

Purchase of Service Contracting

in

The Department of Developmental Services

Updated: 6/24/2009

Section 1: Introduction

The Department of Developmental Services (DDS) provides a broad array of services to people with Intellectual Disabilities who are found eligible based on the standard established by 17a-210 C.G.S. Additionally, DDS is the lead agency for Birth to Three Services and the Autism Pilot. DDS received reimbursement of over 340 million dollars for services provided under Home and Community Based Service (HCBS) waivers, the ICF MR program and Targeted Case Management. The federal requirements for participating in the HCBS program provide a framework for service provisions within contracted services. Birth to Three services are subject to both Part C of the Individuals with Disabilities Education Act and to 17a-248 C.G.S. and are reimbursed in part by Medicaid and therefore are subject to certain Medicaid regulations. One of the key components of Medicaid and the HCBS waivers is the recipient has the right to choose from a variety of qualified providers. The Department of Developmental Services first implemented the approach as part of the Birth to Three Program in July, 1996. This change has empowered people served by DDS and their families, and has led to greater satisfaction with services.

1.1 Purpose of the Plan

This plan describes the approach that DDS will take over the next five years for procuring human services. It is an attempt to combine the principles of openness and fairness with the federal requirements and the Department's strong historical commitment to empowering people who receive supports through DDS. While the largest part of procurement occurs as part of participation in the waivers, there are some other procurement activities that will be addressed as well. This plan will evolve based on new federal requirements, clarification of existing guidelines, and a commitment by DDS to have the most responsive and effective service delivery system possible.

The department proposes to maintain its current system of providers for residential and day services for individuals with intellectual disabilities without issuing a RFP to rebid any existing services unless there is a significant problem with provider performance. We request a three year waiver from OPM in this regard. As the document explains, the department believes that its current policies and practices for provider qualification, provider selection, portability and rate setting adequately addresses the need for a fair and open process to become a DDS provider and for freedom of choice by consumers.

1.2 Current Organizational Structure and Procurement Contracting Practices

Most Purchase of Service (POS) Contracts, other than Birth to Three, are developed, managed and monitored in the Regions. Individual consumers and their families work with case

managers on the specific details of their individual plan and may obtain services from a provider or by directly hiring support staff who are paid by a Fiscal Intermediary (FI). Choice is a key component of our system that empowers people to make changes to the type of supports they receive, and who provides the supports. The DDS case manager works with the individual through their individual plan to implement desired changes. The Operations Center provides a central coordination and oversight function for the administrative aspects of purchasing services including procurement planning and contract review. Effective July 1, 2009 the department will begin centralizing the contract and billing functions in the Operations Center. During the first phase, contracts will be managed centrally for day and Individual Home Supports (IHS) services. Providers will have only one contract with the department for these services. In light of the other changes described in this plan, we will be able to dramatically reduce the number of amendments a provider needs to submit and the department will need to process.

Section 2: Services to Adults and Children Over the Age of Three

2.1 Background

DDS has had a long history of providing our consumers with the opportunity to make choices in their personal lives. The Department's Mission Statement encourages individuals and their families to choose the provider best able to support their needs when entering the system. In 2001 the Department enhanced this by issuing portability policies and procedures allowing individuals in contracted Supported Living and Day programs the ability to exercise choice by taking their funding and moving to another program. In 2003 this portability was extended to individuals living in contracted Community Living Arrangements. This has allowed individuals to control their own supports and the money used to pay for the services they receive. Individuals and families can use the funds to purchase services from any qualified provider or hire their own staff.

In 2005, the Department established the Individual and Family Support Waiver and renewed its Comprehensive Waiver. The Waivers promote the concept of allowing individuals and families to self-direct services and supports to the extent desired. This is based on a set of beliefs that includes equal access to services and supports, individual control of resources, the ability to choose the provider best able to meet their needs and the ability to develop a creative, flexible support system through self-direction. In addition, the Centers for Medicare and Medicaid Services (CMS) requires states with Waivers to ensure that consumers have the ability to choose a provider who they believe will provide the best supports and the freedom to move between qualified providers of services.

2.2 Future Procurement Process

The Department established a Uniform Fee for Service rate system for the services outlined in the Waiver programs on April 1, 2005. The Department is implementing this system for all participants whether or not they are currently enrolled in any of the waiver programs. This

approach allows for a smooth transition onto the waiver and provides the administration efficiency of managing one procurement system. The Department is currently working on the complex process of transitioning those providers who have legacy negotiated contracts to the Fee For Service System.

2.3 Key Principles

The new system has some key principles that guide the specifics of the procurement plan.

- Self Determination: People help shape their services and choose the provider of services from a pool of qualified providers
- Choice of Provider: People choose their service providers and may change providers when they are dissatisfied
- Informed Decision Making: People understand their right to informed decision making and are aware of their options for service providers
- Openness: System transparency allows the providers and potential providers to access information so that they may become qualified for a service and compete for selection to provide services to an individual.
- Transparency: Opportunities to participate as a qualified provider will be posted on the DDS website and the DAS Procurement Portal
- Fairness: Information about DDS and its services and requirements will be readily available on the web site. Services where four (4) or more people choose to collaborate for combined services will utilize the DDS RFP process and the DAS portal will be used.
- Competition: Providers will have the opportunity to provide information, which DDS will make available to people who are choosing a new provider or are considering changing their provider.
- Standardization: DDS utilizes a standard RFP process and a standard process for becoming a Qualified Provider. DDS is currently implementing standard quality assurance processes that will provide information about whether a provider should continue as Qualified Provider.

2.4 Structure of Procurement Utilizing Key Principles

Since people choose their services from among the pool of qualified provider it is critical that that process of becoming a Qualified Provider be open and fair.

The process of becoming a Qualified Provider is detailed on the DDS website. The components of the application packet are included. Additionally, there is a contact within the Operations Center who is available to answer questions and guide potential providers through the process. Providers are qualified for specific services so they do not have to have the necessary infrastructure to provide all services.

The requirements to become a qualified provider are straightforward. Providers must submit a packet that includes:

- Provider Application
- Assurance Agreement – must be signed and all items initialed

- Provider Agreement
- A copy of the incorporation papers
- Applicable policy and procedures for each service as outlined in the provider guidelines
- Professional References
- Credentials of the Organization and its leadership
- Quality Improvement Plans
- Continuity of Operations Plan

Any missing or unacceptable items will be detailed in an email to the provider. Once all necessary documents are submitted the packet is reviewed for content and completeness. Once the provider has submitted a complete packet and the Department has accepted it, the credentials will be verified by the Department. Depending on the results, the provider will be interviewed by a Selection Committee. The Selection Committee will accept or deny the application of the provider. Once a provider has been accepted by the Selection Committee, the provider will be placed on the DDS qualified providers list.

