

ARKANSAS LEGISLATIVE COUNCIL REVIEW SUBCOMMITTEE

Meets 1st Wednesday of Each Month
Report Presented to ALC

AGENDA ITEMS - REQUESTS

B1. Methods of Finance (MOF) - Advice and Recommendation

Capital expenditures for the purchase or construction of all lands, buildings, structures, utility systems, and similar facilities which have not already been approved by the General Assembly come before the ALC Review Subcommittee for its advice and recommendation. These request shall not include projects less than \$250,000 or the repair, alteration, or renovation of facilities and shall not apply to public school districts.

§ 22-9-104 (d)(1) In unusual circumstances between sessions of the General Assembly, a state agency, department, or institution which needs to make a capital expenditure in excess of two hundred fifty thousand dollars (\$250,000), which has not been approved by the General Assembly, may submit a request for the expenditure to the Chief Fiscal Officer of the State, who shall review the request and submit his recommendation for the method of finance for the expenditure to the Legislative Council for its advice and recommendation.

B2. General Contractors Construction Projects Exceeding Five Million Dollars - Review

State Agencies, unless exempted, that have construction projects in the amount of \$5,000,000 or more, which are not awarded in the traditional design-bid-build method but rather through negotiations (Alternative Delivery Method), shall first obtain approval of Arkansas Building Authority and review by the Legislative Council.

§19-4-1415 (b)(1) No contract for projects between the state agency and the construction manager, general contractor, architect, or engineer shall be entered into without first obtaining approval of Arkansas Building Authority and review by the Legislative Council.

B3. Discretionary Grants - Review

Grants for \$10,000 or more which the recipient of the grant funds or the formula for the grant award is not specifically stated in the legislation authorizing the grant, shall be reviewed prior to the award.

§19-4-2201 (b) Hereafter, no state agency shall award any discretionary grant prior to review by the Legislative Council between legislative sessions, or by the Joint Budget Committee during legislative sessions.

B4. Motor Vehicle Leases - Approval

State agencies must request the authority to lease (greater than 30 days) a motor vehicle from the DFA Director of the Office of State Purchasing who may approve the request after first receiving the approval of the Legislative Council.

§ 22-8-102 (2) Upon receipt, the Director of the Office of State Purchasing of the Department of Finance and Administration shall review the request to lease the motor vehicle, and if he determines that the lease is in the best interest of the State of Arkansas and that the agency has adequate funds to pay the lease, he may approve the request, but only if he shall have first received the approval of the Legislative Council.

B5. Professional/Consultant Services Contracts - Review

Any contract requiring professional/consultant services for an amount where the total compensation exceeds \$25,000 must be presented to the Legislative Council (Review Subcommittee) or the Joint Budget Committee by the Department of Finance and Administration – Office of State Procurement prior to the execution date of the contract.

§ 19-11-1006 (a)(1) All contracts for professional services or consultant services, except for those which are specifically exempt from review, requiring the services of an individual for regular full-time or part-time weekly work where the total contract amount exceeds twenty-five thousand dollars (\$25,000) must be presented to the Legislative Council, or to the Joint Budget Committee if the General Assembly is in session, before execution date of the contract.

The Review Subcommittee has the authority to review contracts and report to the Legislative Council. The Legislative Council or Joint Budget Committee, through the approval of the Review Subcommittee Report, shall provide DFA with their advice within 30 days of submission of the contract.

The Agenda categorizes contracts by **Construction-Related** for professional services for Architects, Engineers and Environmental Consultants, **Out-of-State** and **In-State** Contracts.

Contracts Submitted Under Suspension of the Rules are those contracts presented to DFA after the deadline for contract submission. These contracts require a letter by the agency presenting the contract explaining to the Co-Chairs of the Review Subcommittee the necessity of the contract and reason for missing the deadline.

Procurement Methods:

ABA Criteria – Arkansas Building Authority has developed standards and criteria that all state agencies must follow when selecting Architects or Engineers. (With the exception of Game & Fish and the Highway Department.)

Competitive Sealed Proposals (RFP – Request for Proposals) – The Agency should make the award to the responsible offeror whose proposal is determined to be the most advantageous to the state, taking into consideration price, the evaluation factors set forth in the RFP, and the results of any discussions conducted with responsible offerors. The RFP should be evaluated against the established criteria by several recognized experts.

Invitation for Bid (IFB – Competitive Sealed Bids) – When using this method the agency should award to the responsive and responsible bidder who has submitted the lowest bid that meets the requirements and criteria set forth in the IFB.

Request for Qualification – This option requires prior approval from the Office of State Procurement before an agency may utilize. A RFQ requires submittal of qualifications or specialized expertise in response to the scope of work or services required. Price is negotiated with the vendor determined to be the most advantageous to the State.

Sole Source – This method may be used for a required or designated service to a sole or mandatory supplier when the State Procurement Director, the head of a procurement agency, or a designee of either officer above the level of agency procurement official determines in writing that it is not practicable to use other than the required or designated service. This should only be used when the IFB or RFP methods are clearly not applicable.

