

# DEEP's Procedures for Processing Personal Service Agreements (PSAs)

Rev. 1/23/13

# OPM Guidelines

available at:

[http://www.ct.gov/opm/cwp/view.asp?a=2982&q=383012&opmNav\\_GID=1806](http://www.ct.gov/opm/cwp/view.asp?a=2982&q=383012&opmNav_GID=1806)



State of Connecticut

OFFICE OF POLICY AND MANAGEMENT

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**PROCUREMENT STANDARDS:**

**For PERSONAL SERVICE AGREEMENTS and  
PURCHASE OF SERVICE CONTRACTS**

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Office of Policy and Management  
450 Capitol Avenue  
Hartford, Connecticut 06106

Effective Date: February 17, 2009  
Revised: May 14, 2012

# DEEP Guidance Available on InsideDEEP

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**Grants, PSAs, Contracts and MOUs**

With the impending merger and establishment of the *Department of Energy and Environmental Protection*, our cover letters, contracts, grants, forms, etc., have been modified herein to acknowledge our new entity.

[Grants](#)

**A grant is** a contract between a State agency and another party, where the State agency has funding available for use by certain groups (municipalities, academic institutions, environmental organizations, etc.) which meet certain environmental and other eligibility criteria, but where the project is being proposed and undertaken by, and is of direct benefit to, the recipient of the grant.

[Personal Services Agreements \(PSAs\)](#)

**A Personal Services Agreement (PSA) is** a contract between a State agency and any person, firm or corporation not employed by the State, who is hired by a State agency for a fee to provide services to the agency. Typically, a PSA is used to purchase infrequent and non-routine services or end product, such as specialized consulting services, technical assistance, and training. By law, no State agency may hire a Contractor to deliver such services or end product without first executing a PSA.

Upcoming Employee Events

# Staff who may be Involved

- ▶ Program staff
- ▶ Business Office staff
- ▶ Clerical staff
- ▶ Legal

**Note: ALL contract MUST be processed through Financial Management**

# Program Staff Responsibilities

- ▶ Coordinate with Business Office staff.
- ▶ Provide info for OPM PSA Request.
- ▶ Coordinate with OIM for IT related PSAs.
- ▶ Develop Request for Proposals.
- ▶ Develop the Evaluation Plan.
- ▶ Evaluate & recommend selected vendor.
- ▶ Develop the detailed **Scope of Work, Schedule of Payments** and any other **technical components** of the PSA document.

# Program Staff Responsibilities

- ▶ Provide appropriate statutory citations.
- ▶ Verify deliverables.
- ▶ Coordinate with vendor to ensure work is done on schedule.
- ▶ Review invoices.
- ▶ Prepare & submit the Contractor Evaluation to OPM.

# Business Office Responsibilities

- ▶ Enter OPM PSA Requests.
- ▶ May assist in RFP & Evaluation Plan compilation & distribution.
- ▶ May serve as Official Agency Contact.
- ▶ Develop and maintain contract templates.
- ▶ Apply appropriate chartfield information.
- ▶ Incorporate info from Program Staff into template.
- ▶ Coordinate with Program Staff & Grants Mgt. Staff for any language required in federal grant awards.

# Business Office Responsibilities

- ▶ Address value-specific & type-specific clauses.
- ▶ Ensure all OPM & DAS approvals are received.
- ▶ Route agreements for approvals.
- ▶ Track the status of the PSA.
- ▶ Obtain & review appropriate support documentation.
- ▶ Process invoices for payment.
- ▶ Maintain information on balances & duration.

# Legal Counsel Responsibilities

- ▶ Determine deviations from standard language
- ▶ Identify deviations for risk management coverage
- ▶ Provide legal clarification / general counsel
- ▶ Answer ethics questions
- ▶ Provide guidance where party offers “free” goods or services
- ▶ Address issues regarding endorsements or advertising
- ▶ Assist with multi-party agreements (3 or more)

# Possible Clerical Staff Responsibilities

- ▶ May assist in RFP & Evaluation Plan compilation & distribution.
- ▶ Photocopying
- ▶ Mailing
- ▶ Tracking dates documents are mailed and received

# Developing an Outline of Work

Address these fundamental questions:

- ▶ What will the final deliverables /products be?
- ▶ How many do you need?
- ▶ When are they needed? Contract can **NOT** include any retroactive work.
- ▶ What format/design do you need?
- ▶ Where must the services be provided?
- ▶ What will be the ultimate benefit to DEEP?

