

AMITE RIVER BASIN DRAINAGE AND WATER CONSERVATION  
DISTRICT

ADOPTED OCTOBER 10,2023

**Contracts Let Via a Request for Proposals Process**

**Section 100. Application and Competitive Sealed Proposals**

A. This Chapter shall be applicable to consulting services contracts governed by R.S. 39:1621(B), and any other competitive sealed proposals governed by R.S. 39:1595. Contracts for consulting services which have a total maximum amount of compensation of seventy-five thousand dollars or more for a twelve-month period shall be awarded through a request for proposal.

**B. Competitive Sealed Proposals**

1. For purposes of this Chapter, *competitive sealed proposals* mean proposals protected from inspection prior to the deadline for submission. Proposals may be received in any manner specified in the request for proposals including receipt by mail, by direct delivery, or through any secure electronic interactive environment permitted by rule or regulation.

2. Any competitive sealed proposal which is withdrawn by the proposer prior to the deadline for submission of proposals, or which has been determined to be late relative to the deadline for submission of proposals, shall not be opened and shall instead be subject to the provisions of LAC 34, Pt V §319.D.

3. Except as provided in Paragraph 2 of this Subsection, competitive sealed proposals shall be secured until the proposal submission deadline.

4. Competitive sealed proposals shall not be inspected prior to the proposal submission deadline unless the Executive Director of ARBC determines that doing so is necessary for the sole purpose of identifying the name of the proposer and/or the solicitation to which the proposal is addressed.

**Section 102. Content in Requests for Proposals**

A. All request for proposals (RFP) solicitations should:

1. specifically define the task and desired results of project.
2. identify agency liaison personnel and resources available to the contractor.
3. state approximately when the contractor can begin the work, plus an estimate of the time necessary to accomplish the work, if applicable.
4. specify applicable procedures concerning billing, documentation requirements, progress reports, and final reports, if applicable.
5. specify that a minimum of two copies of the proposal be submitted.
6. inform the potential contractors of the criteria and the selection methodology and the weight which will be applied to each significant evaluation criteria to be used in evaluating the proposals' responsiveness to the RFP.

7. inform the potential contractors that the state reserves the right to use the best and final offer (BAFO) process as part of the competitive negotiation process to clarify the scope of work and/or to obtain the most cost-effective pricing available from the proposer along with the solicitation. When used, inform the potential contractors of the evaluation criteria and associated weights, if different from the initial scoring criteria and weights.

8. require potential contractors to include the following information in their proposals.

a. a description of the firm's qualifications, including a specific list of personnel to be used in the services and their qualifications (at least list the number and the qualifications of each position). However, a resume should be required on each of the key personnel. Additionally, the contractor should be required to stipulate that these personnel will not be substituted or removed from the contract without prior approval of the using agency.

b. a list of the agencies with names and contact persons for whom similar work has been done.

c. if applicable, the length of time needed for the services, broken down by phases, if phasing if is necessary.

d. the proposed methodology for accomplishing the services with a precise statement of what ARBC will receive as an end product of the services (this is sometimes referred to as the technical section of the proposal);

e. for consulting services, an itemized cost statement showing various classes of man-hours at appropriate rate, delineated by phases, if phasing is used, and an itemized listing of all other expenses or fees that are expected to be paid by the state and complete breakdown of consultant overhead rate, if applicable.

B. All request for proposals (RFP) solicitations shall:

1. provide for a blackout period in accordance with LAC 34, Pt V, § 341 of this Part.

2. require, and provide prominent notice, that a proposal must attain a minimum technical score equal to 50 percent or more of available technical points to be eligible to proceed to evaluation of cost or other point categories. No proposal which has failed to attain or exceed such a minimum technical score may be evaluated for cost, certified small entrepreneurship initiative participation, or any other category, nor may any prior calculation for cost or certified small entrepreneurship initiative participation be included in any final comparative tabulation if the proposer's technical score falls below 50 percent of available technical points subsequently. The ARBC Board may waive the requirement to include this provision in writing if doing so is determined to be in the best interests of the state.

