



Colorado Department
of Public Health
and Environment

COLORADO DEPARTMENT OF PUBLIC HEALTH & ENVIRONMENT

PURCHASING AND CONTRACTS UNIT
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GUIDE TO BEST PRACTICES IN CONTRACT MANAGEMENT

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INTRODUCTION

This document serves as a blue print to guide the contract management process at the Colorado Department of Public Health and Environment (CDPHE).

This document is the result of extensive research of commonly recognized contract management best practices in the public and private sectors and practices utilized within CDPHE. The review of the research and identification of Department best practices was completed through a collaborative effort involving the CDPHE Contract Monitoring Workgroup, Purchasing and Contracts Unit Director, Internal Auditors and Contracts Performance Manager.

This reference guide also includes practices that are required by the Office of the State Controller and the CDPHE Purchasing and Contracts Unit.

PLANNING

The first step in contracting, once funding has been identified, is the planning phase. Planning provides the basis for contract awarding and is critical to successful contract management. Planning helps ensure that all necessary information is collected to effectively structure a solicitation. This phase involves fiscal, program and Purchasing and Contract Unit (PCU) staff.

The first part of the planning phase requires fiscal and program staff to meet concerning the following key issues:

- Develop a brief description of the needed services based on funding and program requirements and other regulatory requirements if applicable
- Determine the maximum funding amount
- Determine a time line for the provision of services
- Ensure spending authority
- Identify a Project Manager
- Identify an individual who will have the authority to negotiate contract changes
- Develop a process to internally communicate and document contract changes made during the contract term (i.e. who must be consulted when the need for changes occurs, how changes are to be documented, time line needed to implement changes, etc.)
- Identify individual(s) as Contract Compliance Monitor

Once the preliminary issues listed above have been resolved, a meeting between fiscal, program and PCU staff should occur to discuss and determine:

- What solicitation method will be used to identify the vendor
- What type of commitment document will be used for contracting
- What the time line will be to complete the solicitation and contracting process

SOLICITATION/ VENDOR SELECTION

Vendor selection typically occurs through a formal competitive solicitation process or grant application process. State of Colorado Procurement Rules must be followed to determine and implement the appropriate solicitation method. A prescribed process is utilized with specific time lines and content requirements for each method.

Prior to the implementation of the chosen method, fiscal and program staff should meet with the Purchasing and Contracts Unit Director to:

- Review the description of services. This will be the basis for the Scope of Work in the contract.
- Ensure all regulatory requirements are stated in the solicitation
- Review and approve required supporting documentation
- Confirm or make adjustments to the original time line for solicitation and contracting process
- Determine the process that will be used to evaluate proposals/applications
- Discuss next steps

PRE-AWARD MEETING

A pre-award meeting, also referred to as a Pre-Bid Meeting, is a forum to answer applicant questions concerning a request for proposal or an award application process. This meeting is also referred to as an Applicant Conference. The meeting provides potential applicants the opportunity to gain information about the solicitation or application forms, required supporting documentation, review and award process, and fiscal, program and regulatory requirements.

Whenever possible, the meeting should be held in person and coordinated by both program and fiscal staff. A formal agenda should be used and should include the following topics:

- Completion of proposal or application
- Completion of supporting documentation
- Submission requirements and timelines for proposal or application
- Award process and timelines
- Program Requirements
- Fiscal Requirements
- Funding Requirements

Attendance should be documented and key points of the meeting should be summarized into notes and provided to the attendees.

To determine if applicants and CDPHE staff felt the meeting was valuable, an evaluation sheet should be developed and provided to the attendees at the conclusion of the meeting.

The results should be used by staff to make improvements to the content or structure of future meetings.

PRE-AWARD FINANCIAL RISK ASSESSMENT

Assessment of an applicant's financial risk, prior to the award, provides the department information concerning the applicant's risk of fiscal liability should the applicant be awarded the contract. This information should be included in the award decision making process. It should also be used to determine the method and frequency of fiscal monitoring needed if the applicant is awarded the contract. Supporting documentation required for invoices or other fiscal reports should be based on financial risk as identified by the assessment.

Fiscal monitoring training, to include the use of a financial risk assessment tool is available through the CDPHE Internal Auditors office. Fiscal staff should be trained to the use of an assessment tool and each business unit should develop a standardized process for conducting assessments, utilizing the results for monitoring and maintaining the resulting documentation.

Fiscal staff should provide technical assistance to program staff concerning the financial risk assessment process and how the results will be used.

