



## Chapter 5 – General Finance Provisions

### System Procedure 5.14.2 Consultant, Professional or Technical Services and Income Contracts

For Board Policy 5.14

1 **Part 1. Purpose**

2 To establish guidelines and authority for the procurement and management of consultant, professional,  
3 and technical services contracts, ensuring compliance with Board Policy 5.14 and relevant laws. This  
4 procedure outlines the process for contract preparation, approval, and execution within the Minnesota  
5 State Colleges and Universities.  
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7 **Part 2. Authority**

8 Board Policy 5.14 Procurement and Contracts authorizes the chancellor to develop procedures  
9 for entering into consultant, professional, and technical services contracts.  
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11 **Part 3. Contracting Authority**

12 Colleges, universities, and the system office have authority to enter into individual contracts  
13 with a Total Contract Value (TCV) of up to \$100,000 without the Vice Chancellor for Finance and  
14 Facilities (VC-CFO) approval.  
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19 Contracts of any value with a term in excess of five years require approval by the VC-CFO .

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21 Each college and university must develop procedures for entering into contracts in consultation  
22 with the system office. Employees and their exclusive bargaining representatives must also be  
23 consulted on the proposed procedures and must address topics such as employee protection,  
24 information availability and reporting, conflict of interest, and renewal restrictions.  
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27 **Part 4. Contract Preparation**

28 Contracts must be prepared on forms approved by the system office to ensure that they include  
29 all state-required contract language. Any modification of forms approved by the system office,  
30 or the use of a non-system office form requires the review by system legal counsel and  
31 approval of the VC-CFO. System legal counsel includes either the Minnesota State General  
32 Counsel's Office or the Minnesota Attorney General's Office.

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34 **Part 5. Use of E-Procurement System for all Non-Construction Contracts**

33 All non-construction contracts, agreements, and commitments ,must be maintained and  
34 monitored through the designated e-procurement system. Contracts, along with all relevant  
35 documentation, must be completed within or uploaded into the e-procurement system.  
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37 **Part 6. Encumbrance**

38 Funds must be encumbered prior to making an obligation. An authorized employee must certify  
39 that the accounting system shows sufficient allotment or encumbrance balance in the fund,  
40 allotment, or appropriation to meet it. College, university, and system office administration  
41 must assure proper authorization is on file for employees charged with encumbering funds. An  
42 expenditure or obligation authorized or incurred prior to encumbering funds is in violation of  
43 state law and ineligible for payment until made valid and is in violation of Minn. Stat. § 16A15,  
44 Subd. 3. An employee authorizing or making the payment, or taking part in it, may be liable to  
45 the State for the amount paid. A knowing violation of Minn. Stat. § 16A.15, Subd. 3, is just  
46 cause for the employee’s removal. The State cannot agree to indemnify third parties or hold  
47 them harmless (Minn. Stat. § 16A.138; Minn. Const. Art. XI, Sec. 1).  
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49 **Part 7. Prepayment**

50 Minn. Stat. § 16A.41, Subd. 1, generally prohibits Minnesota State from paying in advance,  
51 except as set forth in Minn. Stat. § 16A.065.  
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53 **Part 8. Consultant, Professional, or Technical Services Contract Definition**

54 A consultant, professional, or technical services contract means any agreement entered into for  
55 consultant, professional, or technical services usually on a short-term basis for a finite period of  
56 time and for one or more specific purposes. These contracts are predominantly intellectual in  
57 character, which could include consultation analysis, evaluation, prediction, planning, or  
58 recommendation; do not involve the provisions of supplies or materials; and result in the  
59 production of a report or the completion of a task.  
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61 **Subpart A. Contracts must generally not exceed five years**

62 Contracts must contain any amendment information including the amount previously paid.  
63 Any contract or amendments to original contracts that a campus or the system office  
64 proposes to continue beyond five years must be reviewed and approved by the VC-CFO.  
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68 **Part 9. Single Source**

69 Single Source designation is applied to an acquisition where, after a search, only one supplier is  
70 determined to be reasonably available for the required product, service, or construction item.  
71 Minn. Stat. § 16C.02, subd. 18.  
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73 For proposed single-source contracts with a TCV of \$100,000 or greater, the request form for a  
74 single-source exception must be completed and approved by the VC-CFO prior to contract  
75 approval. For proposed single-source contracts with a TCV of less than \$100,000, the request  
76 form for a single-source exception shall be completed and approved by the institution’s chief

77 financial officer.

