



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

~~For Board Policy 5.14~~

Part 1. Purpose

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

Part 2. Authority

Board Policy 5.14 Procurement and Contracts ~~delegates to~~ authorizes the chancellor ~~authority~~ to develop procedures ~~on behalf of the board~~ for entering into consultant, professional, ~~or~~ and technical services contracts.

Part 3. Contracting Authority

~~Colleges and universities~~ Colleges, universities, and the system office have authority to enter into individual contracts with a Total Contract Value (TCV) of up to ~~and including~~ \$100,000 without ~~vice chancellor chief financial officer~~ the Vice Chancellor for Finance and Facilities (VC-CFO) approval.

~~Contracts over \$100,000 require approval from the vice chancellor chief financial officer. College and universities shall submit a request for memorandum approval explaining the need for the contract, the proposed process to be used in selecting a contractor, and estimated cost, and shall verify that funds are available for paying the contractor. The vice chancellor chief financial officer will review the memorandum and respond in writing. respond in writing to the college or university.~~

~~Contracts requiring vice chancellor chief financial officer approval include consecutive single-year contracts with the same entity and contracts with amendments which, when added together, exceed \$100,000.~~

Contracts of any value with a term in excess of five years require approval by the VC-CFO ~~vice chancellor chief financial officer~~.

Each college and university ~~shall~~ must develop procedures for entering into contracts in

33 consultation with the system office. Employees and their exclusive bargaining representatives
34 ~~shall~~must also be consulted on the proposed procedures and must address topics such as
35 employee protection, information availability and reporting, conflict of interest, and renewal
36 restrictions.

37
38 **Part 43. Contract Preparation**

39 Contracts must be prepared on forms approved by the system office to ~~ensure~~assure that they
40 include all state-required contract language. Any modification of forms approved by the system
41 office, or the use of a non-system office form requires the review by system legal counsel and
42 approval of the ~~vice chancellor chief financial officer~~VC-CFO. System legal counsel includes
43 either the Minnesota State ~~Colleges and Universities~~General Counsel's Office or the Minnesota
44 Attorney General's Office.

45
46 **Part 5. Use of E-Procurement System for all Non-Construction Contracts**

47 ~~To ensure appropriate review and approval, All non-construction contracts, agreements, and~~
48 ~~commitments, whether for goods, services, or any other procurement purpose, must be~~
49 ~~initiated, maintained and monitored through the designated e-procurement system. Contracts,~~
50 ~~along with all relevant documentation, must be completed within or uploaded into the e-~~
51 ~~procurement system before any procurement activity can commence. The e-procurement~~
52 ~~system will facilitate a standardized and documented approval workflow for all non-~~
53 ~~construction contracts.~~

54
55 **Part 64. Encumbrance**

56 Funds must be encumbered prior to making an obligation. An authorized employee ~~shall~~must
57 certify that the accounting system shows sufficient allotment or encumbrance balance in the
58 fund, allotment, or appropriation to meet it. College, university, and system office
59 administration must assure proper authorization is on file for employees charged with
60 encumbering funds. An expenditure or obligation authorized or incurred prior to encumbering
61 funds is in violation of state law and ineligible for payment until made valid and is in violation of
62 Minn. Stat. § 16A15, Subd. 3. An employee authorizing or making the payment, or taking part in
63 it, may be liable to the State for the amount paid. A knowing violation of Minn. Stat. § 16A.15,
64 Subd. 3, is just cause for the employee's removal. The State cannot agree to indemnify third
65 parties or hold them harmless (Minn. Stat. § 16A.138; Minn. Const. Art. XI, Sec. 1).

66
67 **Part 75. Prepayment**

68 Minn. Stat. § 16A.41, Subd. 1, generally prohibits ~~Minnesota State the system office and the~~
69 ~~colleges and universities~~ from paying in advance, except ~~under the circumstances described as~~
70 ~~set forth~~ in Minn. Stat. § 16A.065.

71
72 **Part 86. Consultant, Professional, or Technical Services Contract Definition**

73 A consultant, professional, or technical ~~services~~ contract means any agreement entered into for
74 consultant, professional, or technical services usually on a short-term basis for a finite period of
75 time and for one or more specific purposes. ~~These contractsy~~ are predominantly intellectual in
76 character, which could include consultation analysis, evaluation, prediction, planning, or

77 recommendation; do not involve the provisions of supplies or materials; and result in the
78 production of a report or the completion of a task.

