

EXECUTIVE ORDER NO. 60
SERVICE CONTRACTS SHALL BE AWARDED IN THE BEST
INTEREST OF THE STATE

WHEREAS, the government of the State of North Carolina annually purchases over three billion dollars worth of goods and services; and,

WHEREAS, the Secretary of Administration and the State Chief Information Officer are responsible for oversight of purchasing of, respectively, goods and services and information technology-specific goods and services for the State of North Carolina; and,

WHEREAS, the Secretary of Administration is required by law to award contracts based on competitive bidding which includes evaluation of price and may include other factors such as quality, vendor performance, and any other factors deemed to be in the best interest of the State; and,

WHEREAS, the State Chief Information Officer is required by law to award information technology contracts based on the Best Value procurement law which requires the best trade-off between price and vendor performance, considering multiple factors such as quality, total cost of ownership, technical merit, vendor's past performance, timeliness, and compliance with industry standards, information technology security, and any other factors deemed to be in the best interest of the State; and,

WHEREAS, the citizens of the State of North Carolina are entitled to know how and where their tax dollars are being spent and whether tax dollars are being spent on services provided by workers located in countries outside of the United States; and,

WHEREAS, the citizens of the State of North Carolina are also entitled to know the economic effect of contracts under which the State's work would be performed outside the jurisdiction of the United States, known as "offshore"; and,

WHEREAS, offshore contractual performance presents a myriad of unique challenges that the Secretary of Administration and the State Chief Information Officer should consider;

THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, it is Ordered:

1. The Secretary of Administration and the State Chief Information Officer (SCIO) shall adopt policies and procedures consistent with their oversight authority to address the use of state contracts that will be performed totally or partially offshore, in consideration of the purpose of this Order, the requirements of North Carolina laws and regulations regarding contracting and procurement and the best interests of the citizens of the State of North Carolina, as well as federal and international laws.
2. To the extent allowable by law these policies and procedures shall include the following:
 - a. That all requests for proposals (RFP's) issued by the division of Purchase and Contract of the Department of Administration and by the Statewide IT Procurement Office contain the following provision: *The vendor must detail the manner in which it intends to utilize resources or workers located outside of the United States, and the State of North Carolina will evaluate the additional risks, costs and other factors associated with such utilization to make the award for this proposal as deemed by the awarding authority to be in the best interest of the State.*
 - b. The factors for evaluation should include the total cost to the State, level of quality provided by vendor, process capability across multiple jurisdictions, protection of the State's information and intellectual property, availability of pertinent skills, ability to understand the State's business requirements and internal operational culture, risk factors such as the security of the State's information technology, relations with citizens and employees, and contract enforcement jurisdictional issues.
 - c. If, after award of a contract, the contractor wishes to outsource any portion of the work to a location outside the United States, prior written approval must be obtained from the state agency responsible for that contract.
3. The Department of Administration (DOA) and the Office of Information Technology Services (ITS) shall require of vendors and shall collect, evaluate

and maintain information necessary to comply with the requirements of this Order, as determined by the DOA and ITS, and may include any of the following:

- a. Information relating to the location of work performed under a state contract by the vendor, any subcontractors, employees, or other persons performing the contract.
 - b. Information regarding the corporate structure and location of corporate employees and activities of the vendor, its affiliates, or any subcontractors.
 - c. Notice of the relocation of the vendor, employees of the vendor, subcontractors of the vendor, or other persons performing services under a state contract outside of the United States.
 - d. A requirement that any vendor or subcontractor providing call or contact center services to the State of North Carolina disclose to inbound callers the location from which the call or contact center services are being provided.
4. DOA and ITS may initiate proceedings to debar a vendor from participation in the bid process and from contract award as authorized by North Carolina law, if it is determined that the vendor has refused to disclose or falsified any information collected consistent with this Order.
5. All departments and agencies subject to this Executive Order shall assist the Department of Administration and the Office of Information Technology Services as necessary in implementing this Order.

This Order is effective immediately and shall remain in effect until rescinded. Done in the Capital City of Raleigh, North Carolina, this the 1st day of June, 2004.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State