



POLICIES & PROCEDURES

Title: Professional Services

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Department: Finance

Purpose

The purpose of this policy is to provide an outline of the method of Contracting for Professional Services provided by non-college personnel, in accordance with the State of Louisiana, Regulations for the Procurement of Personal, Professional, Consulting and Social Services.

Scope

Entire College community.

Policy Compliance

This policy was developed in accordance with State of Louisiana, Regulations for the Procurement of Personal, Professional, Consulting and Social Services, Division of Administration Policy and Procedure Memorandum No. 71, Teachers' Retirement System of Louisiana Manual Chapter 15.0, and Louisiana Revised Statute 11:701 through 11:791.

Policy and Procedures

Contractual Authority

The college's policy, procedures and regulations operate under the aegis of express authority concepts only. Employees therefore do not have authority to enter into a contract on behalf of the college without specific delegated authority. More specifically, but not limited to, employees cannot:

- (1) offer employment to anyone
- (2) enter into any professional, personal, or consulting contract
- (3) procure goods and services, and/or
- (4) enter into any other contracts for any purpose, such as cooperative agreements with other entities, joint venture, etc.

Employees with specific delegated authority may enter into contract negotiations and extend offers subject to the approval by the LCTCS Board of Supervisors, Chancellor, Vice Chancellor, etc. In all cases, it is the responsibility of the employee to assure that he/she has specific authority to negotiate, extend offers and/or enter into a binding contract for the college.

Delegated Authority

In accordance with LA R.S.39:1508, the college has delegated authority from the Division of Administration, Office of State Procurement, Professional Contracts, authorizing the Chancellor and his campus officials: Requesting Agent/Project Director, Division Chair, Dean/Director, the appropriate Vice-Chancellor's, to sign contracts on behalf of Louisiana Delta Community College under their budgetary authority up to \$20,000.

Professional service contracts must be submitted and fully approved before contractors commence services. Contracts should be processed for approval in a timely manner and work under a professional services contract should not commence and is not considered valid until all appropriate approvals have been obtained. The Legislative Auditors have determined that it will be a college audit finding for contractors to commence work prior to approval of the contract.

Linking Contracts for Professional Services to Goals and Objectives, Performance Measures and Monitoring Plan

The college requires all professional services contracts be "linked" to the college's Goals and Objectives (your unit of goals and objectives), Performance Measures be identified, and a Monitoring Plan be in place. A Professional Service contract must be included with every Purchase Requisition you submit for services.

Fair and Reasonable Compensation

In accordance with the requirements of Louisiana Revised Statute 39:1499, the college must determine that the rate of compensation to be paid to professional services contractors is fair and reasonable to the state. In making this determination, the issues below must be taken into account, in the following order of importance:

- the professional or technical competence of offerors,
- the technical merits of the offers or proposals, and
- the amount of compensation for which the services are to be rendered.

By signing the professional services contract, the Requesting Agent/Project Director, Approving Agent(s), Appropriate Vice Chancellor, and Chancellor are certifying that they have made a determination of "fair and reasonable compensation" to the state taking into account the above items.

Retirement Systems Authority

Earnable compensation for active employees of TRSL and LASER's must be reported and must have retirement contributions paid by employee and college. Earnable compensation means the compensation earned by a member during the full normal working time as a teacher. Earnable compensation shall not include per diem, differential pay, payment in-kind, premium pay, or any other allowance for expense authorized and incurred as an incident to employment, nor payments in lieu of unused sick or annual leave, nor retroactive salary increases unless such increase was granted by legislative act, nor payment for discontinuation of a contractual service, unless the payment is made on a monthly basis. If the contractor is a retiree of TRSL, the retiree must complete Retiree Return to Work form and be reported to TRSL.

Contracting Prohibitions

Employees of the college cannot enter into a contract for professional services with the college. This prohibition includes student workers.

Former employees of the college are prohibited by the Code of Governmental Ethics from entering into Professional Services Contracts with the college in their former area of responsibility for a period of two years.

The College is prohibited by R.S. 42:1112 from entering into a contract with a company in which the employee has a personal substantial economic interest.

As provided by R.S. 39:1498.2 (A), "state agency personnel in the medical, nursing or allied health fields, state employees who are qualified to serve as interpreters for the deaf, and faculty members of the college may be employed by other state agencies through a contract for professional, personal, consulting, or social services in accordance with rules and regulations of the Office of State Procurement, Professional Contracts." There is a restriction on faculty members contracting for the design or redesign of a state-owned facility. Other non-faculty personnel are prohibited from entering into a contract for professional, personal, consulting, or social services with another state agency.

