



North Carolina Department of Health and Human Services
Division of Public Health • Office of the State Health Director
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State Health Director

TO: DPH Section Chiefs
FROM: Dennis E. Harrington
Deputy Director
SUBJECT: Contract Fringe Benefit Rates and Sole Source Contracts
DATE: August 20, 2010

The purpose of this memo is to provide written guidance to contract administrators regarding sole source justifications and fringe benefits for contractors and subcontractors.

Sole Source Contracts with the Private Sector

DPH awards a majority of its contracts through a competitive bid process, mostly through a Request for Applications (RFAs) and a much smaller number through Requests for Proposals (RFPs). Occasionally, the DPH Contracts Office receives requests to enter into sole source contracts with the private sector (e.g., non profits and for profits) by requesting a waiver to the competitive bid process. Obtaining Departmental approval/support for a sole source contract can be challenging.

Whenever a contract administrator determines the need for a sole source contract with the private sector, the contract administrator should contact Sharon Smith, DPH Contracts Manager (707-5111 or Sharon.Smith@dhhs.nc.gov) immediately for assistance. She will help determine if it is possible to enter into a sole source contract or if an RFA/RFP needs to be issued. Failure to follow this process could result in the wasting of valuable time in an effort to develop and submit a sole source contract which cannot be justified.

(Note: Sole sourcing of any contract funded with ARRA dollars is prohibited, unless prior approval is granted by the Office of Economic Recovery and Investment.)

According to NC Purchasing Procedures, under certain conditions, and if deemed to be in the public interest, competition may be waived. Conditions permitting waiver include, but are not limited to, the following situations:

1. Performance or price competition are not available;
2. Needed product or service is available from only one source of supply;
3. Emergency or pressing need is indicated;
4. Competition has recently been solicited, but no satisfactory offers received;
5. Standardization or compatibility is the overriding consideration; and
6. Additional products or services are needed to complete an ongoing job or task.



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Below are guidelines for writing a good sole source justification with the private sector:

- Clearly define what is required and how the proposed vendor meets these requirements;
- Explain why a public agency cannot provide the service;
- Include facts that would show there are no other vendors that could provide this service and that issuing an RFA or RFP would be fruitless;
- Include facts to demonstrate that if an RFA or RFP was issued, only the sole source vendor's application or proposal would meet the RFA or RFP requirements;
- If price competition is not available from any other vendor, include evidence on how it is known that this is the only vendor that can perform this service;
- If the needed service is only available from one source of supply, include evidence on how it is known that this is the only vendor that can perform this service; and
- If a pressing need, explain what caused the pressing need or emergency, why there isn't time to issue an RFA or RFP, and why this vendor is the only one that can take care of the situation the quickest. Loss of funding cannot be used unless you can show the funds just became available. Also a pressing need cannot be used if the division waited too long to issue an RFA or RFP.

Note: Inclusion of the contractor's name in a grant application is not an adequate reason to waive the competitive bid process.

Fringe Benefit Rates

Contract Administrators are required to negotiate contract budgets that are reasonable and prudent. Contract budgets shall correlate with the scope of work and include budget narratives that explain and justify all costs and break out all calculations.

The DPH Contracts Office has received requests for clarification regarding personnel and fringe benefits for contractors/subcontractors. Below are guidelines for personnel and fringe benefits:

- Contract Budgets must include the name, position title, FTE, actual annual salary, actual prorated salary and all calculations for fringe benefits for all personnel (do not include projected salary increases);
- Fringe benefits must be broken out individually. List the dollar amount and rate for each benefit, for each employee;
- Health insurance rates should be expressed as a dollar amount and may include a differentiated percentage per person;
- Subcontractors must be named, rate calculations must be described, along with services to be provided; and
- When a subcontractor's budget includes salary and/or fringe benefits, the rules as listed above must be followed.

Required Documentation for Excessive Fringes

1. Health Insurance Rates

The annualized rate for health insurance premiums must be listed per employee as a dollar amount (not a percentage). If the annualized rate is equal to or greater than \$8,000, the contractor or subcontractor must provide proof of premium amounts/payments per employee and the amount the Agency contributes for each. Note: sensitive and/or confidential information on the premium statements may be redacted.

2. Fringe Benefits (excluding Health Insurance)

Fringe benefits must be broken out individually for each employee along with the rate (a percentage) and the dollar amount. If the total fringe benefit is greater than 20% for any employee, the contractor and/or subcontractor must provide a copy of their Agency's Fringe Benefit Policy. This Policy must list all the fringe benefits available to the employees and the amount or rate the Agency contributes to each benefit.

(Note: Fringe Benefit rates have been published for the UNC System; therefore, no additional documentation is required for fringes as contract budgets cannot exceed the published rates.)

If you have questions or need additional information, please contact Sharon Smith, DPH Contract Manager at 919.707-5111 or Sharon.Smith@dhhs.nc.gov

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