AWARD/ SELECTION METHOD PROCESS

The process used to select or award a contract to an applicant is based on the solicitation method used, program requirements, funding source and statutory or other regulatory requirements. The process always includes a review board of subject matter experts who review the proposals or applications to determine the award(s).

While program staff plays a key role in the award or selection process, fiscal staff should also participate to ensure a review of the applicants' fiscal competence. Fiscal staff who have attended CDPHE fiscal monitoring training are qualified to identify potential fiscal issues and provide technical assistance to program staff concerning fiscal aspects of the proposal or application. The award or selection process should utilize the results of the pre-award financial risk assessment, results of previous contractor performance evaluations and the applicant's response to all regulatory requirements stated in the solicitation document or award application.

CONTRACT DEVELOPMENT/APPROVAL PROCESS

Contracts are typically developed by a contracting specialist in conjunction with program and other fiscal staff within a division business unit. Each division business unit should

develop time lines for the contracting process to ensure that the contract is submitted to the PCU thirty (30) days prior to the planned effective date for review and approval.

The development of the contract Scope of Work (SOW) is a collaborative process between the program and the vendor. The resulting SOW should clearly and concisely state the following:

- Deliverables and milestones
- Standards and measures for contractor performance (statutory requirement)
- Remedies for noncompliance (statutory requirement)
- Method(s) of monitoring (statutory requirement)

Typically a budget and budget narrative are developed by the contractor and reviewed by fiscal staff for accuracy and completeness prior to the contractor's signature of the contract document. The budget and budget narrative must be consistent with the SOW.

Once the SOW and budget have been agreed upon, the contract document is assembled and submitted to the vendor for completion.

All business units are required to implement the CDPHE standardized contracting process with their vendors. This process requires communication and the submission of contract documents to the vendor through email and provides uniform instructions for the completion of the contract document and required supporting documentation. The process is structured by contractor entity type and reason for contracting. Standardized email language to include specific contract identifiers must be used for all correspondence. Required correspondence includes submission of contract document and instructions to the contractor, notification of the date the contract is fully executed and a cover letter to accompany the contractor's copy of the fully executed contract.

Once the contract has been signed and returned by the vendor with all required supporting documentation, and the requirements listed in the Contract Submittal Checklist have been completed, the contract document should receive a final review by staff to make certain all dates, dollar amounts, routing numbers and pagination are correct and all attachments and exhibits are labeled properly. Any errors must be corrected prior to submission to the PCU.

Upon review and approval by the PCU, the contract packet is routed to the Department Controller for signature. The program receives a fully executed hard copy for their files and a copy for the contractor.

CONTRACT MANAGEMENT SYSTEM

The Contract Management System (CMS) is a statewide data base used to collect and maintain contract information that includes, but is not limited to, contractor name, agency name, agency code, document routing number, effective and expiration dates, dollar amounts and solicitation method and methods used to monitor the contract. The use of the system is mandated by Senate Bill 07-228, as incorporated in the Colorado Revised

Statutes at §§24-102-205, 24-102-206, 24-103.5-101 and 24-105-102, for all state agencies and Institutions of Higher Education.

This data base also contains the results of the contractor performance evaluation conducted at the end of the life of the contract. Specific information contained in CMS records is displayed on a public website for those contracts meeting statutory criteria.

Staff with access to the CMS must adhere to CDPHE and Office of State Controller policies and procedures for its use as stated in the CDPHE Contract Management System Users Manual. The manual can be accessed on the CDPHE intranet at <http://10.1.0.25/ASD/PUR/CMS/index.html>

CONTRACT MONITORING

Contract or compliance monitoring involves oversight activities that occur at regular intervals through a well defined and consistent process. These activities monitor the contractor's compliance with the terms and conditions of the contract and include a process for regular communication between staff and the contractor, resolution of issues resulting from noncompliance and documentation of performance. The monitoring activities are designed to ensure that services and goods are delivered in accordance with the contract requirements, at the agreed upon price and budget and that the contractor meets specified performance standards described in the contract.

Monitoring Process

Effective and efficient monitoring of contractor performance starts with a well structured comprehensive monitoring process. The process should include specific program and fiscal oversight activities, written policies and procedures, standardized tools and forms and written duties and responsibilities for the monitor position(s).

A system for communication among monitors to share information about performance and include a "chain of command" for monitors to follow to notify and/or escalate compliance issues to managers should also be included.

The process should clearly describe the steps that must be taken to determine when and how remedies for noncompliance should be initiated, who should be involved and how the remedy should be implemented and tracked.

