

Item # 83B

**City of Carson City
Agenda Report**

Date Submitted: June 9, 2009

Agenda Date Requested: June 18, 2009
Time Requested: Consent

To: Mayor and Supervisors
From: Purchasing & Contracts

Subject Title: Action to determine that Contract No. 0910-042 is a contract for professional services and therefore not suitable for public bidding pursuant to NRS 332.115 and to approve Contract No. 0910-042 a request for professional services to be provided by Physician Select Management, LLC for a not to exceed cost of \$140,000.00 to be funded from the Nursing Grant/Title X as provided in FY 2009/2010. *(Sandy Scott)*

Staff Summary: Contract No. 0809-056 with Physician Select Management, LLC will expire June 30, 2009.

Type of Action Requested: (check one)

Resolution Ordinance
 Formal Action/Motion Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to determine that Contract No. 0910-042 is a contract for professional services and therefore not suitable for public bidding pursuant to NRS 332.115 and to approve Contract No. 0910-042 a request for professional services to be provided by Physician Select Management, LLC for a not to exceed cost of \$140,000.00 to be funded from the Nursing Grant/Title X as provided in FY 2009/2010. *(Sandy Scott)*

Explanation for Recommended Board Action: Through this contract Physician Select Management, LLC, will provide services for the Carson City Community Health Clinic (CCCHC). The cost of this scope for work has been identified in an amount not to exceed \$140,000.00.

Public Health is rapidly evolving with the emergence of new diseases, the continued disparities in health between, racial and ethnic groups, and the growing use of technology require that nurses have the skills to address these issues specific to their community with the best efficiency possible. Our goal is to provide professional public health nursing services to Carson City residents, particularly very young children, medically under-served pregnant women, and the elderly in a manner that maintains their dignity, promotes their self-reliance and cultural integrity in order to enable individuals, families and communities to be healthy and productive. When the Board of Health was created, Carson City made a commitment to ensure these services would continue to be provided with the best efficiency possible, making them less fragmented.

This contract will be funded by a combination of a sub-grant award, and dollars generated by clinic services to address a wide scope of public health issues and will improve efficiency and availability of clinic services. Nursing activities at CCCHC would include services such as: Family planning methods, reproductive health services, and education to men, women, and adolescents; working towards the prevention of sexually transmitted diseases; provide testing and education for Tuberculosis and Human Immunodeficiency Virus (HIV)/Acquired Immunodeficiency Syndrome (AIDS); and to insure that children within our community have access to adequate immunization resources.

Carson City is in a unique position because we have the ability to sub-grant these dollars to a private provider within our community. This would allow Carson City the ability to affect change regarding public health activities within the clinic, without actually providing clinical services. Carson City Health and Human Services Department believes that, together with Physicians Select Management, LLC, we can continue to enhance the level of service and the integration of systems, allowing patients more flexibility when seeking their health care needs.

Pursuant to **NRS 332.115 subsection 1(b)**, staff is requesting the Board of Supervisors declare that the contract is not adapted to award by competitive bidding.

NRS 332.115 Contracts not adapted to award by competitive bidding; purchase of equipment by local law enforcement agency, response agency or other local governmental agency; purchase of goods commonly used by hospital.

1. Contracts which by their nature are not adapted to award by competitive bidding, including contracts for:

(b) Professional services;

are not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative.

Applicable Statue, Code, Policy, Rule or Regulation: NRS 332.115 subsection 1 (b).

Fiscal Impact: \$140,000.00

Explanation of Impact: If approved the below references account could be reduced by \$140,000.00.

Funding Source: 275-6807-441-0309 Nursing Grant/Title X as provided in FY 2009/2010.

Supporting Material: Contract for Services of Independent Contractor

Prepared By: Sandy Scott, Purchasing & Contracts Coordinator

Reviewed By: _____
(Health and Human Services)

(City Manager)
Melanie Binketta
(District Attorney)
Mark Prochaska
(Finance Director)

Date: 6/10/09

Date: 6/5/09

Date: 6-9-09

Date: 6-9-09

Board Action Taken:

Motion: _____

- 1) _____
- 2) _____

Aye/Nay

(Vote Recorded By)

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 0910-042
Healthcare Professional Services

THIS CONTRACT, made and entered into this 1st day of July, 2009, by and between the City and County of Carson City, a political subdivision of the State of Nevada, hereinafter referred to as the "**CITY**", and Physician Select Management, LLC hereinafter referred to as the "**CONTRACTOR**".

WITNESSETH:

WHEREAS, the Purchasing & Contracts Director for the City and County of Carson City is authorized, pursuant to Nevada Revised Statutes Chapter 332 and Carson City Purchasing Resolution #1990-R71, to approve and accept this Contract as set forth in and by the following provisions; and

WHEREAS, it is deemed that the services of **CONTRACTOR** for **CONTRACT No. 0809-042 Healthcare Professional Services** are both necessary and in the best interests of **CITY**; and

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1 REQUIRED APPROVAL:

1.1 This Contract shall not become effective until and unless approved by the Carson City Board of Supervisors.

2 CONTRACT TERM:

2.1 This Contract shall be effective from subject to Carson City Board of Supervisors' approval (anticipated to be June 18, 2009) to June 30, 2010, unless sooner terminated by either party as specified in **Section 7 Contract Termination**.

3 NOTICE:

3.1 Unless otherwise specified, termination shall not be effective until thirty (30) calendar days after a party has served written notice of default, or without cause upon the other party. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by e-mail with simultaneous regular mail, by telephonic facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

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For P&C Use Only
CCBL expires _____
GL expires _____
AL expires _____
PL expires _____
WC expires _____

3.1.1 Notice to **CONTRACTOR** shall be addressed to:

Leonard Hamer, Manager - CEO
Physician Select Management, LLC
212 West Ann Street
Carson City, Nevada 89703
775-885-2211 x 103/FAX 775-885-0773
lenhamer@pmcipa.com

3.1.2 Notice to **CITY** shall be addressed to:

Carson City Purchasing & Contracts
Sandy Scott, Purchasing & Contracts Coordinator
201 North Carson Street Suite 3
Carson City, NV 89701
775-887-2133 extension 30137 / FAX 775-887-2107
SScott@ci.carson-city.nv.us

4 SCOPE OF WORK:

4.1 **CONTRACTOR** shall provide and perform the following services for and on behalf of **CITY** hereinafter referred to as the "**SERVICES**".

4.2 Section A – Assumption and Agreement

4.2.1 **CONTRACTOR** will provide clinical services, by appointment, as well as walk-in availability a minimum of four (4) clinical workdays, totaling a minimum of thirty-two (32) hours per week, or as mutually agreed upon by both parties.

4.2.2 Clinic fees will be charges in accordance with the prevailing Federal Title X poverty guidelines. All clinical fees generated by the **CONTRACTOR** will be retained for clinic operations, staffing, equipment and supplies agreed upon by both parties.

4.2.3 **CITY** will designate clinic location and provide clinic structure/building and utilities (electric, gas, janitorial services, water, telephone, computer equipment, solid, and medical waste removal), medical equipment, office supplies, and other standard operating expenses.

4.2.4 **CONTRACTOR** will be available to respond and work in conjunction with the **CITY** in the case of emergent circumstances and situations.

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4.3 Section B- Description of services, scope of work, deliverables, fiscal reporting, requests for reimbursement, and monthly statistical reporting requirements (Section B consists of 4.3.1 through 4.3.3).

4.3.1 **CONTRACTOR** will comply with all provisions set forth in Section B of this contract award – Description of services, scope of work, deliverables, expense reports as well as monthly statistical program reporting requirements.

4.3.2 **CONTRACTOR** will comply with governing Federal guidelines with respect to the program income, cost allocation and cost eligibility provisions described in OMB Circulars A-102 Common Rule, A-87 Allowable Costs, and A-110 Program Compliance Requirements.

4.3.3 The Carson City Health and Human Services Department received Federal Title X grant funds for Family Planning services from the Office of Population Affairs (OPA). These funds are used for healthcare professional services in order to provide support for key OPA priorities. These key priorities include increasing access to family planning and reproductive health services by partnering with community-based organizations and providing clerical services for hard-to-reach populations, such as adolescents, teens and under-insured women.

4.4 Community Health Clinic Work Plan for Family Planning Services/Contract Objectives:

4.4.1 **CONTRACTOR** will provide family planning services to a minimum of 994 new/unduplicated community health clinic clients during the period July 1, 2009, to June 30, 2010. Services will include the following:

- Contraceptive methods including Birth control pills, depo provera, IUD utilization, barrier methods, and emergency contraception.
- Pregnancy testing with counseling and referral
- Pap Smears and breast exams

4.4.2 **CONTRACTOR** will provide sexual health services to a minimum of 833 new/unduplicated clients during the period July 1, 2009, to June 30, 2010. Services will include but are not limited to the following:

- Testing, counseling and treatment for Chlamydia, GC, and syphilis.
- Testing, counseling and referral for HIV, Hepatitis C, Hepatitis B.
- Vaccination (with parental consent) as indicated against HPV, Hepatitis B, rubella, and others.
- Screen for alcohol and drug abuse.

4.4.3 **CONTRACTOR** will, in collaboration with the **CITY**, during the current contract period, strive to achieve an optimal service level benchmark of three clients per hour for the provider. This per hour benchmark will not include time spent for administrative purposes, such as meetings and planning, nor does it include staff lunch hour and breaks. The following action items will be initiated to achieve the desired service level:

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- Adjust client appointment times based on acuity.
- Maximize APN clinic time by delegation of initial client interview in lower acuity patients to clinic RN(s).
- Streamline client check in/out process.
- Evaluate no-show, cancellation and walk-in rates and evaluation need for overbooking at various times during the clinic week.
- Participate in any clinic related quality improvement.

4.5 **CONTRACTOR** will comply with Nevada State Administrative Manual 0320.0 (Exhibit A) when applying for travel reimbursement for airfare, lodging, per diem, and other related travel expenses.

