

Schedule 13 Funding Request for the 2013-14 Budget Cycle

Department: Department of Personnel & Administration

Request Title: Central Contracts Unit Resources

Priority Number: R - 1

Dept. Approval by:

Adam Cymmer 10/17/12
Date

- | |
|--|
| <input checked="" type="checkbox"/> Decision Item FY 2013-14 |
| <input type="checkbox"/> Base Reduction Item FY 2013-14 |
| <input type="checkbox"/> Supplemental FY 2012-13 |
| <input type="checkbox"/> Budget Amendment FY 2013-14 |

OSPB Approval by:

Erin M. Smith 10/14/12
Date

Line Item Information		FY 2012-13		FY 2013-14		FY 2014-15
		1	2	3	4	6
	Fund	Appropriation FY 2012-13	Supplemental Request FY 2012-13	Base Request FY 2013-14	Funding Change Request FY 2013-14	Continuation Amount FY 2014-15
Total of All Line Items	Total	6,185,979	-	6,573,954	194,783	202,712
	FTE	34.3	-	34.3	1.8	2.0
	GF	3,220,008	-	2,507,370	194,783	202,712
	GFE	-	-	-	-	-
	CF	742,373	-	1,529,850	-	-
	RF	2,223,598	-	2,536,734	-	-
	FF	-	-	-	-	-
(1) Executive Director's Office, (A) Department Administration, Health, Life, and Dental	Total	2,323,160	-	2,494,554	8,842	8,842
	FTE	-	-	-	-	-
	GF	644,083	-	653,484	8,842	8,842
	GFE	-	-	-	-	-
	CF	169,530	-	162,319	-	-
	RF	1,509,547	-	1,678,751	-	-
	FF	-	-	-	-	-
(1) Executive Director's Office, (A) Department Administration, Short Tem Disability	Total	33,585	-	38,094	261	284
	FTE	-	-	-	-	-
	GF	12,230	-	13,007	261	284
	GFE	-	-	-	-	-
	CF	2,319	-	2,853	-	-
	RF	19,036	-	22,234	-	-
	FF	-	-	-	-	-
(1) Executive Director's Office, (A) Department Administration, S.B. 04- 257 Amortization Equalization Disbursement	Total	635,318	-	731,798	5,300	6,424
	FTE	-	-	-	-	-
	GF	223,125	-	246,395	5,300	6,424
	GFE	-	-	-	-	-
	CF	48,191	-	55,741	-	-
	RF	364,002	-	429,662	-	-
	FF	-	-	-	-	-

Line Item Information		FY 2012-13		FY 2013-14		FY 2014-15
		1	2	3	4	6
Fund		Appropriation FY 2012-13	Supplemental Request FY 2012-13	Base Request FY 2013-14	Funding Change Request FY 2013-14	Continuation Amount FY 2014-15
(1) Executive Director's Office, (A) Department Administration, S.B. 06-235 Supplemental Amortization Equalization Disbursement	Total	545,059	-	660,651	4,784	6,023
	FTE	-	-	-	-	-
	GF	190,830	-	222,440	4,784	6,023
	GFE	-	-	-	-	-
	CF	41,414	-	50,322	-	-
	RF	312,815	-	387,889	-	-
	FF	-	-	-	-	-
(5) Division of Accounts and Control - Controller, (A) Office of the State Controller, Personal Services	Total	2,518,582	-	2,518,582	164,290	179,239
	FTE	34.3	-	34.3	1.8	2.0
	GF	2,143,661	-	1,365,965	164,290	179,239
	GFE	-	-	-	-	-
	CF	374,921	-	1,152,617	-	-
	RF	-	-	-	-	-
	FF	-	-	-	-	-
(5) Division of Accounts and Control - Controller, (A) Office of the State Controller, Operating Expenses	Total	130,275	-	130,275	11,306	1,900
	FTE	-	-	-	-	-
	GF	6,079	-	6,079	11,306	1,900
	GFE	-	-	-	-	-
	CF	105,998	-	105,998	-	-
	RF	18,198	-	18,198	-	-
	FF	-	-	-	-	-
Letternote Text Revision Required? Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/> If yes, describe the Letternote Text Revision:						
Cash or Federal Fund Name and COFRS Fund Number: Not Applicable						
Reappropriated Funds Source, by Department and Line Item Name: Not Applicable						
Approval by OIT? Yes: <input type="checkbox"/> No: <input type="checkbox"/> Not Required: <input checked="" type="checkbox"/>						
Schedule 13s from Affected Departments: Not Applicable						
Other Information: Not Applicable						