2.5 Qualified Providers

Once a provider is qualified they are added to the Qualified Provider list with contact information and the regions are notified of the addition. The Department has developed a web based system that allows families to obtain additional information about Qualified Providers. Case managers also have access to this information to share with families and consumers.

DDS recognizes that once qualified, providers should have an opportunity to share information with prospective customers. Regions have provider fairs at least once a year. These fairs are to assist people who are selecting service providers for the first time as well as an opportunity for people already receiving services to meet other providers. People are also encouraged to visit potential providers before making a selection.

There are instances when the department plans for a group of consumers to obtain the 24 hour residential service through a Community Living Arrangement (CLA). When this type of group purchasing occurs, the department utilizes the DDS RFP process with the opportunity publicized on the DAS website.

Consumers and families are notified on an annual basis of their right to change service providers. DDS will be developing additional informational materials to enhance people's understanding of their choices and the process for selecting a new provider. The department strongly advocates for empowering people to make informed decisions regarding their provider selection.

2.6 Contracting For Services

The future contracting approach will provide the framework for the Fee-For-Service system for organizations authorized to provide services. Qualified Vendors who exceed 50,000 in payments from DDS need to enter into a POS contract. Payment under the contract will be made based on utilization of services using established rates as is the current process used in Birth to Three. While there will be standard rates published on the web, historical funding levels will be utilized

to determine a transition plan for individual providers to move them to the Uniform rates over the next several years. Day service providers will all transition by FY13. The contract will also allow for responsive supplemental funding to providers when necessary. The DDS qualified provider system offers new and existing providers the open, fair, and transparent opportunity to provide services as envisioned in the HCBS Waiver. Since this system meets the goals and objectives established by OPM for Purchase of Service contracts, the Department requests a waiver of competitive bidding of these services.

2.7 System Risks

A conversion of this magnitude by its nature creates some vulnerabilities and risks. However the changes are consistent with Federal Waiver requirements and minimizes the risk of loss of federal funding in the future. CMS expects that states participating in HCBS waivers will pay the same rate for a similar service for people with similar need levels. DDS is working to address the conversion risks through thorough analysis and planning, giving private agencies the opportunity to provide comments and information, and an individual transition plan for each existing contracted provider. DDS also is minimizing the risk by starting with day services, a much less costly service before starting the transition for residential services. The following chart provides information on the major risk areas.

Risk	Approach
The full implementation of rates will exceed current resources.	Currently Analyzing over 5000 people in contracted day services. Transportation surveyed and being separated as a variable to allow more accurate comparison with cost data.
Attendance has risen the past two years and will exceed historical levels	The 90% benchmark allows for an increase in attendance within available resources.
Level of Need (LON) Assessments may be revised when teams do not think the associated funding level is adequate.	Additional training will be provided to case managers this year on the (LON) Assessment Tool. Information extracts will be created allowing regional staff to further examine people with intensive need for support and supervision. A process for auditing a sample will be developed for(LON) Assessments.
Established agencies may not continue as DDS providers.	Changes will be phased in allowing providers time to realign their organization to succeed with the new rates.

2.8 Communication

Formal communication with the providers occurs through several mediums. There is a waiver rate work group that offers providers an opportunity to provide suggestions to administrators from the Operations Center on the detail of potential changes. This workgroup provides regular updates to the Provider Council, a group of DDS administrators and providers selected by the three major trade organizations. The Provider Council reports information as necessary to the monthly Trades Meeting. The DDS Commissioner chairs the Trades Meeting which includes leadership of the three major trades organizations and providers they designate. These meetings are now conducted as a webcast so all providers can participate via computer

access. Written updates on the progress of the conversion to rates are included in “DDS Executive Briefs” a written update for the private provider community that is issued bi-monthly. Informal updates are provided at regional provider forums and other meetings with members of the provider community. There is a new link on the DDS webpage for updates for providers. Additionally, DDS has sponsored several educational forums open to all providers. National experts on waivers and Federal requirements have presented at these events.

2.9 Work Plan

Area	Action	Status	Target
Day Service Rate Development	Revising current rates to align with need based on the Level of Need (LON)	Analysis occurring on LON data and appropriate cost levels based on intensity of support	Rates shared March 11, 2009 for Day services
	Use 2008 Provider annual reports and most recent rate analysis information to update analysis of cost differences of providers	Have fiscal data for all providers based on annual reports	October 15, 2008
	Identify Services within Contract that are inconsistent with per diem rates.	Data being sent to providers for review and clarification	Provider information analyzed by May 25, 2009
	Provide updated information to providers based on current Level of Need (LON)	LONs being updated and data compiled	Sent to Providers by May 8
	Develop Transition Plan for Providers to Uniform rate System	Discussions held with providers. Will perform additional analysis based on new rates.	July 1, 2009
Residential Rate Development	Develop need based rates for Community Living Arrangements (CLAs) and revise others	Will follow Day rate development	July 1, 2010
	Develop Transition Plan for Providers to Uniform Rate System	Will follow Day rate development	July 1, 2010
Information Technology	Implement IP 6 Citrix Application EXPLAIN	Training occurring now. IP 6 to be moved to production this month.	October renewals forward to be entered in IP 6
	Implement Web Based IP	Requirements being	Testing in July 2009

	6 with enhancements for use with people currently in Master Contract	developed on the enhancements	
	Automated Attendance based Waiver and DDS billing	Basic application in design phase.	Begin parallel to paper attendance reporting in January 2009.
	Enhance Billing with integration with IP 6.	Not begun	Would follow Web based IP 6 in 2009 or 2010.
	Institute web-based provider profiles to help service recipients and their families learn about available providers	Sample developed. Information has been requested from providers. Database is developed.	January 2010
Communication	Communicate with providers through meetings and written materials.	Ongoing through Trades meeting, Provider Council, Waiver Workgroup and Bimonthly updates in Provider Newsletter.	Continue through residential rate implementation in 2010.

2.10 Oversight

Qualified providers receive quality reviews on an ongoing basis. Each service setting a provider operates is reviewed at least once a year by quality management staff and all individuals served are reviewed by case managers once a year in each service setting(day and residential). All providers have a Continuous Quality Improvement Plan that is monitored by their Regional Resource manager. Based on a statewide review process, providers experiencing quality of care issues may be placed on an enhanced monitoring protocol. Where indicated, these agencies face possible restrictions as a Qualified Provider. If adequate improvement is not achieved, the provider can be permanently removed as a Qualified Provider. All providers also participate in an extensive quality system review process under which they receive a more in depth quality review every two to three years. All of these quality management activities determine whether a provider continues as a Qualified Provider. Providers currently submit a cost report and are cost settled. As part of the new rate system, they will be paid based on the units of service provided typically a per diem or 15 minute intervals depending on the type of service. Providers will still submit an Annual Report and be subject to state single audit.

