therefore, six or more firms, businesses, and/or individuals must be contacted to satisfy this requirement for formal competition. If fewer than six, are known or available, even after

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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 fewer than six firms in the category needed, the agency should notify other firms to register with WEBS, if the agency is aware of other firms that provide the service.

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 businesses. 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. WEBS satisfies this requirement if six or more businesses are selected in the system to receive the solicitation document.

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. The two most commonly used documents for personal services are the Request for Proposals (RFP) and the Request for Qualifications and Quotations (RFQQ).

The RFP is used when the agency has an identified need or problem and is seeking multiple options from consultants describing their solutions to address the need, their qualifications and their costs or fees. An RFQQ is used when the agency has identified the need, and the services to resolve it, and is looking only for a consultant's qualifications and costs or fees to provide the identified services.

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. However, the document must include enough specific information related to the project or scope of work for potential bidders to understand what the agency needs in order to submit viable proposals.

A sample RFP document is included in the "[Guide to Personal Service Contracting](#)" as Appendix C.

15.20.30.e

Receipt of Proposals

Proposals submitted by bidders must have the date and time of receipt noted on each when received at the location specified in the solicitation document. For electronic proposals, the e-mail date and time received are utilized.

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Late proposals should not generally be accepted; however, limited exceptions do exist. Examples include: 1) The late proposal is the only proposal received; 2) Late receipt was due solely to faulty handling of the proposal after receipt by the agency.

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.f

Evaluation Criteria

Competitive selection of a contractor is to be based on pre-established evaluation criteria identified in the solicitation document. These criteria may include, but are not limited to, such factors as:

- Experience, ability and capacity.
- Fees or costs.
- Quality of proposed work plan.
- Responsiveness to time limitations.
- Responsiveness to solicitation requirements.
- Quality of previous performance and reputation.
- Compliance with statutes and rules relating to contracts or services.
- Other factors not unnecessarily restrictive to otherwise qualified competitors.

Avoid vague or subjective evaluation criteria.

15.20.30.g

Written Evaluation

Proposals are to be evaluated after the due date for receipt. They are to be evaluated strictly against the evaluation criteria set forth in the solicitation document. Weighting of the evaluation criteria should also be included in the solicitation document.

A minimum of three evaluators should be used to score proposals to ensure a variety of disciplinary skills and abilities are represented. If fewer than three are used, the agency must document why.

Score sheets must be used for evaluation to ensure evaluators are

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consistent in the scoring approach and methodology among the proposals. The individual evaluators' scores can be totaled to determine the apparent successful contractor, or the evaluation team can develop a team score, or other similar approaches. It is mandatory, however, that the process used is that which was set forth in the solicitation document and that it is fair and unbiased.

15.20.30.h

Oral Interviews

If oral interviews are conducted among the top finalists from the evaluation of the written proposals, each interview should be conducted in the same format. 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. Evaluators must adhere to the scoring process identified in the solicitation document.

15.20.30.i

Documentation

The evaluation and selection process is to be thoroughly documented in order to substantiate that all bidders were treated equally and fairly and that an equitable and impartial competitive process was conducted. Documentation, at a minimum, should include:

- 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.
- 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 in the file.
- Summary sheet of scoring for all proposals scored.
- Individual evaluator's score sheets for both the written proposals and oral interviews, if used. If a team score is given for each proposal, just the team score sheet is retained.
- Copy of written notification to successful and unsuccessful bidders.

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Other documentation may include:

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

This documentation must be retained in accordance with records retention schedules.

15.20.30.j

Debriefing Conferences

Bidders, who participated in the competitive solicitation process and who were not selected for contract award, 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 bid protest may be submitted.

15.20.40

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Master Personal Service Contracts and Convenience Personal Service Contracts

Master Contracts. The term “master” personal service contracts, as used in this policy, refers to competitively solicited personal service contracts awarded by the Department of General Administration and the Department of Personnel for use by other state agencies. The Department of General Administration (GA), Office of State Procurement (OSP), Professional Service Solutions (PS2) unit, uses two separate processes—one for personal service contracts that are not for information technology (IT) services and one for information technology personal service contracts.

For non-IT personal service contracts, GA conducts the competition, awards the master contracts, and files them with OFM. To procure personal services under the non-IT master contracts, a second-tier competition is conducted. GA (or the agency) sends a Work Request to consultants/vendors that have contracts for the applicable category. The agency evaluates the responses, awards a Work Order between the agency and contractor, and then provides a fully executed copy of the Work Order to GA.

For IT personal service contracts, GA conducts the initial competition and awards the master contracts (also referred to as primary agreements), but does NOT file them with OFM. To procure personal services under the IT master contracts, a second-tier competition is conducted. GA (or the

Personal Service Contracts

agency) sends a Work Request to consultants/vendors for the applicable category. The agency evaluates responses, awards a Work Contract between the agency and the contractor, files the Work Contract with OFM, and provides a fully executed copy of the Work Contract to GA. GA's competitive processes for non-IT and IT personal services meet OFM's requirements for formal solicitation.

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.

Simply accessing names of firms from GA's list of master contractors in a particular category does not satisfy the requirement for second-tier competition. Also, just awarding a contract to a firm from GA's list does not satisfy the requirement for second-tier competition.

More information on these contracts is available on the GA web site at: <http://www.ga.wa.gov/PCA/Ps2/>.

Agencies may also acquire personal services from the Department of Personnel's (DOP) master personal service contracts for employee-related services such as employee training and organizational development. DOP conducts the competitive process, awards master contracts and files them with OFM. Agencies follow DOP's second-tier competitive process to acquire the services. For more information, visit DOP's web site: <http://hr.dop.wa.gov/>.

Convenience Contracts. Convenience 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 provide the agency quick access to personal services on an as-needed or on-call basis. Agencies should 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, especially when multiple contracts are awarded for a type of service. Agencies will often issue task orders or similar documents under the convenience contracts to authorize specific services for a fixed dollar amount and period of performance. Agencies file the convenience contracts with OFM, but not the task orders issued under the convenience contracts.

15.20.50

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Exceptions to the competitive procurement requirements

The following types of personal service contracts are exceptions to the competitive procurement requirements in Subsection 15.20.10, 15.20.20, and 15.20.30:

- Sole source contracts.
- Emergency contracts.
- Contract amendments.
- Contracts exempt under RCW 39.29.040. See Subsection 15.10.20.
- Contracts exempted from the competitive procurement process by the Director of OFM, when it has been determined that a competitive procurement process is either not appropriate or not cost-effective.

15.20.60

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Advertising sole source contracts

Personal service contracts in the amount of \$20,000 or more, which the agency has determined are not appropriate for competitive solicitation, (i.e., sole source) shall be advertised for a minimum of one day in either a statewide or regional newspaper. Additional advertisement in other media may also be conducted.

The advertising requirement is based on the individual contract amount, 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

The 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 as to how an interested party may contact the agency.
- The deadline for an interested party to make such contact.

The name of the proposed contractor may also be included.

