

Revenue Contract Process for Contracts Exceeding \$25K

General

A revenue contract involves SBU giving consideration, other than the payment of money, when the value or reasonably estimated value of such consideration exceeds twenty-five thousand dollars (\$25,000). Revenue contracts exceeding \$25,000 require prior approval by the NYS Office of the Attorney General (AG) and the Office of the State Comptroller (OSC) in order to be a valid, enforceable contract. No service should commence until OSC approval is received.

This requirement extends to repayment agreements and other agreements (e.g., barter agreements) where the consideration given by SBU does not involve the transfer of money, but the reasonable value of such consideration over the entire term of the agreement exceeds \$25,000. In circumstances where consideration flowing from SBU cannot be readily determined in terms of current market value, it shall be valued in terms of intrinsic value. Intrinsic value measures an asset based on qualities in addition to its useful purpose, including both tangible and intangible factors. This value may or may not be the same as the current market value.

Approval by OSC of revenue contracts, including barter agreements, requires that the contracting State agency demonstrate a reasonable process has been followed to secure fair and reasonable contract terms. Typically, that process should involve competition to the maximum extent possible. Consistent with a procurement involving the expenditure of funds, SBU should maintain a procurement record documenting the decisions made and the approaches taken in selecting the contractor. The process shall include, but is not limited to, a clear statement of need, a description of the required specifications governing performance and related factors, a reasonable process for ensuring a competitive field, a fair and equal opportunity for offerors to submit responsive offers, and a balanced and fair method of award.

How to Initiate a Revenue Contract

A. If SBU will be Providing Services

- Provide the Procurement Dept. with a zero dollar service request form in WolfMart indicating the IFR account that will be receiving funding, in addition to the following:
 - The name and relevant contact information of the Customer organization that SBU is providing service to.
 - A statement explaining why it is in SBU's interest to provide the service.
 - A Statement of Work (SOW) explaining the service and any deliverables to be provided, the quantity/frequency and price of the service to be provided, and the term the service will be provided over, including the estimated total value of the service.
 - A statement explaining how the compensation being paid to SBU is fair and reasonable.
 - Customer proposed form of contract, if any.

After receipt of the information the Procurement Dept. (Procurement) will work with the Requesting Dept. (Requestor) and the Customer organization to negotiate a contract and obtain any other required documentation. The estimated general time frame from receipt of information to contract execution is 4-6 weeks. This does not include the time required for AG & OSC approval.

B. If SBU Desires Services be Performed by a Contractor (Whether or not SBU will be Paid \$)

- Provide the Procurement Dept. with a zero dollar service request form in WolfMart indicating the IFR account that will be receiving funding, in addition to the following:
 - A statement explaining the service to be provided and the need for the service.
 - A Statement of Work (SOW) explaining the service and any deliverables to be provided, the quantity/frequency of the service to be provided, and the term the service will be provided over.
 - An estimate of the value of the service over the term of the contract.
 - A list of known sources of supply for the service.

After receipt of the information Procurement will work with the Requestor to prepare a solicitation document that can be sent to known suppliers with the goal of getting competitive quotations. After receipt of quotations Procurement and Requestor will review the quotations. Requestor is responsible for checking supplier expertise/experience, references and pricing and will provide Procurement with a written recommendation of award.

After receipt of the recommendation to award Procurement will work with Requestor to negotiate a contract and obtain any other required documentation. The estimated general time frame from receipt of information to contract execution is 4-8 weeks. This does not include the time required for AG & OSC approval.

Other

- No public advertising is required for revenue contracts.
- Selected supplier/customer is required to accept NYS Exhibits A and A1
- If necessary, Procurement will send contract to local counsel for review for form. Once review completed Procurement will send contract to vendor for signature.
- Revenue contracts exceeding \$100K require the supplier/customer fill out a NYS Vendor Responsibility Questionnaire (VRQ).
- Once fully executed contract and VRQ have been received and reviewed, the contract will be sent to AG for review and approval and forwarded on to OSC for review and approval. Approximate timeframe for this AG & OSC approval is 4 – 8 weeks. However, by statute OSC gets up to 90 after receipt of a contract for its review and approval.
- Procurement will maintain a procurement record and contract file for each revenue contract.