# Establish the Need for a Contract

Decision to enter into a PSA is driven by a variety of factors such as:

- ▶ Legislation
- ▶ Federal grant requirements
- ▶ Specialized skills or expertise
- ▶ Budgetary factors

# Who Can do the Work?

First consider:

- ▶ Does DEEP have internal staff available?
- ▶ Do other state agencies have the expertise and availability?
- ▶ Is there a state contract on the DAS Portal?

If not,

- ▶ What are the skills and qualifications needed?
- ▶ What is the available budget?

# Obtaining Prior Approvals from OPM

Prior OPM Approval is required when:

- ▶ Making a sole source procurement and the PSA has an anticipated cost of more than \$20,000 or an anticipated term of more than one year.
- ▶ The PSA has an anticipated cost of more than \$50,000 or an anticipated term of more than one year.
- ▶ If fewer than 3 bids were received in response to an RFP.
- ▶ Processing an amendment to an existing PSA.

# Requesting Online Approvals from OPM

- ▶ DEEP continues to use paper forms to obtain Director or Bureau Chief signature
- ▶ Forms are available in Word format on InsideDEEP
- ▶ All requests must be through OPM's online process.
- ▶ Contact your Business Officer to see if they have access to the on-line PSA Request.

# Pursuant to OPM's guidelines

“Waiver requests to make a sole source procurement should be submitted to OPM as soon as possible, but generally no later than 6 months prior to the anticipated start date of the contract. **Submission of the request less than 6 months prior to the anticipated contract start date may be a basis for denial of the request or approval of a shorter-term contract than requested.** “

<a href="#"><u>Request For Personal Service Agreement</u></a> (MS Word)		5/24/11	Form required for entry into OPM PSA Portal if PSA cost is greater than \$50,000 <b>or</b> a term greater than one year.
<a href="#"><u>Request for Waiver From Competitive Solicitation</u></a> (MS Word)		5/24/11	Form required for entry into OPM PSA Portal for any non-competitive PSA with cost greater than \$20,000 (if the term is one-year or less) <b>or</b> for any non-competitive agreement with a term greater than one year.
<a href="#"><u>Request for Amendment</u></a> (MS Word)		5/24/11	Form required for entry into OPM PSA Portal when requesting an amendment to an existing PSA.
<a href="#"><u>Request for Non-Competitive Personal Service Agreement</u></a> (MS Word)		5/24/11	Form required for entry into OPM PSA Portal if the cost of a PSA exceeds \$20,000 and fewer than 3 acceptable bids were received in response to an RFP.
<a href="#"><u>Personal Services Contractor Evaluation</u></a> (MS Word)		3/15/06	Form used for evaluation of contractors performance; to be submitted to OPM following conclusion of a PSA.

**REQUEST FOR PERSONAL SERVICE AGREEMENT**

Rev. 5-16-12

Submit this form when requesting a **COMPETITIVE** personal service agreement with a cost greater than \$50,000 or a term greater than one year.

PSA Title: [ ]

[ ] - Yes [ ] - No → Does the Scope of work for this PSA include auditing services?

Outline of Work (Purpose, Scope, Activities, Outcomes): [ ]

Need for PSA: [ ]

[ ] - Yes [ ] - No → Has the agency contracted out for these services or end product during the preceding two years?

If yes, provide the following information about the previous contract:

- → Type of Proposal: [ ] Competitive [ ] Non-Competitive
- → Name of Contractor: [ ]
- → Term of Contract: [ ]
- → Cost of Services: [ ]

[ ] - Yes [ ] - No → Does another State agency have the resources to provide these services?