4.6 **CONTRACTOR** will request, by the fifth of each month, reimbursement for actual direct personnel expenses, indirect costs, based on fifteen percent (15%) of direct personnel costs, and billing services fees incurred related to the **SERVICES** as specified in this contract during the contract period. The Request for Reimbursement and required supporting documentation forms shall be a mutually agreed upon by both parties.

4.6.1 **CONTRACTOR** will submit billing services fees each month for an amount not to exceed ten percent (10%) of insurance payments collected in that month.

4.7 **CONTRACTOR** will submit, by the fifth of each month, a complete Statistical Report to the CITY showing monthly total of family planning services provided. This report can be provided by electronic mail, fax or ground mail.

4.8 Additionally, **CONTRACTOR** agrees to provide:

4.8.1 A complete summary financial accounting statement, of all expenditures, shall be submitted to the **CITY** within thirty (30) days of the CLOSE OF THE CONTRACT PERIOD. Any un-obligated funds shall be returned to the **CITY** at that time, or if not already requested, shall be deducted from final award.

4.9 **CITY** agrees:

4.9.1 To provide reimbursement for family planning services and activities related to the scope of work specified in this contract. Reimbursement shall be paid monthly based on expenses submitted by **CONTRACTOR** not to exceed \$200,000.00, which is in the combination of Federal Title X funding and revenue generated from patient fees.

4.9.2 To provide technical assistance, upon request from the **CONTRACTOR**.

4.9.3 **CITY** reserves the right to hold reimbursement under this contract until any delinquent forms, reports, and expenditure documentation is submitted to and accepted by the CITY.

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4.10 Both parties agree:

4.10.1 **CITY** will conduct a minimum of one site visit during the duration of this contract to review **CONTRACTOR** procedures and performance and will provide necessary feedback to enable **CONTRACTOR** to take corrective action if appropriate.

4.10.2 All reports of expenditure and requests for reimbursement processed by the **CITY** are SUBJECT TO AUDIT by Carson City or its appointed representatives.

4.11 **CONTRACTOR** represents that it is duly licensed by the State of Nevada and Carson City for the purposes of performing the **SERVICES** identified in this contract.

4.12 **CONTRACTOR** represents that it and/or the persons it may employ possess all skills and training necessary to perform the **SERVICES** described herein and required hereunder. **CONTRACTOR** shall perform the **SERVICES** faithfully, diligently, in a timely and professional manner, to the best of its ability, and in such a manner as is customarily performed by a person who is in the business of providing such services in similar circumstances. **CONTRACTOR** shall be responsible for the professional quality and technical accuracy of all **SERVICES** furnished by **CONTRACTOR** to **CITY**.

4.13 **CONTRACTOR** represents that neither the execution of this Contract nor the rendering of services by **CONTRACTOR** hereunder will violate the provisions of or constitute a default under any other contract or agreement to which **CONTRACTOR** is a party or by which **CONTRACTOR** is bound, or which would preclude **CONTRACTOR** from performing the **SERVICES** required of **CONTRACTOR** hereunder, or which would impose any liability or obligation upon **CITY** for accepting such **SERVICES**.

4.14 Before commencing with the performance of any work under this Contract, **CONTRACTOR** shall obtain all necessary permits and licenses as may be necessary. Before and during the progress of work under this Contract, **CONTRACTOR** shall give all notice and comply with all the laws, ordinances, rules and regulations of every kind and nature now or hereafter in effect promulgated by any Federal, State, County, or other Governmental Authority, relating to the performance of work under this Contract. If **CONTRACTOR** performs any work that is contrary to any such law, ordinance, rule or regulation, he shall bear all the costs arising therefrom.

5 CONSIDERATION:

5.1 The parties agree that **CONTRACTOR** will provide the **SERVICES** specified in **Section 4 Scope of Work** and **CITY** agrees to pay **CONTRACTOR** the **CONTRACT SUM** based upon time & materials and the attached fee schedule for a not to exceed maximum amount of One Hundred Forty Thousand Dollars and No Cents (\$140,000.00).

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5.2 **CONTRACT SUM** represents full and adequate compensation for the completed **WORK**, and includes the furnishing of all materials; all labor, equipment, tools, and appliances; and all expenses, direct or indirect, connected with the proper execution of the **WORK**.

5.3 **CITY** has provided a sample invoice and **CONTRACTOR** shall submit its request for payment using said sample invoice.

5.4 Payment by **CITY** for the **SERVICES** rendered by **CONTRACTOR** shall be due within thirty (30) calendar days from the date **CITY** acknowledges that the performance meets the requirements of this Contract or from the date the correct, complete, and descriptive invoice is received by **CITY** employee designated on the sample invoice, whichever is the latter date.

5.5 **CITY** does not agree to reimburse **CONTRACTOR** for expenses unless otherwise specified.

6 TIMELINESS OF BILLING SUBMISSION:

6.1 The parties agree that timeliness of billing is of the essence to this Contract and recognize that **CITY** is on a fiscal year which is defined as the period beginning July 1 and ending June 30 of the following year. All billings for dates of service prior to July 1 must be submitted to **CITY** no later than the first Friday in August of the same year. A billing submitted after the first Friday in August will subject **CONTRACTOR** to an administrative fee not to exceed \$100.00. The parties hereby agree this is a reasonable estimate of the additional costs to **CITY** of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to **CONTRACTOR**.

7 CONTRACT TERMINATION:

7.1 Termination Without Cause:

7.1.1 Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties or unilaterally by either party without cause.

7.2 Termination for Nonappropriation:

7.2.1 The continuation of this Contract beyond June 30, 2009 is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the Carson City Board of Supervisors. **CITY** may terminate this Contract, and **CONTRACTOR** waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the funding is not appropriated or is withdrawn, limited, or impaired.

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7.3 Cause Termination for Default or Breach:

7.3.1 A default or breach may be declared with or without termination.

7.3.2 This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

7.3.2.1 If **CONTRACTOR** fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

7.3.2.2 If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

7.3.2.3 If **CONTRACTOR** becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

7.3.2.4 If **CITY** materially breaches any material duty under this Contract and any such breach impairs **CONTRACTOR'S** ability to perform; or

7.3.2.5 If it is found by **CITY** that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by **CONTRACTOR**, or any agent or representative of **CONTRACTOR**, to any officer or employee of **CITY** with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

7.3.2.6 If it is found by **CITY** that **CONTRACTOR** has failed to disclose any material conflict of interest relative to the performance of this Contract.

7.4 Time to Correct:

7.4.1 Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in **Section 3 Notice**, and the subsequent failure of the defaulting party within fifteen (15) calendar days of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

7.5 Winding Up Affairs Upon Termination:

7.5.1 In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:

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7.5.1.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;

7.5.1.2 **CONTRACTOR** shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by **CITY**;

7.5.1.3 **CONTRACTOR** shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by **CITY**;

7.5.1.4 **CONTRACTOR** shall preserve, protect, and promptly deliver into **CITY** possession all proprietary information in accordance with **Section 23 City Ownership of Proprietary Information**.

8 REMEDIES:

8.1 Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. The parties agree that, in the event a lawsuit is filed and a party is awarded attorney's fees by the court, for any reason, the amount of recoverable attorney's fees shall not exceed the rate of \$125 per hour. **CITY** may set off consideration against any unpaid obligation of **CONTRACTOR** to **CITY**.

9 LIMITED LIABILITY:

9.1 **CITY** will not waive and intends to assert available Nevada Revised Statutes Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any **CITY** breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to **CONTRACTOR**, for the fiscal year budget in existence at the time of the breach. **CONTRACTOR'S** tort liability shall not be limited.

10 FORCE MAJEURE:

10.1 Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused

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party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

11 INDEMNIFICATION:

11.1 To the extent permitted by law, including, but not limited to, the provisions of Nevada Revised Statutes Chapter 41, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other party from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any party or person described in this paragraph.

11.2 Except as otherwise provided in Subsection 11.4 below, the indemnifying party shall not be obligated to provide a legal defense to the indemnified party, nor reimburse the indemnified party for the same, for any period occurring before the indemnified party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying party, along with:

11.2.1 a written request for a legal defense for such pending claim(s) or cause(s) of action; and

11.2.2 a detailed explanation of the basis upon which the indemnified party believes that the claim or cause of action asserted against the indemnified party implicates the culpable conduct of the indemnifying party, its officers, employees, and/or agents.

11.3 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified party, including counsel through which the indemnified party might voluntarily choose to participate in its defense of the same matter.

11.4 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall be obligated to reimburse the reasonable attorney's fees and costs incurred by the indemnified party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.

12 INDEPENDENT CONTRACTOR:

12.1 An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

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12.2 It is mutually agreed that **CONTRACTOR** is associated with **CITY** only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted services pursuant to this Contract. **CONTRACTOR** is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract.

12.3 Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for **CITY** whatsoever with respect to the indebtedness, liabilities, and obligations of **CONTRACTOR** or any other party.

12.4 **CONTRACTOR** shall indemnify and hold **CITY** harmless from, and defend **CITY** against, any and all losses, damages, claims, costs, penalties, liabilities, expenses arising out of or incurred in any way because of, but not limited to, **CONTRACTOR'S** obligations or legal duties regarding any taxes, fees, assessments, benefits, entitlements, notice of benefits, employee's eligibility to work, to any third party, subcontractor, employee, state, local or federal governmental entity.

12.5 Neither **CONTRACTOR** nor its employees, agents, or representatives shall be considered employees, agents, or representatives of **CITY**.

13 INSURANCE REQUIREMENTS:

13.1 **CONTRACTOR**, as an independent contractor and not an employee of **CITY**, must carry policies of insurance in amounts specified and pay all taxes and fees incident hereunto. **CITY** shall have no liability except as specifically provided in this Contract.

13.2 **CONTRACTOR** shall not commence work before: (1) **CONTRACTOR** has provided the required evidence of insurance to Carson City Purchasing & Contracts, and (2) **CITY** has approved the insurance policies provided by **CONTRACTOR**.

13.3 Prior approval of the insurance policies by **CITY** shall be a condition precedent to any payment of consideration under this Contract and **CITY'S** approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of **CITY** to timely approve shall not constitute a waiver of the condition.

