



Office of State Procurement

Professional Service Contracts
Advanced – Sole Source & Emergency Contracts

Agency Training Seminar
September 17, 2018



Objectives

- What classifies as an Emergency Professional Service contract?
- What documentation to provide to the Office of State Procurement (OSP)?
- What is a sole source?
- What documentation to provide to OSP?



Emergency Professional Service Contracts

Poor planning does not constitute an emergency condition

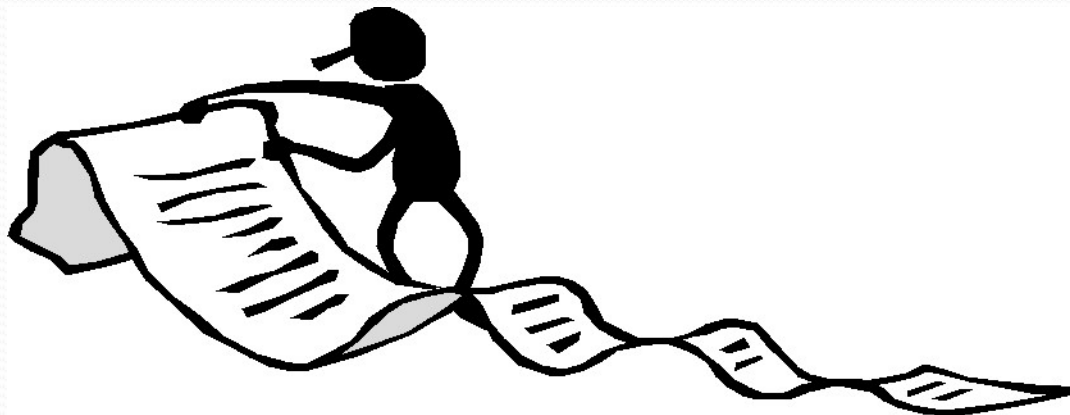
VS





Emergency Professional Service Contracts

Defined as a situation which creates a threat to public health, welfare, safety or public property.





Emergency Professional Service Contracts

When an emergency situation occurs, the using agency must request emergency procurement pre-approval from OSP. The using agency which requests an emergency procurement must indicate in writing the basis of the emergency.



Emergency Preapproval

Emergency procurement can be made only after the requesting agency submits supporting documents for pre-approval.

ProAct Agencies – Requires two transmittals, one for the pre-approval and one for the contract.

DOC Tracking Agencies – You must identify as an emergency at the Shopping Cart level on the agency tab.



Supporting Documents

- Letter of request for Emergency condition to the OSP Director from the Agency Secretary or Undersecretary or authorized designee which fully explains why the agency believes the situation warrants an emergency, what critical services must be provided via an emergency contract, and the consequences of not having a contract in place.
- Three years of past contracting history (if applicable) for the services being requested, including CFMS/LaGov#, contractor name and contract amount. Indicate whether any of those contracts were the result of emergency requests.



Supporting Documents cont.

- Date of the most recently completed RFP (if applicable) for the services requested.
- Status of the current RFP for the services requested, including date it was sent or will be sent to OSP for review. Include the proposed schedule of events for the RFP.
- Proposed draft Emergency contract, including the proposed term and amount.



Sample Pre-approval letter (Approved)

I am writing to request an emergency purchase in accordance with La. Revised Statutes 39:1619(B)(6) and the Louisiana Administrative Code, Title 34, Government Contracts, Procurement and Property Control, Part V. Procurement of Professional, Personal, Consulting, Social Services and Energy Efficiency Contracts, Section 2542, Source Selection Methods, Paragraph 1. Emergency Purchases for the disaster case management providers listed in the attachment to this letter.

The Agency requires emergency social service contracts in order to provide disaster case management to individuals and families displaced by or whose homes were damaged by a strong level storm system which brought showers and thunderstorms from west to east across most of Louisiana the week of March 6, 2016. The storm system resulted in heavy rainfall, flash flooding, river flooding and damaging winds. Record flooding occurred in nine locations, including the Bague Falaya River in Covington, Louisiana, and Bayou Dorcheat at Lake Bistineau, Louisiana. The storm brought heavy rainfall and fast-moving floodwaters across Louisiana. It is estimated that the storm caused 13,000 evacuations and 2,780 rescues and damaged more than 12,000 homes. It is estimated that up to 12,600 clients will need immediate and/or long term disaster case management.

On March 13, 2016 the President declared an emergency for Individual Assistance, DR-4263, which eventually covered 36 parishes. As a result, the State of Louisiana has begun providing immediate services to affected families as of April 1, 2016. We expect our application for funding from the Federal Emergency Management Agency (FEMA) to be approved by May 31, 2016 for disaster case management services to help affected families obtain housing and/or repair their homes. These services will continue for 24 months, or longer, if a no cost extension is granted by FEMA.

This emergency purchase is necessitated by the need to provide immediate counseling to affected families and, because of the nature of the services, to maintain continuity of those same providers for long term disaster case management because disaster case management is, by its very nature, "a crisis support to the affected families" (La. R.S.39:1619(B)(5)).

Without emergency contracts, disaster case management would be delayed by at least six months by the RFP process, resulting in increased suffering by those damaged by the flooding, increased federal and state expense for temporary housing and the strong possibility that many affected families would receive no assistance since there are required time frames for applying for federal assistance. The Louisiana Disaster Housing Task Force (LDHTF) activated on Monday March 14, 2016 and consisting of multiple state agencies, federal partners and Louisiana voluntary organizations active in disasters, has determined that the best course of action is for the agency to contract with the disaster case management providers to provide services for the duration of the federally funded grant and to provide operational oversight for disaster case management. The disaster case management providers have been solicited by the members of the LDHTF through phone calls and email blasts to all known possible disaster case management providers in the affected areas of the state.