79
80 **Subpart A. Contracts ~~shall-must~~ generally not exceed five years**

81 Contracts must ~~show-contain~~ any ~~renewal-amendment~~ information including the amount
82 previously paid. Any contract or amendments to original contracts that a campus or the
83 system office proposes to continue beyond five years ~~shall-must~~ be reviewed and approved
84 by the ~~vice chancellor-chief financial officer~~ VC-CFO.

85
86 **~~Subpart B. Public solicitation~~**

87 ~~For contracts anticipated to exceed \$50000 in total, sealed bids must be solicited by public~~
88 ~~notice through publishing a minimum two-week notice on a State of Minnesota website or~~
89 ~~in one or more official newspaper. The official newspaper may be the State Register. In~~
90 ~~addition to the public notice, requests for proposals may be solicited by directly notifying~~
91 ~~prospective bidders not less than seven (7) days before the final date of submitting bids~~
92 ~~For proposed single-source contracts over \$50,000, the request form for a single-source~~
93 ~~exception must be completed~~

94
95
96 **Part 9.8 Single Source**

97 Single Source designation is applied to an acquisition where, after a search, only one supplier is
98 determined to be reasonably available for the required product, service, or construction item.
99 Minn. Stat. § 16C.02, subd. 18.

100
101 For proposed single-source contracts with a TCV of \$100,000 or greater, the request form for a
102 single-source exception must be completed and approved by the VC-CFO prior to contract
103 approval. For proposed single-source contracts with a TCV of less than \$100,000, the request
104 form for a single-source exception shall be completed and approved by the institution's chief
105 financial officer.

106
107 **Part ~~107~~. Contracts in Excess of \$100,000**

108 Contracts ~~over~~ \$100,000 ~~or greater~~ require system office approval from the ~~vice chancellor-~~
109 ~~chief financial officer~~ VC-CFO. The college or university shall submit a ~~memorandum request for~~
110 ~~VC approval form~~ explaining the need for the contractor, the proposed process to be used in
111 selecting a contractor, and estimated cost, and ~~shall~~ verify that funds are available for paying
112 the contractor. The ~~vice chancellor-chief financial officer~~ VC-CFO will review the memorandum
113 and respond in writing, ~~to the college or university.~~

114
115 Contracts requiring ~~vice chancellor-chief financial officer~~ VC-CFO approval include consecutive
116 single- year contracts with the same entity and contracts with amendments which, when added
117 together, ~~have a TCV of exceed are~~ \$100,000 ~~or greater~~.

118
119 **Subpart . System Office Contracts \$1,000,000 or greater and less than \$3,000,000**

120 The chancellor or chancellor's designee shall consult with the Board of Trustees' chair and

121 ~~the chair of finance and facilities committee on all system office contracts of \$1,000,000~~
122 ~~and less than \$3,000,000.~~

123
124 **Subpart B. Public solicitation**

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

132
133 **Subpart C. Minnesota Department of Human Rights**

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

137
138 **1. ~~Subpart A.~~ Businesses with more than 40 employees within Minnesota**

139 Consistent with Minn. Stat. § 363A.36, vendors who intend to bid on any purchases
140 or contracts exceeding \$100,000 and have had on any single working day in the
141 previous twelve (12) months more than forty (40) full-time employees within
142 Minnesota, ~~shall~~must apply for a ~~Certificate of Compliance~~Workforce Certificate
143 from the Minnesota Department of Human Rights. Bids or proposals on purchases or
144 contracts exceeding \$100,000 from vendors who have not applied for this certificate
145 must not be accepted. An award exceeding \$100,000 must not be made to vendors
146 who have not obtained this certificate or received an exception.

147 **2. ~~Subpart B.~~ Businesses with more than 40 employees outside Minnesota**

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

155 **3. Equal Pay**

156 Pursuant to Minn. Stat. § 363A.44 Subd. 8, if the amount of the contract is valued in
157 excess of \$500,000 and the contractor has 40 or more full-time employees in
158 Minnesota or a state where the business has its primary place of business on any
159 single working day during the prior twelve (12) months, the contractor must obtain
160 an Equal Pay Certificate from the Minnesota Department of Human Rights (MDHR)
161 or claim an exemption on the Declaration Page prior to contract execution.