13.4 Insurance Coverage:

13.4.1 **CONTRACTOR** shall, at **CONTRACTOR'S** sole expense, procure, maintain and keep in force for the duration of this Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by **CITY**, the required insurance shall be in effect prior to the commencement of

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work by **CONTRACTOR** and shall continue in force as appropriate until the latter of:

13.4.1.1 Final acceptance by **CITY** of the completion of this Contract; or

13.4.1.2 Such time as the insurance is no longer required by **CITY** under the terms of this Contract.

13.4.2 Any insurance or self-insurance available to **CITY** shall be in excess of and non-contributing with any insurance required from **CONTRACTOR**. **CONTRACTOR'S** insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by **CITY**, **CONTRACTOR** shall provide **CITY** with renewal or replacement evidence of insurance no less than thirty (30) calendar days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by this Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as **CONTRACTOR** has knowledge of any such failure, **CONTRACTOR** shall immediately notify **CITY** and immediately replace such insurance or bond with an insurer meeting the requirements.

13.5 General Requirements:

13.5.1 **Certificate Holder:** Each liability insurance policy shall list Carson City c/o Carson City Purchasing & Contracts, 201 N. Carson Street Suite 3, Carson City, NV 89701 as a certificate holder.

13.5.2 **Additional Insured:** By endorsement to the general liability insurance policy evidenced by **CONTRACTOR**, The City and County of Carson City, Nevada, its officers, employees and immune contractors shall be named as additional insureds for all liability arising from this Contract.

13.5.3 **Waiver of Subrogation:** Each liability insurance policy shall provide for a waiver of subrogation as to additional insureds.

13.5.4 **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

13.5.5 **Deductibles and Self-Insured Retentions:** Insurance maintained by **CONTRACTOR** shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by **CITY**. Such approval shall not relieve **CONTRACTOR** from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000 per occurrence, unless otherwise approved by **CITY**.

13.5.6 **Policy Cancellation:** Except for ten (10) calendar days notice for non-payment of premium, each insurance policy shall be endorsed to state that; without thirty (30) calendar

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days prior written notice to Carson City Purchasing & Contracts, the policy shall not be canceled, non-renewed or coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mail to Carson City Purchasing & Contracts, 201 N. Carson Street Suite 3, Carson City, NV 89701.

13.5.7 Approved Insurer: Each insurance policy shall be issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made, and currently rated by A.M. Best as "A-VII" or better.

13.5.8 Evidence of Insurance: Prior to commencement of work, **CONTRACTOR** must provide the following documents to Carson City Purchasing & Contracts, 201 North Carson Street Suite 3, Carson City, NV 89701:

13.5.8.1 Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to Carson City Purchasing & Contracts to evidence the insurance policies and coverages required of **CONTRACTOR**.

13.5.8.2 Additional Insured Endorsement: An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, must be submitted to Carson City Purchasing & Contracts to evidence the endorsement of **CITY** as an additional insured per Subsection 13.5.2.

13.5.8.3 Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlyer Schedule from the Umbrella or Excess insurance policy may be required.

13.5.9 Review and Approval: Documents specified above must be submitted for review and approval by Carson City Purchasing & Contracts prior to the commencement of work by **CONTRACTOR**. Neither approval by **CITY** nor failure to disapprove the insurance furnished by **CONTRACTOR** shall relieve **CONTRACTOR** of **CONTRACTOR'S** full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of **CONTRACTOR** or its sub-contractors, employees or agents to **CITY** or others, and shall be in addition to and not in lieu of any other remedy available to **CITY** under this Contract or otherwise. **CITY** reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

14 COMMERCIAL GENERAL LIABILITY INSURANCE:

14.1 Minimum Limits required:

14.1.1 Two Million Dollars (\$2,000,000.00) - General Aggregate

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 0910-042
Healthcare Professional Services

14.1.2 Two Million Dollars (\$2,000,000.00) - Products & Completed Operations Aggregate

14.1.3 One Million Dollars (\$1,000,000.00) - Each Occurrence

14.2 Coverage shall be on an occurrence basis and shall be at least as broad as ISO 1996 form CG 00 01 (or a substitute form providing equivalent coverage); and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, civil lawsuits, Title VII actions and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

15 BUSINESS AUTOMOBILE LIABILITY INSURANCE:

15.1 Minimum Limit required:

15.1.1 One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage

15.2 Coverage shall be for "any auto", including owned, non-owned and hired vehicles. The policy shall be written on ISO form CA 00 01 or a substitute providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

16 PROFESSIONAL LIABILITY INSURANCE:

16.1 Minimum Limit required: One Million Dollars (\$1,000,000.00)

16.2 Retroactive date: Prior to commencement of the performance of this Contract

16.3 Discovery period: Three (3) years after termination date of this Contract.

16.4 A certified copy of this policy may be required.

17 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

17.1 **CONTRACTOR** shall provide workers' compensation insurance as required by Nevada Revised Statutes Chapters 616A through 616D inclusive and Employer's Liability insurance with a minimum limit of \$500,000 each employee per accident for bodily injury by accident or disease.

17.2 **CONTRACTOR** may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that **CONTRACTOR** is a sole proprietor; that **CONTRACTOR** will not use the services of any employees in the performance of this Contract; that **CONTRACTOR** has elected to not be included in the terms, conditions, and provisions of Nevada Revised Statutes Chapters 616A-616D, inclusive; and that **CONTRACTOR** is otherwise in compliance with the

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
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terms, conditions, and provisions of Nevada Revised Statutes Chapters 616A-616D, inclusive.

18 BUSINESS LICENSE:

18.1 **CONTRACTOR** shall not commence work before **CONTRACTOR** has provided a copy of his Carson City business license to Carson City Purchasing & Contracts.

18.2 The Carson City business license shall continue in force until the latter of: (1) final acceptance by **CITY** of the completion of this Contract; or (2) such time as the Carson City business license is no longer required by **CITY** under the terms of this Contract.

19 COMPLIANCE WITH LEGAL OBLIGATIONS:

19.1 **CONTRACTOR** shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or services of this Contract. **CONTRACTOR** will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of **CONTRACTOR** in accordance with Nevada Revised Statutes 361.157 and 361.159. **CONTRACTOR** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. **CITY** may set-off against consideration due any delinquent government obligation.

20 WAIVER OF BREACH:

20.1 Failure to declare a breach or the actual waiver of any particular breach of this Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

21 SEVERABILITY:

21.1 If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

22 ASSIGNMENT/DELEGATION:

22.1 To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by **CITY**, such offending portion of the assignment shall

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be void, and shall be a breach of this Contract. **CONTRACTOR** shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of **CITY**.

23 CITY OWNERSHIP OF PROPRIETARY INFORMATION:

23.1 Any files, reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer programs, computer codes, and computer records (which are intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by **CONTRACTOR** (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of **CITY** and all such materials shall be delivered into **CITY** possession by **CONTRACTOR** upon completion, termination, or cancellation of this Contract. **CONTRACTOR** shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of **CONTRACTOR'S** obligations under this Contract without the prior written consent of **CITY**. Notwithstanding the foregoing, **CITY** shall have no proprietary interest in any materials licensed for use by **CITY** that are subject to patent, trademark or copyright protection.

23.2 **CITY** shall be permitted to retain copies, including reproducible copies, of **CONTRACTOR'S** drawings, specifications, and other documents for information and reference in connection with this Contract.

23.3 **CONTRACTOR'S** drawings, specifications and other documents shall not be used by **CITY** or others without expressed permission of **CONTRACTOR**.

24 PUBLIC RECORDS:

24.1 Pursuant to Nevada Revised Statute 239.010, information or documents received from **CONTRACTOR** may be open to public inspection and copying. **CITY** will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. **CONTRACTOR** may clearly label specific parts of an individual document as a "trade secret" or "confidential" in accordance with Nevada Revised Statute 332.061, provided that **CONTRACTOR** thereby agrees to indemnify and defend **CITY** for honoring such a designation. The failure to so label any document that is released by **CITY** shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

25 CONFIDENTIALITY:

25.1 **CONTRACTOR** shall keep confidential all information, in whatever form, produced, prepared, observed or received by **CONTRACTOR** to the extent that such information is confidential by law or otherwise required by this Contract.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
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26 FEDERAL FUNDING:

26.1 In the event federal funds are used for payment of all or part of this Contract:

26.1.1 **CONTRACTOR** certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

26.1.2 **CONTRACTOR** and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

26.1.3 **CONTRACTOR** and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions).

27 LOBBYING:

27.1 The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

27.1.1 Any federal, state, county or local agency, legislature, commission, counsel or board;

27.1.2 Any federal, state, county or local legislator, commission member, counsel member, board member, or other elected official; or

27.1.3 Any officer or employee of any federal, state, county or local agency; legislature, commission, counsel or board.

28 GENERAL WARRANTY:

28.1 **CONTRACTOR** warrants that all services, deliverables, and/or work product under this Contract shall be completed in a workmanlike manner consistent with standards in the trade,

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
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profession, or industry; shall conform to or exceed the specifications as set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

29 PROPER AUTHORITY:

29.1 The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. **CONTRACTOR** acknowledges that this Contract is effective only after approval by the Carson City Board of Supervisors and only for the period of time specified in this Contract. Any services performed by **CONTRACTOR** before this Contract is effective or after it ceases to be effective are performed at the sole risk of **CONTRACTOR**.

30 ARBITRATION:

30.1 Any controversy of claims arising out of or relating to this Contract, or the breach thereof, provided both parties agree, may be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

31 GOVERNING LAW; JURISDICTION:

31.1 This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. **CONTRACTOR** consents and agrees to the jurisdiction of the courts of the State of Nevada located in Carson City, Nevada for enforcement of this Contract.

