

Effective 3/29/2014

63G-6a-1204 Multiyear contracts.

- (1) Except as provided in Subsection (7), a procurement unit may enter into a multiyear contract resulting from an invitation for bids or a request for proposals, if:
 - (a) the procurement officer determines, in the discretion of the procurement officer, that entering into a multiyear contract is in the best interest of the procurement unit; and
 - (b) the invitation for bids or request for proposals:
 - (i) states the term of the contract, including all possible renewals of the contract;
 - (ii) states the conditions for renewal of the contract; and
 - (iii) includes the provisions of Subsections (3) through (5) that are applicable to the contract.
- (2) In making the determination described in Subsection (1)(a), the procurement officer shall consider whether entering into a multiyear contract will:
 - (a) result in significant savings to the procurement unit, including:
 - (i) reduction of the administrative burden in procuring, negotiating, or administering contracts;
 - (ii) continuity in operations of the procurement unit; or
 - (iii) the ability to obtain a volume or term discount;
 - (b) encourage participation by a person who might not otherwise be willing or able to compete for a shorter term contract; or
 - (c) provide an incentive for a bidder or offeror to improve productivity through capital investment or better technology.
- (3)
 - (a) The determination described in Subsection (1)(a) is discretionary and is not required to be in writing or otherwise recorded.
 - (b) Except as provided in Subsections (4) and (5), notwithstanding any provision of an invitation for bids, a request for proposals, or a contract to the contrary, a multiyear contract, including a contract that was awarded outside of an invitation for bids or request for proposals process, may not continue or be renewed for any year after the first year of the multiyear contract if adequate funds are not appropriated or otherwise available to continue or renew the contract.
- (4) A multiyear contract that is funded solely by federal funds may be continued or renewed for any year after the first year of the multiyear contract if:
 - (a) adequate funds to continue or renew the contract have not been, but are expected to be appropriated by, and received from, the federal government;
 - (b) continuation or renewal of the contract before the money is appropriated or received is permitted by the federal government; and
 - (c) the contract states that it may be cancelled or suspended, without penalty, if the anticipated federal funds are not appropriated or received.
- (5) A multiyear contract that is funded in part by federal funds may be continued or renewed for any year after the first year of the multiyear contract if:
 - (a) the portion of the contract that is to be funded by funds of a public entity are appropriated;
 - (b) adequate federal funds to continue or renew the contract have not been, but are expected to be, appropriated by, and received from, the federal government;
 - (c) continuation or renewal of the contract before the federal money is appropriated or received is permitted by the federal government; and
 - (d) the contract states that it may be cancelled or suspended, without penalty, if the anticipated federal funds are not appropriated or received.
- (6) A procurement unit may not continue or renew a multiyear contract after the end of the multiyear contract term or the renewal periods described in the contract, unless the

procurement unit engages in a new standard procurement process or complies with an exception, described in this chapter, to using a standard procurement process.

- (7) A multiyear contract, including any renewal periods, may not exceed a period of five years, unless:
- (a) the procurement officer determines, in writing, that:
 - (i) a longer period is necessary in order to obtain the procurement item;
 - (ii) a longer period is customary for industry standards; or
 - (iii) a longer period is in the best interest of the procurement unit; and
 - (b) the written determination described in Subsection (7)(a) is included in the file relating to the procurement.
- (8) This section does not apply to a contract for the design or construction of a facility, a road, a public transit project, or a contract for the financing of equipment.

Amended by Chapter 196, 2014 General Session