

RFP Creation Process

- Much of RFP creation is formulaic.
 - Use a template that has worked for your agency.
 - If it ain't broke . . .
 - Check the form, but use what works.
 - Check decisional path & appeal rights.
- Prohibit “assumptions”
 - and other games bidders play.
- Contract language
 - Attach your form contract. Resolve contract language disputes during the Q&A process.
- 8F?

Iowa Code ch. 8F

- Applicability of 8F
 - “oversight agency” = any element of executive branch of state government
 - “recipient entity” = a private business or a separate organization set up under 28E or some other body of law. (think CIETC)
 - Agency to agency agreements are not included.
 - **Oversight agency** entering into a **service contract** with a **recipient entity**, and the value of this contract plus all other contracts between the agency and the entity are greater than \$500K, then 8F applies UNLESS an exclusion applies.

Exclusions from 8F

- Transportation contracts/transportation infrastructure
- Certain retirement systems
- Certain public utilities
- Dual party relay services under 477C.3
- Contracts under Title XVIII, XIX, XXI of SSA
- Court appointed attorneys
- Federally insured financial institutions subject to mandatory reporting
- Any allocation of state or federal moneys by the DoE to subrecipients on a formula or noncompetitive basis.
- Contracts for services provided by a person subject to regulation under Title XIII of the Code [Insurance, Financial Institutions – commerce related]

Exclusions from 8F

- Contracts for Vendor Services.
- Contracts concerning an entity that has contracted with the state and is licensed and regulated by the Insurance Division of the Dept. of Commerce.
- A contract with outside or special counsel approved by the Executive Counsel.
- A contract that is subject to competitive bidding for the construction, reconstruction, improvement, or repair of a public building or public improvement.

Exclusions from 8F

- “Vendor Services”
 - Only applies to a “vendor,” which is defined as a dealer/seller, who is:
 - Providing services pursuant to a service contract, which are:
 - Required for the conduct of a state or federal program, and
 - Ancillary to the operation of the state or federal program, and
 - Not otherwise subject to compliance requirements of a state or federal program.
 - Bottom line: Be careful with this label.

Iowa Code § 8F.3 (Pre-contract Info. Requirements)

- Before entering into the contract, entity must *certify* that the following are available for inspection by the Oversight Agency and the Legislative Service Agency
 - a) Documentation of the entity’s legal status
 - i. supporting documentation as well
 - ii. Must identify if the entity is a 501(c) entity (IRS).
 - b) Information regarding the training and education received by the governing board members regarding their obligations.

(continued)

Iowa Code § 8F.3 (Pre-contract Info. Requirements)

- c) Information regarding the procedures used by the governing body of the Recipient Entity to address all of the following:
 - i. reviewing the performance and compensation of management,
 - ii. reviewing the entity's internal controls concerning accounting processes and procedures,
 - iii. Reviewing the entity's compliance with the laws, rules, regulations, and contractual agreements applicable to its operations, and
 - iv. Information concerning the adopted ethical and professional standards of operation from the governing body and employees (nepotism, specifically).
- d) Information about the policies adopted prohibiting adverse employment actions from being taken against employees who report violations of the law.

Iowa Code § 8F.4 (Reporting Requirements)

- Annual report due from the Receiving Entity (RE) to the Oversight Agency and the Legislative Service Agency (LSA) within 10 months following the end of the RE's fiscal year.
- Exceptions:
 - The Oversight Agency already receives this information in an annual report pursuant to federal or state statutes or rules. If so, information must also go to the LSA.
 - Entity is a nonprofit and submits IRS form 990 for all fiscal years in which service contract revenues are reported.

Iowa Code § 8F.4 (Reporting Requirements)

- Annual report to OA and LSA must include:
- Fiscal expenditure information
 - budget and actual
- Information regarding all contracts between the OA and the RE, including costs by category
- Reportable conditions in internal control or material noncompliance with provisions of laws, rules, regulations, or contractual agreements included in RE external audit reports covering the preceding year.
- Corrective action taken or planned re: reportable conditions or material noncompliance.
- Any changes in information requirements {certification}.
- Certified by officers/directors {accuracy/law compliance}

Iowa Code § 8F.5 (Enforcement)

- Contract with Recipient Entity must include certain terms:
 - **Termination clause** that permits the Oversight Agency to terminate the contract for noncompliance with Chapter 8F.
 - A **mechanism for the forfeiture and recovery of state or federal funds** expended by a recipient entity in violation of the laws applicable to the expenditure of the money or the requirements of the service contract and this chapter.
- Essentially, additional forms when required, and additional monitoring of contract compliance.