



STATE OF NEW YORK  
**UNIFIED COURT SYSTEM**  
OFFICE OF COURT ADMINISTRATION  
DIVISION OF FINANCIAL MANAGEMENT  
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TO: All Holders of the Financial Planning and Control Manual

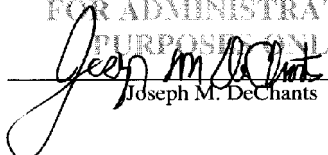
## NEW ACCOUNTING PROCEDURES

BULLETIN NUMBER: 280	June 29, 2001
SUBJECT: Multi-Year Contracts	

Attached for your review is OSC Procurement and Disbursements Guidelines Bulletin number G-197, dated June 14, 2001. A review of this bulletin reveals that OSC has established a number of new policies and procedures designed to facilitate the more timely renewal of multi-year contracts. The primary criteria for using this new renewal process is the agencies' ability to **reasonably predict the total dollar amount of the contract over the full life of the agreement (original plus any exceptions) such that this total amount can be entered on the AC340 Contract Encumbrance**.

The contract processing provisions contained in Bulletin G-197 have the potential to streamline significantly the processing of contractual agreements which extend over several years. UCS district/administrative offices are encouraged to take full advantage of this new contracting flexibility.

Please distribute this bulletin to all personnel within your respective jurisdictions who may be responsible for the processing of, or the monitoring of internal controls relating to, UCS contracts and other procurement activities.

NYS UNIFIED COURT SYSTEM  
FOR ADMINISTRATIVE  
PURPOSES ONLY  
  
Joseph M. DeChants



STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

## PROCUREMENT AND DISBURSEMENT GUIDELINES

<b>BULLETIN:</b>	<b>G-197</b>
<b>SUBJECT:</b>	<b>Multi-Year Contract Renewals</b>
<b>DATE:</b>	<b>June 14, 2001</b>

Presently, many IFB'S or RFP'S, and the resulting contracts, are structured on the basis of a fixed contract term (e.g., three years) plus one or more annual (or other periodic) renewals following the expiration of the fixed term. Where contracts are structured this way, at the expiration of the fixed term, it is necessary for the agency to process a contract extension, which requires the approval of the Comptroller and the submission of significant paperwork. While agencies may continue to use this structure, we have developed a streamlined renewal process that can be used for many contracts. This new renewal process should reduce the processing time for renewals and reduce unnecessary paperwork. **NOTE: To use this new process, agencies must be able to reasonably predict the total contract amount (original term plus renewals) and enter this amount on the AC340 for accounting purposes.**

An example is: Instead of submitting a contract for two years with three one-year renewals, the contract may be written for five years with an allowance for annual termination after the initial two-year period. When this contract is submitted to OSC, the agency will have to approximate the contract amount for the entire five-year period. OSC should receive an accounting and adjustment only once, at the beginning of the last budget year of the contract so the actual contract amount can be adjusted for accuracy.

If, during the contract term, there is a substantial change in scope or in the contract amount, the agency must submit an amendment to OSC before the change can be made (see last page for OSC contacts). If the scope has increased, a *Contract Reporter* exemption or a new procurement may be necessary. **CAUTION: Do not wait until the estimated five-year budget is expended to alert OSC to a scope change. Agencies must continue to monitor their contracts and budgets regularly.**

By using this new approach, renewals will no longer require the annual submission of a contract document to OSC. Instead of renewing annually by contract amendment, the agency will send the contractor a letter 90 days before the expiration of the initial period, and 90 days before the end of each subsequent year (e.g., three years), except for the final year of the contract indicating the agency's intention to either renew or terminate the contract.



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To take advantage of this streamlining opportunity, the following language for eligible new contracts for services, grants, and commodities must be included in the contract:

“Unless modified as provided herein, this contract shall begin on \_\_\_\_\_ and end on \_\_\_\_\_ (e.g., five years or other relevant multi-year period).

The State shall have the right to terminate this contract early for: (i) unavailability of funds; (ii) cause; or (iii) convenience. The State may only invoke its right to terminate for convenience on (fill in expiration date of initial contract period) and on each subsequent anniversary date of the contract (except for the contract expiration date), provided that the State has given written notice to the contractor no later than 30 days or more prior to the date of termination, except with respect to contracts that gives the State a general right to terminate at any time. If the contract is not terminated, prices will be adjusted as of (fill in expiration of initial contract period) and on each subsequent anniversary, except for the contract termination date in accordance with the following formula: (fill in appropriate formula which should be based on a recognized national or regional index) provided, however, that no increase may exceed five percent.”<sup>1</sup>

**If you have existing contracts with available renewals**, you could renew the contract for the remainder of the term upon the next renewal amendment. In order to take advantage of this streamlining opportunity, the following language for eligible existing contracts for services, grants, and commodities must be included in the next contract renewal amendment:

“Unless modified as provided herein, this contract shall be extended beginning on \_\_\_\_\_ and ending on \_\_\_\_\_.” **(Note that this language cannot be used to extend the term of an existing contract past**

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<sup>1</sup> Generally OSC will not approve increases greater than five percent, except where agency submits appropriate justification for such higher rate.



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its current allowable term or change any existing escalation provisions). This notice should be given to the contractor no later than 90 days prior to the end of any 12-month period.

**NOTE: The original contract or the amendment must have provided for the State's right to terminate the contract for: (i) unavailability of funds; (ii) cause; or (iii) convenience.**

Please note the following points that **must be considered** when determining whether this type of renewal language is appropriate to your contract:

- If escalation pursuant to a formula is authorized, the provision authorizing the escalation must be stated in the original bid solicitation and contract.<sup>2</sup> If the bid solicitation and contract do not allow for escalation, none can be given. This escalation formula must be clearly defined (i.e., **up to** the specific Consumer Price Index, the Producer Price Index, a straight percentage, etc.). The contract language should be specific as to the particular index being used if there is more than one, i.e., multiple CPI indices. Escalation factors must be capped, and are generally limited to five percent per annum. We may approve a higher rate with sufficient justification.
- The contract amount must reflect the estimated amount for the entire term (original term plus renewals). In the final year of the contract, a reconciliation or true-up will be performed by the agency, at which time an accounting of the contract amount, to date, will be sent to OSC along with an AC340, making an adjustment to the contract amount on the Accounting System. Be sure to submit adequate documentation to support this adjustment. If the maximum not-to-exceed contract amount is increased, a formal contract amendment may be needed.

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<sup>2</sup>Please note that as a State agency negotiating renewal terms, you may want to attempt to obtain a discount from the initial contract prices. You always have a leverage of a re-bid if you so desire.



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- Encumbrances and expenditures must be made against the proper fiscal year's appropriations.

Encumbrances for renewal years should be processed with an ECC batch, with no paperwork being sent to OSC.

Questions regarding the use of this bulletin, in particular the contract language mentioned above, should be directed to the appropriate Team Chief:

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(518) 474-3488  
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