

DHHS POLICIES AND PROCEDURES

Section VII:	Procurement and Contract Services
Title:	General Contracting Manual
Chapter:	Chapter 2; Contract Administration
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Purpose

The purpose of this document is to provide guidance to Department of Health and Human Services (DHHS) staff as it relates to contract administration.

(The term “contract” is used as an all-inclusive term for contracts, memorandum of agreements, etc.)

Policy

Contract or Contract Amendment Approvals

Each division/office/facility/school director (or authorized designee) must approve all contracts originating in his/her division/office/facility/school. If additional approvals are required, each division/office/facility/school director (or designee) is responsible for ensuring that all needed approvals are obtained.

Each division/office director will determine the minimum internal division/office/facility/school approvals required prior to approval of a contract.

However, the division budget officer must certify that funds are provided from an appropriate funding source(s) for the contract. The COE Chair for the division/office is required to sign and date the contract approval form, representing committee review and approval. “Approval” indicates the contract includes the elements of performance-based contracting (PBC).

Each contract must be entered in the DHHS Contracts System prior to seeking approval to contract. Any contract sent to the Division of Budget and Analysis, the DHHS Office of Procurement and Contract Services, the Division of Information Resource Management, and the Public Information Office that has not been entered in the System will be returned to the Division without approval.

All appropriate approvals must be obtained prior to the effective date of a contract.

Any contract using modifications to the DHHS General Terms and Conditions must be approved by The Office of Procurement and Contract Services.

The Attorney General’s Office must approve any RFP equal to or greater than \$25,000 with any entity.

Approvals of a property lease follow the procedures of the DHHS Office of Property and Construction. See the DHHS policy for details regarding property leases.

http://info.dhhs.state.nc.us/olm/manuals/dhs/pol-60/man/Acquisition_of_Leased_Space1.htm

Note: Capital Improvement Construction contracts of any type (along with service agreement contracts covered by the State Building Commission statutes, and architect and engineering service contracts covered by the State Building Commission statutes, etc.) are the responsibility of the Office of Property and Construction. Contact their office if services of this type are required.

See the DHHS Department Wide Policies of the Office of Property & Construction for further details and explanation. <http://info.dhhs.state.nc.us/olm/manuals/dhs/pol-60/man/index.htm>

Implementation

Contract Execution

A contract with another state department requires the signatures of the Secretary representing each state department.

Any property lease equal to or less than \$5,000 requires the signature of the Director of DHHS Office of Property and Construction. A property lease greater than \$5,000, up to and including \$25,000, also requires the signature of the Director of State Property, and a property lease greater than \$25,000 requires the signature of the Attorney General's Office and the Governor. Questions about property leases should be directed to the Office of Property and Construction.

All other contracts require the signature of the division/office/facility/school director (or authorized designee) and all other possible Departmental approvals.

Division/Office/Facility/School directors may delegate signature authority for contracts. If authorization is delegated, a letter of authorization must be on file with the DHHS Office of Procurement and Contract Services.

Only those persons legally authorized to bind the contractor (President, Vice-President, or equivalent) shall sign contracts.

A fully executed contract must be signed and dated by the contractor and division/office/facility/school director, prior to the effective date of the contract and/or before work begins. Exceptions must be justified in writing to the Director of Division of Budget and Analysis who must approve any exceptions to this policy.

Payments may not be made until the contract has been fully executed and funds have been encumbered. The Director of Division of Budget and Analysis must approve any exceptions to this policy.

Review and Approvals Required

The required approvals are summarized in Chart: **Levels of Approval**. A contract must meet the approval requirements of all applicable types if a contract falls under more than one type of approval.

A. **Division/Office/Facility/School Director**

1. **Contracts**

The Division/Office/Facility/School Director or authorized designee is the final approval authority for the following types of contracts and agreements.