[ ] - Yes [ ] - No → Can these services or end products be purchased on a cooperative basis with another State agency?

[ ] - Yes [ ] - No → Will the services (irrespective of contractor) be ongoing?

Start Date: [ ] → End Date: [ ]

Estimated Cost: [ ]

Identify funding source(s) by fund, SID and amount. Note this breakdown should equal the Estimated Cost.

[ ]

Bureau/Division Involved: [ ]

[ ]

Director/Bureau Chief Name & Title: [ ]

[ ]

\*Director/Bureau Chief Signature: [ ]

Date: [ ]

[ ]

Agency Contact Name: [ ]

[ ]

Agency Contact Phone No. [ ]

[ ]

Agency Requester (OPM Portal Requester Role) [ ]

Dennis Thibodeau [ ]

# OPM Approvals (cont'd.)

- ▶ By statute (CGS Sec. 4-216 (a)), OPM has 15 business days to make a decision.
- ▶ Cannot publish RFP or execute PSA prior to OPM Approval

# IT Related Contracts

Requires approval from the State's Chief Information Officer (DAS Bur. of Enterprise Systems Technology) (CGS 4d-32)

Coordinate at the same time as OPM request.

- ▶ Program staff coordinate with DEEP's Office of Information Management to obtain written approval (required prior to PSA signature)
- ▶ Determine if a DAS/BEST contract already exists (if so, it should be used)
- ▶ Clearly spell out what work will be done and why a PSA is required

# Create the Official Project File

It will include items such as:

- outline of work
- approvals from DAS, BEST and OPM (if required)
- the RFP document(s)
- the legal notice and advertising placements
- mailing lists to distribute the legal notice
- the names of participants in the RFP process
- written questions from Proposers and the agency's written answers
- a list of attendees at the Proposers' conference (if held)
- copies of all RFP-related correspondence
- the evaluation plan and amendments
- all proposals received
- any required affidavits and certifications
- all proposal rating sheets
- the final rankings of proposals
- the Selection Committee's written report to the Agency Head
- original contract & amendments (if any)
- DUNS Verification For
- all authorized payments and supporting documents
- the final evaluation of the Contractor

# Selecting the RFP Team

Recommended to have at least 3 members

The team will:

- ▶ Write the RFP
- ▶ Write the Evaluation Plan
- ▶ Review and Rate all Proposals

# Ethics & Confidentiality

All Team members must sign an **ethics and confidentiality agreement** at the outset of the RFP process.

Members must remove themselves from reviewing a proposal if a conflict exists.

# Select an Official Agency Contact

A "disinterested" but informed contact who:

- ▶ receives and maintains all UNOPENED proposals, and
- ▶ handles all communications with the Proposers.

Will NOT be part of the Selection Team.

May be a business office, clerical or other program staff member.

# Writing an RFP

- ▶ Coordinate with your business officer or designee
- ▶ A sample RFP and guidance is available on DEEP's intranet
- ▶ The sample RFP may be modified to meet the needs of the project
- ▶ RFP must be advertised through the DAS State Contracting Portal

# RFP Review Criteria

All criteria used for selection **must be identified in the RFP**. They should be:

1. **Objective** – based on the project’s characteristics and requirements;
2. **Comprehensive** – address all key elements of the RFP;
3. **Clear** – readily understood by Proposers and the Screening Committee;

# RFP Review Criteria (cont'd.)

4. **Fair** – treat all Proposers equitably,
5. **Appropriate** – suitable for the purposes at hand; and
6. **Measurable** – quantifiable.

# RFP Minimum Submission Requirements

- ▶ Determine what constitutes an "acceptable" proposal.
- ▶ Examples of requirements include, but are not limited to:
  1. meeting the submission deadline,
  2. meeting the packaging and labeling requirements,
  3. submitting a complete and signed proposal,
  4. following the required format, and
  5. submitting the certifications and affidavits required by law, executive order or policy.

# Write the Evaluation Plan

- ▶ Written process for reviewing proposals.
- ▶ Must be in place prior to publishing the RFP.
- ▶ Sample Evaluation Plan and Rating Sheets are available on DEEP's intranet.