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79 **Part 10. Contracts in Excess of \$100,000**

80 Contracts \$100,000 or greater require system office approval from the VC-CFO. The college or  
81 university shall submit a request for VC approval form explaining the need for the contractor,  
82 the proposed process to be used in selecting a contractor, and estimated cost, and verify that  
83 funds are available for paying the contractor. The VC-CFO will review the memorandum and  
84 respond in writing.

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86 Contracts requiring VC-CFO approval include consecutive single- year contracts with the same  
87 entity and contracts with amendments which, when added together, have a TCV of are \$100,000  
88 or greater.

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91 **Subpart B. Public solicitation**

92 For contracts with TCV anticipated to exceed \$100,000 in total, request for proposals must  
93 be solicited by public notice through publishing a minimum two week notice on a State of  
94 Minnesota website or in one or more official newspaper. The official newspaper may be  
95 the State Register. In addition to the public notice, requests for proposals may be solicited  
96 by directly notifying prospective bidders not less than seven (7) days before the final date  
97 of submitting bids. Minnesota State may solicit proposals for those contracts with a TCV  
98 under \$100,000.

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100 **Subpart C. Minnesota Department of Human Rights**

101 Bids or proposals for contracts with a TCV exceeding \$100,000 must not be accepted or  
102 awarded to any consultant, contractor, vendor, or supplier who has not obtained the  
103 required certificate or received an exemption.

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105 **1. Businesses with more than 40 employees within Minnesota**

106 Consistent with Minn. Stat. § 363A.36, vendors who intend to bid on any purchases  
107 or contracts exceeding \$100,000 and have had on any single working day in the  
108 previous twelve (12) months more than forty (40) full-time employees within  
109 Minnesota, must apply for a Workforce Certificate from the Minnesota Department  
110 of Human Rights. Bids or proposals on purchases or contracts exceeding \$100,000  
111 from vendors who have not applied for this certificate must not be accepted. An  
112 award exceeding \$100,000 must not be made to vendors who have not obtained this  
113 certificate or received an exception.

114 **2. Businesses with more than 40 employees outside Minnesota**

115 Consistent with Minn. Stat. § 363A.36, vendors who do not have more than forty  
116 (40) full- time employees in Minnesota, but who have had on any single working day  
117 in the previous twelve (12) months more than forty (40) full-time employees in the  
118 state in which their principal place of business is located, must have a Workforce  
119 Certificate or must certify that the business is in compliance with federal affirmative  
120 action requirements in order to receive a contract award exceeding \$100,000.