- a. MOA.
- b. Program Related Service less than \$200,000; any method; any type (unless identified in other areas, ex: IT contracts, Media related contracts).
- c. RFQ less than \$10,000; any type, where 3 quotes are on file.
- d. Personal services contract less than \$10,000 and not exceeding the established rate.

2. **Meaning of Approval**

The Division/Office/Facility/School Director or authorized designee must assure the following for all contracts, including contracts that must be reviewed and approved by others within and outside the Department:

- a. Proposed service is needed and includes performance-based contracting methods.
- b. Verification that contract services are allowable under State and Federal regulations.
- c. All contract documentation is on file and correct.
- d. Correct contract documents, including certifications, audit language (based upon j. below), etc. is used.
- e. Costs in contract budget are reasonable.
- f. Statement of work is clearly written, well defined and includes performance measures.
- g. Justification is complete, including documentation on comparable “fair market” rates for proposed contract fees with personal service contracts if exceeds the established rate.
- h. Approval was obtained from the Division’s Personnel Office indicating that a personal services contract is more cost effective than a temporary position.
- i. Funds are budgeted appropriately (e.g. budget revisions are approved, determination of appropriate costing method - direct charge vs. cost allocation, source is appropriate). If cost allocation plan for this cost center needs to be revised, this has been communicated to the Controller’s Office.
- j. Determination is made regarding Financial Assistance vs. Purchase of Service.

- k. Verified that the contract is in compliance with DHHS Cash Management Plan. True performance-based contracts may not follow the reimbursement requirements specified in the Cash Management Plan.
- l. Vendor is legitimate (e.g., charitable organization is verified as a 501 (c)(3) organization) and qualified to perform services.
- m. The Attorney General's Office was involved early in the development of the contract (if it is equal to or greater than \$25,000 RFP), and the Attorney General's Office agrees with the contract language.
- n. Approval was obtained from the COE Chair indicating full review of the contract to include elements of PBC.
- o. Data entered in the DHHS Contracts System.

B. Division of Human Resources

- 1. Personal Services Contracts
Personal Service Contracts that are less than \$10,000 and do not exceed the established rate are approved by Human Resources at division level. Personal Service Contracts that exceed the established rate or are \$10,000 and above must be approved at the department level.
- 2. Meaning of Approval
 - a. Employer/employee relationship for federal withholding determined.
 - b. Compared hourly rate for personal services contract to state employee salary schedule (and advised designated division/office/facility/school staff on findings).
 - c. Provided a consultation to designated division/office/facility/school staff on options in lieu of a personal services contract.

C. Public Information Office (PIO)

- 1. Contracts
The DHHS Public Information Office will review and approve any contract for media, public relations, or associated services, regardless of amount or provider.
- 2. Meaning of Approval
 - a. Media, public relations, and associated services cannot be done within state government at no added cost.
 - b. Media, public relations, and associated services cannot be done at same quality for a lower price.
 - c. Media, public relations, and associated services are appropriate.

D. Division of Information Resource Management

- 1. Contracts
The Division of Information Resource Management (DIRM) will review and approve all contracts for information technology services regardless of the amount. Use the IT Checklist to determine if DIRM needs to review the contract.

2. Meaning of Approval
 - a. NC Statewide Technical Architecture issues addressed.
 - b. Security requirements are met, including compliance to DHHS Security Policies.
 - c. HIPAA privacy & security documentation included.
 - d. IEEE standards for System Development Life Cycle (SDLC) followed.
 - e. Project management standards followed.
 - f. Oversight approvals in place (e.g. SB991 project approval).
 - g. Appropriate procurement approach used.
 - h. Technical standards and best practices being followed.
 - i. Procurement consistent with other DHHS (or State) IT efforts.
 - j. IT portion of the contract meets performance-based contracting requirements.