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- 15.20.60.b If a formal response to the advertisement is received from other than the proposed contractor and the response indicates the firm is qualified to provide the service, competitive solicitation, as set forth in Subsection 15.20.30.a, shall be conducted. If an agency can demonstrate the proposed contractor is the only qualified and available entity to provide the service, although another firm or individual responded, the contract can be filed with OFM as a sole source with a complete explanation as to how this conclusion was reached.
- 15.20.60.c Exemptions from the requirement for advertising sole source procurements include:
- Contracts for services where selection of the contractor is based on an exceptional personal accomplishment or characteristic, such as national experts on a 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 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.
 - A sole source contract under \$20,000.

15.20.70

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Managing and monitoring contracts

State agency staff are responsible to proactively manage and monitor their contracts. Effective management and monitoring of personal service contracts is key to successful contracting results. Contract management includes any activity related to contracting for personal services, including the decision to contract, contractor screening, contractor selection, contract preparation, contract monitoring, auditing, and post-contract follow up.

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Contract monitoring includes the planned, ongoing, or periodic activity that measures and ensures contractor compliance with the terms, conditions, and requirements of the contract.

While the contractor has responsibility to perform under the terms of the contract, the state agency has responsibility for reasonable and necessary monitoring of the contractor's performance. The level of contract monitoring should be based on a risk assessment by the contract manager considering such factors as: amount of funding (large or small), complexity or sensitivity of contract services, contractor experience and capability, contractor financial health, length of time in business, contractor's management structure, etc.

15.20.80

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How to obtain an exemption from the competitive procurement requirements

RCW 39.29.011(5) authorizes the Director of OFM to exempt specific contracts or classes or groups of contracts from the competitive procurement process, when it has been determined that such a process is not appropriate or not cost-effective. This exemption is not meant to be used in-lieu-of filing sole source contracts. It is intended for exceptional or unusual circumstances that may preclude the use of the standard competitive and filing processes.

15.20.80.a

If an agency concludes that competitive procurement is not appropriate or not cost-effective for a particular category of service or type of contract, the agency may request OFM to exempt that category of contracts from the competitive procurement and filing requirements.

15.20.80.b

The agency should forward a written request for exemption to the Director of OFM well in advance of the proposed contract start date. At a minimum, the request must include:

- A description of the type of service for which an exemption is requested.
- An explanation as to why an exemption is considered appropriate.
- The reason(s) why competitive procurement is not appropriate or cost-effective.
- An explanation of the effect or impact of not having an exemption.

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- 15.20.80.c OFM will provide the agency with a timely written response.
- 15.20.80.d In the event that OFM does exempt a specific service or class or group of contracts from competitive procurement, other agencies that may be impacted by the exemption will be notified.

15.20.90

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Guidelines for executing an amendment to an existing contract

The intent of RCW 39.29 is to establish a policy of open competition for all personal services procured by state agencies. Agencies should ensure that contract amendments are executed to support this policy intent. An agency is to balance its responsibility for securing outside contractual help in the most effective and economical manner possible, with its responsibility to ensure that services are competitively procured whenever appropriate.

15.20.90.a

Within the Scope of Work

Changes to contracts may be awarded as amendments, rather than as new contracts, only if the changes are **within** the general scope of work of the original contract. (Work that is within the general scope of the original contract is that which would be fairly and reasonably within the contemplation and intent of the parties when the contract was awarded.) If the amendment provides for services that are essentially the same as those in the original contract, the amendment would likely be within the general scope of the contract.

Changes that are within the scope of work but which represent **substantial** changes in the quantity, duration, cost, or nature of the work may not be appropriate for contract amendments and may need to be addressed in a new procurement. When the agency includes in their solicitation document the option to extend the contract for additional periods or to add subsequent phases, such amendments, though they may represent substantial changes, are appropriate. They were specified in advance of contract award and all firms who competed were made aware of these potential additions to the contract.

Changes that are outside the general scope of the contract are **not** appropriate to award through contract amendment. Such changes would have the effect of making the work performed substantially different from the work the parties bargained for at the time the original contract was awarded.

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If a contract has expired, it is generally not appropriate to amend it; rather it is more appropriate to award a new contract.

15.20.90.b

Amendment is in the Best Interest of the State

The agency must determine that a proposed amendment is in the best interest of the state of Washington, considering such factors as: project continuity, time savings, cost effectiveness, and the learning curve for a new contractor.

By their nature, contract amendments allow contractors to obtain additional work without having to compete. In view of the state's policy of open competition in the award of personal service contracts, agency staff should carefully and cautiously examine the nature, extent and cost of the additional services and thoroughly justify the decision to award an amendment, rather than to conduct open competition for the services.

When adding funding to a contract, agencies should include in the amendment both the dollar amount of the additional funding and the revised contract maximum (the amendment amount added to the current contract maximum). In addition, agencies should specify what additional services are being provided under the amendment and include any new deliverable dates resulting from the additional dollars being authorized.

15.20.90.c

New Contract Option

If an amendment is not **clearly** determined to be the best choice, the agency must execute a new contract. A new contract is generally appropriate where there is a substantial change in the scope of work, duration, nature of work, or cost, or where there is a logical break in service. When awarding a new contract, competitive requirements must be followed, unless an exception or exemption applies.

15.20.90.d

Amendments to Sole Source and Emergency Contracts

Amendments to sole source and emergency contracts are to be awarded only when the circumstances surrounding the original procurement still exist and, therefore, warrant continued use of sole source or emergency services.



15.30 Personal Service Contracts — Filing, Record Keeping and Reporting

15.30.10

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Personal service contract filing requirements

15.30.10.a

Filing Categories. Many, but not all, personal service contracts and amendments are subject to filing with OFM. The categories of contracts subject to filing are shown in the tables at the end of this policy. Please note one table is applicable to institutions of higher education only and the other table to all other state agencies. Subsections 15.30.30 through 15.30.60 explain the specific filing requirements for each type of contract filing category.

15.30.10.b

Filing Periods. Three different filing periods apply to contracts and amendments subject to filing, and these timeframes should be included in the contract project schedule. The filing period for contracts varies by filing category, as shown in the table below:

STATE AGENCIES (exclusive of Institutions of Higher Education)	
Filing Period	Filing Category
Contract is filed with OFM no later than the start date of services.	<ul style="list-style-type: none"> Competitively solicited contracts of \$20,000 or more, and their amendments, for services that do not fit the six management categories listed in the first bullet in the box below. Also, amendments to these contracts that do not exceed 50% of the original contract amount or do not substantially change the scope of work.
Contract is filed with OFM a minimum of ten working days prior to the proposed start date of services.	<ul style="list-style-type: none"> Competitive contracts of \$20,000 or more, and their amendments, for the following categories: <ul style="list-style-type: none"> Management Consulting (CA), Organizational Development (CA), Marketing (CG), Communications (CH), Employee Training (CJ), and Employee Recruiting (CK). Amendments to sole source or competitive contracts that result in the contract being greater than 50% of the original contract value, when those contracts, as amended, are in the amount of \$5,000 or more. Amendments to sole source or competitive contracts that constitute a substantial change in the scope of work, when those contracts, as amended, are in the amount of \$5,000 or more. All sole source contracts of \$5,000 or more and their amendments.
Contract is filed with OFM within three working days of start of services or contract execution, whichever is sooner.	<ul style="list-style-type: none"> Emergency contracts of \$5,000 or more and their amendments. Amendments awarded solely for the purpose of decreasing the total dollar amount of the contract.