121                   **3. Equal Pay**  
122                   Pursuant to Minn. Stat. § 363A.44 Subd. 8, if the amount of the contract is valued in  
123                   excess of \$500,000 and the contractor has 40 or more full-time employees in  
124                   Minnesota or a state where the business has its primary place of business on any  
125                   single working day during the prior twelve (12) months, the contractor must obtain  
126                   an Equal Pay Certificate from the Minnesota Department of Human Rights (MDHR)  
127                   or claim an exemption on the Declaration Page prior to contract execution.  
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129                   **Part 11. System Office Contracts \$1,000,000 or greater and less than \$3,000,000**  
130                   The chancellor or chancellor’s designee shall consult with the Board of Trustees’ chair and the  
131                   chair of finance and facilities committee on all system office contracts with a TCV of \$1,000,000  
132                   and less than \$3,000,000.  
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134                   **Part 12. Contracting with Targeted Group Businesses (TGBs)**  
135                   Purchasing practices will include provisions for procurement from small TGBs as set forth in  
136                   Board Policy 5.14 and System Procedure 5.14.6 and related Policy 5.14.  
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138                   **Part 13 . Income Contracts including Customized Training and Grants**  
139                   Colleges, universities, and the system office may enter into income contracts, including grant  
140                   agreements other than federal grants or grants from Minnesota state agencies, contracts to  
141                   provide customized training instruction, or otherwise generate income without additional  
142                   authorization from the board if such contracts or agreements do not exceed \$3,000,000.  
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144                   **Part 14. Intra-Agency and Inter-Agency Agreements, Joint Powers Agreements, and Master**  
145                   **Contracts**  
146                   Colleges, universities, and the system office must consult with the VC-CFO prior to executing an  
147                   income contract exceeding \$3,000,000 or five years. Consultation must also occur prior to  
148                   execution of any income contract that concerns uses in general obligation or revenue fund  
149                   bond financed property.  
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151                   Federal grants or grants from Minnesota state agencies do not require prior approval by the  
152                   board or consultation with the VC-CFO.  
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154                   **Part 15. Restrictions**  
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156                   **Subpart A. Contracts with law firms or lawyers**  
157                   Only system legal counsel has the authority to represent the State. Colleges, universities,  
158                   and the system office may enter into contracts with a law firm or a lawyer for non-legal  
159                   services subject to the review by system legal counsel and the approval of the VC-CFO and  
160                   system legal counsel. The following language must be included in any contract entered into  
161                   with a law firm or a lawyer for non-legal services: “Contractor’s duties do not include  
162                   providing legal services to the State within the meaning of Minn. Stat. § 8.06.”

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**Subpart B. Contracts for banking services and banking-related services**

Minn. Stat. § 16A.27 gives to the commissioner of Minnesota Management and Budget the authority to “control the amount and manner of deposit of state funds.” The system office, colleges, and universities must work with Minnesota Management and Budget when seeking any services related to the handling of state funds, banking, or banking services. The VC-CFO must be consulted prior to execution of any banking services contracts. Colleges, Universities, and the system office must re-bid bank services at least every ten (10) years.

**Subpart C. Contracts for audits with a public accountant**

Minn. Stat. § 3.972, Subd. 3, places a restriction on contracting with public accountants for audits. It requires that “a contract must not be negotiated unless the contract has been reviewed by the legislative auditor.” Board Policy 1A.2 requires board approval of audit firm contracts under certain circumstances.

**Subpart D. Employer-employee relationship**

A contract must not establish an employer-employee relationship as defined in Internal Revenue Service rules.

**Part 16. Code of Ethics**

All Minnesota State employees engaged in contracting and purchasing are subject to Minnesota law applicable to state employees, including Minn. Stat. §§. 15.43, 43A.38, 43A.39 and System Procedure 1C.01.

**Part 16. Accountability**

The chancellor for the system office and the president of each college and university shall designate an employee who will have overall responsibility for complying with state and federal laws, board policy, bargaining agreements, and systemwide procedures for all consultant, professional, and technical contracts.

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**Related Documents:**

[Policy 5.14](#) Contracts, Procurements, and Supplier Diversity

[Procedure 5.14.5](#) Purchasing

[Procedure 5.14.6](#) Supplier Diversity

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**Procedure History**

*Date of Implementation: 07/28/96,*

*Date of Adoption: 07/28/96,*

*Date of Last Review: 05/17/16,*

**Date and Subject of Amendment:**

*5/17/16 - Amended title to include income contracts. Amended to comply with policy*

*requirements in Policy 5.14. Amended Part 5 to prohibit pre-payments except allowable in Minn. Stat. § 16A.065. Amended Part 6, Subpart B to require single source exception form. Amended Part 9 to require consultation with the vice chancellor-chief financial officer prior to executing an income contract exceeding \$1,000,000 or five years and contracts of any value involving bond financed property. Other formatting changes throughout for consistency with other policy and procedures.*