

MEMORANDUM

TO: Cabinet Secretaries

FROM: Sarah L. Shipman, Secretary
Department of Administration

DATE: September 26, 2016

RE: Procurement Prior Authorizations & Delegated Authority

The Department of Administration Office of Procurement and Contracts has been fielding numerous questions and concerns regarding Prior Authorizations and Delegated Authorities. This memo is an attempt to provide an executive level summary of the process and procedures for both.

The general statutory rule for procuring good and services is to require a competitive bid process. These can be Request for Quotations (RFQ), Invitations for Bid (IFB) or Requests for Proposals (RFP). These options provide the most transparency to the taxpayers and help protect agencies from bid protests. However, there are exceptions to the competitive bid process. These exemptions require Prior Authorization from the Director of Purchases. The most common exceptions are Director of Purchase Approval, Professional Service Sunshine Act, and Statutory Exemptions. Please keep in mind that there are not exemptions for incumbent vendors (absent an extension clause in the contract), preferred vendors, and/or familiar vendors.

The Director of Purchases exemption is permissible when the agency can demonstrate to the Department of Administration that it is not in the best interest of the state to seek a competitive bid. The Professional Services Sunshine Act exemption is limited to procuring consulting services, certified public accountants, and lawyers. These contracts should be based on tangible deliverables. The third most common exemption is when an agency is statutorily exempt from the competitive bidding process. Only a few agencies have this exemption available.

In all instances of exemptions to the competitive bid process, agencies are required to obtain the prior authorization of the Department of Administration before entering into a contract with a vendor. Contracts entered into absent the prior authorization of the Director of Purchases are not valid and the Department of Administration will not release funds to pay pursuant to the terms of any such agreement.

This is a departure from recent practice whereby in some cases agencies have sought post execution authorization rather than prior authorization. Often, the goods and/or services have been provided to the agencies before they have received the required authorizations. These contracts and/or payments will no longer be approved and agencies are urged to immediately update their processes and procedures accordingly. Please keep in mind that Prior Authorizations for \$100,000 or more must be posted on the Procurement website for 7 days before they may be finalized. Additionally, when seeking a prior authorization due to statutory exemption, the Department of Administration will now require a draft of the proposed contract for review to ensure that the exception is properly requested

Most Cabinet agencies have the delegated authority to enter into contracts for less than \$5,000 without seeking the authorization of the Department of Administration. This authority is limited to \$5,000 per vendor per fiscal year, not \$5,000 per transaction.

Thank you for your adherence to these important policies. We appreciate your support.