The state's application for FEMA disaster case management funding is attached for your information.



Sample Pre-approval letter (Disapproved)

The recent emergency declaration signed by President Trump on Thursday, October 26, 2017, is evidence of the opioid crisis that exists in Louisiana and throughout the country. Louisiana is one of the states in America with statistically significant drug overdose rates and opioid-related deaths.

In fact, Louisiana has seen a steady increase in deaths since 1999, with the number of deaths more than doubling from 2011 to 2015. The Centers for Disease Control and Prevention has stated that more than 1,000 people died of overdose in Louisiana in 2016. This number surpasses the number of deaths from motor vehicle accidents, homicides, or suicides.

In Louisiana, funding to address the problem has come to almost entirely from several federal grants, one of which provides limited funds for a comprehensive public education campaign. These limited funds are available only for two years. Because it takes at least six months to hire the appropriate communications and outreach contractor through the state's Request for Proposal (RFP) process, we are requesting approval to hire a contractor via an emergency contract that we estimate can be done in weeks, not months.

The need for an emergency contract is due to two factors: 1) Funding restrictions in the grant limit the duration of the project to 24 months, and 2) Experience shows that the RFP is a slow and deliberative process – can take up to six months to select a qualified contractor – that will exhaust most of the time that otherwise could be used for public education purposes.

The work that is being requested via this emergency contract will allow us to hire a contractor to develop and implement a statewide campaign that includes, but is not limited to: message and concept development; video, audio and print production; media planning and purchasing; website development; social media communications; and event management, measurement and reporting in order to reach and educate the targeted audiences.

Without such a contract, the agency will not only be unable to develop and implement this public education campaign within the timelines set by the grant, but the state will also be unable to achieve any type of reasonable results for this expenditure of public funds.



Sole Source Contracts

Sole Source is when only one contractor exists for the services requested by the using agency and the vendor does not sell through distributors/dealers.



Reminder: If the contract is for IT services, the contract could require Procurement Support Team review and approval.



Sole Source Examples

- The contractor is the only one that provides the scope of services required by the using agency.
- The contractor is the owner of a source code or proprietary software.
- The contractor is the single source with the unique capabilities to perform the service, etc.



Sole Source Preapproval

Sole Source procurement can be made only after the requesting agency submits supporting documents for pre-approval.

ProAct Agencies – Requires two transmittals, one for the pre-approval and one for the contract.

DOC Tracking Agencies - You must identify as an emergency at the Shopping Cart level on the agency tab.



Supporting Documents

- Letter of request to the OSP Director from the Agency Secretary or Undersecretary or authorized designee which fully explains why the agency believes the situation qualifies as a sole source.
- The letter must address whether any other sources exist for the requested services, and explain why the service are necessary for the agency and why a competitive process is not warranted.

See R.S. 39:1619B(1) and LAC Title 34, Part V, Chapter 25 Subchapter B.2542.A.2-4.



Supporting Documents cont.

- Letter from the contractor justifying the assertion that the services are a sole source. Provide information regarding the proprietary software, unique capabilities, etc.
- Include any outside research, determinations by other governmental entities, or grant documents.
- Provide six years of past contracting history for the services being requested, including CFMS/LaGov #, contractor name and contract amount. Indicate whether any of those contracts were the result of a sole source approval.



Supporting Documents cont.

- Date of the most recently completed Request for Proposals (RFP) for the services requested and the result of that RFP, if applicable.
- Proposed sole source contract, including the proposed term and amount.



Sample Pre-approval letter (Disapproved)

Since 1997, Acadiana Cares has been the contractor to provide HIV surveillance, prevention, and care services for the agency. Every three years, for six cycles since 1997, an RFP process has been initiated and Acadiana Cares has been the sole applicant in 2006, 2009, and 2012. In addition, in 2003, where there were two separate RFPs, they were the sole applicant. This organization has an established record and a corps of skilled and experienced staff that has successfully provided needed services for the Program and it is believed that they are the only entity that could successfully deliver the deliverables outlined in their contract. In addition, when Request for Information (RFI) was released in May 2015 to determine if there were other applicants that would possibly respond to a RFP, Acadiana Cares was the only respondent to the RFI. In accordance with R.S.39:1503, I am requesting that an exemption be granted and that this contract be considered sole source based on the aforementioned statement.

The purpose of this contract is to provide program support personnel for the following activities related to the prevention of STD and HIV infections, the provision of services for HIV-infected persons, as well as clinical services and treatment for persons infected with syphilis, chlamydia and/or gonorrhea, and to monitor the STD and HIV epidemics over time. A contract is necessary to conduct management, coordination, technical assistance and training, and data management and analysis activities that support the following components of the STD/HIV Program:

1. Community-Based Organization Monitoring, Technical Assistance, Data Management and Evaluation of Implemented Prevention Interventions and Services;
2. Training and Communications Support
3. STD/HIV Partner Services
4. Core Surveillance (Case Ascertainment)
5. Supplemental Surveillance and Emerging Protocols
6. HIV Care and Treatment Support
7. Program Operations Technical Assistance

Acadiana Cares has successfully demonstrated its capacity and qualifications to fulfill these duties for more than 20 years. Based on this established record and their unique standing to provide program support, it is believed that this organization is the only entity capable of providing the vast array of services that enables the STD/HIV Program to accomplish its goals and objectives. These include identifying persons who are infected with an STD/HIV, monitoring these epidemics, training providers to deliver quality services, and linking persons to medical care and treatment. Collectively, these important components of the Program will reduce the spread of HIV and other STDs in Louisiana.



Office of State Procurement

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