See [DHHS ITD web site](http://www2.ncdhhs.gov/dirm/) for definitions, requirements, guidelines, and templates for use in all Information Technology (IT) contracts. IT questions should be directed to the Division of Information Resource Management for clarification. (<https://www2.ncdhhs.gov/dirm/>)

E. Attorney General's Office

1. Contracts

The Attorney General's Office must approve any RFP equal to or greater than \$25,000 with any entity. The Attorney General's Office will also review and approve all property leases greater than \$25,000.
2. Meaning of Approval
 - a. Contract language is appropriate.

F. Division of Budget and Analysis

1. Contracts
 - a. Operations contract that is: Sole Source equal to or greater than \$10,000; any type.
 - b. Operations contract that is: Government contracts with Other State Agency.
 - c. Consulting contract regardless of amount or provider.
 - d. IMOA with DHHS Agency.
 - e. RFP equal to or greater than \$10,000; any type.
 - f. Personal services contract exceeding the established rate.
2. Meaning of Approval
 - a. Contracting division/office/facility/school has verified that funds are budgeted appropriately (e.g., source is appropriate, determination of appropriate costing method - direct charge vs. cost allocation, etc.).
 - b. Contract is consistent with Budget Bill.
 - c. Made DHHS management aware of contract that may raise issues with members of the General Assembly or its staff.
 - d. Personal services contract is needed and follows guidelines and provisions.

G. Office of Procurement and Contract Services

1. Contracts
 - a. Sole source contract regardless of amount or provider.
 - b. Operations contract that is: Equal to or greater than \$200,000; Government; with Local Gov, UNC System, or NC Community College.
 - c. Program Related contract that is: Equal to or greater than \$200,000; RFA or Sole Source; with For Profit, Non Profit, Local Gov, UNC System, NC Community College, University Private In-State, University Out-of-State.
 - d. Government contract with Other State Agency regardless of the amount.
 - e. RFP equal to or greater than \$10,000; any type.
 - f. Consulting contract regardless of amount or provider.
2. Meaning of Approval
 - a. The contract justification memorandum supports request to contract and supports sole source.
 - b. Contracts are in compliance with the general contracting requirements.
 - c. Contracts include performance-based contracting methods.
 - d. Proper approvals have been secured from State Purchase and Contract (P and C), State Information Technology Services (ITS), DHHS Secretary's Office, and Governor's Office.
DHHS Office of Procurement and Contract Services will coordinate any approvals needed from State P and C, State ITS, and the Governor's Office.

H. Office of Property and Construction

1. Contracts
All property leases require the approval of the DHHS Office of Property and Construction. The DHHS Office of Property and Construction will coordinate any approvals required from the Director of State Property or the Governor.
2. Meaning of Approval
 - a. Space is needed.
 - b. Lease agreement is appropriate for identified space needs.
 - c. Requesting division/office/facility/school, budget officer, has verified that there are sufficient funds and, if necessary, a budget revision has been approved.
 - d. Appropriate approval from Governor or State Property Office obtained.

I. State Purchase and Contract

1. Contracts
 - a. State P and C must approve all RFPs equal to or greater than \$25,000.

- b. State P and C must also approve all contracts for consultant services.

Approval Documentation

Approvals will be documented on the **Contract Approval Form**. (Approvals for property leases will be documented as determined by the DHHS Office of Property and Construction.)

Documentation for Contract File

Each division/office/facility/school director shall designate an individual to be responsible for the contracts and to serve as the division's/office's/facility's/school's liaison to DHHS. The responsible individual is expected to maintain the division's/office's/facility's/school's permanent contract file.

The division's/office's/facility's/school's permanent contract file should be organized by contract number. All contracts and related information, including but not limited to, contract amendments, budget amendments or budget revisions, should be maintained in individual folders.