DEPARTMENT OF PERSONNEL & ADMINISTRATION

John W. Hickenlooper
Governor

*FY 2013-14 Funding Request
November 1, 2012*

Kathy Nesbitt
Executive Director

Kathy Nesbitt 10/17/12

Signature Date

*Department Priority: R - 1
Central Contracts Unit Resources*

Summary of Incremental Funding Change for FY 2013-14	Total Funds	General Fund	FTE
Central Contracts Unit Resources	\$194,783	\$194,783	1.8

Request Summary:

For FY 2013-14, the Department requests spending authority of \$194,783 General Fund and 1.8 FTE, after consideration of the paydate shift, for the Central Contracts Unit within the Office of the State Controller in order to effectively review and monitor high-risk contracts for agencies statewide. The Department requests \$202,712 and 2.0 FTE in FY 2014-15 and ongoing.

Background:

The Central Contracts Unit within the Office of the State Controller sets statewide contracting policies and procedures; drafts model contracts for state agencies; advises, trains, and monitors program staff within state agencies; and reviews and approves high-risk expenditure contracts. The current appropriation within the Office of the State Controller allows for two contract specialists and a program manager. The current staffing level is not sufficient to carry out the statutory responsibilities of the Central Contracts Unit and provide adequate oversight to the agencies. This request outlines the resources needed to staff the Central Contracts Unit in an effort to simplify and streamline the contracting process for state agencies and the vendor community.

As of April 2012, there were over 20,000 contracts recorded within the Contract Management System. The Central Contracts Unit reviewed 800 high-risk contracts during FY 2011-12. The gap between the oversight provided by the Central Contracts Unit and the remaining delegated contracts represents a risk to the State.

Problem or Opportunity:

Because of the breadth of programs and policy areas within the State of Colorado, there has been an increased need to develop agency-specific contract templates which deviate from the statewide model contracts and are specific to a program, vendor, or procurement. The staff of the Central Contracts Unit has not been able to accommodate the requests of agencies for assistance in a timely and effective manner. In addition, staff turnover in the purchasing and contracting staffs at agencies has exacerbated the decline in contracting knowledge in the State. The result has been poor contracting practices, agencies following conflicting practices, and frustration by agencies and vendors on the time and perceived complexity of the State's contracting process. The primary risk to the State of poor contracting practices is that agencies misclassify contracts as low risk rather than high

risk to avoid the delay inherent in central oversight agency review. The State has paid approximately \$10 million in settlements and legal costs over the past four years to settle disputed contracts. Many of these settlements were due to inadequate statements of work and contract provisions that did not adequately protect the State. Another primary reason for settlements is inadequate monitoring by State agencies. The decision item would provide the resources for the Central Contracts Unit to develop templates that would include language to protect the State's interests, to respond to requests to review modified provisions for risk and compliance, to provide training to agency contract staff on best contracting practices and negotiating with contractors to keep essential provisions in State contracts, and to provide training to agency program staff for better monitoring of their contracts. The resources identified within this request will allow for increased oversight of high-risk contracts and reduced exposure for the State related to those high-risk contracts and increased training for Departmental program staff – all of which will increase the efficiency and effectiveness of statewide contracting.

Proposed Solution:

The role of the Central Contracts Unit is to review high-risk contracts, draft statewide model contracts, provide training on contracting including development of statements of work, and monitor agency compliance with the delegation of contract authority. The Department proposes adding 1.8 FTE in FY 2013-14 (after consideration of the paydate shift) and 2.0 in FY 2014-15 and ongoing in order to effectively review and monitor high-risk contracts for agencies statewide.