32 ENTIRE CONTRACT AND MODIFICATION:

32.1 This Contract and its integrated attachment(s) constitute the entire Contract of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other Contracts that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Carson City Board of Supervisors.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 0910-042
Nursing Services

33 ACKNOWLEDGMENT AND EXECUTION:

33.1 In witness whereof, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

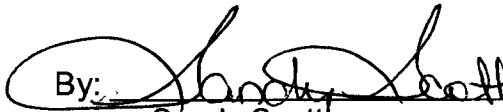
CARSON CITY

Finance Director
Attn: Sandy Scott, Purchasing &
Contracts Coordinator
201 North Carson Street Suite 3
Carson City, Nevada 89701
Telephone: 775-887-2133 ext. 30137
Fax: 775-887-2107
SScott@ci.carson-city.nv.us

CITY'S LEGAL COUNSEL

Neil A. Rombardo, District Attorney

I have reviewed this Contract and approve
as to its legal form.

By: 
Sandy Scott


By: 
Deputy District Attorney

DATED 6-9-09

DATED 6-9-09

CITY'S ORIGINATING DEPARTMENT

BY: Marena Works, MSN, MHP, RN/Director
Carson City Health and Human Services
900 East Long Street
Carson City, NV 89706
Telephone: 775-887-2190
Fax: 775-887-2248
Mworks@ci.carson-city.nv.us

By: 

DATED 6/10/09

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 0910-042
Healthcare Professional Services

Leonard Hamer deposes and says: That he is the **CONTRACTOR** or authorized agent of the **CONTRACTOR**; that he has read the foregoing Contract; and that he understands the terms, conditions, and requirements thereof.

CONTRACTOR
BY: Leonard Hamer, MBA, CMPE
TITLE: Manager, CEO
FIRM: Physician Select Management, LLC
CARSON CITY BUSINESS LICENSE #: 09-13615
Address: 212 West Ann Street
City: Carson City **State:** Nevada **Zip Code:** 89703
Telephone: 775-885-2211/ **Fax #:** 775-885-0773
E-mail Address: lenhamer@pmcipa.com

(Signature of **CONTRACTOR**)

DATED _____.

STATE OF _____)
_____) **ss**
County of _____)

Signed and sworn (or affirmed) before me on this _____ day of _____, 2009,
by Leonard Hamer.

(Signature of Notary)

(Notary Stamp)

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 0910-042
Healthcare Professional Services

SAMPLE INVOICE

Invoice Number: _____
 Invoice Date: _____
 Invoice Period: _____

Carson City Contract Number: 0809-042
 Carson City Contract Name: Healthcare Professional Services

Vendor Number: _____
 Physician Select Management, LLC
 212 West Ann Street
 Carson City, Nevada 89703

Invoice shall be submitted to:

Carson City Health and Human Services
 Attn: Elva Gilliland
 900 East Long Street
 Carson City NV 89706

Line Item #	Description	Unit Cost	Units Completed	Total \$\$
Total for this invoice				

Original Contract Sum	\$	_____
Less amount previously billed	\$	_____
= contract sum prior to this invoice	\$	_____
Less this invoice	\$	_____
=Dollars remaining on Contract	\$	_____

ENCLOSE COPIES OF RECEIPTS & INVOICES FOR EXPENSES & OUTSIDE SERVICES

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 0910-042
Healthcare Professional Services

CONTRACT ACCEPTANCE AND EXECUTION:

The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of June 18, 2009, approved the acceptance of **CONTRACT No. 0809-042**. Further, the Board of Supervisors authorizes the Mayor of Carson City, Nevada to set his hand to this document and record his signature for the execution of this contract in accordance with the action taken.

CARSON CITY, NEVADA

ROBERT L. CROWELL, MAYOR

DATED this 18TH day of June, 2009.

ATTEST:

ALAN GLOVER, CLERK-RECORDER

DATED this 18th day of June, 2009.

TWENTY- FOURTH EDITION

**February 2006
Chapter 200 (Travel) Revised August 2007**

FOREWORD

The State Administrative Manual (SAM) is a compilation of policy statements concerning the internal operations of State government. Policies are based on statute or other approved regulations. This manual is published for use as a guide in conducting the State's business. Users requiring more detailed information should reference the applicable statutes that are cited following many of the policy statements or contact the Department of Administration.

This edition of SAM replaces all previous editions. New material has been underlined for easy identification.

Questions or comments regarding SAM should be directed to the Director's Office of the Department of Administration, 209 E. Musser St., Room 200, Carson City, NV 89701-4298, (775) 684-0222.



Andrew K. Clinger, Director
Department of Administration

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COOPERATIVE AGREEMENTS AND CONTRACTS Chapter 0300

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COOPERATIVE AGREEMENTS AND CONTRACTS 0300

COOPERATIVE AGREEMENTS/INTERLOCAL CONTRACTS 0302.0

Cooperative Agreements and Interlocal Contracts are contracts between public agencies to provide services or facilities to one another or to the public in accordance with the "Interlocal Cooperation Act." (NRS §277.080 to §277.180)

DEFINITION OF PUBLIC AGENCY 0304.0

1. "Public Agency" means:
 - A. Any political subdivision of this State, including without limitation, counties, incorporated cities and towns including Carson City, unincorporated towns, school districts and other districts.
 - B. Any agency of this State or of the United States.
 - C. Any political subdivision of another State.
 - D. Any Indian tribe, group of tribes, organized segment of a tribe or any organization representing two or more such entities.
2. "State" includes any of the United States and the District of Columbia.

COOPERATIVE AGREEMENTS 0306.0

A cooperative agreement is an agreement between two or more public agencies for the "joint exercise of powers, privileges and authority," including, but not limited to law enforcement. (NRS §277.080 to §277.170)

CONTENTS OF AGREEMENTS 0308.0

1. Any agreement made pursuant to NRS §277.110 that establishes a separate legal or administrative entity to conduct the joint or cooperative undertaking shall specify:
 - A. The precise organization, composition and nature of such entity and the powers delegated thereto.
 - B. The duration of the agreement.
 - C. The purpose of the agreement.
 - D. The manner of financing such undertaking and of establishing and maintaining a budget.
 - E. The method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.
 - F. Any other necessary or proper matters.
2. Any agreement so made which does not establish such an entity shall contain:
 - A. The provisions enumerated in paragraphs B to F, inclusive, of subsection 1.
 - B. Provision for an administrator or joint board responsible for administering the undertaking. In the case of a joint board, public agencies that are parties to the agreement shall be represented.
 - C. The manner of acquiring, holding and disposing of real and personal property used in such undertaking.
3. Any agreement must be in writing.

APPROVAL OF COOPERATIVE AGREEMENTS 0310.0

1. Cooperative agreements become effective only upon:
 - A. Ratification by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force. Cooperative agreements ranging in cost from zero to \$1,999 require approval of the agency head; cooperative agreements ranging in cost from \$2,000 to \$9,999 require the approval of the Clerk of the Board of Examiners, or designee, on behalf of the Board of Examiners; and cooperative agreements totaling \$10,000 or more require the approval of the Board of Examiners; and
 - B. Ratification by appropriate ordinance, resolution or otherwise by law on the part of the governing bodies of the participating public agencies.
2. Cooperative agreements shall be submitted to the Attorney General before becoming effective for determination of proper form and compatibility with the laws of this State. If the Attorney General does not disapprove an agreement within 30 days after its submission, the failure to disapprove constitutes approval.

3. Cooperative agreements must be recorded with the county recorder of each county in which a participating political subdivision of this State is located, and filed with the Secretary of State.
4. Cooperative agreements dealing in whole or in part with services or facilities over which an officer or agency of this State has control must be submitted to that State officer or agency for approval or disapproval as to all matters within his/her or its jurisdiction before the agreement's entry into force. This requirement is in addition to the requirement of submission and approval by the Attorney General.

A Contract Summary Form must accompany all cooperative agreements submitted for review and approval.

ADMINISTRATIVE SUPPORT OF COOPERATIVE AGREEMENTS

0312.0

Any public agency that has entered into a cooperative agreement may support the administrative joint board or other legal or administrative entity created pursuant to NRS §277.080 to §277.170 in any one or more of the following ways:

1. By appropriating funds;
2. By selling, leasing, giving or otherwise supplying property; or
3. By providing such personnel or services as may be within its legal power to furnish.

INTERLOCAL CONTRACTS

0314.0

Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of its public agencies is authorized by law to perform. (NRS §277.180)

Interlocal contracts are distinguished from cooperative agreements in that cooperative agreements are for the "joint exercise of powers, privileges and authority" by public agencies and interlocal contracts are agreements by public agencies to "obtain a service" from another public agency.

Agencies are advised to work closely with the Attorney General to ensure compliance with the statutes governing any cooperative agreement or interlocal contract entered into pursuant to NRS §277.080 through §277.180.

APPROVAL OF INTERLOCAL CONTRACTS

0316.0

If an agency of this State is a party to the interlocal contract, the interlocal contract must be approved by the Attorney General as to form and compliance with law.

Interlocal contracts must be ratified by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force. Interlocal contracts ranging in cost from zero to \$1,999 require approval of the agency head; interlocal contracts ranging in cost from \$2,000 to \$9,999 require the approval of the Clerk of the Board of Examiners, or designee, on behalf of the Board of Examiners; interlocal contracts totaling \$10,000 or more require the approval of the Board of Examiners.

A Contract Summary Form must accompany all interlocal contracts submitted for review and approval.

BOARD OF EXAMINERS' REQUIREMENTS

0318.0

All State agencies are required to file one copy of any approved cooperative agreement or interlocal contract with the Clerk of the Board of Examiners.

The approval of the Board of Examiners and the Office of the Attorney General is required on cooperative agreements and interlocal contracts pursuant to SAM sections 0310.0 and 0316.0.

