

Attachment D
Management Memo 02-12
Addendum #1
(June 11, 2002)

The following contracts may be awarded without advertising or competitive bidding subject to the restrictions noted. The categories are either exempt by statute, or based on a determination by DGS that competitive bidding is not feasible (many of these were formerly referenced in State Administrative Manual Section 1233 and State Contracting Manual Section 5.80).

- a. **Emergency contracts which are necessary for the immediate preservation of life or state property.**
- b. **Contracts for the work or services of a state, local or federal agency, the University of California, the California State University, a California community college, a foundation or auxiliary organization incorporated to support the universities and colleges, or a Joint Powers Agency.**
- c. **Services for which the state has entered into a master service agreement;**
Note: This is limited to those master contracts which have been competitively bid or which have been determined to be required for essential services and which have been established by a methodology that assures the state of a reasonable price for the goods/services offered. See the DGS Procurement web page at www.dgs.ca.gov/pd for a list of such approved contracts.
- d. **Subvention contracts (non-discretionary grants) with a private or nonprofit entity for the purpose of providing services to the public or segments thereof.** *This exception applies only when services are being provided to the public and not specifically to a state agency, and where the department budget specifies that the funds are for subvention purposes.*
- e. **Maintenance agreements for equipment that is under documented warranty, or where there is only one authorized or qualified representative, or where there is only one distributor in the area for parts and services.** .
Note: This exception applies only in circumstances where services to be provided are less than \$100,000; for services in excess of this amount, the guidelines regarding non-competitive bid contracts for \$100,000 or more apply.
- f. **Refuse and/or sewage disposal contracts where there is no competition because they are the authorized franchise dealers providing services to a specific geographical area.**

- g. **Medical care services with physicians, local community hospitals, medical groups (related offsite laboratory services are not included), and 911 emergency ambulance calls;**
- h. **Contracts with health maintenance organizations (HMOs) through a cooperative agreement with the Centers for Medicare and Medicaid Services (CMS) to pay monthly premium payments for medical/medicare eligible members, where services are essential or necessary for health and safety.**
- i. **Proprietary software maintenance contracts.** *Note: This applies only to the maintenance of existing proprietary software up to \$100,000 and only in circumstances where a competitive bid is not feasible. For purchases of new proprietary software over \$5,000 where a competitive bid is not feasible, or where maintenance of existing proprietary software will exceed \$100,000, the guidelines for non-competitive bid contracts apply.*
- j. **Contracts for which only per diem and travel expenses are paid and there is no payment for services rendered.** *Note: Shall not exceed \$5,000.*
- k. **Public entertainment contracts for state-sponsored fairs and expositions.**
- l. **Contracts solely for the purpose of obtaining expert witnesses for litigation.**
- m. **Contracts for legal defense, legal advice, or legal services by an attorney or the attorney's staff.**
- n. **Contracts with business entities operating Community Based Rehabilitation Programs (CRP), which meet the criteria established by Welfare and Institutions Code Section 19404.** *Note: Exception does not apply to contracts justified pursuant to Government Code 19130a.*
- o. **Amendments to existing contracts under the same terms and the same or lower rates, where a protest or other legal action delays the award of a new contract. These amendments should only last during the period the protest or legal action is pending and a new contract can be executed, but in no case shall this exemption from advertising extend beyond six months.**
- p. **Contracts for conference or meeting facilities, including room accommodations for conference attendees.** *Note: This exception applies only in circumstances where facilities to be provided are less than \$100,000; for facilities exceeding this amount, the guidelines regarding non-competitive bid contracts for \$100,000 or more apply.*

Miscellaneous:

In determining whether the acquisitions of a particular agency/department/entity are exempt from the Executive Order (see Management Memo 02-12, paragraph No. 5) the funding source for the acquisition shall be determinative, notwithstanding the fact that DGS may be the procuring entity.