

**Attachment C
Management Memo 02-19 Revision 3**

Contracts Exempt by Statute

(January 21, 2003)

The following contracts may be awarded without advertising or competitive bidding subject to the restrictions noted. These categories are exempt by statute (many of these were formerly referenced in State Administrative Manual Section 1233 and State Contracting Manual Section 5.80). However, contracting/delegated authority is not exempt. Therefore, contracts exceeding your authority must still be submitted for approval by DGS; acquisitions exceeding your delegated authority must still be awarded by DGS.

- 1. Emergency contracts which are necessary for the immediate preservation of life or state property. Contracts issued as a result of an emergency may be entered into immediately without completion of the required paperwork for the processes required herein. However, such contracts are subject to otherwise applicable statutory approval requirements and the reporting requirements of the Management Memo. For the purpose of this paragraph, reporting consists of submission of an approved copy of the Notice of Contract Award (NCA).**

- 2. 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. Note: Contracts entered into under this exemption are also exempt from any of the other restrictions imposed by MM 02-19 or the attachments thereto.**

- 3. Goods and services for which the state has entered into a master 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 approved exempt contracts.**

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- 4. Subvention contracts (non-discretionary grants) with a private or nonprofit entity or local agency 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. Note: Contracts entered into under this exemption are also exempt from any of the other restrictions imposed by MM 02-19 or the attachments thereto.**

- 5. 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 \$250,000.00; for services in excess of this amount, the guidelines regarding non-competitive bid contracts for \$250,000.00 or more apply.**

- 6. Proprietary software maintenance and/or upgrade contracts. Note: This applies only to the maintenance and/or upgrades of existing proprietary software up to \$250,000.00 and only in circumstances where a competitive bid is not feasible. For software maintenance and/or upgrades of \$250,000.00 or more, approval of the Department Director (only), DGS and the Department of Finance is required.**

For acquisitions of new proprietary software over \$5,000 where a competitive bid is not feasible, or where maintenance and/or upgrades of existing proprietary software will exceed \$250,000.00 the guidelines for non-competitive bid contracts apply.

If the department does not hold an information technology delegation from DGS/PD, then the guidelines for non-competitive bid contracts apply for all acquisitions, whether maintenance of existing software or new software.

- 7. 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.**

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- 8. Contracts solely for the purpose of obtaining expert witnesses for litigation. Note: Contracts entered into under this exemption are also exempt from any of the other restrictions imposed by MM 02-19 or the attachments thereto.**

- 9. Contracts for legal defense, legal advice, or legal services by an attorney or the attorney's staff. Note: Contracts entered into under this exemption are also exempt from any of the other restrictions imposed by MM 02-19 or the attachments thereto.**

- 10. Contracts for which services are specifically exempt by statute from the competitive bidding process. Note: Contracts entered into under this exemption are also exempt from any of the other restrictions imposed by MM 02-19 or the attachments thereto.**