**Section 290.1204 Contracts for Professional or Artistic Services**

a) Definition

1) Professional or artistic services may be defined as services rendered by an individual or firm contractually hired by an agency because of their expertise in a given field. An essential element is trust in the ability and talent of the person performing the services. Contracts for manual skills are not included.

2) Examples of professional or artistic services are set forth in CUSAS (Comptroller's Uniform Statewide Accounting System) Procedure 15.20.70 type code 21.

b) Required Contents

In addition to complying with the requirements of Section 290.1203, contracts for professional or artistic services must contain:

1) Contractor's full name and address.

2) Agency name.

3) Reasonably detailed description of services to be rendered.

4) The contract term, where applicable.

5) The maximum or estimated amount to be paid, if applicable.

6) Payment rates, where applicable.

7) Signature of contractor and authorized agency representative.

8) Execution date. (See Section 290.1203(c)).

9) Bribery clause certification. (See Section 290.1203(b)).

10) Where the contract is for consultant services, as that term is defined in Section 9.04 of the Illinois Purchasing Act (Ill. Rev. Stat. 1987, ch. 127, par. 132.9d), the contract must state whether or not the services of a subcontractor will be utilized. If a subcontractor will be used, the contract must list the names and addresses of all subcontractors and the anticipated amount they will receive pursuant to the contract.

11) Federal Taxpayer Identification Number and legal status disclosure certification (See Section 290.Appendix B (16)).

12) Educational loan certification (See Section 290.1203(1)).

13) Where a contract involving professional or artistic services has been bid, the bid-rigging/bid rotating certification (See Section 290.1203 (k)).

14) Such other provisions as may be specifically required by law.

15) Any other information deemed necessary or advisable by the agency or the Attorney General.

c) Requirement that contract be reduced to writing:

1) Section 11 of the State Comptroller Act requires the Comptroller to reject vouchers for payment of professional or artistic skills if the contract for such services involves expenditures of more than $5,000 for a fiscal year, unless;

A) the contract has been reduced to writing before the services are performed, or

B) an affidavit described in this subsection is filed.

2) "Reduced to writing" is defined as signed by the contractor and an authorized representative of the State.

3) The time at which a contract is reduced to writing is delineated below:

A) When the contract contains an execution date only, the contract will be regarded as being reduced to writing at that date.

B)

i) For contracts with dated signatures, when the contract is signed by the vendor and then by more than one authorized agency representative, it is reduced to writing at the earliest dated signature of an authorized representative of the agency.

ii) An "authorized agency representative" means a person who has the authority to execute contracts on behalf of the agency.

C) An agreement for professional or artistic services let for competitive bids will be considered reduced to writing upon the date of the notice of award. The agreed terms may be placed in a different format and later signed without violating Section 11 of the State Comptroller Act. A copy of the proposal and the notice of award shall be filed with the Comptroller.

4) In order to implement this requirement, all professional or artistic services contracts may contain a provision indicating that no payments will be made for services which are performed before the contract is signed by the contractor and an authorized representative of the State.

5) Suggested language is set forth below:

This contract takes effect on (date) or when executed by the contractor and an authorized representative of the State, whichever is later. No services will be paid which are performed prior to execution.

6) This provision may be modified at the discretion of the agency.

7) Where a contract for professional or artistic skills in excess of $5,000 was not reduced to writing before the services were performed, the Comptroller will not honor vouchers for payment for such services until the agency files with the Comptroller:

A) a written contract covering the services; and

B) An original affidavit and one copy, signed by the chief executive officer of the agency or his or her designee stating that the services for which payment is being made were agreed to prior to commencement of the services and setting forth an explanation of why the contract was not reduced to writing before the services commenced. The Comptroller will file the copy of the affidavit with the Auditor General.

8) A sample of the affidavit referenced in this subsection is provided as Appendix D to this Part. Any affidavit substantially similar to that provided in Appendix D will be accepted by the Comptroller.

d) Contracts subject to "AN ACT to provide for representation and indemnification in certain civil lawsuits," (Ill. Rev. Stat. 1987 and 1988 Supp., ch. 127, par. 1301 et seq.) must be approved by the Attorney General before being filed with the Comptroller. This requirement does not apply to universities. The 15 day filing requirement established by Section 15 of the State Comptroller Act shall run from the date of approval.

(Source: Amended at 14 Ill. Reg. 5757, effective April 5, 1990)