Section 3: Birth to Three

3.1 Background

Birth to Three contracts are awarded as a result of an RFP. Many of the existing contractors were selected through a 1996 RFP when the current system was established in the Department of Developmental Services, but there have been additional RFPs issued (on average, about every other year) as the need to add new contractors arose. In FY 07, five new contractors were added. In FY 08, two RFPs for autism-specific Birth to Three programs were issued and one additional RFP was issued for general programs in the Northeast and Southwest. Ten autism programs were selected and four general programs were selected. Additional RFPs for general and autism specific programs will be issued as there is a need for additional or replacement programs.

Based on their contract, providers are paid a per child “unit rate” which is equivalent to ½ month of active enrollment (i.e. services delivered). The current unit rate for all general Birth to Three programs is \$348. The unit rate for specialized programs (hearing impaired, autism) is \$407. These rates were established after a Cost Study was requested by the legislature in 2005, and they were implemented in January 2007 in accordance with the FY07 Appropriations Act. Contractors are also paid one unit for initial eligibility evaluations and initial service planning meetings. For children who require services more intensive than usual (usual is 4.6 hours/month and anything over 13 hours per month is considered intensive), contractors are paid a supplemental hourly rate for each hour of service delivered over 13 hours. The hourly rates for these supplemental services are \$105.50 for a professional, \$68.00 for a BA-level associate and \$59.50 for a non-BA level early intervention assistant. Of the 384 children whose programs were receiving supplemental rates (out of 4,067 that received services) enrolled in June 2007, 290 of them were children who had, or were suspected of having, an autism spectrum disorder.

Since Birth to Three is an entitlement under 17a-248 C.G.S. and IDEA Part C, there is no “cap” on the number of children served by each program. Each program determines when they have the capacity to serve more children by using our networked data system to indicate that they are open for additional referrals. All referrals initiate with our centralized intake office, (a separate POS contract with United Way Infoline.) No new child can be entered into the data system by anyone other than Infoline. Referrals are rotated electronically among provider programs that are open to new referrals unless the family wishes to choose a specific qualified provider of the Birth to Three System that serves their town of residence.

Providers under contract are only paid (in arrears) for the children to whom they actually provide services each month. Monthly invoices are verified through a networked data system that records the dates and types of all services provided. Parents are told that they may transfer from one program to another at any time, but they may not be enrolled in more than one program at the same time.

Payment procedures (and desired outcomes) are very clearly outlined in our POS Contracts as well as our Procedures Manual and are typically updated periodically. Contractors are required to bill commercial health insurance plans and 90% of their insurance revenue is netted out from the amount owed to them by the Department. The state (DAS Fiscal Service Center) bills Medicaid directly on a no-check system and the state bills parents each month (using a billing contractor) on a sliding fee scale, depositing those receipts as a reduction of expenditures into the state account used to pay the Birth to Three contractors.

All current POS Birth to Three contracts are all written to end 6/30/09, even those first awarded in FY07 and FY08.

3.2 Future Procurement Process

Like adult services, it is important to all allow new providers the opportunity to join the system. Therefore at least every three years, a RFP will be issued to add one or more providers to the system. Once in the system, families have the ability to choose the provider who will serve their child. They may select a new provider if they are not satisfied with their current provider.

We envision continuing a Birth to Three System in which, through a statutory and regulatory process, rates are established by the Department and posted on the website, and contracted agencies are recruited through an RFP process, as they are now.

As the Department of Developmental Services continues its work on phasing all other POS contracts for day and residential services into a fee for service process similar to that used by Birth to Three, the Department requests a waiver from competitive bidding for all current Birth to Three contracts for the next three years (until FY2013). During this time, the department will seek statutory language authorizing the use of statewide rates for both general and specialized Birth to Three programs. RFPs will be issued for new programs at least every two years, however, a waiver from competitive bidding will be sought for any municipalities that would like to operate a Birth to Three program under contract with the Department.

3.3 Oversight

Birth to Three programs receive what the Individuals with Disabilities Education Act calls "General Supervision." There are three basic layers:

- a. Programs submit a self-assessment every two years through a module of the Birth to Three data system. The assessment is performance-oriented and data-based. A monitoring team makes random on-site visits to verify the accuracy of the data and visits any program in which there is suspicion that the data may not be accurate. The self-assessment includes both compliance with the federal law and areas of performance. Any compliance indicator showing less than 100% compliance automatically generates an improvement plan. The same is true for any performance indicator showing significant need for improvement. DDS reviews the self-assessment and issues written notification of non-compliance. Programs must correct systemic non-compliance and the correction must be verified by the Department within 12 months of notification. Any instance of child or family-specific non-compliance must be corrected as soon as possible.
- b. Programs are grouped by size, and ranked on three performance indicators. The data is posted on the Birth to Three website and low-performing programs receive an on-site

focused monitoring visit that is specific to one indicator. Visits then generate a final report and the program is required to correct any noncompliance. .

- c. Written complaints from parents require investigation. If the investigation indicates any areas of systemic non-compliance, the program is obligated to correct within 12 months with verification by the Department.
- d. Providers submit monthly invoices with service based on attendance data they have entered into the Birth to Three data system. Families who are being billed for services receive a report of the services provided and are likely to contact the department if there are errors.

Section 4: Autism Pilot

4.1 Background

The Autism Pilot was assigned to the Department for administration and development in FY 07. The Autism Pilot is managed centrally and, similar to adult and children's services, has used a model of enrolled providers and uniform rates.

4.2 Future Procurement Process

For the Autism Pilot, interested agencies can apply to become an authorized provider and then, if accepted, agree to provide services for a Uniform Fee for Services. If the Pilot becomes a permanent program, efforts will be made to use the same approaches as those utilized in Services to Adults and Children Over the Age of Three wherever possible.

The Autism Pilot also has other contracts in the areas of training, technical assistance and clinical services. Due to the pilot nature of the service which has a limited timeframe, the initial contracts for these services were granted a sole source waiver due to the uniqueness of the skills required. In the future, these will be reviewed on a case-by-case basis and put out to bid as needed.

As part of the Autism Pilot, there are occasional meetings with the sixteen providers as well as e-mail communication. Since the pilot has been a Rate Based Fee-For-Service model from its inception, there is no transition information to communicate.

4.3 Oversight

Each person is assigned a service coordinator (case manager) who coordinates services and monitors the quality of the services provided. The Autism Division Director works with the providing agencies on issues relating to service provision under this pilot. Providers complete a

daily contact sheet listing the services delivered, which the consumer or a family member signs. The contact sheet is sent to the service coordinator and Fiscal Intermediary monthly. The Fiscal Intermediary provides monthly utilization data. The Director of Autism Services is working with DSS and OPM to develop a HCBS waiver application. As part of this process quality assurance mechanisms will be developed to comply with CMS requirements for waiver programs.

Section 5: Other POS Contracts

5.1 Background

Most of the other POS contracts in the Department are not with private provider agencies. They are for specialized areas such as clinical services, training, United Way Infoline, and Fiscal Intermediary Services.