The final Contract File must contain at least the following items:

- **Contract Approval Form**
The Contract Approval Form acts as the base document/requisition for the contract or contract amendment including data about the contract as well as all required approval signatures.
- **NCAS Header Sheet or copy of E-Procurement Purchase Order Sheet**
 - The NCAS Header Sheet is obtained by printing the PHI screen of the North Carolina Accounting System. When this screen is completed, the system will assign the purchase order number that identifies the contract. This number should be entered at the top of the contract approval form, entered in the DHHS Contract System, and entered on all invoices. The NCAS screens necessary to encumber funds will be completed after all approvals are entered on the contract approval form.
Note: The NCAS Procedure P95-006 is included on the COE web site. This explains how to enter contracts into NCAS. In the event a contract is canceled, contact NCAS Purchasing Support Team within the Office of Procurement and Contract Services for instructions on removing it from NCAS.
 - The E-Procurement Purchase Order Sheet is obtained after entering the requisition information into the E-Procurement System and the requisition is approved. The approval generates a Purchase Order number that identifies the contract. This number should be entered into the

DHHS Contract System in place of the NCAS # as EPXXXXXXXXX and entered on all invoices.

- **IT Checklist**

The IT Checklist is to be completed for each contract. This is a two page document. The first page must be completed for all contracts, the second page must be completed only if “yes” was checked on page one, meaning the contract has an IT component.
- **Audit Requirements Questionnaire**

The Audit Questionnaire (Contract Determination) and instructions documents the determination as established by OMB Circular A-133, Section .210 and Rule #10 NCAC 1B.0420. This questionnaire should be completed by the authorized programmatic individual and submitted to the authorized administrative individual along with a copy of the contract justification memorandum. The authorized administrative individual will make audit determination and complete form as required. This determination is required in order to use the appropriate contract language.
- **Federal Assurances**

Sign appropriate certifications as applicable per source of funds and applicable to all agencies except Federal Agencies or an agency acting in the behalf of a Federal agency.

 1. Federal Disclosure of Lobbying Activities
 2. Federal Certification instructions
 3. Federal Certification Regarding Lobbying Form
 4. Federal Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions
 5. Federal Certification Regarding Drug-Free Workplace Requirements
 6. Federal Certification Regarding Environmental Tobacco Smoke
- **Contract Justification Memorandum or Amendment Justification**

The information listed on justification memorandum and amendment justification memorandum provides a comprehensive outline of the contract or contract amendment as well as answers to the basic questions as to why the contract should be entered into or is being amended. All questions must be responded to as they pertain to the contract.
- **Executed Contract and/or Contract Amendments**

An original of the completely signed contract or contract amendment with all required and applicable attachments. (Applicable attachments may include HIPAA, Conflict of Interest, Federal Certifications, Financial Assistance Requirements, IRS tax exempt letter or verification form.)

- **State Grant Certification – No Overdue Tax Debts (if applicable)**
This must be completed for all financial assistance contracts with the use of state funds by non-state entities.
- **DOA or ITS Purchasing and Contract Approval Letter (if applicable)**
If the contract or contract amendment requires the approval of the Department of Administration, a copy of the approval letter will be returned from the Office of Procurement and Contract Services to the division/office/facility/school.
- **RFP/RFI/RFA and Supporting Documentation (if applicable)**
This documentation may be obtained in the file with the actual contract or must at least be kept in the contract office for the division/office/facility/school.
- **See Public Affairs Policies** regarding necessary documentation and forms for contracts that include media, public relations, or associated services.

In addition to the above, the Division/Office/Facility/School must have on file the following items for each private nonprofit contractor:

- **Letters of Tax Exempt Status**
Internal Revenue Service 501(c)(3) certification OR Verification of 501(c)(3) status.
Note:
 1. Copy of 501(c)(3) certification is required with all initial contract documents. In second and subsequent years, verification of 501(c)(3) status is required.
 2. Where a division/office/facility/school has multiple contracts with a specific vendor, one copy of the 501(c)(3) certification and/or verification document will satisfy the requirements for all contracts in force.
- **Notarized Policy Addressing Conflict of Interest**
Conflict of Interest Policy for Private Nonprofit Agencies

See the Procurement & Contract Services Manuals and forms for information, instructions, examples and contract forms, templates, general terms and conditions, performance-based contracting (PBC) requirements, performance measures, sample amendments, supplemental material to required forms and miscellaneous information.