Anticipated Outcomes:

The Department's request for additional resources will address the increased needs of state agencies for statewide contracting consulting and oversight. These needs fall into the following four categories:

Contract Drafting – Currently, only one of the three FTE within the Central Contracts Unit has the legal skills to assist State agencies in drafting model contracts. Model contracts, which are similar to agency- and situation-specific templates, are critical to ensure that State agencies do not have to start with a blank slate in building each contract, that vendors are treated consistently under similar conditions, that contract review times can be reduced, and that the State's interests are more equitably balanced against the highly sophisticated legal teams of national and international corporate vendors. Additional staffing will enable the Central Contracts Unit to provide model contract services to more agencies and in a timely manner which will ultimately increase the efficiency with which State agencies are able to draft contracts. For example, the Central Contracts Unit met with CDOT and its vendor's legal staff from one to eight times a month for the past year to create CDOT-specific templates, answer contract questions and conduct negotiations. Much remains to be done to meet CDOT's model contracts needs. With additional staffing other agencies will also request drafting assistance and the Central Contracts Unit will be able to turn around existing requests more quickly to meet both funding and program deadlines. The model contracts made possible by this additional staffing will also enhance the State's ability to ensure contractor/vendor performance is measurable and vendors can be held accountable for that performance (as required by Section 24-102-205(6), C.R.S.).

Contract Reviews – High-risk contracts require the approval of the Office of the State Controller because of the nature of these types of contracts. Examples of high-risk contracts are: all intergovernmental contracts with agencies of the federal government; contracts relating to settlement agreements; contracts containing provisions limiting liability – including limits on actions for which the contractor/vendor is liable, the dollar amount of damages, the types of damages, the source of damage payments, or some combination thereof; contracts with

technical legal issues requiring an opinion from the Office of the Attorney General; contracts involving the handling, removal, treatment, movement, installation, and disposal of hazardous materials; master Contracts for the entire State; or contracts for the acquisition of new or replacement of existing financial systems, among others. With additional staffing, the Central Contracts Unit will be able to perform more pre-reviews of contracts prior to the contract being presented to the contractor/vendor. This will speed up the contract review process by avoiding situations where the State agency has presented a contract for vendor review and signature before critical flaws that must be fixed are identified by the Central Contract Unit. Ideally this will eliminate the recycling of the approval process that State agencies and contractor/vendors find most frustrating about the State contracting process.

Contract Training - The Central Contracts Unit currently provides training to agency contract staff at Central Contracts Improvement Team meetings, which occur four to six times per year. This training is insufficient to address the training needs of the purchasing and contracting staffs at the agencies because business conditions which cause changes in agency contracting occur on a frequent basis. Additional staffing will enable the Central Contracts Unit to provide on-site training that better meets agencies' needs, including providing guidance on how to draft statements of work that will support meaningful contractor performance assessments rather than simply relying on the vendor's proposal, which by the nature of the contracting process is based on the vendor's interest rather than the State's interest. This ultimately protects the state by ensuring that the vendor can be held to performance standards that provide taxpayer value for the State resources expended. Additional training for State agency purchasing and contract staff will also reduce the number and severity of issues that must be addressed by the Office of the Attorney General through settlement negotiations or litigation.

Contract Monitoring – With contract delegation by the State Controller to the agency controllers and other agency staff, over 90% of contracts are signed by the agencies, not by the Office of the State Controller. With additional staffing, the Central Contracts Unit will be able to monitor compliance with the agencies' contract delegation agreements and better define low-risk and high-risk contracts for both delegated and non-delegated entities. This will further protect the state by ensuring State agencies are not entering contracts using inadequate procedures that are inefficient, ineffective, and fail to protect the State's interest in the face of highly compensated and sophisticated legal teams charged with maximizing vendor interests. Monitoring will also ensure that the Central Contracts Unit staff remains in close contact with the agency program staff so they remain aware of the program imperatives driving agency contracting. Delegation monitoring also enables the Central Contracts Unit to identify existing best practices in the State and to make those best practices available to other State agencies.

Assumptions for Calculations:

This request outlines the resources needed to adequately protect the state from high-risk contracts, and provide reduced waiting times for contract reviews and increased training for Departmental program staff, all of which will increase the efficiency and effectiveness of statewide contracting.