INDEPENDENT CONTRACTORS

0320.0

- I. The determination as to whether an individual performing services for the State should be treated as an independent contractor or as a State employee is an important one. That determination can affect the individual's status in several regards, including:
 - A. His/Her treatment by the Internal Revenue Service for tax and Social Security withholding purposes;

- B. His/Her treatment by the U.S. Department of Labor for purposes of overtime calculation under the Fair Labor Standards Act;
 - C. His/Her treatment by the insurance companies providing workers' compensation coverage relative to coverage for on-the-job injury; however, if the contractor qualifies as a sole proprietor as defined in NRS Chapter 616A.310, and has elected not to purchase industrial insurance for himself/herself, the sole proprietor must submit to the contracting State agency a signed and notarized affidavit so stating.
 - D. His/Her treatment by the Employment Security Department in the determination of unemployment benefits; and
 - E. His/Her treatment by the courts in determining possible liability to the State of Nevada for his actions.
2. The following is the definition of an independent contractor under NRS §284.173(2):
"An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his/her or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished."
3. There are several additional factors that should be balanced to determine whether the State, as an employer, has such control over the worker so as to render the relationship one of employment rather than that of independent contract.
- A. The following factors indicate the creation of an employer-employee relationship rather than that of an independent contractor:
 - 1) The lack of any completion date, time limit or unit of work designation;
 - 2) The employer's right to hire and fire the person holding the contract;
 - 3) The payment of a regular salary;
 - 4) The delegation to the contractor of administrative powers over employees; and/or
 - 5) The level of control over the means and manner of accomplishment of the work.
 - B. A person is not an independent contractor simply because there is an agreement designating him/her as such or because the employer permits him/her considerable discretion and freedom of action. If a person performs services subject to the will and control of the employer, that person is an employee and his/her salary must come from the salary category.
 - C. Agencies unsure whether or not an employee-employer relationship exists in a potential contract should request the assigned Deputy Attorney General to review the contract for compliance with the provisions of NRS §284.173.
4. An independent contractor is not provided the following:
- A. Withholding of income taxes or Social Security by the State;
 - B. Participation in group insurance plans which may be available to employees of the State;
 - C. Participation or contributions by either the independent contractor or the State to the Public Employee's Retirement System;
 - D. Accumulation of vacation or sick leave; or
 - E. Coverage for unemployment compensation provided by the State.
5. Agencies contemplating the use of State employees as independent contractors must adhere to the following conditions:
- A. Contracts with State employees must meet the criteria for independent contractors outlined above.
 - B. All State permanent employees must devote full time attention and effort to State employment during official duty hours and not to contractual obligations. (NAC 284.766)
 - C. A State employee shall not enter into a contract with the State in any capacity that may be construed as an extension of his/her assigned duties or responsibilities to the State (NAC 284.754).
 - D. Contracts with public officers or employees are prohibited in instances in which the officer or employee "has a pecuniary interest." (NRS §281.221)
 - E. A member of any board, commission or similar body engaged in the profession occupation or business regulated by such board or commission and faculty members of the University and Community College System of Nevada, may bid on or enter into a contract with any governmental agency if he is not part of the development of contract plans or specifications, and if he/she is not personally involved in opening, considering or accepting offers. (NRS §281)
 - F. A public officer or employee may bid or enter into a contract with any governmental agency if the contracting process is governed by rules of open competitive bidding, the sources of supply are limited, and if he/she is not personally involved in opening, considering or accepting offers. (NRS §281)

- G. An employee may be disciplined for a violation of NAC 284.738, "Conflicting Activities." An appointing authority has the power under the regulations to define which activities are in conflict with functions of an agency. (NAC §284.650)
 - H. State employees employed by one agency may lawfully work on contract for another State agency while on annual leave from the first agency.
 - I. Agencies contracting with State employees must provide a written justification as to why this individual was selected and a written description of the proposed work and the employee's normal job duties so the Board can make a determination as to whether or not the contract can be construed "as an extension of assigned job duties." The Board's favorable consideration of such requests would be assisted if the contract service and regular employment of the contractor benefit different agencies, or will be under the supervision of different individuals.
6. Travel expenses, per diem and other expenses may be paid to an independent contractor if provided for in the contract and must conform to the procedures and rates allowed for State officers and employees. It is the policy of the Board of Examiners to restrict contractors to the same rates and procedures allowed State employees.
 7. While proposed independent contracts are reviewed by the Attorney General as to form under NRS §284.173 (5), that review is only as to the terms of the relationship that appear in the writing presented for review. If the actual relationship between the worker and the State later changes and does not comport with that writing, such as if the State subsequently provides office space, secretarial help or requires the worker to report to a supervisor, the nature of the agreement may well become one of employment and not contract. For this reason, it is important for agency heads to monitor the actual work relationships of persons hired pursuant to NRS §284.173 to ensure that an independent contract relationship is truly present under the above referenced standards. If there is some doubt as to that relationship, consult your assigned deputy attorney general.
 8. If the services of an independent contractor are contracted to represent an agency of the State in any proceeding in any court, the contract must require the independent contractor to identify in all pleadings the specific State agency that he/she is representing.
 9. Any person, firm or corporation who performs work under any contract with the State must furnish the State agency with a certificate of the insurer or other evidence certifying that the contractor has complied with the provisions of law regarding providing workers compensation coverage. NRS Chapters 616A to 616D, inclusive.

WARRANTIES FOR ALL CONTRACTS

0321.0

It is the Board of Examiners recommendation that, in the negotiations of all contracts, warranties as set forth in the model contract form approved by the Attorney General, remain as stipulated unless negotiated with the assistance of and approved by the agency's Deputy Attorney General.

INDEPENDENT CONTRACT REVIEW

0322.0

1. Contracts must be ratified by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force. Contracts ranging in cost from zero to \$1,999 require the approval of the agency head or designee; contracts ranging in cost from \$2,000 to \$9,999 require the approval of the Clerk of the Board of Examiners, or designee, on behalf of the Board of Examiners; and contracts totaling \$10,000 or more require the approval of the Board of Examiners. All revenue-generating contracts require approval limits consistent with the dollar thresholds as set forth herein.
2. The Board of Examiners shall review each contract submitted for approval and consider whether sufficient authority exists to expend the money required by the contract and whether the services that are the subject of the contract could be provided by a State agency in a more cost effective manner.
3. State agencies shall identify an internal, professional level position to function as a contract monitor. This position would be responsible for facilitating the agency's RFPs, conducting complex agency solicitations or, in the event of decentralized agency purchasing procedures, the review and approval of agency solicitations and the resulting contracts for compliance with NRS Chapter 333, NAC Chapter 333, and SAM Chapter 300. Agency contract managers must become certified through the State Purchasing Division's Contract Certification Class. Contract managers will be responsible for completing a comprehensive training course that will cover all aspects of the RFP process, informal solicitation process, law pertaining to the State Purchasing Act, contract negotiations, interlocal contracts and cooperative agreements and other topics relevant to State contracting and reducing the State's exposure to risk. Contract monitors will need to contact State Training for a schedule of classes and registration.

4. All contracts submitted to the Board of Examiners which are less than \$10,000, those contracts necessary to preserve life and property in amounts less than \$25,000 and those contracts entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license MAY be approved on behalf of the Board by the Clerk of the Board of Examiners or his designee, which is appealable to the Board of Examiners. Such contracts are not effective until signed by the Clerk. (NRS §284.173)
5. All services provided to an agency by persons and/or firms falling under the definition of an independent contractor as enumerated in SAM 0320.0 must be supplied under a contract executed by the agency receiving the services. Examples of such services include, but are not limited to:
 - A. Medical services (does not include employee physicals).
 - B. Consultants.
 - C. Training.
 - D. Telephone answering services.
 - E. Repair, replacement or installation of parts for automobiles and light trucks more than \$5,000 and heavy equipment more than \$15,000.
 - F. Clipping services.
 - G. Data Processing Services, including hardware maintenance (must be reviewed and approved by the Department of Information Technology before submittal to the Board of Examiners).
 - H. Alarm System Monitoring (fire, burglar, etc.).
6. Whenever possible, agencies should anticipate and negotiate contracts for preventive services to eliminate the need for emergency services at some future date. Such contracts may include minor remodeling, repair or preventive maintenance work. The following rules must be considered in the preparation of such contracts.
 - A. All such contracts are subject to the requirements of SAM.
 - B. All such contracts must conform to the bidding requirements in SAM 0338.0 and the minor remodeling, repair and maintenance requirements in SAM 0338.0.
 - C. Funding must be available for payments against the contract.

INDEPENDENT CONTRACT REVIEW PROCEDURE

0324.0

The following procedures should be adhered to when submitting a contract for review:

1. Contracts should be submitted to the Clerk of the Board of Examiners by the deadline established by the Clerk and disseminated to State agencies via agency memorandums.
2. Each contract must include a clause that specifically states that the State is not obligated under the agreement before approval by the Board of Examiners.
3. The contract should consist of the Attorney General's approved contract form for independent contractors, the State's solicitation and the successful vendor's proposal. Any negotiated items or clarifications should be reduced to writing and incorporated into the contract document as a separate attachment. It is important, when listing the order of the attachments within a contract, to give consideration to the order of precedence to prevent potential conflict in the terms.
4. Three copies of the contract must be submitted; each copy must have the original signatures of the Attorney General or representative, the responsible agency representative and the contractor. Contract distribution is as follows: one copy for the Fiscal Analysis Division of the Legislative Counsel Bureau; one copy to be returned to the agency; and one copy for the independent contractor. Access to all submitted proposals shall be made available by the soliciting agency and will be retained for the life of the contract or six (6) years, or for a period of time as determined by the soliciting agency's records retention schedule, whichever is longer.
5. The Board of Examiners requests agencies to substantiate all contracts entered into with former employees who would perform work similar to their State employment.
6. Bidding requirements for contracts are outlined in NRS Chapter 333, NAC Chapter 333 and SAM 0338.0.
7. Board of Examiners' policy is to review and approve contracts prior to the services being rendered. Agencies are to present contracts in a timely manner and prior to the obligation of State funds. Contracts with a retroactive effective date, e.g., work commenced prior to the Board of Examiners' approval date, must be accompanied by a memorandum clearly justifying the circumstances.
8. All contracts involving information systems must be reviewed and approved by the Department of Informational Services prior to submittal to the Board of Examiners.