Sole Source by Law – This designation is used when the state is compelled as a result of court, state or federal mandate to award for services from a specific provider. The Act#, law or court order should be provided when this method is used.

Emergency – The contract must detail that to procure using other methods would endanger human life or health, state property or the functional capability of the agency.

B6. Tower Lease Agreements - Advice and Counsel

The Review Subcommittee receives contracts, agreements or proposals from the Arkansas State Police prior to the leasing of communications equipment.

§12-8-306. Submission of contracts and proposals. The Arkansas State Police Commission shall submit any contract, agreement, or proposal, as authorized by this subchapter, to the Legislative Council prior to any obligation being incurred by the commission for the Legislative Council's advice and counsel.

B7. Renovation of Historic Sites - Advice, Review and Approval

Agencies responsible for restoring or maintaining historic sites must obtain advice, review and approval by the Chief Fiscal Officer, State Building Services (Arkansas Building Authority) and the Legislative Council when awarding bids to contractors for these services.

§ 22-9-208 (2) The State of Arkansas would conserve state revenues by giving agencies charged with restoring or maintaining historic properties authority to select the contractors on the basis of the lowest responsible bid price, the bidder's experience in like work, and the techniques he proposes to employ, and by giving the agencies authority to reimburse contractors on an actual cost basis for those cost components which cannot be accurately predetermined before undertaking the project; and (3) Procedures provided in subdivision (a)(2) of this section should be applicable for specific projects only after review and approval by the Chief Fiscal Officer of the State, State Building Services and the Legislative Council.

B8. Special Procurements - Report Filed

Agencies that receive a determination from DFA that an unusual or unique situation exists that makes the application of all requirements of competitive bidding, competitive sealed bidding, or competitive sealed proposals contrary to the public interest file a Special Procurements report.

§19-11-263. Special procurements. (b) A written determination of the basis for the procurement and for the selection of the particular contractor shall be included by the director or the head of a procurement agency in the contract file, and he or she shall file a monthly report with the Legislative Council describing all such determinations.

B9. Technical Services Contracts - Review

Technical and general services contracts that exceed \$100,000 in the areas of information technology, the actual delivery of health care or human services or education services shall be reviewed before the execution date of the contract.

§19-11-265. (a) (1) All contracts for technical and general services, except for those that are specifically exempt from review, requiring the service of an individual or individuals for regular full-time or part-time weekly work in the areas of information technology, the actual delivery of health care or human services or educational services shall be presented to the Legislative Council or to the Joint Budget Committee, if the General Assembly is in session, before the execution date of the contract if the total contract amount exceeds one hundred thousand dollars (\$100,000).

B10. Commodities Contracts - Review

A monthly report of commodities contracts that include services and have a projected total cost of \$250,000 or more shall be presented to the Review Subcommittee.

(c)(1)(A) In addition to the contracts for technical and general services that are presented to the Legislative Council or to the Joint Budget Committee under subsection (a) of this section, the director shall compile a monthly report of each commodities contract that includes services and has a projected total cost of two hundred fifty thousand dollars (\$250,000) or more. (B) The director shall include in the monthly report under subdivision (c)(1)(A) of this section a commodities contract that is procured by a state agency with an agency procurement official.

(2) The monthly report shall include without limitation:

- (A) The name of the contractor if the commodities contract is a state contract;
- (B) The state agency name if the commodities contract is procured by a state agency with an agency procurement official;
- (C) The contact information for the contractor or state agency;
- (D) The total cost of the contract, the cost of the commodities, and the cost of the services;
- (E) The type of commodity or commodities and services contracted;
- (F) The quantity of the commodity or commodities contracted; and
- (G) The procurement method.

(3) The director shall remit the report each month to the Legislative Council or to the Joint Budget Committee as directed by the Legislative Council.

AGENDA ITEM - REPORTS AND COMMUNICATIONS

- Monthly report from DFA of Professional Service Contracts Between \$5,000 and \$25,000.
- Monthly report from DFA on federal grant applications for that month.

Acronyms & Definitions

ANCRC - Arkansas Natural & Cultural Resources Council - source of Grant Funds

ABA – Arkansas Building Authority

ARRA - American Recovery & Reinvestment Act - Stimulus Funds - Federal Government Funds

Building commissioning - provides documented confirmation that building systems function according to criteria set forth in the project documents to satisfy the owner's operational needs. Commissioning existing systems may require developing new functional criteria to address the owner's current requirements for system performance.

CFDA - Catalogue of Federal Domestic Assistance DHS uses this to identify federal funding sources

LEED – Leadership in Energy & Environmental Design – Green Building Rating System – independent certification program that provides voluntary guidelines for developing high-performance, sustainable buildings.

MOF – Method of Finance

OSP – Office of State Procurement, Department of Finance & Administration

PSC Contract – Professional Consultant Services Contract

RFP – Request for Proposal

RFQ – Request for Qualifications