

MANAGEMENT MEMO

NUMBER: MM 05-04
DATE ISSUED: JANUARY 26, 2005
EXPIRES: JANUARY 26, 2006
ISSUING AGENCY: DEPARTMENT OF GENERAL SERVICES

SUBJECT: MEDICAL SERVICES CONTRACTS
REFERENCES: PUBLIC CONTRACT CODE §§ 10340(b)(4), 10348; SUPERSEDES SAM 1233.3.g AND MM 3-10, ATTACHMENT D, ITEM 2

Purpose The purpose of this Management Memo is to establish new statewide policy and requirements regarding medical services contract bidding exemptions. The policy and requirements stated in this Management Memo supersede pre-existing state policy regarding the exemption of medical services contracts from competitive bidding.

Background The state has had a long-standing policy exempting certain types of medical services contracts from competitive bidding (previously published in State Administrative Manual 1233.3.g and Management Memo 3-10, Attachment D, item 2). In 2004, the Bureau of State Audits issued a report identifying concerns with the award of certain medical services contracts without competition (Report No. 2003-117). The Report directed the DGS to re-evaluate the medical services bidding exemption.

The DGS has completed its evaluation and is issuing this Management Memo to communicate new policy and requirements in this area.

Policy Statement Competitive bidding processes should be employed to the maximum extent possible. When contracting departments can feasibly award medical services contracts through a competitive bid process, they should do so.

Public Contract Code Sections 10340(b)(4) and 10348 provide the Director of the DGS authority to exempt services contracts from competitive bidding when it is in the state’s best interest. Pursuant to this authority, the DGS has determined that the following medical services contracts may be awarded without competitive bidding:

Contracts for ambulance services (including but not limited to 911) when there is no competition because the contractor is designated by a local jurisdiction for the specific geographic region.

Contracts for emergency room hospitals, and medical groups, physicians, and ancillary staff providing services at emergency room hospitals, when a patient is transported to a designated emergency room hospital for the immediate preservation of life and limb and there is no competition because the emergency room hospital is

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**Policy
Statement
(Continued)**

designated by a local emergency medical services agency and medical staffing is designated by the hospital. This exemption covers only those services provided in response to the emergency room transport.

Contracts awarded under the above exemptions shall be supported by back-up documentation demonstrating the method(s) used by the contracting department to determine contract pricing and to evaluate cost reasonableness.

If there is an alternate existing statutory or policy exemption from competitive bidding, contracting departments may still rely on the alternate exemption. (For example, service contracts with state or local government agencies are exempt from bidding pursuant to Public Contract Code Section 10340(b)(3).)

Except as noted above, for medical services contracts, the Director of the DGS (or his/her designee) shall determine whether to grant bidding exemptions based on written applications submitted by contracting departments. Such written applications shall include the facts supporting the bidding exemption and the method(s) used by the contracting department to determine contract pricing and to evaluate cost reasonableness in the absence of competitive bidding.

Medical services contracts may be for a term of up to three years. Terms exceeding three years require separate written pre-approval from the DGS.

**Procedures
Or Action
Required**

In order to obtain an exemption from competitive bidding for a medical services contract, or a specific category of medical services contracts, contracting departments shall submit written applications to the DGS for approval.

If requesting a bidding exemption for a single contract, departments shall use the existing Non-Competitively Bid Contract Justification process (NCB).

If requesting a bidding exemption for a specific category of contracts, departments shall use the existing Special Category Non-Competitively Bid Contract Request process (SCR). An SCR could be used, for example, to seek exemption for a variety of specialty physician services to be provided at one or more specified remote facilities. (This example is not intended to be exclusive.) SCR exemptions may be granted for up to three years. The term of a medical services contract may extend beyond the SCR exemption period; however, no medical services contract shall exceed three years, unless there is a separate multi-year approval from the DGS.

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**Procedures
Or Action
Required
(Continued)**

The NCB and SCR applications require departments to document the basis for the bidding exemption and the method(s) used to determine fair and reasonable pricing in the absence of competitive bidding. NCB and SCR forms and instructions can be accessed on the DGS's website at <http://www.pd.dgs.ca.gov/mgmtmemo.htm>. Departments must obtain all necessary approvals as directed in the forms and instructions.

For services contracts, departments must attach a Standard Form 821 (advertising exemption request) with each NCB or SCR. This facilitates publication of the exemption in the California State Contracts Register as required by Government Code Section 14827.3. Standard Form 821 may be accessed at <http://www.osp.dgs.ca.gov>.

Contact

For information regarding NCBs and SCRs, contact:
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For information regarding specific services contracts, contact your DGS assigned attorney. Assignments are listed at www.ols.dgs.ca.gov.

Signature

Original signed by Ron Joseph, Director

Ron Joseph
Director