5.2 Future Procurement Process

Presently all POS contracts for clinical services for DDS consumers are processed in accordance with the directives issued by the Office of Policy and Management. In order to maintain compliance with OPM, DDS will continue to adhere to all future directives issued by OPM. Fiscal Intermediary services will be competitively rebid when the contract ends in December 2010.

5.3 Oversight

The staff member who requests a contractor to provide clinical services to our consumers oversees the services provided by the contractor by monitoring the quality and quantity of services provided. Birth to Three oversees the United Way contract closely since that agency acts as the central intake office for all referrals. Not only is data reviewed monthly, but consumers, providers, and referral sources are surveyed to ensure that the service is friendly, accurate, and efficient.

Department of Developmental Services

Procedure No: **PR.C.PR.006**
Subject: Purchase of Service Contract Procurement
Section: **Contracts**

Issue Date: **April 16, 2009**
Effective Date: **Upon release**

A) Purpose

The Department of Developmental Services adheres to the policies set forth in the State of Connecticut, Office of Policy and Management (OPM) Procurement Standards for Personal Service Agreements and Purchase of Service Contracts Manual. Individuals responsible for executing Purchase of Service Contracts should familiarize themselves with this manual and refer to it, as necessary, to ensure compliance with OPM procedures.

The purpose of this procedure is to summarize the OPM procedures and define the procedures of the Department of Developmental Services (DDS) in order to standardize the execution of Purchase of Service Contracts within DDS and to ensure compliance with the standards and procedures set forth in the OPM manual.

B) **Overview**

A POS contract is an agreement between a state agency and an organization for the purchase of direct human services to individuals served by the Department of Developmental Services(DDS). The contract generally is not used for the sole purpose of purchasing administrative or clerical services, material goods, training and consulting services. POS contracts are used to contract with partnerships, as well as corporations, but not with individuals.

A State agency wishing to enter into a POS Contract must adhere to the requirements set forth in the C.G.S.§ 4-70b(c) inclusive. By State Statute, no State agency may hire a Contractor to deliver such services or end product without first executing a POS Contract. A fully executed contract is one that has been signed by the contractor, the Director of Administrative and Fiscal Services (or designee) at DDS Central Office and, if applicable, reviewed and approved by DAS, OPM and the Attorney General's Office.

C.G.S.§ 4-70b(c) assigns overall responsibility for developing standard policies and procedures for the purchase of human services to the Office of Policy and Management. The standard format contains two sections to allow for maximum contract uniformity while ensuring the programmatic and policy flexibility needs of each agency. Part I includes the scope of services, contract performance, budget reports and other program and department-specific provisions. Part II incorporates mandatory administrative policy language approved by the Office of the Attorney General and is standard to all human service contracts.

C) **Applicability**

This procedure applies to all Purchase of Service Contracts executed by the Department of Developmental Services. The requirements and standards contained herein do **not** apply to Personal Service Agreements (PSA).

D) **Procurement Plan**

DDS is required to submit a procurement plan for the purchase of health and human services to the Secretary of Policy and Management every three years. The DDS's procurement plan shall meet its operational requirements, as well as be in accordance with existing statutes, regulations, and policies. The planning period is three State fiscal years (SFY). The Department's submitted plan is considered a DRAFT until the agency receives notification, in writing, from OPM that the plan is APPROVED. Once approval is received, DDS must publish the procurement plan on its website.

A plan submitted to OPM for review and approval must include all eight components listed below.

1. **Purpose-** Explains what the DDS expects to accomplish through its procurement plan, including the desired outcomes and perceived benefits of the plan.
2. **Procurement Process-** Describes the DDS's POS procurement process from start to finish.
3. **Planning Approach-**Describes how DDS developed its procurement plan.
4. **Procurement Schedule-** The schedule must list all services the agency is requesting to purchase through a competitive (RFP) or non-competitive (program waiver) process during the next three fiscal years.
5. **Planning Factors-** Details the issues DDS considered when developing the procurement schedule including the criteria used in deciding how and when to purchase the services included in the schedule, the policy objectives most heavily weighed in the agency's planning decisions, formal mandates and the Department's responsiveness to its key stakeholders.
6. **Communication Protocol-** Identifies the official contact person assigned by DDS to communicate on the procurement plan. The protocol details which organizational units or employees within the agency need to be informed about the plan and how DDS will communicate its procurement plan to its employees, key stakeholders and current and potential contractors. In addition, the DDS's protocol will identify the process for answering questions from outside individuals, firms, corporations, private provider organizations, or municipalities about its procurement plan and training its employees about the prohibition on ex parte communications concerning the RFP process.
7. **Implementation & Oversight-**Identifies the organizational unit within DDS that is responsible for the procurement schedule's implementation, oversight, and monitoring of the procurement process.
8. **Additional Considerations (Optional)**

E) Procurement Training

All DDS staff charged with procurement responsibilities related to PSA's or POS contracts must receive training. The training must educate such staff on the procurement requirements and practices established by OPM's standards, the Department of Developmental Service's written procedures, and State policies, statutes, and regulations. Participation in the training is mandatory for any supervisory or non-supervisory agency employee, including program staff, having responsibility for procuring goods, services, or other assets through a contract. Training topics may include, but are not limited to, evaluating the agency's need for a contract, developing an outline of work, obtaining prior approvals from OPM, writing an RFP, soliciting proposers, evaluating proposals, contract execution, contract administration, contractor evaluation, and the State's ethics and confidentiality requirements.

F) Pre-Award Requirements

1. Evaluate the Need

Before entering into a contract, DDS staff must first evaluate the need to do so. The evaluation should identify if there are any alternative "low cost" or "no cost" means of acquiring the service in order to avoid having to purchase the service through a contract. The scope and magnitude of the evaluation should be driven by the size, complexity, length, and importance of the service involved. For example, a high cost service having a wide impact calls for a more rigorous analysis than a service of short duration with a relatively low cost and narrow impact. Before taking steps to engage a contractor, the DDS should establish that the benefits of such a decision clearly outweigh the associated costs.

2. Outline of Work

The first step in preparing a POS is to develop an outline of work describing the project's purpose, scope, activities, expected outcomes, and timeline. At a minimum, the outline of work must include the following information:

- *Purpose:* What is the need for the project? What underlying opportunity or deficiency does it address? What problem is the agency attempting to solve?
- *Scope:* What are the boundaries of the project? What services or end product does the project include? What other agencies (if any) will be affected?
- *Activities:* What does the agency want done? What functions, duties, or tasks are required? What work is to be performed?
- *Deliverables:* What will the future contractor deliver? What are the tangible (e.g., reports, plans, products) or intangible (e.g., new processes, operational changes, services) results of the project?

- *Outcomes:* What are the expected accomplishments or deliverables? What will be the beneficial effects of the project? What are the tangible (e.g., reports, plans) or intangible (e.g., new processes, operational changes) results of the project?
- *Timeline:* When, and in what sequence, will the work be done? Are there any important milestones? What are the deadlines?