The following nine (9) areas of contract oversight have been identified as essential components of a well-structured monitoring process.

I. Contract Compliance Monitor/Team

Contract monitoring often requires more than one individual have oversight responsibilities of a contract. Contracts have both programmatic and fiscal requirements and will usually require at least two (2) monitors, one from each discipline.

The role, responsibilities and decision making authority of the monitor must be clearly defined and documented. Monitors should possess adequate skills and have the necessary training to carry out their duties and responsibilities. Additionally, they need to be familiar with the terms and conditions of the contract, statutory monitoring requirements and the Department's contractor performance evaluation requirements.

II. Post Award Meeting

The post award meeting is held with the contractor to review and discuss the contract requirements and how the contract will be administered. This opportunity to review, discuss and clarify key aspects of the contract and its administration is designed to facilitate contractor compliance during the contract term.

Whenever possible, the meeting should be held in person, coordinated by both program and fiscal staff and attended by all staff involved in the oversight of the contract.

A formal agenda should be prepared and include the following topics:

- Program and Fiscal Contacts
- Technical assistance
- Communication process and protocol
- Expectations
- Deliverables to include Performance Standards and Measures
- Reporting Requirements
- Monitoring methods and process
- Performance Evaluation Process
- Remedies for noncompliance issues
- Review of reference guide/manual (if applicable)

Similar to the Pre-Award Meeting, attendance should be documented and key points of discussion should be summarized into meeting notes. Notes should be provided to all attendees.

To determine if the contractor and CDPHE staff found the meeting useful, an evaluation sheet should be developed and provided to all attendees at the conclusion of the meeting. The results should be used by staff to make improvements to the content or structure of future meetings.

III. Technical Assistance

The availability and accessibility of technical assistance is vital to a contractor's success in meeting contract requirements. The contractor should be informed which staff member to contact for specific types of questions or issues. The contractor should be provided a list of key staff, their roles and contact information. Should staffing changes occur, the list should be updated in a timely fashion and the contractor should be notified.

In addition to providing technical assistance verbally, a reference guide or manual should be available to the contractor. The document should contain information concerning program and fiscal standards and requirements, funding requirements if applicable, communication protocols, staff contact information, invoice submission, deliverable submission, time lines, how to access technical assistance, monitoring methodology and performance evaluation. The reference document should be provided to the contractor early in the contract period and should be included for review during the Post Award Meeting.

To promote contractor use of the document, the following practices should be followed:

- The document should be available in hard copy and electronically. It should be written in clear, concise and easy to understand language and be as short in length as possible
- The document should be made available on the internet for easy access
- Updates to the content of the document should be made in a timely fashion to ensure the document remains relevant
- Technical assistance should be provided to the contractor regarding access to the document, its use and content

IV. Communication

Communication between the contractor and staff is essential to the administration of a contract. Mechanisms must be in place to communicate regularly with the contractor concerning performance and to provide technical assistance. The method, frequency and documentation of communications should be included in the policies and procedures of the business unit's monitoring process.

Internal communications concerning contractor performance are equally important and should also be addressed in the monitoring process. A well thought out, clearly defined system, known to all staff involved in the oversight of a contract, will ensure that information is shared in a timely fashion with the appropriate individuals. Clear and frequent communication with the contractor and between staff can often prevent compliance problems.

V. Documentation

Documentation provides the history of the contract and evidence of the contractor's performance. Documentation is the basis of all CDPHE required contractor performance evaluations. If there is a performance dispute between the contractor and the program, documentation will establish the facts and will probably determine the outcome.

The following items should be kept on file in either the fiscal or program file:

- Copy of the original contract document
- Copies of any modifications to the contract
- Copies of any cost or budget data
- Copies of written correspondence from both parties (includes letters, emails, faxes, etc)
- Notes from meetings – specifically on items contract administrator or monitor agreed to do
- Notes on phone conversations that affect the contract
- Records containing progress on the project
- Copies of Deliverables
- Copies of invoices
- Documentation of receipt of goods
- Performance Improvement Plans/ Action Plan (if applicable)
- Tracking logs that identify a compliance problem, attempted solutions, follow up calls and the results
- Records relating to site visits, audits, surveys, inspections or any type of review or assessment

VI. Compliance Assessments

Program Compliance

Compliance assessment is conducted to identify contractors who are at risk of noncompliance with program requirements as stated in the contract. The assessment will result in a rating of the contractor's risk. Based on the risk rating, the program can determine the method and frequency required to monitor the contract. High risk contractors will need more technical assistance than contractors at low risk.

