



State of Oklahoma
Office of Management and Enterprise Services

PROCUREMENT INFORMATION MEMORANDUM 2009-02

TO: All Certified Procurement Officers

REVISION DATE: January 1, 2015

SUBJECT: Multi-Year Contracts – Procedure Guidance and Change Order Policy

Summary:

- 1) **State agencies are permitted to create multi-year contracts so long as the annual amount of the contract does not exceed the agency's annual procurement authority.**
- 2) **Multi-year contracts created by an agency can be renewed at the agency level.**
- 3) **Change orders for these contracts can be executed by the awarding agency.**

1. References: 74 O.S. 2014 §§ 85.2, 85.4., 85.5., 85.7. (A), et seq. and OAC 260:115-9-3

2. In order to provide agencies greater flexibility in the management of their purchasing processes, for multi-year contracts, the following guidance is provided.

3. Solicitation for multi-year contracts not exceeding \$50,000 annually: Effective September 1, 2009, agencies with approved internal procedures and an internal Certified Procurement Officer or a designated CPO through an interagency agreement may conduct solicitations for multi-year contracts in which no single year exceeds the delegated authority limit per 12-month period. **Example: An agency with a \$50,000 workflow authority could solicit and award a 5 year, \$250,000 contract.

When an agency elects to conduct the solicitation:

- (a) The solicitation shall include a separate line and contract period for each year; not to exceed the delegated workflow authority limit of the agency per the 12 month period;
- (b) In its evaluation of cost for the purposes of determining either "lowest and best" or "best value", the agency shall consider and include supplier's (total costs) pricing for the first year and all renewal periods;
- (c) Change in the scope of the contract remains prohibited, and the original contract shall state the maximum number of renewal periods which shall not be exceeded.
- (d) If the total cost of the contract (including all renewal periods) exceeds \$25,000, the agency shall solicit all suppliers listed in the PeopleSoft supplier file for the commodity and all recommended suppliers;
- (e) The agency shall verify, pursuant to the applicable provisions of law, that the supplier is eligible to do business in the State of Oklahoma by confirming with the Secretary of State and franchise tax payment status, and sales tax permit, pursuant to Sections 1203, 1204, and 1364 of Title 68 of the Oklahoma Statutes;

(f) Agency CPO's are expected to be aware of market-place conditions when considering the length of multi-year contracts. Some circumstances will require contract periods of less than three years due to volatility of commodity costs or other factors.

(g) The agency shall include the standard non-appropriation clause in the general provisions or terms and conditions of the solicitation;

(h) Contracts that include component or phased delivered items that have a fixed price established (per unit or per hour) must include an indefinite delivery clause and should be based upon historical usage for pricing purposes. The clause will state that the historical usage is not a commitment and the State may purchase more or less units as agency needs dictate.

4. Renewal of multi-year contracts: The authority to process renewals applies to multi-year contracts initially bid by the agency, provided no single year exceeds the delegated workflow purchasing authority limit.

5. Existing multi-year contracts initiated and administered by Central Purchasing on behalf of an agency; will continue to be managed by Central Purchasing.

6. Change Orders: A state agency may issue change orders to increase a purchase order or contract not to exceed ten percent (10%) of the original purchase order or contract total price. **(If an agency issued change order would increase the total, annual dollar amount above the agency authorized threshold, the State Agency shall seek approval from the State Purchasing Director prior to issuance of a change order.)**

(a) Annual increases may exceed 10% provided that;

1) the annual total does not exceed agency workflow authority limit, **and**

2) the total of all change orders for the duration of the contract does not exceed 10% of total contract award.

(b) Awards that include component or phased deliveries "can be increased beyond 10% of the annual award provided that;

1) the established rate is not adjusted during the term of the contract,

2) the agencies' annual workflow authority is not exceeded, and

3) the original award included an indefinite delivery clause.

Point of contact for this memorandum is Keith Gentry, CPO, Contracts Manager

Phone: 405-522-4878

E-mail: keith.gentry@omes.ok.gov



Scott Schlotthauer
State Purchasing Director