**STATE AGENCIES, BOARDS AND COMMISSIONS WITH INDEPENDENT CONTRACTS
FOR OUTSIDE LEGAL OR PROFESSIONAL SERVICES**

0325.0

Professional services shall include consultation or representative services within the professional's area of educational expertise performed by licensed practitioners as defined in NRS Chapter 439A, attorneys, accountants, engineers, architects, or experts (by education or experience) for judicial or administrative proceedings. It is the policy of the State of Nevada to limit and monitor costs associated with the hiring of professional and expert services, including private attorneys who provide services to the State as independent contractors. Accordingly, all such contracts including those entered into between the State, its agencies, boards and commissions, must include the following contract terms. Further, no such contract may extend beyond a two-year term without review and approval of the Board of Examiners.

1. Notification of Attorney General's Office - Contractor shall notify and consult with the Attorney General's Office promptly regarding all significant developments in regard to any potential legal matters or legal services provided under this contract. Should litigation involving potential liability for the State commence or significantly change during the term of this contract, the Attorney General's Office shall be immediately informed in writing. Contractor shall promptly advise the Risk Management Division of the Department of Administration regarding changes in the status of litigation that may have a fiscal impact on the State.
2. Copies of Work Products Provided to Attorney General's Office - Contractor shall promptly provide the Attorney General's Office, 100 N. Carson Street, Carson City, NV 89701-4717, with copies of final versions of the written work product relevant to any legal matter, including correspondence and executed counterparts of any original pleadings or other matters of importance. Contractor shall also provide to the Attorney General's Office written, quarterly reports summarizing significant developments in regard to the subject matter of the contract and significant services performed under the contract.
3. Work Product the Property of the State - All work products of the Contractor resulting from this contract are the exclusive property of the State. If any work remains in progress at the termination of this agreement, the Contractor shall surrender originals of all documents, objects or other tangible items related to the work to the Attorney General's Office.
4. Conflicts of Interest - Contractor shall not accept other representation or work known to be in direct conflict with the subject matter of the contract without prior written approval of the Attorney General's Office and all attorneys will consult with the Attorney General's Office regarding potential conflicts of interest, at all times acting in accordance with the Nevada Rules of Professional Conduct, Supreme Court Rules 157 - 159.
5. Copies of professional liability insurance will be attached to the contract with proof of policy of professional liability insurance for errors and omissions that is issued by an admitted insurance company authorized to transact insurance in the State of Nevada or by an insurance company authorized to transact surplus lines in the State of Nevada in an amount not less than \$1 million, or as otherwise determined or waived by the Division of Risk Management, Department of Administration, 201 S. Roop Street, Suite #201, Carson City, NV 89701.
6. Billing - In the absence of an agreed upon flat rate or per diem, contractor shall submit monthly billings for work performed, billing only for actual time spent performing a task, and not for unit charge (e.g., no automatic billing of one-third hour for a phone call that may take only five minutes). In every case all billings shall describe all work performed with particularity and by whom it was performed. Billings shall be attached to payment vouchers and processed, as are other claims against the State. Such billings are subject to the following guidelines:
 - A. Unless otherwise agreed in advance, it is expected that only one professional from contractor's organization will attend meetings, depositions and arguments and other necessary events, although a second person may be needed for trials and major hearings or meetings;
 - B. Charges for professional time during travel will not normally be reimbursable unless the time is actually used performing professional services or as otherwise arranged in advance.In addition, the State will not pay:
 - A. Fees for the training of personnel incurred as a result of staffing changes or increases during the term of the contract;
 - B. Fees for time spent educating junior professionals or associates;
 - C. Fees for more than ten hours of work per day for any individual, except during trial or another extraordinary event.
7. Expense Statements - If the contract provides for specific reimbursement for expenses, contractor shall submit monthly statements to the Contracting Agency itemizing all expenses for which reimbursement is claimed. Certain disbursements will not be paid unless agreed to in advance. These include:
 - A. Secretarial or word processing services (normal, temporary, or overtime);
 - B. Photocopy expenses of more than 15 cents per page;
 - C. Photocopy costs in excess of \$2,000 for a single job;
 - D. Any other staff charges, such as meals, filing, proofreading, regardless of when incurred;
 - E. Computer time (other than computer legal research specifically authorized in advance).

The State will not reimburse expenses for the following:

- A. Local telephone expenses or office supply costs;
 - B. The costs of first-class travel (travel arrangements should be made in advance to take advantage of cost-effective discounts or special rates).
8. Disputes - In the event that a civil action is instituted to collect any payment due under this contract or to obtain performance under this contract, the State as a prevailing party shall recover, as the court deems appropriate, reasonable attorneys' fees and all costs and disbursements incurred in such action.

INDEPENDENT CONTRACTS NOT REQUIRING BOARD OF EXAMINERS' REVIEW

0326.0

The following types of contracts need not be filed with or approved by the Board of Examiners:

1. Contracts executed by the Department of Transportation for any construction or reconstruction of highways.
2. Contracts executed by the State Public Works Board or any other department or agency for any construction or major repairs, which includes without limitation anticipatory repairs such as remodeling or maintenance, of State buildings, or State improvements (i.e., dams, boat ramps, camp grounds), including its leaseholds, if the contracting process was controlled by the rules of open competitive bidding. (SAM 0338.0 and 1908.0)
3. Contracts executed by the Housing Division of the Department of Business & Industry.
4. Contracts executed with business entities for any work or maintenance or repair of office machines and equipment. (Does not include computer hardware, computer hardware maintenance and computer software, or items listed in section 0330.0).
5. Contracts entered into by the University and Community College System of Nevada.
6. Contracts for similar services provided by the same contractor within the same fiscal year which if combined would not exceed \$1,999.
7. Repair, replacement and installation of parts on automobiles and light trucks, including aircraft, heating and air conditioning refer to SAM 1552.
8. Computer software maintenance that consists of the following: license agreements, right to download updates remotely and/or off site technical support.

LEASE CONTRACTS

0328.0

1. **State Offices** - The Chief of the Buildings and Grounds Division has the authority to lease and equip office rooms outside of State buildings whenever sufficient space cannot be provided within State buildings. No such lease may extend beyond the term of one (1) year unless it is reviewed and approved by the Board of Examiners. (NRS §331.110). The Attorney General shall approve each lease entered into pursuant to this section as to form and compliance with law.
2. **Land** - The Division of State Lands acquires and holds all lands and interests in land owned or required by the State except:
 - A. Lands or interests used or acquired for highway purposes;
 - B. Lands or interests the title to which is vested in the Board of Regents of the University and Community College System of Nevada.
 - C. Office buildings leased by the Chief of Buildings and Grounds; or
 - D. Lands used or acquired for the Legislature or its staff.
 Agencies contemplating leases of State land should contact the Division of State Lands for advice. (NRS 322.010)
3. **Equipment** - The Purchasing Administrator has sole authority to contract for equipment unless otherwise specifically provided by law (NRS §333.150). Agencies requiring equipment lease contracts should contact the Purchasing Division. (SAM 1500.0)

MINOR REMODELING, REPAIR AND MAINTENANCE CONTRACTS

0330.0

1. Contracts are required for all minor remodeling, repair and maintenance work and must be submitted to and approved by the Board of Examiners unless exempted in SAM 0326.0.
2. Contractors, as defined by NRS 624, must be licensed before they can submit a bid or proposal on any minor remodeling, repair and maintenance work, pursuant to NRS 624.700 unless specifically exempt under NRS 624.031. All buildings requiring minor non-structural remodeling, repair and maintenance work requiring the use of outside labor and having an estimated cost of less than \$5,000 that will NOT be executed by the Public

Works Board may be negotiated by the agency controlling the building. (SAM 1908.0) Where the building is under control of the Buildings and Grounds Division, see SAM 1004.0.

3. All non-structural repairs costing more than \$5,000 and less than \$25,000 must have at least three bids or proof that the bids have been requested from at least three firms. All project requirements and specifications must be submitted in writing to all prospective bidders.
Exception: On jobs the agency estimates to cost between \$5,000 and \$25,000, the agency may negotiate work on a time and material basis if it submits statements by at least two reputable firms licensed to perform the work that the job cannot be bid.
4. Non-structural remodeling, repair and maintenance work is defined as work estimated to cost less than \$25,000 for which an agency has budgeted funds, and which does not affect the safety of the building and does not change, in any manner, its structural elements. If an agency has questions, it should contact the Public Works Board.
Examples of jobs that may be included under this section, and requiring contracts, are as follows:
 - A. Asphalt repair
 - B. Electrical repairs
 - C. Floor refinishing/repair
 - D. Landscape services
 - E. Painting of buildings/rooms
 - F. Plumbing repairs
 - G. Repair of heat plant boilers over \$15,000.00
 - H. Repair of refrigerators/freezers
 - I. Repair/replacement of air conditioners over \$15,000.00
 - J. Repair/replacement of bathroom tiles
 - K. Replacement of broken windows
 - L. Exterminator services
 - M. Maintenance and/or repair of elevators
5. Solicitation Requirements: Refer to SAM 0338.0

RECORDING CONSTRUCTION CONTRACTS

0332.0

State construction contracts must be in writing, signed by the contracting parties and delivered to the Secretary of State. The Secretary of State files and records the contracts in the State's agreement and contract book. This does not apply to contracts for maintenance or with independent contractors.

STATE BUILDING VENDING MACHINE CONTRACTS

0333.0

Any future contract, renewal of a contract, or amendment of a contract with a vendor who supplies to a State building a vending machine that dispenses soft drinks in aluminum cans must include:

1. A provision that requires the vendor to provide a bin or other suitable receptacle for the collection of empty cans; and
2. A provision that requires the vendor to periodically collect the empty cans for delivery to an appropriate recycling center or nonprofit organization that collects cans.

VOLUNTEERS IN STATE SERVICE

0334.0

Volunteers in State service should be treated like contract employees and a contract should be processed.

If the volunteer is treated like an independent contractor, then see SAM 0320.0. If there is a question as to whether or not the volunteer is or should be treated like an independent contractor, contact the Risk Management Division or your Deputy Attorney General.