2. Cost and Term Of Contract

After the outline of work is developed, DDS must determine the anticipated cost and term of the future contract. Depending on its anticipated cost and term, a competitive procurement (RFP) or OPM's *prior* approval may be required. Pursuant to State statutes, any contract with an anticipated cost of more than \$20,000 requires a competitive procurement (RFP) process. Any such contract having an anticipated cost of more than \$50,000 also requires prior approval from the Secretary of OPM before issuing an RFP. Pursuant to State statutes, any contract with an anticipated term of more than one year requires a competitive procurement (RFP) process, unless OPM approves an agency's request for a waiver of this requirement. Any contract having an anticipated term of more than one year also requires prior approval from the Secretary of OPM.

3. Approvals

When a contract has an anticipated cost of more than \$50,000 or an anticipated term of more than one year, DDS must obtain prior approval from OPM *before an RFP can be released*.

- **Request for Purchase of Service Contract** - If a POS has an anticipated cost of more than \$50,000 *or* an anticipated term of more than one year, prior approval from OPM must be received prior to the issuance of a Requests for Proposal.

To apply for approval for a POS contract, an electronic request for a "*Request for Purchase of Service Contract*," must be submitted to OPM on line using their POS Request Website.

If the Secretary approves the request, the Request for Proposal process may begin immediately. If the request is denied, the agency must not proceed further.

- **Request for Wavier from Competitive Solicitation-** If the POS is going to be a sole source purchase with a cost greater that \$20,000 (if the term of the agreement is one year or less) or with a term greater than one year, prior approval must be received from OPM prior to any discussions with a Contractor.

To apply for approval for a sole source POS contract, an electronic request for a "*Request For Waiver From Competitive Solicitation*," must be submitted to OPM on line using their POS Request Website.

Any reason given as justification for the sole source purchase (i.e., any checked box on the form) must be explained in detail. The process used to determine the proposed rate that the Contractor will be paid must also be included in the justification. The waiver request form should be submitted to OPM at least one month before the anticipated start date of a POS.

The services or end product that may qualify for a waiver include, but are not limited to:

1. Services for which the cost to the State of a competitive selection process outweighs the benefits of such a process, as documented by the State agency;
2. Services provided by a Contractor mandated by the Connecticut General Statutes or by a Public or Special Act;
3. Emergency services, including those needed for the protection of life or health; and
4. Services provided by a Contractor having special capability, unique experience, proprietary services, or patent rights.

In the case of emergency services, a request to expedite the decision on the request may be submitted to OPM.

- **Program Waiver-** A “program waiver” exempts a POS agency from the competitive procurement requirement for a specific program and for a specific length of time. With a program waiver, OPM gives an agency permission to renew the contracts with all current contractors for a specific program. In other words, a contractual relationship already exists between the agency and the service providers, and the agency may renew the contracts associated with the program without conducting a competitive procurement process. An agency requests a program waiver by listing the service in the agency’s procurement schedule. The Secretary will consider an agency’s request for a program waiver for a limited number of services and for any length of time, up to a maximum of five years. Upon approval of the agency’s procurement plan (and its associated procurement schedule), an agency is not required to competitively procure the service during the approved time frame.

When deciding whether to approve an agency’s request for a program waiver, OPM will weigh factors such as the following:

1. Whether the services are for clients with chronic conditions requiring ongoing care;
2. Whether the State has invested a significant amount of bond money in real property or physical plant for the program;
3. Whether the State is contracting with a municipality or other governmental entity; or
4. Whether zoning or siting issues make location or relocation of the service problematic.

G. Request for Proposals (RFP)

The purpose of a RFP process is to secure the best services at the lowest possible cost. State statutes recommend – and at times require – that a POS be based on a competitive negotiation (Request for Proposal). If the cost of an anticipated POS is more that \$20,000 or the term is more than one year an RFP process must be used to select a Contractor.

1. Documentation of the Procurement Process – The DDS will establish an official project file once the decision is made to enter into a contract. The project file must contain all the essential documents related to the contractor selection process. The contents of the file must be detailed enough to enable someone with no knowledge of the process (such as a State auditor) to reconstruct an accurate account of what occurred. At the end of the contractor selection process, all original documents must be retained and placed in the project file.

At a minimum, the project file must include the following documents:

- a) outline of work
- b) approvals from OPM (if required)
- c) list of all participants in the RFP process
- d) signed Ethics, Confidentiality and Conflict of Interest forms
- e) RFP document, including any amendments
- f) evaluation plan, including any amendments
- g) legal notice and advertising placements
- h) any mailing list used to distribute the legal notice
- i) written questions (from prospective proposers, proposers) and answers (from DDS)
- j) list of attendees at the RFP conference (if held)
- k) audio recording, transcript, notes, or minutes of RFP conference (if held)
- l) copies of all RFP related correspondence, including email
- m) all proposals received before and after the deadline
- n) list of proposals received after the deadline (if any)
- o) all rating sheets used for evaluating proposals
- p) any forms or notes used to check references
- q) final ratings and ranking of proposals
- r) Screening Committee’s recommendations to the DDS Commissioner
- s) documentation of the DDS Commissioner’s selection or rejection of a contractor

2. RFP Preparation

To ensure the equitable treatment of potential Proposers, each must receive the same, accurate and authorized information throughout the RFP process. Employees must refrain from discussing the RFP with any outside parties. Any communications should be directed to the Official Agency Contact.

a. Agency Contact

An agency employee must be selected to be the Official Agency Contact. This individual should be a “disinterested party” (meaning, having no interest or involvement) in the RFP process, but is knowledgeable about it. This individual will be responsible for handling all communications with outside parties concerning the RFP. This individual will also receive all proposals and keep them, unopened, in a secure location until the submission deadline

b. Organizing the Team

The DDS Commissioner (or designee) must select a group of persons referred to as “the Team” to work together to conduct the RFP process. He/she must also appoint an individual to be the Team’s chairperson. The Team will have three essential tasks.

- Writing the RFP
- Writing the evaluations plan for reviewing the RFP
- Reviewing proposals

a. Ethics and Confidentiality

Team members and any other individuals who participate in the RFP process must comply with the State’s current ethics laws pertaining to State contracting.

All members of the RFP Team must be advised about the activities prohibited by the State’s Code of Ethics for Public Officials (C.G.S. § 1-84). All members must also be advised that they must not participate in the RFP process if they have any interest that substantially conflicts with the proper discharge of their duties in the public interest (C.G.S. § 1-85). The State’s ethics requirements are further defined by Public Act 04-245, “*An Act Strengthening Ethics Laws Concerning Financial Disclosure, Gifts and State Contractors,*” and Governor M. Jodi Rell’s Executive Order No. 1, dated July 1, 2004 (Attachment F).