Programs should utilize an assessment tool and standardized process to measure a contractor's risk of noncompliance. At a minimum, the assessment should occur annually and be conducted early in the contract period.

The process used to implement the assessment should include program developed criteria, a procedure for implementation, a method for analysis and rating risk and clearly identified monitoring methods and frequency to be used for each risk level. The process will also

include the use of standardized forms to collect, analyze and document the process and results.

Financial Risk Assessment (Pre-Award)

The results of the Financial Risk Assessment conducted prior to the award should be utilized to determine the method and frequency of fiscal monitoring for the contract period. The results should also be used to determine the kind and amount of supporting documentation required for invoice reconciliation.

Refer to page 5 of this document for more information about Pre-Award Financial Risk Assessment.

VII. Monitoring Methods

Documentation Reviews

Program and fiscal staff receive documentation from the contractor throughout the contract period. The documentation reflects services performed and compliance with contract requirements. Documentation comes in many forms and can include, but is not limited to, electronic and hard copy correspondence, progress reports, survey results, plans, invoices and evidence of data entered by the contractor into an automated system. The examination of documentation is referred to as a documentation review or desk review.

Documentation is reviewed and analyzed by staff, at CDPHE, to ensure that progress is being made on the project, expenditures are appropriate and the contractor is in compliance with contract requirements.

When reviewing reimbursement statements, the following practices should be followed:

- Ensure all line items on cost reimbursement statements are in compliance with the contract Scope of Work and Budget Narrative
- Ensure back up documentation supports the information contained in the reimbursement statement
- Ensure the statement was submitted in a timely fashion as defined in the contract
- Consult with program staff to ensure contractor is in compliance with program requirements prior to payment

Programs and fiscal units should have a standardized process for the review of documentation and tracking the receipt of deliverables. The process should require the monitor to notify the contractor quickly upon the discovery of a compliance issue and negotiate with the contractor (when applicable) the activities and timeline needed to resolve the issue. Review results should also be shared with applicable staff. A Performance Improvement Plan (also referred to as a Corrective/Compliance Action Plan)

should be utilized when appropriate to clearly define and document the activities and time line agreed upon by both parties. Additional information about the use of Performance Improvement Plans can be found later in this document.

If compliance issues are not resolved as agreed upon by both parties, staff should utilize remedies as stated in the contract, up to and including contract termination. The monitoring process should clearly describe the steps that must be taken to determine when and how remedies for noncompliance should be initiated, who should be involved and how the remedy should be implemented and tracked.

The decision to terminate should never be arrived at lightly. Prior to termination, extensive effort must be made to work with the contractor to find a solution to the compliance issue. The Purchasing and Contracts Unit Director and the Department's legal counsel must be consulted before termination can occur. Documentation must be comprehensive and clearly reflect the compliance issue, individuals involved and all efforts made toward resolution.

Site Visits

Site visits are conducted by CDPHE staff, at the contractor's place of business to assess compliance with contract requirements. Site visits can be a routine part of contract monitoring or they can be initiated by a concern for or an actual issue of noncompliance.

Site visits should be conducted following a standardized process to include procedures, assessment tools and forms.

Preparations for site visits usually occur several weeks prior to the visit. **Pre-Visit Preparations** should include contacting the contractor through written correspondence (email or hard copy) to outline the purpose and scope of the visit. The correspondence should include contract identifiers such as the contract number, dates, project or program name and the offer of potential dates for the visit, required participants, and materials to be reviewed during the site visit, agenda and other applicable information or materials.

The site visit should begin with an **Entrance Interview** or meeting. The interview is an opportunity to review the process that will be used for the site visit with the participants and sets the tone and establishes expectations for the visit.

The site visit, which can include the assessment of compliance with program and fiscal requirements along with regulatory requirements such as statutory, Federal, contractual, funding, etc. is conducted using an assessment tool(s) to document findings. To assess compliance staff may need to inspect various types of documentation, business operations, fiscal controls, the facility, how services are delivered or goods or inventory. Each program or fiscal unit determines what will be assessed and how the findings will be evaluated.

Fiscal site visits will usually include an assessment of fiscal internal controls. The assessment should include a review of policies and procedures, infrastructure and operations and the contractor's capacity to provide services.

The documentation reviewed is the property of the contractor. Do not write on a document unless it has been provided to you as a copy for your files.