If the volunteer is not an independent contractor consider the following legal ramifications of using volunteers in programs directed by public agencies:

1. Most persons who volunteer their services and participate in a program sponsored by the State of Nevada are not automatically covered by worker's compensation coverage. Certain types of "volunteers" are specifically defined by law to be "employees" and must be covered. (NRS §616A.160 Volunteer Peace Officers)
2. Volunteers MAY be covered by Workmen's Compensation under NRS §616A.130 "The process of discretionary coverage under NRS §616.067 is a two-step process by design. Initially, an insurer must make a

determination that such volunteers are to be 'deemed' employees, and secondly, the employing organization must elect coverage and comply with the provisions of Chapter 616 of NRS." (AGO 80-15)

Applications for volunteer coverage can be obtained by calling Risk Management.

3. When a volunteer is covered under workers' compensation the State "is relieved from other liability for recovery of damages or other compensation for those personal injury, unless otherwise provided by the terms of Chapters 616A to 616D, inclusive, of Nevada Revised Statutes otherwise provided." (NRS §616B.612)
4. The State may be liable for the negligent acts of its volunteers who injure third parties.
5. The Attorney General may be responsible for defending a volunteer who is sued in civil proceedings relating to that person's voluntary service.
6. In most cases, the State will be liable and the volunteer will be entitled to a defense if the alleged wrongful act of the volunteer was done under the direction and control of the State, in good faith, in furtherance of the State's business and within the course and scope of the public duty assumed by the volunteer.

AMENDMENTS TO CONTRACTS

0336.0

All contracts requiring Board of Examiners' review may be amended if such an amendment is deemed to be in the best interest of the State. Amendments include, but are not limited to, additional money or time required to complete the scope of work of the of the contract, any change in the basis of payment for the contract or any substantive change to the scope of work which would affect the anticipated results of the contract.

Except for those contracts waived under SAM 0326.0, all amendments to contracts require Board review and approval. Such review may determine that it is in the best interest of the State to have a new contract with another contractor rather than amend the contract with the current contractor. The Clerk or his designee may, on behalf of the Board, approve amendments that which extend the time of the contract with no additional money and amendments that increase the contract by less than \$10,000. Amendments increasing the total amount of the contract above \$10,000 will need to be submitted to the Board of Examiners. The Clerk may also approve contract amendments that change the scope of work if such a change is deemed to not adversely affect the State's interest.

All amendments must include language that clearly identifies the applicable change/revision; i.e., amount of monetary increase and new maximum amount, change of effective/termination date from 00/00/00 to 00/00/00, etc.

Amendments should be submitted in the following format: one copy of the amendment with a copy of the original contract, complete with any prior amendments to the contract and all attachments (e.g. the State's solicitation, contractor's response, etc.) attached as Exhibit A. All remaining copies of the amendment should be submitted with a copy of the original contract and any prior amendments attached as Exhibit A.

Three copies of the amendment must be submitted for Board of Examiners' approval. Each copy must have the original signatures of the Attorney General or representative, the responsible agency representative and the contractor. Contract distribution is as follows: One copy for the Fiscal Analysis Division of the Legislative Counsel Bureau; one copy to be returned to the agency; and one copy for the independent contractor.

A Contract Summary Form must accompany all contract amendments submitted for review and approval.

SOLICITATION REQUIREMENTS

0338.0

1. Particular attention should be given to proposals and bids. Except as provided in subsection (3), an agency shall, whenever possible, solicit and review at least three bids or proposals for each contract. Because the State Purchasing Act, NRS Chapter 333 is applicable to all procurements within the scope of NRS §284.173, a published Request for Proposal (RFP) (or authorized alternative publication) shall be the required form of agency-direct solicitation for contracts of \$25,000 per fiscal year or more primarily for services (materials, supplies, or equipment provided as an integral part of a RFP for services need not be solicited separately by the Purchasing Division). An agency must work with the Attorney General's Office, the Risk Management Division and should consult with the Purchasing Division, or if structural the Public Works Board, in constructing a solicitation document for services. An agency using the RFP process must request a query of the Purchasing Division's database when developing a mailing list for the solicitation. An agency may request posting of the solicitation document on the Purchasing Division's website at <http://purchasing.state.nv.us>.

Pursuant to NRS§333.165, except as otherwise provided by statute, the Purchasing Administrator shall contract for services whose estimated value is \$100,000 or more, and may authorize an agency to contract for such services if he determines that to do so would be in the best interest of the State.

Prior to releasing any solicitation, an agency should define its needs, giving consideration to the development of the Scope of Work, identifying deliverables and deadlines.

A. The Request for Proposal process:

This process is applicable to solicitations of service or service with goods whose estimated contract value is \$25,000 per fiscal year or more. Agencies must use the approved RFP template, which may be obtained at the State Purchasing Division's website at <http://purchasing.state.nv.us>. Prior to an RFP being released, the evaluation criteria must be determined and listed in the RFP document in order of importance; weight factors for the evaluation criteria must be established and maintained confidential until a contract has been awarded; and the evaluation committee should be identified and appointed by the agency head. Additionally, it is at this time that agencies should have the draft RFP reviewed by their Deputy Attorney General for approval of the document as to form and content and seek minimum insurance limit requirements from Risk Management. The minimum insurance limits are to be entered into the Contract for Service of an Independent Contractor, which is then appended to the RFP document for the vendor's information.

When establishing the timeline for the RFP, it is recommended that the amount of time from the date the RFP is released until the proposal submission deadline (proposal opening) be six to eight weeks. The minimum timeline as recommended by the State Purchasing Division is four weeks.

RFPs must be advertised one time in a paper of general circulation. Consideration should be given as to whom the agency is trying to target for this solicitation, i.e., services in rural Nevada should be advertised in a paper serving that area.

Agencies need to allow for a question and answer period within the RFP timeline. The agency must receive all questions in writing, placing them anonymously into an RFP amendment with the subsequent State response to the questions. This RFP amendment is then forwarded to all prospective vendors who submitted questions and made available to any other interested parties. The template for an amendment to the RFP is available from the Purchasing Division.

The RFP opening is public; the only information that is made available is the names of the vendors who submitted proposals. Submitted information is confidential and should only be shared with the evaluation committee members. Evaluation committee members are to evaluate the technical proposal individually, with the contract monitor setting a group evaluation committee meeting in order for there to be a consensus meeting to rank the technical proposals. The next step in the group meeting is to present and score the cost proposals. This may be done at the same meeting; however, when dealing with difficult or complex scopes of work it may require an additional meeting. The outcome of these meetings is the determination of the overall ranking after factoring in the technical proposal and cost proposal scores. The highest-ranking vendor is then issued a letter of intent to contract, at which time the negotiation process may begin.

Following successful negotiations, a contract is drafted which incorporates the State's solicitation (RFP), the contractor's response and any written negotiated or clarified items. Agency policy determines the order that signatures on the contract are obtained. A contract that has been signed by the agency's Deputy Attorney General, the awarded vendor and the agency head is then ready to be submitted to the Budget Division for placement on the Board of Examiners' agenda. When the contract with all required attachments is submitted to the Budget Division, the agency must issue a Notification of Award (NOA). Pursuant to NAC §333.170, the Notification of Award is comprised of a notice posted in three public locations and a letter to the unsuccessful vendors notifying them of who was awarded the contract and the contract amount. The ten-calendar day appeal period, as defined in NRS §333.370, begins the day the notice is posted and the letters are sent. It is at this time that all information pertaining to the solicitation becomes public information. Agencies must be diligent in protecting any information labeled by the vendors as confidential and giving them timely access to any requested information. Templates for the Notification of Intent and Notification of Award letters may be obtained from the State Purchasing Division's website at <http://purchasing.state.nv.us>.

The contract summary form requires an explanation of why the contractor was selected. (SAM 0344.0) Each proposal by a proposed independent contractor shall include in the proposal a complete disclosure, or a written affirmation of the lack thereof, of any alleged significant prior or ongoing contractual failures, any civil or criminal litigation or investigation pending which involves the vendor or in which the vendor has been judged guilty or liable regarding either a State or federal contract. The State of Nevada reserves the right and discretion to reject any proposal or terminate any contract upon notification of any past, current or future abuse of any government contract.

B. The Informal Solicitation (or Quote) Process:

This process is applicable to solicitations of services or services with goods whose estimated contract value is more than \$1,999 but less than \$25,000 per fiscal year. Agencies may obtain a template for an informal solicitation from the State's Purchasing Division website at www.purchasing.state.nv.us. Prior to a solicitation being released, the evaluation criteria that will be used to evaluate all proposals received must be determined. It is at this time that the evaluation committee should be identified. Additionally, agencies should consider having the draft solicitation reviewed by their Deputy Attorney General for approval of the document as to form and content and seek minimum insurance limit requirements from Risk Management. The minimum insurance limit requirements are to be entered into the Contract for Services of an Independent Contractor Contract, which is then appended to the solicitation document for the vendor's information.

When establishing the timeline for the solicitation, it is recommended that the contract monitor determine a reasonable amount of time from the date the solicitation is released to the date the potential vendors are required to submit their proposals.

It is recommended that agencies contact the Purchasing Division to request a query of the Purchasing Division's database to assist in the development of a mailing list.

Agencies should allow for a question and answer period within the solicitation timeline. The agency must receive all questions in writing, placing them anonymously into a response letter, with the subsequent State answers to the questions. This letter is then forwarded to all prospective vendors who submitted questions and made available to any other interested parties.

The solicitation opening is public; the only information that is made available is the names of the vendors who submitted proposals submitted information is confidential. Proposals may be evaluated based on lowest responsible vendor or by an evaluation committee. Evaluation committee members are to evaluate the proposals individually, with the contract monitor collecting the score sheets and tabulating the totals. The highest-ranking vendor is contracted, at which time the negotiation process may begin.

Following successful negotiations, a contract is drafted which incorporates the State's solicitation, the contractor's response, and any written negotiated or clarified items. Agency policy determines the order that signatures on the contract are obtained. A contract that has been signed by the agency's Deputy Attorney General, the awarded vendor and the agency head is then ready to be submitted to the Budget Division for placement on the Board of Examiners' agenda. Upon delivery of the signed contract to the Budget Division, all information pertaining to the solicitation becomes public information. Agencies must be diligent in protecting any information labeled by the vendors as confidential and giving them timely access to any requested information. A template for the Notification of Intent to contract may be obtained from the State of Nevada Purchasing Division.