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INSTITUTIONS OF HIGHER EDUCATION ONLY	
Filing Period	Filing Category
Contract is filed with OFM no later than the start date of services.	<ul style="list-style-type: none"> • Competitively solicited contracts of \$20,000 or more, and their amendments, and the contract includes \$20,000 or more in state funds, for services that do not fit the six categories listed in the first bullet in the box below. Also, amendments to these contracts that do not exceed 50% of the original contract amount or do not substantially change the scope of work.
Contract is filed with OFM a minimum of ten working days prior to the proposed start date of services.	<ul style="list-style-type: none"> • Competitive contracts of \$20,000 or more, and their amendments, and the contract includes \$20,000 or more in state funds, for the following categories: <ul style="list-style-type: none"> o Management consulting (CA), o Organizational development (CA), o Marketing (CG), o Communications (CH), o Employee training (CJ), and o Employee recruiting (CK), • Amendments to sole source or competitive contracts that result in the contract being greater than 50% of the original contract value, when those contracts, as amended, are in the amount of \$5,000 or more. For sole source contracts, \$5,000 or more in state funds must be included. For competitive contracts, \$20,000 or more in state funds must be included. • Amendments to sole source or competitive contracts that constitute a substantial change in the scope of work, when those contracts, as amended, are in the amount of \$5,000 or more. For sole source contracts, \$5,000 or more in state funds must be included. For competitive contracts, \$20,000 or more in state funds must be included. • All sole source contracts of \$5,000 or more, and their amendments, when the contract includes \$5,000 or more in state funds.
Contract is filed with OFM within three working days of start of services or contract execution, whichever is sooner.	<ul style="list-style-type: none"> • Emergency contracts of \$5,000 or more, and their amendments, when the contract includes \$5,000 or more in state funds. • Amendments awarded solely for the purpose of decreasing the total dollar amount of the contract, if the contract was subject to filing with OFM.

15.30.10.c

Working Days. "Working days" for filing purposes excludes Saturdays, Sundays, and state legal holidays. For contracts subject to the ten-working day filing period, the earliest start date is the tenth working day after, but not including, the date of filing. The start date for those services may also be any date after the tenth working day, but not before, subject to OFM review or approval. This filing period provides time for OFM processing, but also provides a public review period.

Some competitive contracts may start the date filed with OFM in accordance with the chart in Subsection 15.30.10.b and are not subject to the ten-working day filing period. Emergency contracts may be filed three working days after contract execution or start of services, whichever is first.

15.30.10.d **Start Date.** To minimize confusion about the start date of contracts and amendments subject to the ten-working day filing requirement, the contract should include the following or a similar provision:

"Under the provisions of Chapter 39.29 RCW, this personal services contract/amendment is required to be filed with the Office of Financial Management (OFM). No contract required to be so filed is effective and no work thereunder shall be commenced nor payment made therefore until ten (10) working days following the date of filing, and, if required, until approved by OFM. In the event OFM fails to approve the contract, the contract shall be null and void."

If OFM review is completed prior to the end of the ten working day filing period, the start date remains the tenth working day after the filing date.

OFM may adjust the start date beyond the ten working days from initial contract filing, if the filing is incomplete when first submitted and the agency does not respond to OFM's request for additional information in a timely manner. If the agency provides additional information requested by OFM, prior to the end of the ten working days, an adjustment will not be necessary. **However, it is the agency's responsibility to verify that the OFM review has been completed or approval granted prior to starting work. The personal service contract database provides e-mail notification to agency contacts listed on the filing when OFM completes its review and/or approval.**

15.30.10.e **Contract Amendments.** Generally, if a contract is subject to filing with OFM, amendments to the contract are also subject to filing. File amendments that:

1. Increase the maximum contract cost.
2. Decrease the maximum contract cost. (Decrease amendments are to be filed with OFM within three working days following the date of execution or start of services, whichever occurs first, and are designated as review filings.)
3. Revise the scope of work.
4. Revise the period of performance.
5. Assign rights and liabilities under the contract to a new legal entity.

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Personal Service Contracts

Contract amendments that are **not required** to be filed with OFM include the following:

1. Amendments that result in administrative changes to the contract such as address changes, budget line item adjustments that do not revise the total contract cost, staffing changes, changes to deliverable due dates, or similar revisions.
2. Amendments awarded at the end of the contract term, solely for the purpose of extending the contract period for up to and including two months. This provision applies only once, per contract. It is not intended to authorize multiple, short-term, time-only extensions.

Once this exception has been used on a contract, subsequent time-only extension amendments of any length require filing with OFM, as well as amendments that extend the time and revise the contract value and/or revise the scope of work.

Some contract amendments are subject to review by OFM and others are subject to OFM approval. Generally, if the contract is subject to review, its amendment is also subject to review, and if a contract is subject to approval, its amendment is subject to approval. Two examples illustrating exceptions follow:

1. A competitive contract for technical research services in the amount of \$20,000 is subject to OFM review. If the contract is amended by \$12,000, the amendment is subject to approval. The amendment exceeds 50 percent of the original contract amount and requires approval by OFM and is subject to the ten working day filing period.
2. A contract is competitively awarded for \$10,000 and is not required to be filed. The contract is amended by \$4,500. The \$4,500 amendment is not subject to filing because the competitive contract is less than \$20,000 and the revised contract amount does not exceed 50 percent of the original contract amount. The contract is amended a second time for \$1,500. The \$1,500 amendment is subject to filing and OFM approval, because the \$1,500 combined with the previous amendment of \$4,500 results in total amendments of \$6,000, which exceeds 50 percent of the original contract amount.

Note: This example would not apply to the institutions of higher education because they file only competitive contracts that include \$20,000 or more in state funds.

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15.30.10.f **Contract Total Amount.** For filing purposes, the contract dollar total in PSCD should be the maximum amount anticipated to be authorized for payment under the contract and should, therefore, include the amount estimated for sales and use tax, travel and other expenses, etc.

15.30.10.g **Contracts Awarded by Institutions of Higher Education.** Institutions of higher education file only personal service contracts or amendments that are "state funded" in whole or in part, and meet applicable filing dollar thresholds.

- **Sole Source** – File these contracts and their amendments when at least \$5,000 or more in state funds are included.
- **Competitive** – File these contracts and their amendments when at least \$20,000 or more in state funds are included

The term, "state funded," as referenced herein, shall mean dollars that are appropriated by the state Legislature and/or allotted by the agency. Again, this term applies to personal service contract filing requirements for institutions of higher education only.

If a contract or amendment awarded by an institution of higher education is funded by both state and non-state funds, e.g., donated funds, it is subject to filing only if the state funded portion equals or exceeds \$5,000 for a sole source contract or \$20,000 for a competitive contract.