Once the assessment portion of the visit has concluded, an **Exit Interview** should be conducted. This segment of the site visit allows staff to summarize the findings of the visit with the contractor and review the remaining process that occurs after the conclusion of the site visit, such as when a report will be available and how issues of noncompliance will be addressed.

The results of the site visit should be compiled into a written **Report** and sent to the contractor for review and comment. Site visit results should also be shared with all applicable staff.

Programs should utilize a **Performance Improvement Plan**, (also referred to as a Corrective/Compliance Action Plan) to resolve issues of noncompliance identified during a site visit. Additional information about the use of Performance Improvement Plans can be found later in this document.

If compliance issues are not resolved as agreed upon by both parties, staff should utilize remedies as stated in the contract, up to and including contract termination. The monitoring process should clearly describe the steps that must be taken to determine when and how remedies for noncompliance should be initiated, who should be involved and how the remedy should be implemented and tracked.

The decision to terminate should never be arrived at lightly. Prior to termination, extensive effort must be made to work with the contractor to find a solution to the compliance issue. The Purchasing and Contracts Unit Director and the Department's legal counsel must be consulted before termination can occur. Documentation must be comprehensive and clearly reflect the compliance issue, individuals involved and efforts made toward resolution.

VIII. Performance Improvement Plans

A Performance Improvement Plan, also referred to as a Corrective/Compliance Action Plan, is a structured tool used to document activities or actions, agreed upon by both parties, that must occur to correct compliance issues. The plan includes a timeline for completion of the activities or actions and identifies the responsible party. Typically the contractor and staff sign the document and the contractor is provided a copy. When the issue is resolved, the document is dated and marked as completed by staff and a copy is provided to the contractor.

Programs should have a standardized process for initiating and implementing a plan. The process should also detail steps to be taken should the contractor not complete the activities or actions stated in the plan and when to implement remedies stated in the contract.

The process for utilizing a plan should include the following practices:

- Negotiate solutions with the contractor when possible
- Provide a written copy of the plan to the contractor
- Provide technical assistance to the contractor regarding the purpose of implementing a plan, the process for tracking the completion of activities or actions and the steps that will be taken should activities or actions not be completed
- Allow for reasonable extensions to timelines for completion when possible
- Communicate the implementation of the plan and progress made to applicable staff
- Utilize a tracking system to follow up and document the contractor's progress in completing agreed upon activities.

IX. Contractor Performance Evaluations

Evaluation of contractor performance provides the department with valuable information which can be used in part to determine future awards and oversight practices of future contracts with the vendor. The result of the evaluation provides feedback to the contractor concerning their organization's overall compliance with contract requirements and obligations.

Evaluation of contractor performance is a CDPHE requirement of all contracts. The process used includes quarterly evaluations based on documentation on file reflecting contractor performance against five (5) standard categories. A CDPHE developed form is used to conduct the quarterly evaluation and determine the performance rating. The completed form is emailed to the contractor for comment and maintained in the contract file.

When a contract expires, and is not renewed, a final evaluation is completed using a form developed by the Office of the State Controller and customized by CDPHE. The results of the evaluation are entered into the Contract Management System and the hard copy is kept in the contract file.

Department policies and procedures along with required forms can be found in the CDPHE Contractor Performance Evaluation & Rating Handbook. This reference document and forms are maintained electronically on the Department intranet and can be accessed at <http://10.1.0.25/ASD/PUR/ContractPerfMonitoring/index.html>

CDPHE staff is required to adhere to the policies and procedures in the handbook for conducting contractor performance evaluations.

CONTRACT CLOSE OUT

When a contract expires, regardless of renewal for another term, specific activities must be conducted to determine that full value was received and all business related to the contract has been concluded.

Program staff must ensure that all deliverables have been received and that documentation on file adequately shows all products or services were provided by the contractor as stated in the contract.

Fiscal staff must ensure that the contractor submitted the final invoice within the terms of the contract and that payment is made in a timely fashion. No claims or investigations should be pending on the contract.

If the contract is to be renewed, the CDPHE Quarterly Contractor Performance Evaluation must be conducted and documentation kept on file. If the contract will not be renewed, a Final Contractor Performance Evaluation must be conducted and specific information concerning the evaluation must be entered into the Contract Management System. Information about the contractor performance evaluation process and procedures can be found in the above section titled IX. Contractor Performance Evaluations.

ADDITIONAL INFORMATION

For additional information about contract management and administration, contact the CDPHE Contracts Performance Manager in the Administration and Financial Services Division, Purchasing and Contracts Unit.