Any public official or State employee having responsibility for the review, award, or monitoring of State contracts must file a *Statement of Financial Interests* form with the Office of State Ethics (OSE), under the terms provided by C.G.S. § 1-83.

To reinforce the importance and seriousness of these matters, all Team members must be required to sign an *Ethics and Confidentiality Agreement* at the outset of the RFP process. Any other agency employees who are privy to confidential information pertaining to the RFP must also sign an agreement. In signing the agreement, the Team members and agency employees attest that they will abide by the standards of conduct set forth in the State’s Code of Ethics and further attest that they do not have a conflict of interest with the proper discharge of their duties.

The agreements must be reviewed and endorsed once the identities of the potential or actual Proposers become known.

d. Prohibited Activities

The Team members must conduct themselves in an acceptable manner and must refrain from engaging in certain prohibited activities during the RFP process. These activities give the appearance of impropriety and are contrary to the State’s standard business practices. The following activities are prohibited:

- Offering financial donations, material goods, gratuities, gifts, or favors to the agency or the agency’s employees;
- Offering fund-raising activities for the agency’s benefit;
- Offering unsolicited in-kind services;
- Offering activities, services, or sponsorships outside of the RFP subject area;
- Discussing other Proposers or proposals, or making comparisons to them;
- Referring or alluding to political affiliations, organizations, or connections; or

- Providing endorsements or references from individuals who have no expertise or experience in the RFP's subject area (e.g., celebrities).

e. Illegal Activities

All agencies and all Proposers must abide by all relevant State laws related to State contracting. Violations of the law constitute grounds for disqualification of a proposal or other sanctions, or both. Illegal activities include, but are not limited to, the following:

- Bribery – C.G.S. § 53a-147
- Commercial bribery – C.G.S. § 53a-160
- Receiving a commercial bribe – C.G.S. § 53a-161
- Bid rigging – C.G.S. § 53a-161a
- Disclosure of bid or proposal – C.G.S. § 53a-161b
- Receiving kickbacks – C.G.S. § 53a-161c
- Paying a kickback – C.G.S. § 53a-161d
- Hindering prosecution – C.G.S. § 53a-165aa, 53a-166 & 53a-167

f. Mandatory Reporting

If a member of the Screening Committee or an agency employee uncovers or suspects any prohibited or illegal activity related to the RFP process, the activity must be reported to the Chair of the Screening Committee or the DDS Commissioner. If reported to the Chair, the Chair must report the activity to the DDS Commissioner. The DDS Commissioner – upon advice of the agency's legal counsel, the Chief State's Attorney (Division of Criminal Justice), and the AG's Office – must decide whether to investigate or prosecute or take other appropriate action with respect to the reported activity.

g. Freedom of Information Act (FOIA)

Several provisions of the Connecticut FOIA may be applicable to an RFP.

The Connecticut FOIA generally requires the disclosure of documents in the possession of a State agency upon the written request of any citizen, unless some "exemptive provision" exists to allow non-disclosure. Before its issuance, an RFP document may be able to be exempt from the FOIA using the "preliminary drafts or notes" exemption found in C.G.S. § 2-210(b)(1). Preliminary drafts or notes relate to advisory opinions, recommendations, and deliberations comprising part of the process by which government decisions and policies are formulated. This means that the RFP should be labeled "DRAFT" and treated accordingly until the issue date. Labeling the RFP "DRAFT" and treating it as an "advisory opinion, recommendation, and deliberation" prior to the issue date may help the document qualify under the preliminary draft or notes exemption.

Once issued, however, the RFP will be considered a final and public document subject to the FOIA.

2. Writing the RFP

The Department of Developmental Services will develop and administer RFP's as per OPM's Standards and Procedures. The RFP will contain all the components as required by State Statutes, Executive Orders, and OPM Standards.

a. Components of an RFP – Required by State Statute

- legal notice
- outline of the work to be performed
- Cost Proposals

- contract term
- required minimum qualifications of the Contractor
- required format for proposals
- review criteria
- submission deadline for proposals
- Contract Compliance Forms

b. Components of an RFP – Required by Executive Order

- affidavit concerning campaign contributions
- affidavit concerning gifts
- Notification to Bidders - This document gives notice that the contract to be awarded is subject to the contract compliance requirements mandated by State statutes and regulations. The signed copy of this form must be sent to CHRO with CHRO Form CC052 (see section W)
- Contract Compliance Notice Report- This notice concerns the prohibition of discrimination in employment practices. Upon award of a State contract, the notice must be posted by the Contractor in conspicuous places accessible to all employees and applicants for employment.

c. Components of an RFP – Required by OPM’s Standards

- instructions for Proposers
- official agency contact
- Proposer’s representatives
- communications notice
- schedule of events (timeline)
- confidential information notice
- affirmations concerning contract and conditions
- minimum submission requirements
- client based outcome measures with complete and clear information about how the measures are defined (by the agency), how the data must be collected and reported (by the contractor), and how the reported data will be assessed (by the agency).
- references
- packaging and labeling requirements
- *inquiry procedures*

d. Optional or Recommended Components

- letter of intent
- Proposers’ conference
- style requirements
- multiple submissions
- meetings with Proposers
- insurance certificate

The Team members responsible for writing the RFP need to organize all the required components into a logical, well-presented document. It is strongly recommended that the RFP be submitted to the agency’s legal counsel for review before its release.

H. Writing the Evaluation Plan

Certain members of the RFP Team must be charged with the responsibility for writing an evaluation plan. At the agency's option, the members of the Screening Committee or some subset of the Committee may write the evaluation plan. The evaluation plan describes the Screening Committee's step-by-step process for reviewing proposals: from the time when the proposals are received by the Official Agency Contact, to the time when the names of the three top ranking Proposers are submitted to the DDS Commissioner. The plan must also include the rating sheets (with the criteria and weights) that must be used when reviewing the proposals. The members of the Screening Committee and the DDS Commissioner (or designee) must approve the evaluation plan, including the weighted criteria, before the RFP is released.

The evaluation plan should include, but is not limited to, the following steps in the review process:

- Receiving proposals
- Reading proposals
- Individual rating of proposals
- Holding meetings with Proposers (optional)
- Committee rating of proposals
- Final ranking of proposals
- Reporting to DDS Commissioner

I. Advertising

1. Print Media

When the anticipated cost of the POS is more than \$50,000, the RFP must be advertised in the print media. The first step in advertising the RFP is writing a legal notice – i.e., a public announcement about the RFP. At a minimum, the legal notice should contain the following information:

- the agency's name and address;
- a brief description of the project;
- the required minimum qualifications of the Contractor;
- the location, date, and time of the Proposers' conference (if any);
- the person to contact to obtain a copy of the RFP; and
- the deadline for submitting proposals.