Note: The "state funded" distinction described above applies only to filing requirements. The competitive procurement and other requirements of Chapter 39.29 RCW apply to institutions of higher education regardless of fund source.

15.30.20

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Filing personal service contracts and amendments

Effective June 1, 2003, personal service contracts and amendments must be filed *exclusively* through the Personal Service Contract Filing Database (PSCD). The PSCD automates many of the tasks associated with filing personal service contracts and amendments.

The system:

- Streamlines the filing and reporting process for state agencies.

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- Assists staff by directing them through the filing process with filing rules dynamically built into the system. The system determines the specific justification information that is required by OFM based on the information you provide regarding the contract or amendment you are filing.
- Provides agencies online access to view the status of their filings in the OFM process.
- Provides agencies online access to filed and reported personal service contract data from one centralized database.

The PSCD is available to authorized state agency users **via** the statewide intranet at: <http://contracts.ofm.wa.gov/PSCD>.

PSCD is available to authorized state agency users **outside** the statewide intranet at: <https://fortress.wa.gov/ofm/contracts/PSCD>.

If a state employee needs access to the PSCD, contact the PSCD agency administrator designated by your agency. If you do not know who your agency administrator is, contact OFM at the PSCD Help phone numbers (360/725-5257 and 360/725-5262) or send an email to: ofm.contracting@ofm.wa.gov.

Information required for filing:

Contract or Amendment. A copy of the contract or amendment, and all referenced attachments or exhibits, must be attached via the PSCD or sent to OFM as a hard copy or CD, etc. For the purpose of filing, the contract or amendment submitted will not show signatures of the parties. However, the document, when filed, must represent a true and final version of the agreement between the parties. Concurrent with the filing process, agencies can acquire the contractor's signature on the contract or amendment.

Justification. Based on the data entered into PSCD about the contract or amendment, the database will display only the justification fields required to be submitted to OFM. Agencies no longer attach separate justification documents.

Since information formerly entered on the SF-110 Personal Service Contract Filing Face Sheet is entered directly into the PSCD, *the SF-110 form is no longer used.*

15.30.30

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Sole source contract filing requirements

Sole source contracts and their amendments are those that have not been competitively procured. Since absence of competition is rare for personal services, agencies should carefully consider both public and private sector resources before making a decision to pursue sole source award. Sole source procurements are improper if only for the administrative convenience of the agency.

15.30.30.a

Sole Source Filings. Sole source contracts in the amount of \$5,000 - \$19,999, including their amendments, awarded to a contractor during the state fiscal year by an agency must be filed with OFM and are subject to

OFM review. Institutions of higher education file only sole source contracts with \$5,000 or more in state funds, including their amendments.

Sole source contracts of \$20,000 or more, including their amendments, awarded to a contractor during the state fiscal year by an agency are also subject to filing with OFM. Sole source contracts for less than \$20,000 that are awarded to a contractor in a fiscal year and cumulatively equal or exceed \$20,000 are also subject to this filing requirement. These contracts and amendments are subject to **approval** by OFM.

In addition, amendments to sole source contracts of \$5,000 or more, that individually or cumulatively result in the contract value exceeding 50 percent of the original contract amount or that substantially change the scope of work of the contract, are subject to **approval** by OFM.

Filing Sole Source Contracts Based on a Fiscal Cumulative Total for State Agencies. The dollar range for filing sole source contracts is determined based on either the amount of the individual sole source contract or a cumulative total of sole source personal service contracts and their amendments **awarded** to the contractor by an agency during the current state fiscal year. The term “agency” for the purposes of filing includes all units and divisions within the agency.

Example 1: If a sole source personal service contract in the amount of \$4,000 is awarded to a contractor in a fiscal year, and another sole source contract of \$1,000 is awarded to the contractor in the same fiscal year, then the \$1,000 personal service contract is subject to filing with OFM, since cumulatively the contractor has been awarded sole source contracts of \$5,000 or more in a fiscal year.

Example 2: If a sole source personal service contract in the amount of \$4,000 is awarded to a contractor in one fiscal year, and in the next fiscal year a sole source contract is awarded to the contractor in the amount of \$1,000, then the \$1,000 contract is not subject to filing. The contractor has not been awarded sole source contracts of \$5,000 or more in the fiscal year.

Example 3: If a sole source personal service contract in the amount of \$4,000 is awarded to a contractor in a fiscal year, and in the next fiscal year an amendment of \$1,000 is awarded to the contract, then the amendment is subject to filing because the total contract amount is \$5,000 for a sole source contract.

The type of personal services performed by the contractor is not a factor in determining the requirement to file sole source contracts. The cumulative dollar amount of the sole source personal service contracts with the contractor is what is considered. Also, competitive personal service contracts awarded to a contractor during the state fiscal year are not included in this count.

Cumulative Filing of Sole Source Contracts for Institutions of Higher Education. Institutions of Higher Education do not file sole source contracts of less than \$5,000 based on a cumulative total, since the individual sole source personal service contract must include \$5,000 or more in state funds to be filed. Amendments to filed sole source contracts are required to be filed when they revise the scope of work, add or deduct dollars to the contract and/or revise the period of performance. These amendments individually do not need to include \$5,000 or more in state funds since, in this example, the contract itself does.

All sole source contracts and amendments subject to filing with OFM must be filed a minimum of ten working days prior to the proposed start of work.

15.30.30.b **Sole Source Justification.** Documented justification must be included as part of each sole source filing, and it must be capable of withstanding public, legislative and executive scrutiny. The justification shall include the following information:

15.30.30.b.(1) **Specific Problem or Need.**

1. Identify and fully describe the specific problem, requirement or need that the contract is intended to address and that makes the services necessary.

Personal Service Contracts

2. Include an explanation as to how the agency determined the services are critical or essential to agency responsibilities or operations and/or whether the services are mandated or authorized by the Washington State Legislature.

15.30.30.b.(2) **Other Public Resources.** Explain what effort was taken to conclude:

1. Sufficient staffing or expertise is not available **within the agency, not just within an agency division**, to perform the service, and
2. Other governmental resources (local, state or federal agencies) **external to the agency** are not available to perform the service more efficiently or more cost effectively.

15.30.30.b.(3) **Sole Source Criteria.** Include a detailed explanation of the items below that are relevant to the sole source decision:

1. **Unique Characteristics.** Describe the unique qualifications, abilities or expertise of the contractor to meet the agency needs and/or the unique nature of the services. Unique qualifications or services would be those that are highly specialized or one-of-a-kind. Other factors that may be considered include past performance, cost-effectiveness (learning curve), and/or follow-up nature of the required services. Past performance alone does not provide adequate justification for a sole source contract.
2. **Special Circumstances.** Provide a description of any other special circumstances that may be relevant such as confidential investigations, copyright restrictions, time constraints, or sole availability at the location.
 - **Time Constraints.** If time constraints are applicable, identify when the agency was on notice of the need for the services, the entity that imposed the constraints, explain the authority (if not obvious) of that entity to impose them, and provide the timelines for work to be accomplished.
 - **Geographic Limitation.** If the proposed contractor is the only source available in the geographical area, state the basis for this conclusion and the rationale for limiting the size of the geographical area selected.