3. require, and provide prominent notice, if the RFP allocates points for Hudson or Veteran initiative points, that any awarded proposer which includes a good faith subcontracting plan for certified small entrepreneurship (e.g. Hudson, Veteran, or Service-Connected Disabled Veteran) initiative participation shall be subject to audit by the Louisiana Department of Economic Development or the Legislative Auditor to determine whether the contractor has complied in good faith with its subcontracting plan. The contractor must be able to provide supporting documentation to demonstrate that the good faith subcontracting plan was followed. If it is determined at any time by the ARBC Board that the contractor did not in fact perform in good faith its subcontracting plan relative to certified small entrepreneurship initiative participation, the contract award or contract may be terminated by the ARBC Board.

## **Section 103. Procedures**

A. The final selection of a contractor shall be made in accordance with the selection criteria established in the RFP. However, no contract may be enforced against the state until approval of the contract has been granted by the ARBC Board. When a final selection has been made, but prior to notice of award, the contract file containing the request for proposals, along with a selection memorandum justifying the final selection, shall be provided to the ARBC Board for final concurrence. The selection memorandum shall include, but not be limited to:

1. a list of criteria used along with the weight assigned to each criterion.
2. scores of each proposal considered in each of the categories listed above along with overall scores of each proposal considered.
3. a narrative justifying selection.

B. Right to Protest. Any person who is aggrieved in connection with the request for proposal or award may protest and appeal pursuant to the provisions of [R.S. 39:1671](#), 1681, 1683, 1691, and 1692.

## **PROCUREMENT OF PROFESSIONAL AND CONSULTING CONTRACTS**

### **Subchapter A. General Provisions**

#### **Section 1000. Definitions and Classes of Contractual Services**

A. The following services shall be contracted out in accordance with these regulations.

1. *Professional Service*-for contracts with a total amount of compensation of \$50,000 or more, the definition of "professional service" shall be limited to lawyers, doctors, dentists, psychologists, certified advanced practice nurses, veterinarians, architects, engineers land surveyors, landscape architects, accountants, actuaries, claims adjusters, pharmacists, visiting professors, municipal advisors, and any other professions that may be added by regulations adopted by the Office of State Procurement of the Division of Administration.

2. *Consulting Service*-for contracts as defined in R.S. 39:1556(10)(a). "Consulting service" means work, other than professional, personal, or social service, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services, or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting, planning, information technology, pharmacy benefit managers, and advertising contracts, except for printing associated therewith.

#### **Section 1001. Contract Contents**

A. Each contract for professional, personal, and consulting shall contain the contract provisions set forth in R.S. 36:1625.

B. Contracts funded fully or in part by federal funds, in addition to meeting all the requirements of these guidelines and R.S. 39:1551-1755 shall meet all applicable federal standards and shall contain all necessary clauses required by federal statutes, rules or regulations. The burden of complying with federal regulations shall rest with the using agency.

C. Travel expenses shall be reimbursed in accordance with Division of Administration Policy and Procedure Memorandum 49 (the state general travel regulations, LAC 4, Part V). Persons performing services under

contracts approved by the Office of State Procurement shall be considered to be other persons under LAC 4:V.1503.C.3 (the state general travel regulations).

D. When a contract is to include travel and other reimbursable expenses, it shall contain language to affect the following:

1. travel and other reimbursable expenses shall constitute part of the total maximum payable under the contract. Travel expenses shall be reimbursed in accordance with Administration Policy and Procedure Memorandum 49 (PPM 49), LAC 4, Part V; or

2. no more than (a certain sum) of the total maximum amount payable under this contract shall be paid or received as reimbursement for travel and other reimbursable expenses. Travel expenses shall be reimbursed in accordance with Division of Administration Policy and Procedure Memorandum 49, LAC 4, Part V.

E. If the using agency desires to reimburse the contractor other than in accordance with rates established in Policy and Procedure Memorandum 49, LAC 4, Part V, such reimbursement must be approved by the ARBC Board.

F. Include the right to suspend or terminate a contract based on non-appropriated funds; or for cause or to protect the best interest of the state.

