



MEMO

To: Chief Fiscal Officers, Purchasing Agents, Agency Procurement Officials
From: Joseph A. Giddis
Date: April 27, 2005
Subject: 85th Session-Procurement Related Legislation Summary

During the 85th Legislative session a variety of legislative proposals affecting procurement were enacted. This summary provides a general overview of those "Acts".

The process of promulgating regulations is underway. We have set up a section on the OSP web site, http://www.arkansas.gov/dfa/procurement/pro_index.html where we will post draft regulations and provide an opportunity for comments, suggestions and questions. This process is not intended to by-pass the Administrative Procedures Act (APA). It is a tool to post regulatory work-in-progress. Jerry Hester will lead the process. He may be reached at jerry.hester@dfa.state.ar.us

Act 1680 (HB 2679) An Act to Amend Various Provisions of the Arkansas Procurement Law

Defines technical and general services. Provides for the disclosure of the total projected cost of commodity, technical and general and professional consultant services contracts. The disclosure will be accomplished through a posting on the OSP web site. OSP will work with Legislative Research on reporting requirements for Professional Consultant Services contracts and Methods of Finance (MOF). We anticipate minor changes to the PCS contract forms.

Act 2322 (HB2670) An Act to Amend Arkansas Code 19-11-217 to Require the Development of a Vehicle Purchasing Plan to Reduce Fuel Consumption:

Requires that OSP develop a plan for the use of alternative fuels and fuel efficient vehicles with the goal of reducing overall annual petroleum consumption of state agencies by 10%. The use of alternative fuels is defined in accordance with Federal code and guidelines. The Act requires a report by January 30 of each year to the Legislative Council on the progress of State agencies in meeting the requirements of the Act.

Act 2171(HB1364) An Act to Clarify Professional Services and Bidding Requirements for School districts, Counties, Cities, and Towns (19-11-801 et. seq.)

This Act does not apply to State agencies, however it impacts professional consultant services for political sub-divisions below State level.

Act 2157 (SB1123) To Require Entities and Persons Interested in Contracting or Contracting with the State of Arkansas to Submit to the Office of State Procurement the Entity's or Person's Equal Opportunity Policy:

Requires that prior to awarding a state contract, accepting a bid proposal, RFQ or entering into negotiations for a professional consultant services contract, OSP and all state agencies shall require a copy of the most current equal opportunity policy.

There is no definition of what an EO policy is or what it should contain.

We are reviewing whether this applies to purchase orders issued by agencies

Act 1761 (SB1091) The Guaranteed Energy Cost Savings Act and Repeal of 19-4-1414

This act establishes the process for bidding "Energy Cost Savings" contracts. The Act will be used by OSP to establish the process by which Energy Cost Savings contracts will be bid by the State. The Act requires that the State Procurement Law govern all solicitations.

Act 970 (HB 2115) An Act to Achieve Maximum Benefit from use of State-Agency-Owned Computers and Electronics:

This Act amends section 25-34-102 to define "Consumer electronic items", "Degauss" and "Fugitive amounts of consumer electronic items." Changes the time frame under which an agency can sell electronic equipment to agency employees. The time frame under which an agency policy shall be submitted to the State ECIO and Legislative Council for review. Allows for donation of unsold electronic items to local governments as well as public schools. M&R will rewrite the regulations on disposal of state property to reflect the changes.

Act 542 (HB1543) The Biobased Products Act of 2005:

The Act defines, for this purpose only, "State agency" to include: the General Assembly, the Legislative Council, the Legislative Joint Auditing Committee and supporting agencies and bureaus of the Legislative Council and the Legislative Joint Auditing Committee, the Supreme Court of Arkansas, the Court of Appeals, the circuit courts, the prosecuting attorneys and the Administrative Office of the Courts, the constitutional departments of the state, and the elected constitutional offices of the state. The Act establishes a reporting requirement beginning on or before June 30, 2006.

Should we become aware of any other Acts affecting the Procurement Law, we will update the OSP web site.