

**Hall of the House of Representatives**  
84th General Assembly - Regular Session, 2003  
**Amendment Form**

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**Subtitle of House Bill No. 1543**

"AN ACT REQUIRING THAT PROFESSIONAL AND CONSULTANT SERVICES  
CONTRACTS COMPLY WITH THE ARKANSAS PROCUREMENT LAW AND THE  
GENERAL AND BUDGETARY PROCEDURES LAW."

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**Amendment No. 2 to House Bill No. 1543.**

Amend House Bill No. 1543 as engrossed, H2/19/03:

Page 13, delete line 30 and substitute the following:

~~"final and conclusive."~~

SECTION 4. Arkansas Code § 19-11-203(13), concerning the definition of exempt agencies, is amended to read as follows:

(13) "Exempt agencies" means the constitutional departments of the state, the elected constitutional offices of the state, the general assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus thereof, the Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and Administrative Office of the Courts;"

Page 13, line 32 delete "SECTION 4." and substitute "SECTION 5."

AND

Page 13, delete line 35 and substitute the following:

~~"accordance with § 19-4-101 et seq.;~~

SECTION 6. Arkansas Code § 19-11-203(14), concerning the definition of exempt commodities and services as it relates to Arkansas purchasing law, is amended to add an additional subdivision read as follows:

(BB) Services related to work force development, incumbent work force training, or specialized business or industry training.

SECTION 7. Arkansas Code § 19-11-203(30), concerning the definition of state agency, is amended to read as follows:

(30)(A) "State agency" means ~~any office, department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment or official of the executive,~~



~~judicial, or legislative branch of this state, except exempt agencies in their procurement of items not subject to Arkansas Constitution, Amendment 54 all agencies, institutions, authorities, departments, boards, commissions, bureaus, councils, or other agencies of the state supported by appropriation of state or federal funds, except exempt agencies pursuant to § 19-11-203(13).~~

(B) "State agency" includes exempt agencies when any agency or exempt agency procures any item subject to Arkansas Constitution, Amendment 54;"

AND

Page 14, line 1, delete "SECTION 5." and substitute "SECTION 8."

AND

Page 14, line 10, delete "engineering, and" substitute "engineering, construction management, and"

AND

Page 14, delete line 11 and substitute the following:

"services, if:

(1) State agencies, not exempt from review and approval of the Arkansas State Building Services, shall follow procedures established by the Arkansas State Building Services for the procurement of architectural, engineering, land surveying and construction management services; and

(2) Institutions of higher education exempt from review and approval of the Arkansas State Building Services shall follow procedures established by their governing boards for the procurement of architectural, engineering, land surveying and construction management professional consultant services."

AND

Page 14, line 22, delete "SECTION 6." and substitute "SECTION 9."

AND

Page 14, line 27, delete "engineering, and" and substitute "engineering, construction management, and"

AND

Page 14, line 30, delete "SECTION 7." and substitute "SECTION 10."

AND

Page 16, delete line 14, and substitute the following:

"higher education that are for services related to patents, copyrights, or trademarks."

AND

Page 16, delete lines 15 through 19.

AND

Page 17, line 9, delete "State Procurement Director" and insert "Office of Personnel Management"

AND

Page 17, delete line 30, and substitute the following:  
"and review by the Legislative Council, or by the Joint Budget Committee if the"

AND

Page 18, line 3, delete "total compensation" and substitute "total contract amount"

AND

Page 18, line 8, delete "advice" and substitute "review"

AND

Page 19, delete lines 20 through 34.

AND

Page 19, line 35 delete "(e)" and substitute "(c)"

AND

Page 20, line 1 delete "and"

AND

Page 20, line 2 delete "receive the advice" and substitute "review"

AND

Page 20, delete line 21 and substitute the following:  
"contracts."

19-11-1011. Review requirement.

(a)(1) Every contract covered by this subchapter shall be filed with the Office of State Procurement of the Department of Finance and Administration.

(2) The execution date of all contracts shall be defined as the date upon which performance of the services to be rendered under the contract is to begin and not the date upon which the agreement was made.