The Department's request includes funding of \$183,477 and 1.8 FTE at the General Professional V level in FY 2013-14, after consideration of the payday shift. Successful candidates for the new positions will have their Juris Doctorates with significant experience in contract drafting. Contract drafting is a skill that is acquired through experience, and the Department has found that experienced contract attorneys make over the minimum for the GPV. For this reason, the Department has requested funding at the midpoint of the range for the General Professional V category. The Department

requests \$200,812 and 2.0 FTE at the General Professional V level in FY 2014-15 and ongoing.

Additionally, the Department's request includes \$11,306 in operating expenses associated with the FTE indentified above. The request includes \$1,900 in operating funding for FY 2014-15 and ongoing. Please see Appendix A for detailed calculations.

Consequences if not Funded:

If this request is not approved, the current conditions, which are extremely problematic for the vendor community and result in recurring complaints to the Governor's Office and legislators, will persist, including:

- Inordinately long contract cycle times as State agencies struggle with contract formulation due to lack of agency-specific model contracts and templates,
- Inconsistent treatment of contractor/vendors across and within State agencies, and
- Continuing inadequacy of contractor/vendor performance measures and measurement.

The Central Contract Unit staff will remain unable to proactively address the root causes of dissatisfaction with the State contracting process without the resources identified within this request.

In addition to the above consequences, the State's interests will continue to be inadequately protected due to:

- The imbalance between State resources and contractor/vendor resources in developing and approving contracts,
- The inability of the Central Contracts Unit to monitor the State Controller's delegation of contract signature authority due to lack of staffing, and
- The inability of the Central Contracts Unit to offer sufficient training in contracting requirements, contract preparation services, and contract negotiation to agencies that do not have or have recently lost contracting expertise.

Success in improving the State contracting process will require a cooperative effort of all State agencies and institutions. If the funding requested within this Decision Item is not approved, the Department will be unable to fully staff the Central Contracts Unit. Not having the requested resources will guarantee the continued inefficiencies resulting in an ongoing ineffective State contracting process.

Impact to Other State Government Agency:

The resources requested within this Decision Item impact a program that has a statewide impact. Increased effectiveness as a result of greater oversight, increased training, and reduced waiting times or drafting assistance will have a positive impact on contracting business practices statewide.

Cash Fund Projections:

Not Applicable

Relation to Performance Measures:

This supports the Department's performance measure of "Continually improve the perception and image of the Department of Personnel & Administration through the department's annual survey of customer satisfaction, implemented in FY 2011-12."

Supplemental, 1331 Supplemental, or Budget Amendment Criteria:

Not Applicable

Current Statutory Authority or Needed Statutory Change:

Current statutory authority is outlined in Section 24-102-205(6), C.R.S. No change is needed.

Appendix A		FY 2013-14		FY 2014-15	
Personal Services:		FTE	\$	FTE	
	Monthly Salary				
Position 1	\$ 6,692	1.8	147,213	2.0	160,608
PERA			14,942		16,302
AED			5,300		6,424
SAED			4,784		6,023
Medicare			2,135		2,329
STD			261		284
Health-Life-Dental			8,842		8,842
Subtotal Position 1, 2.0 FTE		1.8	\$ 183,477	2.0	\$ 200,812
Operating Expenses					
Regular FTE Operating	500	2.0	1,000	2.0	1,000
Telephone Expenses	450	2.0	900	2.0	900
PC, One-Time	1,230	2.0	2,460		
Office Furniture, One-Time	3,473	2.0	6,946		
Other			-		
Other			-		
Other			-		
Other			-		
Subtotal Operating Expenses			\$ 11,306		\$ 1,900
TOTAL REQUEST		1.8	\$ 194,783	2.0	\$ 202,712
	<i>General Fund:</i>		\$ 194,783		202,712
	<i>Cash funds:</i>				
	<i>Reappropriated Funds:</i>				
	<i>Federal Funds:</i>				

	FY 2013-14	FY 2014-15
PERA	10.15%	10.15%
AED	3.60%	4.00%
SAED	3.25%	3.75%
Medicare	1.45%	1.45%
STD	0.177%	0.177%
Health-Life-Dental	4,421.04	4,421.04