Distribution of Finalized Contracts

The following is the minimum required distribution for contracts:

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- One executed original maintained in the division/office/facility/school central contract office file.
- One executed original returned to the contractor.
- One copy is submitted to the DHHS Controller's office, include a copy of the completed Contract Approval Form.
- One copy (contracts approved by OPCS) is submitted to the DHHS Office of Procurement and Contract Services, include a copy of the completed Contract Approval Form.
- One copy, maintained by the DHHS Contract Administrator to monitor performance of the contract.

Vendor Complaints

Agencies wishing to make complaints about vendors must adhere to the following guidelines in the Department of Administration, Division of Purchase and Contract.

Complaints should always be submitted via the designated single-point-of-contact for their agency. Submit copies of complaints to DHHS Office of Procurement and Contract Services.

All complaints should at first be handled on an informal basis. In other words, attempts should be made to solve the problem.

If unsuccessful, agency purchasing staff should complete a Complaint to Vendor Form (PC-104) and forward it to the DHHS Office of Procurement and Contract Services Director.

The Complaint to Vendor Form is available from the DOA, Division of Purchase and Contract website. (<http://ncadmin.nc.gov/about-doa/divisions/purchase-contract>)

Accountability and Monitoring

Division/office/facility/school directors are responsible for compliance with the manual, the North Carolina Administrative Code, the DHHS Internal Policy and Procedures Manual, DHHS Directives, and the Department of Administration Purchasing and Contract Manual. Directors may delegate authority to carry out functions, but delegation does not relieve them of responsibility and accountability to the Secretary, DHHS, for matters relating to purchasing goods and/or services.

DHHS Procurement and Contract Services will assist in training of division/office/facility/school purchasing and/or contract staff. Training may be on an individual basis or in conjunction with formal, recurring purchasing and/or contract training as provided by State Purchase and Contract or the Office of the State Controller.

Refer to the Procurement & Contract Services Manuals and forms for information, instructions, examples and contract forms, templates, general terms and conditions, performance-based contracting (PBC) requirements, performance measures, sample amendments, supplemental material to required forms and miscellaneous information.

DHHS Open Window (previously known as: DHHS Contracts System)

The DHHS Contracts System serves as a centralized data system to capture basic information on contracts. This information is used to document and analyze the types of contracts and funding sources used across the Department of Health and Human Services.

All contracts must be entered in the System. Included are ~~ITS convenience contracts~~ and grants in contract form (e.g., funding through special appropriations). The only exceptions are capital construction contracts.

Funding data on all contracts must be reported by state fiscal year (SFY). For contracts that cross SFYs, report the amount budgeted for each SFY (i.e., the amount anticipated to be disbursed in each year of the contract).

Each contract must be entered in the System prior to seeking approval to contract. Each contract must have its own separate entry in the system. Contracts renewed each year (same service, same contractor, new contract) must be entered into the system again and have a new system number and record created. Amendments to the original contract must be entered as such in the system, and will be attached to the original contract record. It is the objective of the department to be able to collect and report on all contract data including historical data for cost comparison and fiscal reporting.

Each division/office/facility/school is responsible for entering the contract information and making updates and/or corrections as needed. Each division/office/facility/school is ultimately responsible for the quality and accuracy of the data on its contracts.

ACCESS

The DHHS Contracts System is a web-based resource designed for internal use by DHHS staff. (Reports may be generated for internal and external distribution.)

Each division/office/facility/school has the ability to define its users and level of access within the division. To request access or change access level, send an email request to: SVC_DHHS.OpenWindow <OpenWindow@dhhs.nc.gov>

For questions or clarification on any of the information contained in this policy, please contact [Office of Procurement & Contract Services](#).