Once written, the legal notice must be advertised in the print media. Print media include major newspapers having either statewide or regional (multi-state) circulation. Pursuant to Executive Order No. 3, all bids, RFPs, related materials, and resulting contracts and agreements must be posted on the DAS State Contracting Portal. All legal notices and RFPs must also be published on the agency's website. Be sure to coordinate the timing of any direct mailing with the publication of the legal notice in the print media, on the agency's website, and on the State Contracting Portal. They should occur simultaneously.

2. Direct Mailings

The legal notice can also be mailed to individuals, qualified providers, firms or corporations that may be interested in responding to the RFP, but such a mailing must not be done exclusively. The direct mailing must also include small and minority-owned businesses that have been

certified by DAS. Contact DDS's Affirmative Action Department or DAS for a copy of the current list. The list is also available on the DAS website.

Some interested parties may request a hard copy of the RFP. So as not to discriminate against those without access to a computer, a printer, or the Internet, a hard copy of an RFP must be given to anyone who requests one. It is advisable to keep a list of all those requesting a copy, as this information can be useful for updating direct mailing list or issuing any amendments to the RFP.

3. Website Advertising

a. DDS Home Page

All legal notices and RFPs must also be published on the DDS website. Ideally, a prominently placed hyperlink or clickable image on the "home page" should take the viewer to an "RFP page" where all the legal notices and RFPs are listed. From the RFP page, a viewer should be able to view, download, and print each legal notice and RFP.

b. DAS Procurement

DAS maintains a page on its website devoted to "Other State Agency Bid/RFP Sites." The address is http://www.das.state.ct.us/Purchase/Portal/Portal_Home.asp. Per *Executive Order # 3* (Attachment J) issued by Governor Jodi Rell, all bids and RFP's must be posted to this State Contracting Portal.

J. Inquiry Procedures

All questions from Proposers must be directed to the Official Agency Contact, who is responsible for forwarding the questions to the Team. The Official Agency Contact should compile and repackage the questions into a new document without any identifying information about the Proposers. The Team should answer these questions as clearly as possible and in such a way as to preserve the integrity of the process. The procedure the Team adopts to answer questions must be explained in the RFP.

Proposers must submit their questions in writing by the deadline(s) established in the RFP. The deadline for questions should be at least two weeks after the RFP is issued. The agency should allow Proposers to submit questions using a variety of means (i.e., US mail, e-mail, facsimile, or an electronic form posted on the agency's website). Questions must not be accepted over the telephone.

All questions received before the deadline must be answered. The Team has the right to combine "like questions" and give only one answer. The Team is not required to answer questions when the source is unknown (i.e., nuisance or anonymous questions).

All questions and answers must be compiled into a written amendment to the RFP and numbered (e.g., Amendment 1), even if there is only one question and answer. In the event that multiple amendments are issued, they must be sequentially numbered (e.g., Amendment 2, 3, etc.). If the answer to any question constitutes a material change to the RFP, the question and answer must be placed at the beginning of the amendment and duly noted as such. Amendments should be reviewed by the agency's management, as appropriate, prior to release.

The Team must release the answers to questions on the date established in the RFP. The established deadline must give the Team enough time to prepare the answers and have them approved by agency management, as appropriate. Any and all amendments must be distributed to the following individuals: (1) those on any mailing list used to distribute the legal notice or RFP, (2) those who submitted a letter of intent (if any); (3) those who submitted questions; and (4) those who attended the Proposers' conference (if any). If, however, the RFP required a letter of intent or attendance at a Proposers' conference, the Team need only distribute the amendment(s) to those who submitted such a letter or attended the conference. In addition, an agency must also publish amendments on its website and the DAS website. An agency must not use its website as the sole or exclusive means of distributing answers to questions about the RFP.

The release date for the answers to questions about the RFP must be at least two weeks before the deadline for submitting proposals. If answering questions takes longer than anticipated, the Team should consider the amount of time remaining until the submission deadline. When an insufficient period of time remains (i.e., less than two weeks), the Team should establish a new deadline – using an amendment to the RFP to do so.

K. Receiving RFP's

All proposals received *before* the deadline must be stamped with the time and date they are received. The proposals must then be placed – unopened – in a secure location by the Official Agency Contact. They must not be opened until the deadline has passed.

Any proposals received *after* the deadline must also be stamped with the time and date they are received. A memorandum, documenting the date and time that a late proposal was received, must be prepared and maintained in the project file. Late proposals must be disqualified and not reviewed by the Screening Committee. Late proposals must not be opened and must be retained in a secure location by the Official Agency Contact for the duration of the review process. Any Proposer who submitted a late proposal must be immediately notified in writing that the proposal has been disqualified.

If fewer than three acceptable proposals have been received in response to an RFP, and the POS has an estimated cost greater than \$50,000, an OPM form "*Request for Non-Competitive Personal Service Agreement*" must be submitted to OPM on line using their POS Request Website.

L. Reviewing Proposals

The Screening Committee must review the proposals eligible for review in accordance with the approved evaluation plan. After the due date and time for submitting proposals has passed, proposals must be opened by the Chair (or designee) in conjunction with one other Committee

member. The Chair and Committee member must conduct a preliminary review of each proposal to verify that the proposal meets the minimum submission requirements, as specified in the RFP. The Chair must advise the Screening Committee about any proposal that does not meet the minimum submission requirements. At the request of the Screening Committee, the Official Agency Contact may contact any proposer who submitted a deficient proposal and allow the proposer a specified period of time to correct those *minor* deficiencies identified in the evaluation plan. Any such correction must be submitted to the Official Agency Contact within the time allowed (e.g., 24 hours). Failure to submit the necessary correction within the time allowed must disqualify a proposal from further review. Other than to correct a minor deficiency (as described here), no changes shall be made to any proposal after it has been accepted for evaluation by the Screening Committee.

After the deadline for submitting proposals, the Chair must assign a Team member (or members) to check each Proposer's references. The purpose is to verify the skills, qualifications, work record, or accomplishments of a Proposer and to seek other information about the Proposer that may be of interest to the Screening Committee. The *DDS RFP Reference Verification form* must be used for checking references. Once the reference checks are completed, the Team members report their findings to the Chair and other Committee members.

The Screening Committee may ask clarifying questions of Proposers. The purpose of such clarifying questions is to allow Proposers to further explain aspects of their proposals causing confusion or misunderstanding. The Chair should designate a Committee member to collect questions from the Screening Committee, organize the questions into sets by Proposer. The Official Agency Contact should send each proposer only those questions concerning his or her proposal. The questions may be sent by US mail, facsimile, or e-mail. Proposers should be given a limited amount of time to respond back to the Official Agency Contact with their written answers (e.g., three business days). The Screening Committee must review each answer with an eye to make sure that it clarifies – and does not alter – the original proposal.

