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eNewsletter

Volume 9, Issue 3/Summer 2013

Theme: Nonprofit/Government Relations

Considerations When Contracting with State of Iowa

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When a nonprofit organization contracts to provide goods and services to the State of Iowa, it will often find contract requirements that are not typically imposed on it in the non-government contract context. Below is a brief description of some considerations that may be relevant in contracting with the State of Iowa.

Source Selection

There are various Iowa statutes and regulations that apply to procurement of goods and services by the state. The Iowa Department of Administrative Services (DAS) has primary responsibility for such procurements, although other state agencies may have their own requirements. The DAS requirements are set forth in the Iowa Code and DAS' regulations.¹

The DAS regulations provide for vendor registration and approval. Under such regulations, a nonprofit wishing to do business with the state is required to register as a vendor and only properly registered vendors are entitled to payment. The DAS provides for an online registration process.²

In general, competition is an important element of a procurement involving the state. The Iowa Code and DAS regulations provide for various methods of source selection that include competition.³ These include competitive sealed bidding and competitive negotiations. Under certain circumstances, the DAS regulations provide that the source selection can be in the form of a sole source procurement or emergency

procurement, where some of the requirements to ensure competition are not required.

For contracts awarded by the state, there is generally a bid protest process that allows an unsuccessful bidder to challenge a procurement determination by the state through an administrative process and/or in district court. The DAS' requirements relating to such protests are set forth in the DAS' regulations.⁴

Contract Integrity

Iowa Code Chapter 8F, which was enacted as a result of the Central Iowa Employment and Training Consortium (CIETC) scandal, is intended to provide a mechanism to effectively and efficiently monitor the utilization of public moneys through greater accountability.⁵

The statute requires any individual person or private business (including a nonprofit) that enters into a "service contract" with a state governmental agency that contracts with and disburses state or federal moneys to satisfy certain certification and reporting requirements.

The term "service contract" is defined to mean a contract for services when the predominant factor, thrust, and purpose of the contract is for the provision of services.⁶ The value of the contract must exceed \$500,000.⁷

There are some exceptions to the "service contract" definition, which

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include, among other things, contracts for vendor services as well as contracts with an entity subject to regulation under Title XIII of the Iowa Code (including financial institutions, accountants, and real estate brokers).⁸

The statute imposes three general types of requirements on entities that have “service contracts.”

A. Pre-Contract Certification

Prior to entering into a service contract, a private agency, which can include a nonprofit, must certify that it has various types of information available for inspection by the oversight agency and the Legislative Services Bureau, including:

- Information documenting the legal status of the recipient entity (i.e., articles of incorporation, bylaws, and whether the entity has tax exempt status under IRC 501(c)).
- Information regarding the training and education received by the members of the governing body of the recipient entity relating to the duties and legal responsibilities of the governing body.
- Information regarding the procedures used by the governing body to:
 - * Review the performance of the management and establish compensation of such employees.
 - * Review the recipient entity’s internal controls relating to accounting processes and procedures.
 - * Review the recipient entity’s compliance with the laws, rules, regulations, and agreements applicable to its operations.
 - * Information regarding adopted ethical and professional standards of operation for the governing body and employees of the recipient entity and information concerning the implementation of these standards and the training of employees and members of the governing body with regard to the standards.
- Information regarding any whistleblower policies adopted by the governing body of the recipient entity that prohibit taking adverse employment action against employees of the recipient entity who disclose information about a service contract to the oversight agency, state auditor, attorney general’s office, or office of citizen’s aide and that state whether such policies are substantially similar to the protections provided to state employees under Iowa Code section 70A.28.⁹

The private agency also must certify that it is in compliance with all applicable laws, rules, regulations and contractual requirements at the time it enters into a service contract.¹⁰

The government agency must make a determination that

the private agency can comply with the requirements of the service contract and is authorized to seek whatever additional information it needs to do so.¹¹

B. Annual Reporting

Private agencies with service contracts must file an annual report containing various financial information, including the following:

- Financial information relating to expenditures of state and federal moneys for the prior years pursuant to the service contract.
- Financial information relating to service contracts with the oversight agency during the preceding year.
- Reportable conditions in internal control or material noncompliance with provisions of laws, rules, regulations or agreements included in external audit reports for the preceding year.
- Any changes in the information submitted as part of its original certification.
- A certification signed by an officer and director of the recipient entity, two directors of the recipient entity, or the sole proprietor of the recipient entity, whichever is applicable, stating the annual report is accurate and the recipient entity is in full compliance with all laws, rules, regulations, and agreements applicable to the recipient entity and the requirements of the statute.¹²

A recipient entity is required to submit such information as requested by the oversight agency or the legislative service agency relating to the entity’s expenditure of state and federal moneys.¹³

Any private agency that has tax-exempt status under IRC 501(c) may, in lieu of filing such annual report, provide a copy of its form 990 for all fiscal years in which service contract revenues are reported.¹⁴

C. Enforcement and Review of Private Agencies

Any service contract awarded to a recipient entity is required to provide that the oversight agency may terminate the contract if the recipient entity fails to comply with the requirements of the new statute.¹⁵ In addition, the service contract is to provide a mechanism by which the recipient entity forfeits any state or federal funds expended by the recipient entity in violation of the statute.¹⁶

The state auditor is also given the authority to review audits of private agencies that have entered into service contracts.¹⁷ The auditor is authorized to examine the working papers of a CPA who audited the private agency to determine whether the state and federal funds were used properly.¹⁸

Read the full article on the INRC website.