(b)(1) No purchase order shall be paid if a copy of the contract under

which the payment is being made has not previously been filed with the Office of State Procurement of the Department of Finance and Administration. .

(2) No payment shall be made covering services rendered prior to the execution date of the contract.

(c) It is the intent of the General Assembly that this section be strictly construed and enforced. However, in the unusual event that an obligation has been incurred by a state agency under any contractual agreement or proposed contract prior to the approval of the contract, the Chief Fiscal Officer of the State may approve payment for such services after having first received the advice of the Legislative Council."

19-11-1012. Standard contract forms.

(a) The Director of the Office of State Procurement shall prescribe standard forms to be utilized by all state agencies.

(b) The standard contract form shall include the following items plus such additional items as the Director of the Office of State Procurement shall deem desirable for the purposes of this subchapter:

(1) A section setting forth in reasonable detail the objectives and scope of the contractual agreement and the methods to be used to determine whether the objectives specified have been achieved;

(2) The rates of compensation, transportation, per diem, subsistence, out-of-pocket allowances, and all other items of costs contemplated to be paid the contractor by the agency;

(3) The method by which the rate of compensation and the total payment shall be calculated;

(4) The maximum number of dollars which the agency may be obligated to pay to the contractor under the terms of the contract, including all expenses and other items of costs, and the source of funding to be utilized;

(5) The term of the contract;

(6) The names and social security numbers of all individuals who will be supplying services to the agency or to third-party beneficiaries under the terms of the contracts, so far as those names are known to the contractor at the time of the execution of the contract. If the names of all individuals supplying services under the contract are not available at the time of the execution of the contract, the contract shall contain a provision requiring the contractor to submit periodically the names and social security numbers of individuals supplying services as soon as the identity of those individuals is known to the contractor;

(7) Where the contractor is a business entity, the federal identification number of the business entity shall be listed on the contract form;

(8)(A) A certification shall be included, signed by the contractor, as follows:

(name) (title)

"I . . . . ., . . . . .  
. . . . ., certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of any state agency of the State of Arkansas will receive any personal, direct, or indirect monetary benefits which would be in violation of the law as a result of the execution of this contract."

(B) For the purpose of this subdivision, it shall be

understood that where the contractor is a widely held public corporation, the term "direct or indirect monetary benefit" shall not apply to any regular corporate dividends paid to a stockholder of the corporation who is also a state employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation;

(9) For any contract in which the total compensation exclusive of reimbursable expenses to be paid by the agency does not exceed twenty-five thousand dollars (\$25,000), a purchase order may be utilized in lieu of the standard form or forms prescribed by the Director of the Office of State Procurement. However, should the agency enter into a subsequent contract with the same individual or organization during the same fiscal year, regardless of the nature of the contract, then the details of the original contract which utilized a purchase order form and of all subsequent contracts, regardless of amount or type, shall be promptly reported to the Director of the Office of State Procurement. This reporting shall be done to allow him to determine whether the agency is utilizing a series of contracts to avoid the use of the standard form and to avoid the application of appropriate regulations;

(10) Standard contract forms in use by licensed practitioners such as architects and engineers may be used to supplement the standard contract forms; and

(11) All professional consultant services contracts shall contain the following clause:

"In the event the State of Arkansas fails to appropriate funds or make moneys available for any biennial period covered by the term of this contract for the services to be provided by the contractor, this contract shall be terminated on the last day of the last biennial period for which funds were appropriated or moneys made available for such purposes.

This provision shall not be construed to abridge any other right of termination the agency may have."

AND

Page 20, line 23, delete "SECTION 8." and substitute "SECTION 11."

AND

Page 20, line 31, delete "approval" and substitute "approval review"

AND

Page 20, line 33, delete ", and the Governor" and substitute "~~and the Governor~~"

AND

Page 20, delete lines 35 through 36.

AND

Page 21, delete lines 1 through 15

The Amendment was read \_\_\_\_\_  
By: Representative Dangeau  
MTB/JGR - 031120031559  
JGR561

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Chief Clerk