# Evaluation Plan

May include procedures for:

- ▶ Receiving proposals
- ▶ Reading proposals
- ▶ Addressing deficiency
- ▶ Individual rating of proposals
- ▶ Holding meetings with Proposers (optional)
- ▶ Committee rating of proposals
- ▶ Final ranking of proposals
- ▶ Reporting to Agency Head

# Soliciting Proposers

A legal notice should be drafted to include:

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

# Soliciting Proposals

## Legal Notice

- ▶ Must be posted in newspapers if anticipated cost is more than \$50,000
  - Must also include small and minority-owned businesses (see DAS website or DEEP Affirmative Action staff)
- ▶ Legal Notice may also be sent via direct mail
- ▶ RFP is posted on DAS State Contracting Portal

# Inquiry Procedures

- ▶ Inquiries should be handled by the Official Agency Contact
- ▶ Proposers should have no contact with the selection team.
- ▶ All questions must be submitted in writing
- ▶ Questions and answers must be posted on the DAS Contracting Portal as an RFP Amendment

# Evaluating Proposals

- ▶ Conduct initial review to determine which met the minimum submission requirements.
- ▶ If the proposal is deficient, and the Evaluation Plan allows this, the proposer can be given a limited time to remedy the deficiency.
- ▶ If not remedied, the proposal is not considered for further evaluation.
- ▶ Each member of the Team completes an evaluation form for each proposal

# Evaluating Proposals (cont'd)

- ▶ References are checked.
- ▶ Overall rating is determined.
- ▶ Top 3 proposals are summarized in a Report to the Agency Head.
- ▶ Agency Head determines the selected contractor.
- ▶ Vendors not selected are notified.
- ▶ Contract negotiation/drafting process begins.

# Drafting the PSA

- ▶ **Do not allow contractor to perform work prior to full contract execution.**
- ▶ Coordinate with your Business Office for contract template.
- ▶ Use the legal name of the contractor. Verify with Secretary of State's Concord system.
- ▶ Include statutory references.
- ▶ All PSAs must include required standard administrative language (clauses vary based on award value, funding source and IT services).
- ▶ *SEEC Notice to Executive Branch State Contractors of Campaign Contribution and Solicitation Limitations* (if with a non-municipality over \$50,000 in a fiscal or calendar year)

# Duration

- ▶ Be aware of time constraints
  - Administrative activities
  - Permitting issues
  - Seasonal constraints
  - Duration of funding availability
- ▶ Retroactivity is not allowed.

You may NOT tell a contractor to start work until the contract has been fully executed.

# Set Aside

## ▶ Set-Aside Provisions

1. If federal funds are used, review the specific federal grant award and incorporate any specified requirements.
2. If state or other funds are being utilized, consult DEEP's set-aside list of program exemptions approved by DAS to determine if the specific contract is subject to the requirements of CGS 4a-60g. Contact Nancy Lent to obtain that information.
3. If state and federal funds are co-mingled, only the Federal must be followed. These projects must also comply with the specific CHRO Affirmative Action Plan requirements applicable to the contract award.

# Scope of Work

The contract must be **clear**.

**Anyone** should be able to determine:

- Who must perform specific work tasks?
- What work is required (deliverables)?
- When are deliverables due?
- Where is the work to be performed?
- When is Payment due and in what amounts?

Where appropriate, include maps and diagrams to clarify locations and/or deliverables.

# Scope of Work

Clearly describe:

- all work **tasks**
- the **sequence** of work
- description of all **deliverables** (including formats)
- applicable **time frames** (seasonal constraints, etc.)
- responsible parties for specific tasks
- **reporting requirements**
- budget and payment schedule

# Terminology

OPM has applied the following definitions:

- ▶ SHALL or MUST indicates **required** tasks or actions.
- ▶ SHOULD indicates **recommended** tasks or actions.
- ▶ MAY indicates **permissible** tasks or actions.
- ▶ CAN means the **ability** to do, make, or accomplish (something); it is not used as a substitute for MAY.
- ▶ WILL indicates **anticipated or future** tasks or actions.