Simple Advice on Policy Setting and Advocacy

Two University of Iowa professors, who have had significant policy and advocacy roles in their careers, offer Iowa's nonprofits the following advice on advocacy and policy setting.

Christopher Atchison, a Clinical Professor at UI's College of Public Health and the Director of the State Hygienic Laboratory, says advocacy is not the same thing as lobbying.

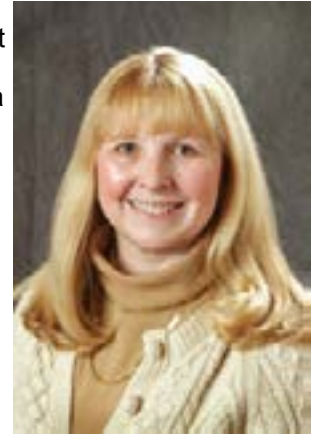
Advocacy is any activity to influence policy. This includes talking about a policy problem and seeking various ways to address that problem.

For tax purposes, it is important to remember that "lobbying has a strict legal, IRS definition." When adopting a policy strategy think through what you want to do and how you will do it. Consider the following questions:



- What are you trying to accomplish?
- Who are you trying to reach?
- What messages are likely to work?
- When and where will you engage & follow up?
- With what materials, tools?

In a talk to the University of Iowa's Nonprofit Organizational Effectiveness class, **Ann Rhodes**, Associate Professor at the UI College of Nursing, says that to prepare for lobbying as a nonprofit, you should:



- Know your issue inside and out.
- Know objections and be able to respond.
- Know whom you can call on for help and support even though some of the people or organizations may have nothing else in common with you.

- Have information to hand out: short and accurate contact information.

Ann also offers this list of things to avoid:

- Getting angry.
- Making threats.
- Crying (There's no crying in baseball. Or the statehouse.)
- Holding a grudge publicly.
- Saying anything to anyone that you will regret or that you wouldn't want to see in the newspaper.

INC Conducts Nonprofit/Government Contract Survey

The Iowa Nonprofit Collaborative (INC) is conducting a survey on the experiences of Iowa's nonprofits in contracting with state agencies.

The purpose of the survey is to assess how well the contracting experience works for Iowa's charities. While many charities in Iowa have expressed positive opinions about the government contracts, one goal is to better define both what is going well and what can be improved.

The survey looks at how the RFP process works, performance measurement, payment for services, and other relevant issues.

Elizabeth Weinstein and Associates, an independent consultant group, is administering the survey. If you have not yet participated and wish to do so, go to <https://www.surveymonkey.com/s/H3YWCDD>.

The survey is open until June 21. The Collaborative hopes to release a report on the responses in late summer.

Nonprofit funding opportunities

In each issue of the INRC Quarterly we feature four funding opportunities for Iowa nonprofits. If your nonprofit is a funder and you'd like to be listed, please let us know.

Iowa Economic Development Authority

(U.S. Department of Housing and Urban Development)

Grant program: Community Development Block Grants

Grant description: Fund used by local government for housing, community facilities and services, and other purposes

Funding amounts: varies depending upon recipient

Eligible grantees: nonprofits participating in local government projects

Grant application deadline: Varies depending upon recipient.

For more information: See Iowa Economic Development Authority at:

<http://www.iowaeconomicdevelopment.com/Programs> Also check websites of individual Iowa towns. Example: Iowa City at: <http://www.icgov.org/site/CMSv2/file/planning/econDev/applicationGuide.pdf>

Community Foundation of Greater Des Moines

Grant program: Capacity Building Grant

Grant description: For technical assistance and consultation to help improve capacity and management of nonprofit. (Other CFGDM funding priorities are social capital, arts and culture, community betterment, education, health, strengthening children and families.) Must serve greater Des Moines area.

Funding amounts: Up to \$3,500

Eligible grantees: Nonprofits with 501(c)(3) status

Grant application deadline: April 2 and October 2

For more information: See Community Foundation of Greater Des Moines website at:

<http://www.desmoinesfoundation.org/capacity-building-grant-guidelines-and-instructions.aspx>

Iowa Women's Foundation

Grant program: N/A

Grant description: Funding for projects that lead to long-term change for women, the end of discrimination, promote enrichment activities, etc. Leadership development and economic security are focuses for 2014.