15.30.30.b.(4) **Reasonableness of Costs.** Since competition was not used as the means for procurement, explain how the agency concluded that the costs, fees, or rates negotiated are fair and reasonable. Either make a comparison with comparable contracts, use the results of a market survey, or employ some other appropriate means calculated to make such a determination.

15.30.30.b.(5) **Sole Source Advertisement.** Sole source contracts of \$20,000 or more are required to be advertised per Subsection 15.20.60. Include the name of the newspaper the advertisement was published in, the date(s) of the advertisement, and the name(s) of entities responding. If no responses were received, please so indicate. If one or more responses are received, explain how the agency concluded the contract is appropriate for sole source award. List any other potential contractors that were contacted through other means and explain why these firms could not perform the services.

If the sole source contract is exempt from advertising per Subsection 15.20.60.c, explain the basis for the exemption and include a copy of any documentation that provides the authority for the exemption, as applicable.

Sole source advertisement is not required when executing an amendment to a sole source contract.

Institutions of higher education are required to advertise sole source contracts of \$20,000 or more, regardless of fund source.

15.30.30.b.(6) **Sole Source Contract Amendments.** For amendments to sole source contracts, the justification is to include:

1. The rationale for executing an amendment rather than competitively procuring the services and awarding a new contract. Include how executing the amendment can most effectively achieve the agency's purpose.
2. An explanation as to why the services under the proposed amendment were not included in the original contract (less than 50 percent amendments only).
3. An explanation of any changed conditions since contract award and any other applicable information that clearly justifies the decision to amend the contract.
4. Whether the new services are within the scope of services of the original contract. If not, explain.
5. Whether the rates are the same as those negotiated under the original contract and explain any increases.

If the amendment is awarded to a sole source contract that was not filed, additional justification elements are required:

- Specific Problem or Need,
- Other Public Resources,
- Sole Source Criteria, and
- Reasonableness of Costs.

If an amendment to a sole source contract results in the contract value exceeding 50 percent of the original contract amount or substantially changing the scope of work, follow the justification requirements in Subsection 15.30.50.

15.30.40

November 1, 2005

Competitively solicited contract filing requirements

15.30.40.a

Competitive Filings. Competitively solicited contracts of \$20,000 or more, including their amendments, must be filed with OFM. This filing category includes amendments to competitive contracts that increase the contract value to \$20,000 or more. The contracts are subject to OFM **review or approval**, depending upon the type of service being procured or the amount of the amendment. Institutions of higher education file only competitive contracts with \$20,000 or more in state funds, and their amendments.

For contracts and amendments subject to OFM **review**, work may begin the date of filing with OFM. For contracts and amendments subject to OFM **approval**, the start of work will be ten working days after the date of filing, subject to OFM approval.

15.30.40.b

Filing Review or Approval. OFM **review** is required for most competitive contracts in the amount of \$20,000 or more. However, the Washington State Legislature has taken special interest in six categories below and has required filing and advance **approval** by OFM for those contracts and amendments.

In addition, amendments to competitive contracts of \$20,000 or more for any type of service that results in the contract value exceeding 50 percent of the original contract amount or that substantially change the scope of work of the contract are subject to **approval** by OFM. The justification requirements in Subsection 15.30.50 will be used when this occurs.

15.30.40.b.(1) **Management Consulting Services - Sub-Object Code: CA**

Includes, but is not limited to, services that impact agency policy, regulatory, and business issues, or which have broad agency or statewide implications. Includes services to assist management with operation or management of the agency or unit or division of the agency related primarily to the business processes of the agency. (Services related primarily to employee issues fall under Organizational Services.) Also, includes services for program development, implementation, and coordination; program evaluation and/or external quality review (may be mandated by the Legislature or federal funding source). Includes services that result in operational or managerial recommendations related to business and policy issues; performance audits; assessments; management reports and studies, including studies requested by the Legislature; and feasibility studies with significant policy impact. Also includes services for strategic planning and needs assessment related to the agency's business processes (not employee-related issues); business process re-engineering, facilitators for external stakeholder focus groups or other business-related functions, etc.; risk management and loss prevention; criminal or civil investigations; mediation; lobbying, etc.

Management services also includes design, development, and/or implementation of major agency information technology (IT) or telecommunications systems; re-engineering of major IT systems; project management of major IT systems; quality assurance on, or evaluation of IT systems; and development of IT strategic plans.

“Major” systems for the purpose of this definition are those that have significant agency-wide or statewide impact.

15.30.40.b.(2) **Organizational Services - Sub-Object Code: CA**

Includes, but is not limited to, services with a primary focus on state employee issues, to study, analyze or review the organizational structure, framework, or culture of the agency or divisions within the agency, and services implementing the recommendations of such a study or effort. Also includes services that provide recommendations to management on enhanced efficiencies, productivity and other improvements primarily related to employee functions; quality control within the organization; personnel investigations and mediation; and facilitators for staff functions. (Services related primarily to agency business issues fall under Management Services.)

15.30.40.b.(3) **Marketing Services – Sub-Object Code: CG**

Includes services to develop or implement a marketing or advertising plan or campaign; services related to marketing or promoting an agency's services or agricultural commodities and state tourism; public relations; market branding; or media specialist and media relations services; and market research and development. Also includes public involvement campaigns; trade development and assistance; development of market research and customer satisfaction surveys and/or assessment of survey results; conference or trade show coordination; fund raising; and related types of services.

15.30.40.b.(4) **Communication Services – Sub-Object Code: CH**

Includes design, development, and/or oversight of audio/video media productions, brochures, manuals, guidelines, newsletters, display exhibits, signs, posters, annual reports, etc.; technical writing/editing; speech writing; oral history writing; grant writing; graphic design services; development of communication strategies; and other related services to inform the public or other governmental agencies about a subject or issue. **Does not include** services related to installation of computer system linkage and telecommunications systems, which are classified as purchased services.

15.30.40.b.(5) **Employee Training Services – Sub-Object Code: CJ**

Includes training provided to meet employee training needs for training provided to all or most state agency employees up to six times per year. Also includes managerial training, employee counseling services, guest speakers for most types of functions, and curriculum development for all types of training services. **Does not include** training that is offered to all or most state employees on a continual or recurring basis (more than six times per fiscal year), such as basic first aid, grammar review, effective writing skills, etc., which is purchased service training. **Does not include** training provided incidental to the purchase of equipment, but not included in the purchase price, technology-based distance learning options (satellite, e-learning, webcasting), or standard information technology training related to hardware or software in use by an agency, which are purchased services. **Does not include** services to provide personal service training to local government or other public or private entities, which are classified as CZ, "Other Personal Services". **Does not include** training provided directly to agency clients or guest speakers for clients, which are client service contracts.

15.30.40.b.(6) **Recruiting Services – Sub-Object Code: CK**

Includes services performed by a professional search firm to assist in recruitment of a successful candidate to fill a vacant position in an agency. **Does not include** amounts paid to trade magazines, or newspapers for publishing open position announcements.

