**Section 500.800 Duration of Contracts**

a) General

1) A multi-term contract for a term up to 10 years, inclusive of proposed contract renewals, is authorized when determined by the Procurement Officer to be in the best interest of the State.

2) A software license designated as a perpetual license is not considered a multi-term contract; it is instead a one-time purchase.

b) Subject to Appropriation

Each contract is contingent upon and subject to the availability of funds. The State, at its sole option, may terminate or suspend a contract, in whole or in part, without penalty or further payment being required if the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay that obligation or if funds needed are insufficient for any reason. Each contract payable in whole or in part by any funds appropriated by the Illinois General Assembly shall recite that the contract is subject to termination and cancellation for lack of, or insufficiency in, funding. A vendor will be notified in writing by the OAG of a failure to receive or a reduction or decrease in any appropriation or insufficiency of funds affecting the contract. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.

c) Conditions for Use of Multi-Year Contracts

A multi-year contract may be used when:

1) special production of definite quantities or the furnishing of long-term services is required to meet OAG needs; or

2) a multi-year contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in OAG procurement. The following factors are among those relevant to such a determination:

A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;

B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;

C) stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality; or

D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

d) Multi-Year Contract Procedure

The solicitation shall state:

1) the proposed term;

2) the amount of supplies or services required for the proposed contract period;

3) the type of pricing requested (e.g., firm for term); and

4) how award will be determined.

e) Renewals

1) Renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract and the option is reserved solely to the OAG or is by mutual agreement.

2) Where a renewal will result in the total term, counting the initial term and any previous renewals, to exceed 10 years, the renewal must be procured using one of the methods of source selection authorized by this Part. This renewal will start a new term that shall not exceed 10 years.

3) Notice of renewal shall be published in the Auditor General Bulletin no later than 14 calendar days after the contract is awarded.

f) Cancellation of Contracts

1) In any of the following cases, the OAG shall have the right to terminate or rescind any contract entered into under this Part without penalty:

A) The successful vendor fails to furnish a satisfactory performance bond within the time specified;

B) The vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the OAG;

C) Any supplies or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's supplies or services, this shall be grounds for termination or rescission, even though the vendor offers to replace the supplies or services promptly;

D) The vendor is guilty of misrepresentation (e.g., misbranding of food or drugs) in connection with another contract for the sale of supplies or services to the State such that the vendor cannot reasonably be depended upon to fulfill obligations as a responsible vendor under other contracts with the State;

E) The vendor is adjudged bankrupt; enters into receivership or makes a general assignment for the benefit of creditors due to insolvency; disregards laws, rules or instructions of the OAG; or acts in violation of any provision of the contract;

F) Any other breach of contract or other unlawful act by the vendor;

G) The contract was obtained by fraud, collusion, conspiracy or other unlawful means; or

H) The contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.

2) Damages

The damages for which the OAG may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:

A) the additional cost of supplies or services bought elsewhere;

B) cost of repeating the procurement procedure;

C) any expenses incurred because of delay in receipt of supplies or services; and

D) any other damages caused by the vendor's breach of contract or unlawful act.

3) Withholding Money to Compensate OAG for Damages

If a contract is terminated or rescinded under this subsection (f), the OAG may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the OAG for any damage resulting from termination or rescission.

(Source: Amended at 39 Ill. Reg. 3561, effective March 1, 2015)