

Louisiana Legislative Auditor

BEST PRACTICES – CONTRACTING

The Louisiana Legislative Auditor (LLA) is providing the following best practices to help local government entities create their own written policies and procedures. Because this document may not include all legal provisions applicable to different types of local government entities, entities should consult with legal counsel when developing written policies and procedures. Also, many of the legal provisions referenced in this document may not apply to quasi-public organizations, such as non-profits. Quasi-public organizations should refer to the LLA's legal FAQs for additional guidance.

Sources:

Louisiana Legislative Auditor Legal FAQs – <https://www.lla.la.gov/legal FAQs/>

Written policies and procedures over contracting should include **(1) types of services requiring written contracts, (2) standard terms and conditions, (3) legal review, (4) approval process, and (5) monitoring process.**

Types of Services Requiring Written Contracts:

1. Formal written contracts should be prepared for public works, materials/supplies, and professional services.
2. Prior to entering into a contract or renewing a contract, management should perform a needs assessment that includes: (1) identifying the entity's goals and objectives; (2) exploring possible alternatives to contracting to meet the identified goals and objectives; and (3) comparing costs and benefits associated with alternatives to contracting against the costs and benefits of contracting (management should consider whether contracting is the most cost-effective way of obtaining necessary goods and services). The needs assessment should be documented in writing and maintained in the file with the contract document.
3. For public works and material/supplies, management must follow the provisions of the Public Bid Law and/or Louisiana Procurement Code (if adopted), as applicable. All documentation related to compliance with these provisions should be documented in writing and maintained in the contract file.

Louisiana Legislative Auditor

BEST PRACTICES – CONTRACTING

4. While the Public Bid Law is not required for professional service contracts, management should establish a process to evaluate whether professional service fees are reasonable. Once a vendor is selected, the criteria for selecting the vendor should be documented in the contract file.
5. Management should assess whether contracts may be amended by change orders. If change orders are within the scope of the contract (i.e. allowed under the original contract), the change orders should be documented in writing and maintained in the contract file.

Standard Terms and Conditions:

1. Contract terms and conditions should be clearly stated and in the best interests of the entity, and include the following:
 - Specific goods/services to be performed and costs;
 - Timing of service delivery;
 - Period covered by the contract;
 - Clearly defined performance standards and measurable outcomes;
 - How vendor performance will be evaluated/monitored;
 - If and how the contract may be amended (change orders) within the scope of the contract or terminated; and
 - Consequences for failure to meet contract requirements.

Legal Review:

1. Prior to execution, the entity's legal advisor should review all contracts and change orders for compliance with applicable laws and entity policies. Evidence of legal review should be documented and maintained in the contract file.

Approval Process:

1. Contract documents should be reviewed, signed, and dated by the chief executive and other appropriate parties, including the governing board if required by policy or law (e.g. Lawrason Act, Home Rule Charter), and maintained on file at the entity's office. Any amendments to the contract should be allowable under the original contract terms and should also be in writing and signed by all applicable parties.

Louisiana Legislative Auditor

BEST PRACTICES – CONTRACTING

Monitoring Process:

1. Management should establish centralized oversight of contracts, including maintaining a master list of all active contracts (or a contracts management system for larger entities) that includes the following for each contract (multiple contracts with the same vendor should be treated as separate contracts):
 - Vendor's name and contact information;
 - Starting date of the contract;
 - Ending date of the contract;
 - Type of services to be received;
 - Cost of the services; and
 - Employee responsible for monitoring the contract terms and conditions (i.e. contract manager)
2. For each contract (including change orders), management should designate a contract manager with the authority and knowledge to monitor the contract and related project/service. The contract manager should be accountable for (1) tracking budgets, (2) comparing invoices and charges to contract terms, (3) verifying and accepting/rejecting deliverables, (4) withholding vendor payment until deliverables are met, (5) approving invoices, (6) maintaining all documentation supporting payments to the vendor, and (7) closing out the contract. The contract manager should also communicate the status of each contract for management to update its master contract list for presentation at monthly board meetings.
3. Management should consider establishing a checklist for each type of contract as a tool to formally document contract monitoring. Management should also periodically review contract documentation maintained by the contract manager to ensure that the contract manager is following related entity policies and procedures.
4. Payments to vendors should only be made by the Purchasing/Disbursement function after verifying with the contract manager that the related goods or services have been received or performed in accordance with the terms of the contract. Payments should be filed by contract (rather than by vendor in the case of multiple contracts with the same vendor).
5. Once a contract has been closed, management should perform a post-contract evaluation to assess compliance with laws and entity policies. Any deficiencies should be addressed with the contract manager.