Funding amounts: Up to \$5,000

Eligible grantees: Nonprofits with 501(c)(3) status serving women and girls in Iowa

Grant application deadline: currently accepting applications for 2014 grants

For more information: See Iowa Women's Foundation website at:

<http://iawf.org/pages/information-for-grant-seekers.php>

Mid-Iowa Health

Grant program: Community Response or Health Initiatives

Grant description: Preventive and primary safety net health services, which may include oral health and/or behavioral health. Critical elements of the safety net system such as coordinated outreach, system navigation and/or culturally competent services. Meeting increased demands on a safety net system with capacity, financial and workforce stressors.

Funding amounts: Average \$10,000 to \$30,000

Eligible grantees: Nonprofits

Grant application deadline: Fall

For more information: See Mid-Iowa Health Foundation website at <http://www.midiowahealth.org/grants.html>

National Council of Nonprofits Releases Contracting Task Force Report



The National Council of Nonprofits has issued a report on government-nonprofit contracting. The report was compiled by a nine-state nonprofit task force with a goal of “rooting out waste while maintaining and even enhancing accountability.”

The report reviews government contracting practices in Connecticut, Hawaii, Illinois, Maine, Maryland, New Jersey, New York, North Carolina and Texas and focuses on themes such as governments paying full cost of contracted services and timely payment.

The report calls for governmental leadership on this issue as well as strong collaboration and ongoing improvement. Among the lessons learned is that “everyone recognizes the need for reform” of government contracts, and that “meaningful change takes time.”

For the full report go to <http://www.councilofnonprofits.org/files/streamlining-report-partnering-for-impact.pdf>. The National Council of Nonprofits has devoted considerable efforts to the government/nonprofit contract. Other web resources include a piece on “Changing Contract Terms Mid-stream” and “Complexification of Contracting Processes.”

Bill Boyd Receives ABA’s Outstanding Nonprofit Lawyer Award

Bill Boyd has received the American Bar Association’s Outstanding Nonprofit Lawyer Award. This honor, which was announced at the ABA Business Law Section’s annual meeting in Washington, D.C. on April 7, is awarded to attorneys who have made outstanding contributions to the nonprofit sector and the development of nonprofit law.

Bill, a member of Nyemaster Goode’s Business, Finance and Real Estate Department, has been active in the nonprofit area and has served as chair of the Nonprofit Organizations Committees of both the Iowa State Bar Association and the ABA Business Law Section.

He is also the co-editor of *The Guidebook for Directors of Nonprofit Corporations*, Third Edition (American Bar Association).

Training Opportunities

INRC staff:

Richard Koontz

INRC Director

Brenda Steinmetz

Admin. Svcs. Coordinator

Diane DeBok

Editor & Content Manager

Charlene Onnen

Secretary

Board Boot Camp

Date: June 25, 4-6 p.m.

Cost: \$40 per person

Location: McCarthy Center for Nonprofits, Dubuque, IA

For details: Telephone 563-588-2700 or e-mail Amanda@dbqfoundation.org

Iowa State University Nonprofit Management Academy

Cost for all workshops is \$70. CEU credit for additional fee.

All sessions meet 9 a.m. to 4 p.m. at Greater Cedar Rapids Community Foundation, 324 3rd St SE, Cedar Rapids.

Information and registration at <http://www.extension.iastate.edu/linn/news/nonprofit-management-academy-2013>

Organizational Culture and Leadership - June 27, 2013

Fundraising: Making Sense of It - July 25

Models of Collaboration: Nonprofit Organizations Working Together - August 22

Nonprofit Board Engagement - September 26

Nonprofits and Social Media - October 24

Inclusion-Cultural Competence - November 21

Nonprofit Executive Institute

Date: July 9

A leadership program designed for emerging nonprofit leaders in Omaha/Council Bluffs area.

For details: See Nonprofit Association of the Midlands' Community Calendar at http://www.nonprofitam.org/events/event_list.asp



Date: Nov. 6-7, 2013

Location: The Meadows, Altoona, IA

Registration: opens mid-July

Details: www.regonline.com/npsummit2013

To join listserv, send an email to icvs@iowa.gov

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About Our Organization

The Larned A. Waterman Iowa Nonprofit Resource Center is a University of Iowa interdisciplinary collaboration created to make more accessible educational and service programs focused on strengthening the operational capacity of Iowa nonprofit organizations.

The INRC works collaboratively with government agencies, nonprofit organizations and educational institutions to impart new knowledge through activities

and provide information and training resources to help nonprofit organizations and interested persons throughout Iowa. We seek to build the capacity and develop the effectiveness of community-based organizations and enhance the overall effectiveness of local organizations in building communities.

The INRC also introduces students to the nonprofit sector and develops their sense of public and community service.