Louisiana Revised Statutes 39:1496 prohibits the artificial division of contracts so as to avoid Office of State Procurement, Professional Contracts approval. No contract should be artificially divided so as to avoid any of the required documents as stated within Policy and Procedures.

Required External Approvals

As provided by R.S. 39:1498.2 (B), each professional, personal, consulting, and social service agreement between a governmental body as defined in R.S. 39:1484 (11) and a faculty member of any state college shall be subject to the written approval of the Chancellor of the college which employs the faculty member, and written notification of agreement and approval shall be given to the appropriate management board.

The College has delegated authority from the Division of Administration to approve professional, personal, consulting and social services contracts in amounts of \$20,000 or less.

Any contracts for professional, personal, consulting, and social services in amounts greater than \$149,999 shall require the approval of the LCTCS Board of Supervisors.

Contracts exceeding \$20,000 also require Civil Service approval except for those specifically exempted by Civil Service Circular #769:

1. Faculty members leading trips or doing research projects
2. Continuing education workshops
3. Medical/radiological contracts for care of students
4. Interagency agreements/contracts with other universities for research projects
5. Subcontracts/subgrants using federal funds to conduct research projects
6. Professional design/engineering services for building/construction efforts
7. Radio/TV broadcasters for university sports
8. Instructors for various classes in Continuing Education Program, revenues generated by registration fees
9. Banking services for colleges and universities

Approvals by the Attorney General and Risk Management are required on all contracts for legal services.

Louisiana Revised Statutes 39:1512 (B) allows advance payments of up to 20% of the contract amount if properly justified. These advance payments are limited to nonprofit corporations. The Division of Administration, Office of State Procurement, Professional Contracts, has taken the position that the intent of R.S. 39:1512 is for the provider to be a nonprofit corporation; therefore, the college cannot legally pay advances on contracts unless the provider is a nonprofit corporation. This prohibition on advance payments applies to contracts for entertainers, speakers, etc.

The college must report to the Division of Administration, Office of State Procurement, Professional Contracts, the contractor's name, services rendered, start end date of contract, and total amount of each contract approved under delegated authority...(those contracts \$2,001 up to \$20,000).

Office of State Procurement, Professional Contracts contract requirements include:

1. Contracts must be written and interpreted in accordance with laws of the State of Louisiana. Contracts written and to be interpreted in accordance with the laws of other states will not be approved.
2. Contracts that hold other than the State of Louisiana "harmless" will not be approved.

In the event of either party's breach or default, the other party shall be entitled to exercise all rights and pursue all remedies available under Louisiana law.

Contractor's Travel

The Office of State Procurement, Professional Contracts has requested that travel for professional services contracts be accounted for and reported with and/or as part of the fee base and in accordance with Division of Administration Policy and Procedure Memorandum 49 (The State General Travel Regulations).

Honorarium

From time to time, the college will have a guest provide "honorary" services to the college. The college normally reimburses the individual's "out-of-pocket" expenses and pays a "small" fee for the service. An "Honorarium" is a professional service in accordance with state law and requires a professional service contract, regardless of the amount of expense; therefore, this procedure must be applied when requesting the payment of "Honorariums".

Amendments to Contracts

All requests for amendments to contracts up to \$20,000 must be submitted to the Chief Procurement Officer in writing by the Requesting Agent/Project Director and fully approved by the appropriate Approving Agent(s), Vice Chancellor, and Chancellor prior to the contract expiration date. Amendments in excess of \$20,000 will require OSP review and approval.

RESPONSIBILITY

ACTION **Request to Contract**

Requesting Agent

1. Prepare a Contract for Professional Services. Ensure that description of services to be rendered, fee rates, and other required information are properly completed. Agreements to pay travel plus the contracted fee are not authorized. The contracted fee should include all costs of performance.

For contracts >\$5,000 complete the Scope of Services Form. This form is required to identify Performance Measures and to assure a Monitoring Plan is in place. Complete the Certification Letter. This letter is required to link the contract to the college's Scope of Services (Attachment C) your unit goals and objectives, to identify Performance Measures and to assure a Monitoring Plan is in place. Complete the BA22.

All contracts require the submittal of a W-9.

2. If contracting with a corporation, a formal, dated Board Resolution (Attachment A) must be secured indicating that the signatory is a corporate representative and authorized to sign the contract. Also, a Disclosure of Ownership Affidavit which has been filed with the Secretary of State's Office (if contractor is a for profit corporation) must be submitted.
3. Review the contract and assure that all required Actions have been taken in accordance with this and state regulations. Complete the checklist provided in the state regulations.

NOTE: If corporation's stock is publicly traded, a disclosure affidavit is not required.

NOTE: Must include "Certificate of Authority" to do business in Louisiana if contractor is an out-of-state corporation.

