



State of Louisiana
Division of Administration
Office of State Procurement

MEMORANDUM OSP 16-09

TO: All Department Undersecretaries, Agency Heads, Business Managers, and Contract Officers of all Non-exempt State Departments and Agencies, Colleges and Universities, Boards and Commissions

FROM: Paul A. Holmes, State Procurement Director *P.A.H.*

DATE: October 12, 2015

SUBJECT: Contract Controversy Process

Due to the consolidation of the Louisiana Administrative Code Articles pertaining to purchasing and contract review, we have reassessed the procedures/requirements for submitting pre-litigation requests for legal and contractual remedies arising from procurement/contract irregularities and controversies. The purpose of the review was to establish a consistent procedure for all matters related to procurement/contract controversies, extra-contractual payments, ratifications, settlements, protests and those ratifications of professional, personal, consulting and social services contracts formerly referred to as section "1524" ratifications.

In any contract situation where an agency or vendor seeks or requests:

- (1) permission to pay (or receive payment) outside of a contract's terms and conditions;
 - (2) permission to pay/proceed (or receive payment) where no legally recognized contract exists;
 - (3) to protest a solicitation or award;
 - (4) to proceed where a contract award has been protested;
 - (5) to address a contract controversy or to request a settlement between a vendor and an agency;
- or
- (6) to address any other contractual relief controlled by R.S. 39:1671 – 1679

the matter should be submitted directly to the State Procurement Director for initial review/handling. The preferred method to receive any matter covered herein is by electronic transmission. All requests and exhibits should be emailed to the State Procurement Director: OSPDirector@la.gov.

Upon submission, OSP will work with the agency and/or vendor to resolve the situation and will coordinate legal matters with the DOA's Office of General Counsel. If the matter ultimately requires a decision or authorization by the Commissioner of Administration or the Commissioner's

designee (such as the Division's General Counsel), the State Procurement Director will coordinate the handling of the matter with the Commissioner's office.

Please note that under R.S. 39:1671, all protests of solicitations and awards, including protests involving consulting and social services contracts, are now considered by "the applicable chief procurement officer." With the exception of institutions of higher education regarding protests filed against their agencies, the State Procurement Director now handles all protests lodged under Title 39. Protests timely lodged with an agency instead of the Director will be considered, but the agency should immediately forward the protest and any attached exhibits to the attention of the State Procurement Director.

Matters submitted by agencies should include, where applicable:

- 1. A letter or memorandum explaining the circumstances and what process or procedures were followed (or not followed)*
- 2. If applicable, what measures have been implemented to prevent recurrence*
- 3. Whether in the agency's opinion the vendor acted in good faith or has reasonable grounds to proceed*
- 4. That the vendor is unwilling to accept the return of the goods (if applicable), or that the goods or services have already been used or provided*
- 5. Whether sufficient funds are in the budget to cover the expense*
- 6. A copy of the order, invoice, contract, solicitation or any other documentation applicable*
- 7. The vendor's or contractor's representative (name and title) who has the legal authority to execute a settlement on behalf of the company*
- 8. Agency contact information*

Matters submitted by Vendors/Contractors should include:

- 1. A detailed letter or memorandum explaining the circumstances surrounding a controversy or protest along with any supporting documentation*
- 2. Any and all communications between agency and vendor*
- 3. Recommendation or requested outcome/resolution*
- 4. Vendor/contractor contact information*

Questions concerning the foregoing requirement/procedures should be directed to: _DOA-OSPhelpdesk@la.gov or _DOA-PChelpdesk@la.gov. (Please note the preceding _ (underscores.))