2. It is the Board of Examiners' general policy that contracts be solicited at least every four years. A contract which is determined by the Purchasing Administrator to be a sole source, a contract specifically authorized by legislative act or a contract contingent upon prior approval by a federal agency shall be solicited at least every four years in the absence of any longer or shorter authorized period under State or federal law.

A "sole source" shall mean any contractor who, at the time of entering the current contract, was reasonably believed to be the only known qualified source.

A "qualified source" shall be one meeting or exceeding the minimum statutory, regulatory, and published or solicited minimum contractor qualifications.

For each respective contract an "only qualified available source" shall be deemed to mean:

- A. The only qualified respondent to a State initiated quote solicitation, proposal solicitation or notice of intent to bid;
 - B. The only qualified respondent to a published RFP;
 - C. The only qualified source otherwise demonstrable in fact.
3. Solicitations are not required for services performed by independent contractors exempted by law. Proposals may be evaluated based on lowest responsible vendor or by an evaluation committee. (NRS 625.530) or as determined by the Purchasing Administrator pursuant to regulation. (NAC 333.150 (2)(a)(b))
 4. Minor non-structural remodeling, repair and maintenance contracts, projects exempt pursuant to NRS 341.141 through 341.148 or State non-building projects.
 - A. All minor non-structural remodeling, repair and maintenance work requiring the use of outside labor and having an estimated cost of less than \$5,000 may be negotiated by the agency either on a single quotation basis or on a time and material basis without the necessity of formal bidding.
 - B. Repairs costing more than \$5,000 and less than \$25,000 must have at least three bids or proof that the bids have been requested from at least three firms. All project requirements and specifications must be submitted in writing to all prospective bidders.
Exceptions: On jobs the agency estimates to cost between \$5,000 and \$25,000 the agency may negotiate work on a time and material basis if it submits statements by at least two reputable firms licensed to perform the work that the job cannot be bid.
 - C. Projects estimated to cost \$25,000 but less than \$50,000 must be advertised once a week for at least two consecutive weeks in a local newspaper.
 - D. Projects that cost \$35,000 or more must be protected by a performance and payment bond as required by NRS §339.025. If a general contractor has been awarded a contract, each of his/her subcontractors who will perform work on the contract that exceeds \$50,000 or 1 percent of the proposed project, whichever amount is greater, shall also be required to furnish a bond in an amount to be fixed by the Public Works Board as required by NRS §339.025.
 - E. The Public Works Board can assist agencies in drafting specifications and bid proposals, evaluating bids and preparing contracts.
 - F. Most contracts and agreements contain a schedule of insurance requirements and hold harmless (indemnification) provisions that affect the State's insurance or self-insurance. To ensure that the terms in the contracts or agreements provide adequate protection to the State, the proper insurance and hold harmless agreements should be reviewed by the Risk Management Division and must be previously approved by the Attorney General's Office and included in the bid documents or requests for proposals.
 5. It is the Board of Examiners' policy that all RFP's or other solicitation documents for services comply with the model forms as approved by the Attorney General's office and available on the State Purchasing Division's website.
Any appeal of a contract award must be filed in strict compliance with NRS §333.370 and NAC 333.170. In the case of an appeal of an agency-direct procurement, the Purchasing Administrator will promptly forward the notice of appeal to the contracting agency, which will be responsible for defending the contract award.

EFFECTIVE DATES OF CONTRACTS

0340.0

Unless specifically exempt from Board of Examiners' review and approval, contracts entered into under the provisions of NRS §284.173 do not become effective without the prior approval of the Board. Therefore, agencies are to present contracts for Board review and approval before any work is started on the contract or any funds are obligated to the contract. Contracts presented to the Board with a start date prior to the date of Board approval will be denied unless sufficient written justification as to the reason for the delay accompanies the contract.

CONTRACT FORMS

0342.0

All contracts should conform to the form, terms and conditions set forth in the most current version of the Attorney General's contract for services of an independent contractor. This form can be found on the State Purchasing Division's website at <http://purchasing.state.nv.us>.

Agencies are encouraged to work closely with their Deputy Attorney General when drafting contracts and to use the most current version of the Office of the Attorney General's interlocal contract and cooperative agreements found on the Purchasing Division's website at <http://purchasing.state.nv.us>.

In the event an agency is proposing to use a contract form other than the approved contract for services of an independent contractor or enter into interlocal contracts that are in any way unusual in nature, these documents should be prepared with the joint cooperation of the agency and their Deputy Attorney General.

CONTRACT LOGS AND DATABASE

0343.0

Agencies shall maintain contract log sheets and enter data into the State Purchasing Division's Contract Database Management System for all agency contracts (BOE, Non-BOE, interagency and interlocal) of \$2,000 and over. A contract log sheet should include the agency name, vendor name, approved budget and category authority (initial contract and all amendments), contract beginning and ending dates, and the total amount of the contract. Each payment should be recorded on the log and include the document number and the remaining balance. Travel payments must be detailed separately.

Agencies shall maintain this log as justification for each payment voucher. Contract data can only be entered into the Purchasing Division's contract database by certified contract monitors (see SAM 0322.3).

CONTRACT SUMMARY FORMS

0344.0

Completed Contract Summary Forms must be attached to all contracts and agreements. The most current version, as approved by the Board of Examiners, can be found on the State Purchasing Division's website at <http://purchasing.state.nv.us>.

The Contract Summary Form provides the Board of Examiners with an accurate description of the contract document. All information displayed on the summary form must agree with the contents of the contract. Agencies are to complete all applicable sections answering all questions and clearly identify why a specific section is not applicable. Agencies should not include any acronyms in the information they provide nor should they refer to any attachments.

The following paragraphs match the numbered sections found on the revised summary forms. The lines for "number" and "date" on the upper right hand corner and on the left for under \$10,000 and Review are for Board of Examiners use only.

I. Description of Contract

1. Enter the full name of the agency, the agency code and the appropriation unit (budget account number and the expenditure category number) that will be charged. Indicate whether or not funds are budgeted in the referenced budget account and category with which to provide payment for the contractual services contemplated, indicate the State fiscal year(s) the contract will be charged to and indicate the source of funds that will be used to pay the contractor and the percentage applicable to the source if more than one funding source is identified.
Enter the contractor's name and address as shown on the contract and as will be used on the payment voucher. In addition, enter the vendor number assigned to the contractor by the Controller's Office (a "T" number for contracts and a "D" number for interlocal contracts).
2. Contract Start Date
 - a. All contracts are only valid upon the approval of the Board of Examiners.
 - b. If the effective date for work to commence is different than the date the Board of Examiners approves the contract, enter that date. Contracts with an effective date prior to the Board of Examiners' approval date, e.g. retroactive contracts, must be accompanied by a memorandum explaining the reason.
3. Enter the date the contract terminates and enter the length of the contract in terms of years.
4. Indicate the type of contract; e.g., New Contract, Interlocal Contract, Contract Amendment, etc.

5. Explain the purpose of the contract and how it will be accomplished. For example, a medical contract might be "for dental work consisting of two examinations per year for 20 clients at the Las Vegas Center."
6.
 - a. This section is to be completed for new contracts only. Enter the maximum amount of the contract for the total term of the contract, and the exact rate that payments will be made and the time interval applicable to the rate (i.e., hour, month, year). Check calculations to ensure accuracy. If there is a valid reason for the rate not equaling the total amount payable, you must state the reason. As far as practicable, both the contract and the summary form must include a maximum dollar amount obligated for the term of the contract. The agency should specify any other basis for payment in the space provided if a rate and time interval does not apply.
 - b. This section is to be completed for contract amendments only. If the contract is an amendment to an existing contract, identify which amendment it is, such as #1, #2, etc., enter the amount of the increase/decrease to the prior amount approved, and/or enter the new termination date of the contract if the termination date will change as a result of the amendment, and/or enter any other change that will occur as a result of the amendment

II. Justification

7. Explain why the contract is necessary.
8. Justify why a contractor is being used rather than a State employee. This justification should include the reasons why you chose a contractor over the hiring of a new or existing State employee. State employees in your own agency or another State agency may be able to perform the needed work.
9. Identify whether the contract amount is over \$100,000 and if the Purchasing Division issued a Request for Proposal (RFP). If the contract is over \$100,000 and the Purchasing Division did not issue an RFP, explain why (Reference NRS § 333.165).
 - a. Specify whether or not a bid or proposal was solicited. In the event bids or proposals were solicited, include a listing of the vendors that submitted proposals.
If bids were not solicited, explain why not. The fact that the contract is an amendment does not necessarily preclude the soliciting of new bids. If a sole source, include a copy of the sole source approval memo from the Purchasing Division (SAM § 0338.)
 - b. Identify the date of the last bid and anticipated re-bid date.
 - c. Explain why the contractor's bid was accepted over others.

III. Other information

10. Indicate whether or not the contractor is employed by the State of Nevada, any of its political subdivisions or by any other government and, if applicable, indicate the jurisdiction by which the contractor is employed and how the contractor will account to his/her employer for his/her time spent as a contractor to the State.
11. If the contractor has been under contract with a State agency before, indicate when and for which agency. Contact the listed agency and verify the quality of service the contractor provided. Ask the contractor for this information as a reference within the solicitation or at the time of negotiation.
12. This question requires State agencies to identify when a contractor has any pending litigation with the State of Nevada. This information should be provided by proposing vendors in response to the State's approved template for Request for Proposals (RFP template), which requires vendors to identify the case name, case number, jurisdiction and cause of action of any pending litigation they may have with the State of Nevada. Agencies are encouraged to consult with their Deputy Attorney General for review and recommendation as to any pending litigation between the vendor and the State of Nevada.
13. Identify the name, title and phone number of the assigned contract compliance monitor. Each contract must be monitored and each agency must designate a contract monitor who will have primary responsibility to document all aspects of contract compliance.
14. The certified contract monitor must sign the contract summary form.
15. The agency head must sign the contract summary form.
16. Enter the date the contract summary was prepared.