NOTE: Professional Services Contracts must be submitted and fully approved before contractors commence services. Contracts should be processed for approval in a timely manner and work under a professional service contract should not commence until the contract has been fully approved. The Legislative Auditors have determined that it will be a college audit finding for contractors to commence work prior to approval of the contract.

4. Obtain signature of contractor and contractor's social security number or tax identification number, and Louisiana Retirement System status. If contractor indicates that they are an active member/retiree of retirement system, contact Human Resources Department immediately. Based on active member status, disregard the Professional Services Contract. If contractor is a retiree of a Louisiana Retirement System, the contract can be processed. Human Resources will issue the contractor a Form 15 or Form ER37, Retiree Return to Work Form for completion.

Inform the contractor that services are not to commence until the contract has been fully approved and a purchase order number has been issued.

NOTE: Earnings for active retirement system employees during the full normal working times as a teacher or a person who is re-employed by a Louisiana state agency who is a contributing agency to the retirement systems, must have their earnings reported to the respective system in order for employee and agency contributions to be paid on those earnings. Those employees who are retirees of the Teachers' or State Employees Retirement System must be reported as returning to work for the respective agency in order for earnings to be monitored.

5. Route the contract packet to the approving agent for approval.

Department Head

6. Review the contract and sign the contract if the services being contracted for are in accordance with this and state regulations.

7. If disapproved, route contract packet to requesting agent.

8. Route the approved contract packet to the appropriate vice-chancellor.

**Appropriate
Vice-Chancellor**

9. Review the contract and sign the contract checklist if the services being contracted for are in accordance with this and state regulations.

NOTE: By signing the professional services contract, the requesting agent, approving agent, and appropriate vice-chancellor are certifying that they are following the rules and regulations concerning professional services contracts.

10. Route the approved contract packet to the purchasing department.

NOTE: For contracts more than \$20,000 the following must be submitted to the purchasing department:

- **Approved Contract for Professional Services**
- **Completed Scope of Services**
- **Dated Board Resolution if contracting with a corporation**
- **Disclosure of Ownership Affidavit (if required)**
- **Certificate of Authority if Contractor is an out-of-state corporation**
- **Cost Benefit Analysis**
- **Certification Letter**
- **W-9**
- **BA22**
- **Purchase Requisition**
- **Vendor Profile & Vendor Number**

For contracts \$20,000 or less (excluding legal, architectural, accounting, auditing and engineering contracts), the approved contract should be forwarded to the purchasing department along with the Certification Letter, Scope of Services, Cost Benefit Analysis, BA22 and the purchase requisition.

NOTE: The College has delegated authority from the Division of Administration Office of State Procurement, Professional Contracts, authorizing the Chancellor to sign contract on behalf of Louisiana Delta Community College for contracts under their budgetary authority for \$20,000 or less.

REQUEST FOR PAYMENT

| | |
|--|--|
| Requesting Agent/ Department Head | 11. When services are completed and payment is due, notify the receiving department. |
|--|--|

NOTE: Payments made on professional services contracts before the performance of services are prohibited by the Louisiana Constitution. Article 7, Section 14 of the 1974 Louisiana Constitution prohibits the donation of funds, credit, property, or things of value of the state or any political subdivision.

In those instances where it is necessary because of restricted time frames for writing checks, etc., the Finance Department may write checks prior to the actual performance of services; however, the Requesting Agent must sign a Professional Services Payment Receipt form (Attachment Q) stating that they are personally responsible for making sure services under the contract are completed before the check is released to the Contractor and the Requesting Agent understands that the contractor file is not complete until this form and the Contractor Performance Evaluation Form are submitted to

the Purchasing Department. The Contractor must also sign the form certifying that the services contracted for on the above referenced contract have been completed and that payment for services rendered was received on the date signed.

12. As required by the provisions of R.S. 39:1500, complete and submit a Contract Performance Evaluation with the final payment request and submit the Evaluation form to the Chief Procurement Officer for each Professional, Personal, or Consulting Contract. This evaluation must be signed by the Requesting Agent. Payment will be withheld until the "Evaluation" is completed.

LOUISIANA DELTA COMMUNITY COLLEGE

Checklist for Review of Personal, Professional, Consulting and Social Services Contracts

The following is a suggested checklist for review of Personal, Professional, Consulting and Social Services Contracts.