15.30.40.c **Competitive Justification.** Documented justification must be included as part of filing a competitive contract, and it must be capable of withstanding public, legislative and executive scrutiny. The justification shall include the following information:

15.30.40.c.(1) **Specific Problem or Need.**

1. Identify and fully describe the specific problem, requirement or need that the contract is intended to address and that makes the services necessary.
2. Include an explanation as to how the agency determined the services are critical or essential to agency responsibilities or operations and/or whether the services are mandated or authorized by the Washington State Legislature.

15.30.40.c.(2) **Other Public Resources.** Explain what effort was taken to conclude:

1. Sufficient staffing or expertise is not available **within the agency, not just within an agency division**, to perform the service, and
2. Other governmental resources (local, state or federal agencies) **external to the agency** are not available to perform the service more efficiently or more cost effectively.

15.30.40.c.(3) **Competitive Process.** Provide a thorough description of the competitive solicitation process including:

1. The name of the major, daily, Washington newspaper and any other publication(s) in which an advertisement was published and/or whether GA WEBS was used.
2. How many solicitation documents were issued.
3. Whether the solicitation or notice of the solicitation was also published on the Internet.

Personal Service Contracts

4. The names of the firms responding with proposals.
5. A description of the evaluation process (e.g., evaluation committees scored the responses, selection committee made the award decision, etc.)
6. The basis on which the contractor was selected. Include the strengths of this contractor, which resulted in the higher score and selection for award. Do not simply list the evaluation criteria.

15.30.40.c.(4) **Reasonableness of Costs.** Explain how it was determined that costs are fair and reasonable or within the competitive range.

15.30.40.c.(5) **Contract Amendments.** For amendments to competitive contracts, that have been filed, the justification is to include:

1. The rationale for executing an amendment rather than competitively procuring the services and awarding a new contract. Include how executing the amendment can most effectively achieve the agency's purpose.
2. Whether the new services are within the scope of services of the original contract.
3. Whether the option to extend the contract was included in the solicitation and for what additional period(s).
4. An explanation of any changed conditions since contract award and any other applicable information that clearly justifies the decision to amend the contract.
5. Whether the rates are the same as those negotiated under the original contract and explain any increases.

If the amendment is awarded to a competitive contract that was not filed, e.g., less than \$20,000, but the amendment is subject to filing, additional justification elements will be required:

- Specific Problem or Need,
- Other Public Resources,
- Contractor Qualifications, and
- Reasonableness of Costs

If a contract amendment results in the contract value exceeding 50 percent of the original contract amount or substantially changing the scope of work, the justification requirements of Subsection 15.30.50 must be followed.

15.30.40.d

Civil Service Competitive Contracting.

If a personal service contract is awarded under the authority of RCW 41.06.142, referred to in this policy as civil service competitive contracting, the following justification elements will be required:

- Specific Problem or Need,
- Evaluation, and
- Reasonableness of Costs.

15.30.50

November 1, 2005

Contract amendments cumulatively exceeding 50 percent of the value of the original contract or that substantially change the scope of work

15.30.50.a

Substantial Amendment Filings. Contract amendments, wherein the value of the amendment, singly or cumulatively, exceeds 50 percent of the value of the original contract and/or when the amendment substantially changes the scope of work of the contract or of the original solicitation document, must be filed with OFM. This applies to both competitive or sole source contracts which, when amended, total \$5,000 or more.

Institutions of higher education file these amendments only to sole source contracts that include \$5,000 or more in state funds or competitive contracts that include \$20,000 or more in state funds.

Such amendments require OFM **approval** and must be filed at least ten working days prior to the proposed start date.

15.30.50.b

Definition. "Substantial" changes to contracts are those that represent a significant change in quantity, duration, nature or cost of the work. An example of a substantial change that could be appropriately executed as a contract amendment is a contract in which the work is broken into phases and approval of additional phases (through contract amendment) is subject to satisfactory completion of a previous phase, and such work phasing is clearly set forth in the solicitation document or original contract. Another example is an amendment to a contract that exercises the option to extend the work at the discretion of the agency (e.g., extending a two-year contract for one additional year).

- 15.30.50.c **Amendment Justification.** Documented justification must be included as part of each filing, and it must be capable of withstanding public, legislative and executive scrutiny. The justification will also provide the primary basis for OFM's decision as to whether or not to approve the amendment. The justification for these amendments shall include the following information:
- 15.30.50.c.(1) **Specific Problem or Need.**
1. Identify and fully describe the specific problem, requirement or need that the contract and this amendment is intended to address and that makes the services necessary.
 2. Include an explanation as to how the agency determined the services are critical or essential to agency responsibilities or operations and/or whether the services are mandated or authorized by the Washington State Legislature.
- 15.30.50.c.(2) **Other Public Resources.** Explain what effort was taken to conclude:
1. Sufficient staffing or expertise is not available within the agency, not just within an agency division, to perform the service, and
 2. Other governmental resources (local, state or federal agencies) external to the agency are not available to perform the service more efficiently or more cost effectively.
- 15.30.50.c.(3) **If amending a competitive contract:**
- Contractor's Qualifications.** Provide an explanation of the contractor's qualifications, abilities or expertise to meet the agency's specific needs for the services under the amendment.
- If amending a sole source contract:**
- Sole Source Criteria.** Provide a description of the unique qualifications, abilities or expertise of the contractor to meet the agency needs and/or the unique nature of the services. Unique qualifications or services would be those that are highly specialized or one-of-a-kind. Other factors that may be considered include past performance, cost-effectiveness (learning curve), and/or follow-up nature of the required services. Past performance alone does not provide adequate justification for a sole source.

15.30.50.c.(4) **Why Amendment Preferred.** State the rationale for executing an amendment to the existing contract rather than competitively procuring the services and awarding a new contract. Include how executing the amendment can most effectively achieve the agency's purpose.

Include whether the new services are **within** the scope of the original contract and/or, if competitively awarded, **within** the scope of the solicitation document. If not, explain.

15.30.50.c.(5) **If amending a competitive contract:**

Option to Extend. State if the option to extend the contract was included in the solicitation and for what additional period(s). Explain why the services under the proposed amendment were not included in the terms of the original contract or in the solicitation document.

15.30.50.c.(6) **Changes Since Award.** Explain any conditions that have changed since contract award and other information that clearly justifies the decision to amend the contract.

15.30.50.c.(7) **Reasonableness of Costs.** Include how the agency determined that the costs, fees or rates negotiated for the amendment are fair and reasonable, since competitive bids were not received for the services under the amendment.

State if the rates are the same as those in the original contract. If not, include justification for any increased pricing.

15.30.60

July 1, 2005

Emergency contracts

Emergency contracts are awarded to resolve an emergency situation. An "emergency" means a set of unforeseen circumstances beyond the control of the agency that either presents a real, immediate threat to the proper performance of essential state functions or that may result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

Examples of emergency contracts include post-earthquake assessments and evaluations, fire damage consultation, and personnel investigations, when they are extremely critical and time-sensitive.