162
163 **Part 11. System Office Contracts \$1,000,000 or greater and less than \$3,000,000**

164 The chancellor or chancellor's designee shall consult with the Board of Trustees' chair and the

165 chair of finance and facilities committee on all system office contracts with a TCV of \$1,000,000
166 and less than \$3,000,000.

167
168 **Part ~~11128~~ 1213 9. Contracting with Targeted Group Businesses (TGBs)**

169 ~~Targeted group businesses are those meeting the definition in Minn. Stat. § 16C.16, Subd. 5.~~
170 Purchasing practices will include provisions ~~whenever practicable,~~ for procurement from small
171 ~~targeted group businesses~~ TGBs as set forth in Board Policy 5.14 and System Procedure 5.14.6
172 and related Policy 5.14 as defined in Minn. Stat. § 471.345, Subd. 8. Targeted businesses are
173 certified as such and a list is available from the Department of Administration.

174
175 **Part ~~1213~~ 9. Income Contracts including Customized Training and Grants**

176 Colleges, universities, and the system office may enter into income contracts, including grant
177 agreements other than federal grants or grants from Minnesota state agencies, contracts to
178 provide customized training instruction, or otherwise generate income without additional
179 authorization from the board if such contracts or agreements do not exceed \$3,000,000.

180
181 **Part ~~13140~~ 13140. Intra-Agency and Inter-Agency Agreements, Joint Powers Agreements, and**
182 **Master Contracts**

183 Colleges, universities, and the system office ~~shall~~ must consult with the ~~vice chancellor chief~~
184 ~~financial officer~~ VC-CFO prior to executing an income contract exceeding \$~~13~~,000,000 or five
185 years. Consultation ~~shall~~ must also occur prior to execution of any income contract that
186 concerns uses in general obligation or revenue fund bond financed property.

187
188 Federal grants or grants from Minnesota state agencies do not require prior approval by the
189 board or consultation with the ~~vice chancellor chief financial officer~~ VC-CFO.

190
191 **Part ~~141511~~ 141511. Restrictions**

192
193 **Subpart A. Contracts with law firms or lawyers**

194 Only system legal counsel has the authority to represent the State. Colleges, universities,
195 and the system office may enter into contracts with a law firm or a lawyer for non-legal
196 services subject to the review by system legal counsel and the approval of the ~~vice~~
197 ~~chancellor chief financial officer~~ VC-CFO and system legal counsel. The following language
198 must be included in any contract entered into with a law firm or a lawyer for non-legal
199 services: "Contractor's duties do not include providing legal services to the State within the
200 meaning of Minn. Stat. § 8.06."

201
202 **Subpart B. Contracts for banking services and banking-related services**

203 Minn. Stat. § 16A.27 gives to the commissioner of Minnesota Management and Budget the
204 authority to "control the amount and manner of deposit of state funds." The system office,
205 colleges, and universities must work with Minnesota Management and Budget when
206 seeking any services related to the handling of state funds, banking, or banking services.
207 The ~~vice chancellor chief financial officer~~ VC-CFO ~~should~~ must be consulted prior to
208 execution of any banking services contracts. ~~The~~ Colleges, Universities, and the system

209 office ~~and the colleges and universities should~~ shall must re-bid bank services at least every
210 five-ten (10) years.

211
212 **Subpart C. Contracts for audits with a public accountant**

213 Minn. Stat. § 3.972, Subd. 3, places a restriction on contracting with public accountants for
214 audits. It requires that “a contract shall must not be negotiated unless the contract has
215 been reviewed by the legislative auditor.” Board Policy 1A.2 requires board approval of
216 audit firm contracts under certain circumstances. ~~Colleges and universities shall consult~~
217 ~~with the vice chancellor—chief financial officer prior to the execution of any contract with~~
218 ~~any audit firm.~~

219
220 **Subpart D. Employer-employee relationship**

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

223
224 **Part ~~151612~~. Code of Ethics**

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

228
229 **Part ~~161613~~. Accountability**

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

Related Documents:

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

[Procedure 5.14.5](#) Purchasing

[Procedure 5.14.6](#) Supplier Diversity

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.