If the RFP and evaluation plan allows for interviews, such meetings with Proposers may be conducted at any time before the final rating of proposals by the Screening Committee and in accordance with procedures established by the Screening Committee *prior to holding any such meetings*. If the RFP evaluation plan allows for site visits they must be done in accordance with the two memoranda (dated July 21, 2004 and August 3, 2004) by Governor Rell. If the Screening Committee conducts interviews, all qualified Proposers should be interviewed. At its option, the Screening Committee may decide to meet with only the top ranking Proposers. The actual number invited should be decided by a vote of the entire Committee and documented in the project file. It is recommended that, at a minimum, the six top ranking Proposers be invited. Since the Committee is required by State statute to report the names of the three top ranking Proposers to the DDS Commissioner at the conclusion of the review process, a somewhat larger pool of Proposers would give the Committee more options.

M. Rating the RFP

When reviewing and rating proposals, the members of the Screening Committee must follow the DDS RFP procedure. All individual and committee rating sheets must be retained in the project file and must be disclosed if they are the subject of an active FOIA request

N. Contractor Selection

According to State statutes, the Screening Committee must report the names of the three top ranking Proposers to the DDS Commissioner, who must select the Contractor from among these names. After receiving the three names from the Screening Committee, the DDS Commissioner may, however, consult with the Screening Committee or other agency personnel in making a decision about which Contractor to select.

The Screening Committee's report to the DDS Commissioner must detail the review process and the recommendations. The report must contain the names of the three top ranking Proposers and their final ratings. The Chair of the Screening Committee submits the report to the DDS Commissioner. The DDS Commissioner may consult with key DDS staff in his review of the proposals. After considering the recommendations in the report and/or the feedback from the DDS staff, the DDS Commissioner may select the Contractor from among the three top ranking Proposers or reject any or all of the three top ranking Proposers. It is advisable that the DDS Commissioner document the reason(s) for selecting and/or rejecting a particular Proposer. If the DDS Commissioner does not wish to select one of the top three, then no Proposer must be selected and the RFP process must be voided. The DDS Commissioner may also void the RFP process for other reasons, such as a lack of adequate funding or some unforeseen change in an agency's circumstances or requirements.

After the DDS Commissioner makes a selection from among the three top ranking Proposers, the selected Proposer is given the opportunity to negotiate a contract with the agency. Such negotiations may, but do not automatically, result in a contract.

O. Contract Negotiation

Once the DDS Commissioner selects the Proposer, contract negotiations may begin. If all terms and conditions are not agreed upon by both the State and the selected Proposer, negotiations may begin with the second and third Proposers, in that order. Negotiations should not take place with multiple proposers at the same time.

After a contractor has been selected, negotiations cease and the contracting process begins.

The Proposers who were not selected must be notified about the outcome and thanked for their interest and participation. The Team is then debriefed and disbanded.

According to State statute, no agency may hire a contractor without first executing a POS. A contractor must **not** begin work until the contract is fully executed.

P. Appeal Process

Any proposer may appeal the competitive solicitation process used by an agency to award a POS contract. Such appeal must be submitted by a proposer, in writing, to the DDS Commissioner. The proposer must set forth facts or evidence in sufficient detail for the Commissioner to determine whether the competitive solicitation process failed to comply with the State's statutes, regulations, or standards (established herein) concerning procurement.

A proposer may file an appeal at any time during the solicitation process, but not later than ten business days after an agency announces the contract award.

The filing of an appeal shall not be deemed sufficient reason for an agency to delay, suspend, or terminate the competitive solicitation process or execution of a contract.

The DDS Commissioner must issue a decision, in writing, not later than thirty days after receipt of any such appeal. A copy of the decision must be given to the proposer who filed the appeal and any other interested party. The decision shall:

1. Summarize the agency's competitive solicitation process for the contract in question; and
2. Indicate the Commissioner finding(s) as to the merits of the proposer's appeal.

In the event that the DDS Commissioner determines that a process violation has occurred and that the violation had a substantial effect on the solicitation, the Commissioner shall take corrective action not later than thirty days after the date of such a determination. In the event such appeal is found to be frivolous, an agency head may dismiss the appeal. Any decision issued by an agency head shall be final and not subject to further appeal.

Effective June 1, 2010, any bidder or proposer on a State contract may appeal the solicitation or award of a contract to a subcommittee of the State Contracting Standards Board.

Q. Post Award Requirements

1. Purchase of Service Contract

After the contractor has been notified that they have been selected, the Department will establish a POS contract with the contractor for the purchase of direct human services to individuals served by the DDS. The standard contract template is divided into two parts:

- Part I contains the scope (outline) of services, contract performance, budget reports, and other program and agency-specific provisions. No provision of Part I shall negate, supersede, or contradict any provision of Part II.
- Part II contains mandatory terms and conditions that are applicable to all State agencies using the standard contract template for POS. These provisions in Part II include client

related safeguards; contractor obligations; alterations, cancellation and termination; and statutory and regulatory compliance.

2. **Contract Management**

DDS will establish a Resource Administration department in each region to *monitor* the contractor to assure that progress is made according to the established schedule and that the quality of the services delivered meets the Department's requirements. A Resource Manager will be assigned to each contract to maintain communications with the contractor while the work proceeds, so as to identify and resolve problems early. The responsibilities of the Resource Manger may include, but are not limited to, the following:

- Coordinate the flow of information between the agency and the contractor;
- Respond to requests from the contractor;
- Authorizing contractor payments against the contract's budget;
- Monitor progress against work schedules or milestones;
- Review and approve amendments
- Take corrective action when a contractor's performance is deficient;
- Resolve disputes in a timely manner; and
- Maintaining appropriate records.

Not later than 60 days after a contractor has completed work on a contract, DDS will *evaluate* the contractor's performance and create a formal record of the agency's level of satisfaction with the contractor, which can help inform future decisions about using the contractor. DDS must prepare a written evaluation of the contractor's performance. The Department must use OPM's form, *Personal Service Contractor Evaluation*, for this purpose. The form is available on OPM's website at http://www.ct.gov/opm/fin/contractor_evaluation

An agency may submit an amended evaluation of a contractor, if necessary. A situation may arise where an agency receives additional information about a contractor after submitting an evaluation to OPM and the additional information is inconsistent with the agency's submitted evaluation. Additional information may include, but is not limited to, financial statements or audit reports related to the contract. To submit an amended evaluation, use the same form (as above) and note that it is an AMENDED evaluation. In the "Other Comments" section, explain why the agency is amending its original evaluation.

A printed (hard) copy of the completed evaluation form must be retained in the official project file. An electronic copy of the evaluation form must be submitted by email to OPM's Executive Financial Officer at efo.opm@ct.gov In the Subject line of the email, enter "Contractor Evaluation" and the Contract ID number, using the standardized numbering schema to enter a contract in CoreCT.

X. References

State of Connecticut, Office of Policy and Management Procurement Standards for Personal Service Agreements and Purchase of Service Contracts.
C.G.S. § 4-70b(c) inclusive
Code of Ethics for Public Officials – C.G.S 1-84 and 1-85