1. Minimum Contract Content:

Yes No

- | | | | |
|-------|-------|----|--|
| _____ | _____ | 1. | Contains a date upon which the contract is to begin and upon which the contract will terminate. |
| _____ | _____ | 2. | Contains a description of the work to be performed and objectives to be met. |
| _____ | _____ | 3. | Contains an amount and time of payments to be made. |
| _____ | _____ | 4. | Contains a description of reports or other deliverables to be received, when applicable. |
| _____ | _____ | 5. | Contains a date of reports or other deliverables to be received, when applicable. |
| _____ | _____ | 6. | When a contract includes travel and/or other Reimbursable expenses, it contains language to effect the following: <ul style="list-style-type: none">a. Travel and other reimbursable expenses constitute part of the total maximum payable under the contract; orb. No more than (a certain sum) of the total maximum amount payable under this contract shall be paid or received as reimbursement for travel or other reimbursable expenses; andc. Travel expenses shall be reimbursed in accordance with Division of Administration Policy and Procedure Memorandum 49 (The State General Travel Regulation). |
| _____ | _____ | 7. | Contains the responsibility for payment of taxes, when applicable. |

- _____ 8. Contains the circumstances under which the contract can be terminated either with or without cause and contains the remedies for default.
- _____ 9. Contains a statement giving the legislative auditor the authority to audit records of the individual(s) or firm(s).
- _____ 10. Contains an Assignability clause.
- _____ 11. Budget Form BA-22 fully completed and attached to the contract.

Determination of Responsibility of Contractor:

- _____ 1. Has adequate financial resources for performance, or has the ability to obtain such resources as required during performance.
- _____ 2. Has the necessary experience, organization, technical qualifications, skills, and facilities, or has the ability to obtain them (including probable subcontractor arrangements).
- _____ 3. Is able to comply with the proposed or required time of delivery or performance schedule.
- _____ 4. Has a satisfactory record of integrity, judgment and performance (contractor' who are seriously delinquent in current contract performance, considering the number of contracts and the extent of delinquencies of each, shall, in the absence of evidence to the contrary or compelling circumstances, be presumed to be unable to fulfill this requirement).
- _____ 5. Is otherwise qualified eligible to receive an award under applicable laws and regulations.
- _____ 6. If a contract for consulting services is for \$75,000, or more, or for social services for \$250,000 or more, the head of the submitting agency has prepared, signed and placed in the contract file a statement of the facts on which a determination of responsibility was based.

_____ 7. On subcontracting, it has been established that contractor's recent performance history indicated acceptable subcontracting systems; or, major subcontractors have been determined by the head of the submitting agency to satisfy standard.

Additional Information

_____ Is contractor a member of either the Louisiana Teacher's Retirement System or the Louisiana State Employees' Retirement System?

_____ If yes, please indicate below the name of the agency where the contractor is employed and the normal scope of his/her duties.

NOTE: If the contractor is a member of the Teachers' Retirement System, Any compensation earned by a member during the full normal working time as a teacher would be "earnable compensation" for Teachers' Retirement as defined by Louisiana Revised Statutes 11:701(9).

In such cases, employee and employer contributions would have to be remitted to the Teachers' Retirement System.

Department Head

Date

Applicable Vice-Chancellor

Date

Attachment A

CORPORATE BOARD RESOLUTION

This is to certify that _____,

(Representative)
_____, is authorized to execute the contract for
(Officer)

(Reference Contract)

Between Louisiana Delta Community College of Louisiana and

_____ a _____ Corporation.
(Corporate Name) (State Where Incorporated)

Dated at _____, _____,
(Site) (State)
This _____ day of _____, 20_____.
(Day) (Month) (Year)

(Corporate Name)
By: _____
(Officer of Board)

(Title)

Attachment B

LOUISIANA DELTA COMMUNITY COLLEGE

PROFESSIONAL SERVICES PAYMENT RECEIPT

REQUESTING AGENT _____ CHECK NO. _____

ACCOUNT NUMBER _____ CHECK AMOUNT _____

TODAY'S DATE _____ DATE OF SERVICE _____

CONTRACTOR _____

DEPARTMENT HEAD _____

I understand that I am personally responsible for making sure services under the above contract are completed before the check is released. I also understand that the contractor file is not complete until this original form is returned to the Purchasing Department. Contractor Performance Evaluations are required on all contracts over \$2,000.

Department Head

Date

I hereby certify that the services contracted for on the above referenced contract have been received and completed.

Department Head

Date

I hereby certify that the services contracted for on the above referenced contract have been completed and that I have received payment for these services on the date signed below.

Contractor

Date

Attachment C

**LOUISIANA DELTA COMMUNITY COLLEGE
Contract for Professional Services
SCOPE OF SERVICES**

1. **Scope of Services**

Contractor hereby agrees to furnish the following services:

2. **Goals**

3. **Objectives**

4. **Deliverables**

5. **Performance Measures**

6. **Monitoring Plan**

Requesting Agents Date

Applicable Vice-Chancellor Date

Approving Agent Date

Chancellor (if applicable) Date