- 15.30.60.a **Emergency Filings.** Emergency contracts, and their amendments, in the amount of \$5,000 or more, with a contractor during the state fiscal year are subject to filing with OFM.
Such contracts and amendments must be filed with OFM for **review** within three working days following the date of contract execution or start of work, whichever occurs first.
- 15.30.60.b **Emergency Justification.** Documented justification must accompany each emergency filing, and it must be capable of withstanding public, legislative and executive scrutiny. The justification shall include the following information:
- 15.30.60.b.(1) **Nature of Emergency.** Explain the nature of the emergency and the relevant circumstances associated with the emergency.
- 15.30.60.b.(2) **Health or Safety Threat.** Describe the threat to the health or safety of individuals, property, or essential state functions if immediate action is not taken. Provide an estimate of the potential material loss or damage.
- 15.30.60.b.(3) **Alleviate or Eliminate Emergency.** Explain how the services of the contractor will alleviate or eliminate the emergency. Describe what the probable consequences would have been if the emergency action had not been taken and the risks associated with inaction.
- 15.30.60.b.(4) **Contractor's Qualifications.** Describe the contractor's qualifications, experience and background to provide the emergency service and the basis on which this contractor was selected over other qualified firms.
- 15.30.60.b.(5) **Reasonableness of Costs.** Explain how the agency concluded that the costs negotiated are fair and reasonable since competition was not conducted.
- 15.30.60.b.(6) **Contract Amendments.** Amendments to emergency contracts are rare. If the emergent contract condition still exists, you may file the amendment as an “emergency” amendment. If the condition has been alleviated and is not as severe, file the amendment as a sole source to the emergency contract.

The emergency justification shall include:

1. The rationale for executing an amendment rather than competitively procuring the services and awarding a new contract. Include how executing the amendment can most effectively achieve the agency’s purpose.

2. An explanation as to why the services under the proposed amendment were not included in the terms of the original contract.
3. An explanation of any changed conditions since contract award and any other applicable information that clearly justifies the decision to amend the contract.
4. Whether the new services are within the scope of services of the original contract.
5. Whether the rates are the same as those negotiated under the original contract and explain any increases.

If the amendment is awarded to an emergency contract that was not filed, e.g., less than \$5,000, but the amendment is subject to filing, additional justification elements will be required:

- Nature of the Emergency
- Health or Safety Threat
- Contractor's Qualifications
- Reasonableness of Costs

15.30.70

July 1, 2004

OFM response to filings

The agency should expect to receive either a written or oral response from OFM within ten working days from the date of filing. If the filing is incomplete or needs clarification, OFM will request further information prior to processing, and this may delay OFM's final decision.

- 15.30.70.a Once OFM has completed processing of the filing, the agency will receive electronic verification of OFM's decision from the PSCD.
- 15.30.70.b If OFM anticipates disapproval of a filing, the agency will be notified promptly.
- 15.30.70.c The decision to disapprove a filing will be in writing from OFM through the PSCD and will clearly state the reason for disapproval.

15.30.80

July 1, 2003

Late filing

15.30.80.a

Contracts or amendments are designated "late" when:

- Contracts or amendments subject to the ten-working day filing period are filed with a requested start date that is less than ten working days from the date of filing.
- Competitively solicited contracts or their amendments subject to OFM review are filed after the start date of services.
- Emergency contracts are filed more than three business days after the start of work or execution of the contract.

An explanation is to be submitted as part of the filing justification stating the reason for the late filing. Also include an explanation as to how a similar situation could be prevented in the future.

15.30.80.b

In the rare instances when contract filings are submitted to OFM after work under the contract or amendment is completed, OFM will "acknowledge" receipt of the filing and process it. However, OFM will not consider the filing formally reviewed or approved by OFM.

15.30.90

July 1, 2005

Reporting and record keeping requirements for personal service contracts

15.30.90.a

Reporting Personal Service Contracts. OFM is required to maintain a publicly available list of personal service contracts awarded by state agencies. Not all of this information is available from the contract filings submitted by agencies. Information on additional personal service contracts is, therefore, required to be reported to OFM.

State agencies, exclusive of institutions of higher education, report competitively awarded contracts and amendments in the amount of \$5,000 - \$19,999.

If the agency filed an amendment to the contract in this category that resulted in the contract exceeding 50 percent of the original contract amount, the amendment does not need to be reported to OFM, as it was filed.

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Personal Service Contracts

Institutions of higher education report:

- Competitively awarded contracts and amendments in the amount of \$5,000 - \$19,999, any fund source.
- Competitive personal service contracts and amendments in the amount of \$20,000 or more, which are funded by dollars other than state funds, or that include less than \$20,000 in state funds.
- Sole source contracts and amendments in the amount of \$5,000 or more, which are funded by dollars other than state funds, or that include less than \$5,000 in state funds.
- Emergency contracts of \$5,000 or more, which are funded by dollars other than state funds, or that include less than \$5,000 in state funds.

Contracts and amendments filed with OFM throughout the fiscal year are automatically included on the list of personal service contracts. Personal service contracts and amendments, listed in the previous paragraphs, which are not subject to filing, must be reported to OFM either at the time of award or at the end of the fiscal year.

Reported contract information is to be submitted to OFM through the Personal Service Contract Database (PSCD). It is recommended that information on the “reported” contracts be entered into PSCD as the contracts are awarded or amendments executed, rather than compiling and entering all the data at the end of the fiscal year.

Agencies do not report contracts that are exempt under RCW 39.29.040. Refer to Subsection 15.10.20.

At a minimum, the following information shall be entered into the PSCD for reporting personal service contracts and amendments:

- Agency Number.
- Agency Contact Name(s).
- Name, address and Federal Tax Identification Number of the contractor.
- Whether the entry is a new contract or an amendment.
- Contract/amendment start and end dates.

- Dollar value of contract or dollar value of amendment if being reported.
- Fund source.
- Description of scope of work.
- Procurement type, e.g., whether competitive, sole source or emergency.
- Whether the contractor or agent is a current or former state employee.
 - If a current state employee, explain whether Executive Ethics Board approval is required. If so, indicate whether approval was granted for the contract or, if not, why not.
 - If a former employee of the state of Washington in the past 24-months, state the name of the agency the employee worked for, last position held, and termination date.

15.30.90.b

Contract Procedures Report. RCW 39.29.110 requires state agencies that have awarded or amended personal service and/or client service contracts during a calendar year (January – December) to provide a report to OFM detailing the procedures the agency employed in awarding, renewing and managing the contracts. The report shall apply to state agencies that have awarded and amended contracts after January 1, 2003. The contract procedures report will be due to OFM by **January 31**, of each year.

This policy addresses personal service contracts, but the report applies to both personal service and client service contracts, so both items are included below.

The following items will be required as part of submitting the Contract Procedures Report:

1. **Contract Procedures**

A copy of, or a web site link for, the agency's procedures on personal service contracts. The same information is required for client service contracts.

If an agency does not have internal contract procedures in place, but the agency utilizes the policies in Sections 15.10, 15.20 and 15.30 for personal service contracts, and Section 16.10 for client services, those policies should be referenced.