G. An electronic signature as provided by LAC 4:I. Chapter 7 is considered an original signature.

### **Section 1003. Modification of Contract**

A. All amendments to contracts for professional, personal, consulting, and social services shall be submitted to the Board and shall become effective only upon approval by the Board.

### **Section 1004. Contractual Review Process**

A. Legal and Content Review. There are a number of different types of contracts, and content requirements may vary. All contracts shall contain the following.

1. Signatures of both the Board President or his designee and the contractor. An electronic signature as provided by LAC 4: I. Chapter 7 shall be considered an original signature.

2. contractor name and address (including zip code).

3. scope of service that clearly and completely identifies the work to be performed and products to be delivered.

4. beginning and termination dates for the contract. Contracts shall not include a clause permitting automatic renewal or extension of the original beyond a three-year period, unless authorized by the funding statute.

5. the maximum amount of compensation to be paid under the contract. This maximum must be inclusive of all payment, fees, travel expenses, etc. when applicable, the amounts shall be stated by category and then given as a comprehensive total. The payment schedule shall be given also.

6. a statement giving the legislative auditor and/or the Office of the Governor, Divisions of Administration auditors authority to audit the financial records of the contractor relative to work done under the contract.

7. a clause providing that the contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of ARBC thereto, provided, however, that claims for money due or to become due to the contractor from ARBC under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to ARBC.

8.a statement giving the contractor the responsibility for paying any taxes which may be due because of the contract. The taxes could include state or federal income taxes or payroll taxes.

9. advance payments on all contracts except those for professional services are allowable if limited to less than or equal to 20 percent of the contract amount and if necessary to provide for the lowest cost delivery of service, and as provided by R.S. 39: 1613.

a. all such advances shall be approved by the Board. If federal funds are to be advanced, federal guidelines shall prevail on the conditions and amount of the advance. Specific state statutory authority may override the 20 percent limit for certain contracts.

b. when submitting for approval a contract including provisions of an advance, ARBC shall submit the following additional information at a minimum.

i. certification by ARBC that the procurement of the services involved at the lowest cost requires the advance and that no other source of funding is available.

ii. provisions in the contract specifying the amount of time of the payments and safeguarding repayment of the advance.

B. Each contract submitted for approval submitted to the Board which exceeds the value specified in R.S. 39:1623(A) shall be accompanied by a certification letter as described in R.S. 39:1623, signed by ARBC Executive Director.

1. Legislative Auditor. Contracts for financial auditing of ARBC must have prior written approval of the legislative auditor.

2. If the contractor is a corporation not incorporated under the laws of the state of Louisiana, then the contractor must secure a certificate of authority pursuant to R.S. 12: 301-302 from the secretary of the state of Louisiana.

C. If a contract is subject to the provisions of R.S. 39:1621(B), it must have been awarded pursuant to the requirements of R.S. 39:1595(B), unless exempt in accordance with Chapter 9 or Chapter 11 of this Part. Failure to so comply shall result in ARBC having to reconduct the process.

D. A formal, dated board resolution, disclosure of ownership of annual report filed with the Louisiana Secretary of State's office identifying the signatory as an officer, or equivalent document signed by one or more owners of the contractor must be secured and attached to the contract indicating that the signatory is a representative of the contractor and authorized to sign said contract.

E. A performance evaluation for every personal, professional, or consulting contract shall be conducted by ARBC in accordance with R.S. 39:1569.1 which shall be preserved to ARBC Board.

### **Section 1005. Delegation of Signature Authority**

ARBC President or his designee shall sign all contracts for personal, professional or consulting services. All delegation of signature authority by the ARBC President must be in writing and approved by the Board.

### **Section 1006. Confidentiality of Technical Data or Trade Secrets**

A. ARBC shall be responsible for protecting technical data, financial information, overhead rates, and trade secrets which may come into their possession from individuals and businesses doing business with the state.

