



Chapter 16 - Client Service Contracts

16.10 General Policies for Client Service Contracting

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16.10 General Policies for Client Service Contracting

16.10.10

July 1, 2002

Authority for these policies

State agencies are to effectively and efficiently manage their client service contracts as set forth in Chapter 39.29 RCW.

16.10.15

July 1, 2003

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.

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. Clients are not providers of services, state employees, or business organizations.

Client Service Contract - An agreement, or any amendment thereto, with a firm or individual for the rendering of direct services to clients of the state agency.

16.10.20

July 1, 2005

16.10.20.a

Guide to Client Service Contracting

The “Guide to Client Service Contracting” published by OFM contains guidelines on the effective and efficient management of client service contracts. Effective January 1, 2003, all state agencies that award and manage client service contracts shall follow these guidelines. If agencies choose to deviate from the guidelines, their rationale for such deviation must be documented in the contract file.

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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. Any other subject related to effective and efficient contract management.

16.10.20.b

The “Guide to Client Service Contracting” is available on the OFM website at: <http://www.ofm.wa.gov/contracts/client/csg/cscguide.asp>.

To receive a hard copy of the publication, you may send a request via e-mail to: ofm.contracting@ofm.wa.gov.

16.10.25

July 1, 2002

Contractor selection

16.10.25.a

Agencies need flexibility in selecting contractors to effectively and efficiently meet the needs of state clients. Therefore, agencies may select client service contractors by using procurement methods most appropriate to their needs, e.g., competitive, non-competitive (direct award) or sole source methods.

- 16.10.25.b In general, the higher the dollar amount of the potential contract, the longer its duration, and the more complex the services, the greater the need for formality and competition. Federal funding rules and internal agency policies may also require a competitive process for certain client service contracts.

16.10.30 Formal contracts are required

July 1, 2005

- 16.10.30.a All contracted client services, regardless of the dollar amount, require a written document specifying the agreement between the agency and the contractor. Required elements in a client service contract are: identification of the parties, scope of services, compensation terms, period of performance, payment mechanism, and signatures of responsible parties. Numerous other elements are often included in contract documents to provide additional legal protection to the state.

Refer to the model client service contract, Appendix D, in the “Guide to Client Service Contracting,” for examples of contract terms that may be included in the contract.

- 16.10.30.b Agencies may choose a contract format appropriate to the services being acquired, provided that the required elements identified in the previous paragraph (16.10.30.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 small.

- 16.10.30.c The 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.

- 16.10.30.d Contract records may 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.

16.10.35 Liability insurance

July 1, 2004

- 16.10.35.a Before awarding a client service contract, 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 contract or the solicitation document whenever appropriate.
- 16.10.35.b 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.
- 16.10.35.c 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 website 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.

16.10.40 Industrial insurance

July 1, 2004

- 16.10.40.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 client service contracts a provision stating that the contractor agrees to comply with the industrial insurance requirements of Title 51 RCW.

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- 16.10.40.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 at (360) 902-4753.
- 16.10.40.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.

16.10.42

July 1, 2005

Managing and monitoring contracts

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

Contract monitoring includes the planned, ongoing, or periodic activity that measures and ensures contractor compliance with the terms, conditions, and requirements of the contract. 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, vulnerability of clients, contractor experience and capability, multiple funding sources, contractor's prior audit experience, contractor's financial health, etc.

16.10.45

July 1, 2005

Training on client service contracts

- 16.10.45.a OFM provides ongoing client service contract training for state agency personnel responsible for executing or managing client service contracts. The training covers topics addressing effective and efficient contract management, as included in the “Guide to Client Service Contracting” referenced in Subsection 16.10.20.

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Client Service Contracts

16.10.45.b State agencies shall require agency employees responsible for executing or managing client 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. 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 client 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 client service contract unless the employee has completed the training course. Staff who have attended either the Client Service Contract Overview (full day) or the Introduction to Client Service Contracts (half day) training offered by or through OFM since January 2001 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 *personal* service contracts training offered by OFM will not meet the training requirements for staff who manage or execute *client* service contracts.

| Contract Responsibility | OFM Training Class* |
|---|--|
| Manage client service contracts | Introduction to Client Service Contracts (1/2 day) or Client Service Contract Overview (full-day) |
| Manage personal service contracts | Introduction to Personal Service Contracts (1/2 day) or Personal Service Contract Overview (full-day). |
| Execute client service contracts and personal service contracts | Contracting for Mid-Level Managers (1/2 day) |
| Execute client service contracts and personal service contracts for Agency Directors or Assistant Directors (or management equivalent) only | Executive Management Contract Training (1 hour) |
| Manage both client service and personal service contracts | One of each class 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 the OFM website 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 client service contract training, if the course is approved in writing in advance by OFM. If agencies provide training, names of staff who attended the training must be reported to OFM.

- 16.10.45.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 will 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 the training as soon as possible after receiving the temporary exemption.

16.10.50
July 1, 2005

Reporting

- 16.10.50.a RCW 39.29.110 requires state agencies that have awarded or amended client service and/or personal service contracts during a calendar year to provide a report to OFM detailing the procedures the agency employed in awarding, amending, and managing the contracts. The report shall apply to state agencies that have awarded or amended contracts after January 1, 2003.
- 16.10.50.b This policy addresses client service contracts, but the report applies to both client service and personal service contracts, so both items are included below. The Contract Procedures Report will be due to OFM by January 31, of each year.

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

Contract Procedures

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

Client Service Contracts

If an agency does not have internal contract procedures in place, but the agency utilizes the policies in the *State Administrative and Accounting Manual* (SAAM), Section 16.10 for client services, and Sections 15.10, 15.20 and 15.30 for personal services, those policies should be referenced.

Contract Totals

The total number of and total dollar value of client service contracts awarded by the agency during the calendar year period of January – December. Contracts to be included in these totals are those in the amount of \$5,000 or more.

16.10.55

July 1, 2005

Risk-based audits

OFM conducts risk-based audits of the contracting practices associated with individual client service contracts to ensure agency compliance with the “Guide to Client Service Contracting” described in Subsection 16.10.20. A risk-based audit means a review of the management and fiscal controls and contracting practices associated with client 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.

16.10.60

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 client 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.

16.10.65

July 1, 2002

Account codes for client service contracts

Sub-object to be used for reporting expenditures against client service contracts is as follows:

NB Payments to Providers for Direct Client Services

Definitions for this sub-object and all others are included in this manual in Subsection 75.70.20.

16.10.70

July 1, 2003

Additional information on client service contracting

Supplemental information related to client service contracting is available on the OFM website at

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