Personal Service Contracts**2. Contract Totals**

OFM has the totals for personal service contracts, if the agency has filed and reported its personal service contracts, as required. If so, these totals do not need to be provided for personal services.

However, OFM also needs contract totals for client service contracts awarded during the calendar year period of January through December. Include the number of and total dollar value of the client service contracts awarded. Do not submit a list of the client service contracts, just the totals.

15.30.90.c Upon request, OFM will provide summary reports on personal service contract filings to the Joint Legislative Audit and Review Committee. Additional information will be provided by OFM as requested.

15.30.95

July 1, 2005

Reporting requirements for architectural and engineering contracts

In accordance with RCW 39.80.070, contracts and amendments for architectural and engineering services shall be reported to OFM no less than quarterly. For purposes herein, quarters shall be for the three-month periods ending September, December, March, and June of each fiscal year.

15.30.95.a Reported architectural and engineering contracts and amendments are to be entered into the OFM Personal Service Contract Database (PSCD). The entries in the database may occur at time of contract award or amendment execution, rather than at the end of the quarter.

If the data is submitted on a quarterly basis, the quarterly reports shall be entered into the OFM database no later than the fifteenth day of each month following the end of the quarter; e.g., October 15, January 15, April 15, and July 15. If the fifteenth day falls on a Saturday, Sunday or state holiday, the report will be due the next working day.

15.30.95.b The following information shall be entered into the PSCD for the quarterly architectural and engineering contract report:

- Agency Number.
- Agency Contact Name(s).
- Name, address and Federal Tax Identification Number of the contractor.

- Whether the entry is a new contract or an amendment.
- Contract/amendment start and end dates.
- Dollar value of original contract or dollar value of amendment being reported.
- Description of project.
 - Whether the contractor or agent is a current or former state employee.
 - If a current state employee, explain whether Executive Ethics Board approval is required. If so, indicate whether approval was granted for the contract or, if not, why not.
 - If a former employee of the state of Washington in the past 24 months, state the name of the agency the employee worked for, last position held, and termination date.
- Whether the contract was competitively procured per Chapter 39.80 RCW.

PERSONAL SERVICE CONTRACT FILING & REPORTING CATEGORIES
(State Agencies Only - Exclusive of Institutions of Higher Education)

Personal Service Contracts/Amendments	\$ Threshold For Filing	OFM Review or Approval	Filing Period	Report to OFM**
SOLE SOURCE Contracts and Amendments (singly or cumulatively awarded to a contractor in a fiscal year period by an agency)	\$ 5,000 - \$19,999	Review*	10-working day advance filing	
	\$20,000 or more	Approval	10-working day advance filing	
EMERGENCY Contracts and Amendments	\$5,000 or more	Review*	3-working days from date of execution or start of work, whichever is sooner	
COMPETITIVE Contracts and Amendments	\$5,000 to \$19,999			X
COMPETITIVE Contracts and Amendments (not included in the management-type categories in the row below)	\$20,000 or more	Review*	Work may start on or after the working day filed with OFM.	
COMPETITIVE Contracts and Amendments for: Management Consulting, Organizational Development, Marketing, Communications, Employee Training and Employee Recruiting	\$20,000 or more	Approval	10-working day advance filing	
AMENDMENTS to competitive or sole source contracts that result in the contract amount being greater than 50% of the original contract value and/or amendments that constitute a substantial change in the scope of work.	\$5,000 or more (Contract, when amended, equals \$5,000 or more)	Approval	10-working day advance filing	

* If contract amendments in these categories result in the contract exceeding 50% of the original contract amount or if they make a substantial change in the scope of work, the amendment is subject to OFM approval, rather than to review. Such amendments should be filed under the greater than 50% amendment category.

** Contracts and amendments subject to reporting to OFM should be reported ideally at the time of award or at the end of the fiscal year.

Note: Policy subsection 15.30.10.e lists certain types of amendments that are not subject to filing.

PERSONAL SERVICE CONTRACT FILING & REPORTING CATEGORIES
(Institutions of Higher Education Only)

Personal Service Contracts/Amendments	Fund Source	File with OFM	Filing Period	Report to OFM***
SOLE SOURCE Contracts and Amendments (singly or cumulatively awarded to a contractor in a fiscal year period by an agency) (Contract must have \$5,000 or more in state funds to be filed; therefore contracts with less than \$5,000 in state funds are not calculated cumulatively for filing purposes, but they are for reporting purposes.) \$ 5,000 - \$19,999	State Funds * \$5,000 or more	OFM Review **	10-working day advance filing	
	Non-State Funds or <5K State Funds			X
SOLE SOURCE Contracts and Amendments (singly or cumulatively awarded to a contractor in a fiscal year period by an agency) (Contract must have \$5,000 or more in state funds to be filed; therefore contracts with less than \$5,000 in state funds are not calculated cumulatively for filing purposes, but they are for reporting purposes.) \$20,000 or more	State Funds * \$5,000 or more	OFM Approval	10-working day advance filing	
	Non-State Funds or <5K State Funds			X
EMERGENCY Contracts and Amendments \$ 5,000 or more	State Funds * \$5,000 or more	OFM Review **	3-working days from date of execution or start of work, whichever is sooner	
	Non-State Funds or <5K State Funds			X
COMPETITIVE Contracts and Amendments	Any Fund Source \$5,000 - \$19,999			X
COMPETITIVE Contracts and Amendments (not included in the management-type categories in the row below) \$20,000 or more	State Funds * \$20,000 or more	OFM Review **	Work may start on or after the working day filed with OFM	
	Non-State Funds or <20K State Funds			X
COMPETITIVE Contracts and Amendments for: Management Consulting, Organizational Development, Marketing, Communications, Employee Training and Employee Recruiting \$20,000 or more	State Funds * \$20,000 or more	OFM Approval	10-working day advance filing	
	Non-State Funds or <20K State Funds			X
AMENDMENTS to competitive or sole source contracts that result in the contract amount being GREATER THAN 50% of the original contract value or that constitute a substantial change in the scope of work. Contract, when amended, equals \$5,000 or more	State Funds * Sole Source, \$5,000 or more; Competitive, \$20,000 or more	OFM Approval	10-working day advance filing	
	Non-State Funds or <5K State Funds if Sole Source and <20K State Funds if Competitive			X

* State Funds for the purposes of filing means dollars that are: 1) appropriated by the Washington State Legislature, and/or 2) allotted by the agency. If a contract or amendment contains both state and non-state funds, it is filed only if the state-funded portion equals or exceeds: a) \$5,000 for sole source and emergency contracts, or b) \$20,000 for competitive contracts. Non-state funded contracts and amendments in these categories are reported to OFM.

** If contract amendments in these categories result in the contract exceeding 50% of the original contract amount or if they make a substantial change in the scope of work, the amendment is subject to OFM approval, rather than to review. Such amendments should be filed under the greater than 50% amendment category, subject to fund source.

*** Contracts and amendments subject to reporting to OFM should be reported ideally at the time of award or at the end of the fiscal year.

Note: Policy subsection 15.30.10.e lists certain types of amendments that are not subject to filing.