B. A bidder or proposer who asserts a trade secret or confidentiality over any information contained in its bid or proposal but fails to provide ABRC a redacted copy of its bid or proposal upon request of ABRC, shall have the option to either waive its assertion of trade secret or confidentiality or have its bid or proposal rejected, subject to applicable law.

### **Section 1007. Cost Reimbursement Contracts**

A. If a nongovernmental provider is expected to receive \$100,000 or more per year of state funds via one or more cost-reimbursement contracts, then those contracts shall contain at least one of the following requirements:

1. source documentation verification (evidenced by invoices, canceled checks, certified payroll sheets, etc.) shall be submitted to the state to justify each payment request; or

2. utilizing internal auditors, the agency shall perform frequent, unannounced contract compliance audits of the contractor. "Frequent" shall mean no less than once per contract or per 12 months if the contract is no longer than 12 months and all disallowed expenditures shall be reimbursed to the ARBC y; or

3. the contract shall require the contractor to obtain a contract compliance audit of expenditures charged to the contract. This compliance audit shall be performed by a certified public accountant or the Louisiana Legislative Auditor's Office. A contract compliance audit must include an examination of reimbursed expenditures to determine if they are in accord with contract terms, not reimbursed by any other source, and in accord with any guidelines set by the ARBC or other relevant authority. This examination shall be conducted in accordance with generally accepted auditing and sampling procedures, including the *Government Auditing Standards*.

a. such an audit may be performed in conjunction with a financial audit, but results must be available to the ARBC within 12 months after the fiscal year end of the contractor. It is the intention of this rule not to require audits at a different time of year if annual audits are currently being performed. Thus, a contract period may be covered by two separate audits.

b. for multi-year cost-reimbursement contracts, the provider may with the using ARBC's consent, elect to have a multi-year contract compliance audit done to cover the entire contract period.

c. if a single provider has multiple cost-reimbursement contracts subject to the requirements herein, then the provider may elect to have an audit done using the single audit model. In these instances, a major state contract means any state contract for which expenditures during the year exceed the greater of \$100,000 or 3 percent of such total expenditures.

d. all disallowed expenditures shall be reimbursed to ARBC. Such disallowances shall normally be recouped by the ARBC in current or future contracts with the provider. For cost-reimbursement contracts, any audit of the contract period issued pursuant to the Single Audit Act of 1984, P.L. 98-502, OMB Circular A -110, or other federal legislation and regulations shall fulfill the audit requirements of this Paragraph 3.

### **Section 1008. Determination of Responsibility**

A. In order to qualify as responsible, a proposer must meet and, upon request by the ARBC, present evidence of compliance with the standards identified in La. Admin. Code. Title 34, Pt. V § 1505. A, as they relate to the particular procurement under consideration.

B. No contract for consulting services meeting the value specified in R.S. 39:1621(B), regardless of time period, or for social services exceeding the value indicated in R.S. 39:1619(B)(7), regardless of time period or other exemption applicable pursuant to R.S. 39:1619(B), shall be awarded to any person or firm unless the Executive Director of ARBC has first determined that such person or firm is responsible.

C. In any case where a contract for consulting services meets the value threshold specified in R.S. 36:1621(B), regardless of time period, the Executive Director of ARBC shall prepare, sign, and place in the contract file a statement of the facts on which a determination of responsibility was based. Any supporting documents or reports and any information to support determinations of responsibility of the proposer or potential subcontractors hold be kept on file with the ARBC, subject to inspection upon the request by the ARBC Board or the Legislative Auditor.

D. Before making a determination of responsibility, the Executive Director of ARBC shall have sufficient current information to satisfy himself that the prospective contractor meets the standards identified in La. Admin. Code. Title 34, Pt. V §1505.A of this Part. Information from the sources identified in §1505.A.2 and 3 of this Part shall be utilized before making a determination of responsibility.

E. To the extent that a prospective contractor cannot meet the standards identified in La. Admin. Code. Title 34, Pt. V §1505. An except by means of proposed subcontracting, the prospective prime contractor shall not be considered to be responsible unless recent performance history indicates an acceptable subcontracting system or prospective major subcontractors are determined by the Executive Director of ARBC to satisfy the standard.