Avoid jargon wherever possible  
Spell out acronyms 1<sup>st</sup> time used

# AG's Checklist

- ▶ Prepare AG's Checklist prior to routing for internal review to ensure all mandatory clauses are included.  
(Note: there is a different AG's IT Checklist for IT related services)
- ▶ Checklist Items 22 & beyond likely need to be provided AFTER contract has been signed by Contractor.



# Drafting Amendments

- ▶ Plan on 60 days from request to approval.
- ▶ Need to obtain OPM Approval prior to sending amendment for signature.
- ▶ Must be fully executed PRIOR to expiration of current award.
- ▶ Amendment duration runs from start of original contract thru new expiration date.

- ▶ Use the [PSA Amendment Form](#) on the intranet
- ▶ Reference all prior agreements and amendment dates.
- ▶ Reference all changes specifically by item and page number.
- ▶ Address only information being changed.
- ▶ All other prior provisions remain in effect.

- c. **Amendments:** Amendments must be processed (including complete approval through the AG's office) **prior to the termination date** of the existing contract. All efforts should be taken to amend contracts in this manner. As this is a somewhat time-consuming process, it is recommended that extension requests be required at least 60 days prior to the contract termination date.

An amendment will run from the date of the start of the original contract through the extension period. If the amendment is for a no-cost extension, you can process a 1-page amendment without any attachments. All amendments should indicate the reason on the Grant/Contract/PSA form and reference prior contracts, numbers and approval dates. If the original contract, and any subsequent amendments, did not include language deemed mandatory by the AG's office, the amendment contract must incorporate the mandatory language. If you are modifying the Scope of Work or the cost, you must include the revised Scope of Work / Schedule of Payments and reference it on the [Amended Grant/Contract/PSA form](#).

Note: If the amendment is changing the cost or term of the agreement, **additional OPM approvals may be required**. Additionally, if the agreement is with an individual, DAS approval will also be required for the amendment.

- ▶ Be sure to update all “standard terms and conditions” if changes were made.
- ▶ No retroactivity allowed
- ▶ If not executed prior to expiration, must cease work until new contract is in effect.
- ▶ Cannot pay for work conducted outside of a valid contract.

- ▶ Follow same internal routing process as a new contract.
- ▶ Must attach **copies** of original & prior amendments when sending to AG for approvals.

# Internal Contract Approvals

Internal Approvals done PRIOR to sending out to for Contractor Signature

- ▶ Use DEEP's contract approval routing slip
  - Program Staff Drafting the Contract
  - Business Office
  - Fin. Mgt. Director approval required if value  $\geq$  \$100K
  - Up to, but not including, the individual who will be signing the contract
- ▶ Maintain internal record of contract routing dates.
- ▶ See [Delegation of Authority](#) to determine who can sign for DEEP.





# Attachments to be Completed by Contractor

- ▶ Sample Resolution / Incumbency Certification & Instructions
- ▶ Non-Discrimination Certification (except for governmental entities)
- ▶ OPM Ethics Affidavits: Form 1 & Form 5 (if over \$50K), Form 6 (if over \$500K)
- ▶ Tax Questionnaire, if Bond Funded
- ▶ HR-10 Form (if with Current State Employee)
- ▶ CHRO Monitoring report and other paperwork (if > \$4,000)(governmental entities exempt)

# CHRO Requirements

Contract Amount	Bidder Contract Compliance Monitoring Report Required – Affidavit for Certification of Subcontractors as MBE’s, as applic.	Affirmative Action Plan Required	CHRO Requires <u>Pre Approval</u> of Affirmative Action Plan
\$0 - \$4,000	No Paperwork Required		
\$4,000.01 - \$9,999.99	No	No	n/a
	DEEP needs to transmit a Contract Notification following contract approval.		
<b>Non Public Works Contract</b>			
\$10,000 - \$249,999.99	Yes	No	n/a
\$250,000 +	Yes	Yes	No
<b>Public Works Contract</b>			
\$10K - \$50K	Yes	No	n/a
\$50,000.01 - \$500,000	Yes	Yes	No
\$500,000.01 +	Yes	Yes	Yes

# When Returned from Contractor

Business Officer or designee will:

- ▶ Verify signature & submission of all required documents
  - All signatures and typed names must be identical on all documents (including initials, etc.)
  - Resolution documents must be dated on or before date of contract signature and be no more than 1 year old.
  - Incumbency certifications must be certified within 30 days of contract signature.
  - Resolution **cannot be signed by the same person signing the contract** (unless an individual).
- ▶ Finish Completion of AG's Checklist
- ▶ Prepare the Face Sheet

# Obtaining Final DEEP & AG Approvals

Forward 2 signed contracts to Financial Management for remaining DEEP & AG approvals. Package as follows:

- ▶ Face Sheet (2 copies)
- ▶ Fully Completed AG Checklist
- ▶ Routing Approval Slip
- ▶ Signed Contracts (2 originals)
- ▶ OPM Form 3 (if over \$50K) to be signed by Commissioner or Designee
- ▶ OPM Forms 1, 5 & 6 (if over \$50K or \$500K)
- ▶ Resolution & Incumbency Certification
- ▶ Non-Discrimination Certification (for non-gov. entities)
- ▶ Tax Questionnaires (if bond funded)
- ▶ HR-10 Form (if PSA is with a current state employee)
- ▶ OPM PSA Approval
- ▶ DAS / BEST approval if IT related services

# Average Time for Approvals

- ▶ If no AG approval is required (\$3,000 or less), approval time is approximately 1 week.
- ▶ If AG approval is required (>\$3,000) anticipate an additional 2 weeks (as multiple approvals in different buildings may be required).
- ▶ Financial Management maintains a database of all PSAs, Grants, MOUs & contracts routed for approvals.

# Administrative Processing

Once the contract is **fully executed**:

- ▶ Financial Management will make Core CT entries & forward fully executed contracts to Bureau Business Officer or contract designee.
- ▶ CHRO & DEEP Affirmative Action must be supplied with CHRO paperwork (Use the CHRO transmittal memo available on InsideDEEP)
- ▶ One copy of fully executed PSA is retained for DEEP's files and the other is provided to Contractor (sample cover letter available online).

# Contract Administration

**Program staff** is responsible for:

- ▶ Conducting ongoing communication with the contractors,
- ▶ Monitoring the progress of the project,
- ▶ Coordinating w/Business Office to process any amendments that may be required,
- ▶ Ensuring prompt review & approval of deliverables, and
- ▶ Coordinating with Business Officers to ensure prompt and appropriate steps are followed for payment authorization.

# Invoice Review

- ▶ **Program staff** are responsible for reviewing invoices and ensuring that items and staff billed are allowable under the contract.
- ▶ Invoice sign-off requirements per Directive 5310
  - Division Director level or above and Business Officer
    - Individual payments of **\$10,000.00 or more**, and
    - **Final payments** related to contracts, where the **total contract value was \$10,000 or more**
  - Supervisor level or above and Business Officer
    - Individual payments of less than **\$10,000.00**, and
    - **Final payments** for contracts, where the **total contract value was less than \$10,000.00**

# Invoice Processing

**Business Officer** is responsible for

- ▶ Identifying Purchase Order #
- ▶ Verifying available balance on PO
- ▶ Ensuring invoice is authorized for release of payment by program/managerial staff
- ▶ Retaining copy of authorized invoice for program files
- ▶ Delivery of authorized invoice to Accounts Payable

# Contractor Evaluation

- ▶ Within 60 days of contract completion, Program Staff is responsible for preparing and submitting a PSA Evaluation.

[http://www.ct.gov/opm/fin/contractor\\_evaluation](http://www.ct.gov/opm/fin/contractor_evaluation)

- ▶ E-mail to: [efo.opm@ct.gov](mailto:efo.opm@ct.gov)
- ▶ cc to Financial Management (Angela King)