

(Revised 01 /13)

Competitive bidding is required unless there is a legally authorized basis for bid exemption. Key exemption categories are identified below.

**A. Statutory Exemptions**

1. Contracts of less than \$5,000 (PCC §§ 10335(a), 10335.5(c)(5)).
2. Contracts of less than \$5,000 where only per diem or travel expenses, or a combination thereof, are to be paid (PCC § 10335(a)).
3. Emergency contracts. The work or service is for the immediate preservation of the public health, welfare, safety, or protection of state property (PCC § 1102, 10340).
4. Interagency agreements. Contracts with other California state agencies, and California State University and University of California campuses (PCC §§ 10335(a), 10340(b)(3); GC § 11256; see also SCM 1, section 3.03.).
5. Contracts with other public entities, including contracts with another state, local, or federal agency, auxiliaries of CSU or the California community colleges; or an organization acting as a governmental agency under a joint powers agreement (PCC §§10335(a), 10340(b)(3); see also SCM 1, section 3.06.A).
6. Contracts solely for the purpose of obtaining expert witnesses for litigation (PCC § 10335.5(c)(3)).
7. Contracts for legal defense, legal advice, or legal services by an attorney or the attorney's staff (PCC § 10335.5(c)(4)).
8. Community Based Rehabilitation Program (CRP). Contracts with business entities operating Community Based Rehabilitation Program (CRP), that are justified under one of the exceptions in GC § 19130(b), and that meet the criteria established by Welfare and Institutions Code §1 9404 (PCC §10340). Note: Contracts with CRPs that are justified under GC § 19130(a) are required to be competitively bid.
9. Small Business/Disabled Veteran Business Enterprise (SB/DVBE) Option (GC § 14838.5; PCC §§ 10335.5(c)(6), 10340(b)(6)).
  - a. This option allows for an award under the following conditions:
    - 1) The contract is awarded to a certified SB, micro-business or DVBE;
    - 2) The contract award is greater than \$5,000 and less than \$250,000; and
    - 3) Quotes were received from at least two certified SBs or micro-businesses; or two certified DVBEs.
  - b. An award based on receiving only one quote is not permitted under this method.
  - c. Mixing quotes (e.g. one SB and one DVBE) is not permitted under this method.
  - d. The code does not expressly require award to the low quote, however, if award will be made by other than low quote, the agency must document the business reasons and cost reasonableness basis for selecting the other quote.
  - e. No particular format or timing is required under this option. Agencies have discretion as to how to obtain the quotes. Agencies should provide vendors sufficient information about the services on which the vendors can formulate a quote, including copy of the proposed contract (e.g. scope, payment provisions, and terms).
  - f. The SB preference is not applicable under this method.
  - g. There is no protest right for this method. (GC §14838.5) Therefore agencies should not cite protest provisions when soliciting quotes.
  - h. Use of this method is capped at \$250,000 for the entire contract term, including any option years and/or amendments. If an agency believes the contract may exceed \$250,000, they should use a different solicitation method, such as an IFB or RFP. If quotes come in over \$250,000, the agency would need to resolicit, either scaling down the project to lower the quotes or using a different solicitation method.

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## SAM—CONTRACTS

(Continued)

### CONTRACTS EXEMPT FROM CALIFORNIA STATE CONTRACTS REGISTER ADVERTISING AND COMPETITIVE BIDDING

1233 (Cont. 1)

(Revised 01 /13)

- i. For public works, the dollar range for which this two-quote method can be used is \$5,000 to \$270,000 (or other project cost limit amount as may periodically be issued by the Director of Finance pursuant to PCC § 10105) (GC § 14838.7.)
  10. Contracts for the development, maintenance, administration, or use of licensing or proficiency testing examinations (PCC § 10340(b)(7)).
  11. Other Specific Statutory Exemption. The STD 215 should identify the statutory citation supporting the exemption.
- B. DGS Approved Exemptions (PCC §10348)
1. Non-Competitive Bid (NCB) or Special Category Request (SCR)
    - a. An NCB transaction (formerly “sole source”) is a contract for goods or services or both when only a single business enterprise is afforded the opportunity to provide the specified goods or services.
    - b. Executive Order on NCB  
The Governor’s Executive Order, D-02-55, issued effective May 20, 2002, rescinded the previous sole source Executive Order W-103-94 and all management memos related to that Executive Order.
    - c. The NCB form with instructions and signature requirements can be found on the DGS/PD website. See also SCM volume 2 (SCM 2).
    - d. An SCR is similar to an NCB but involves a group of related contracts rather than a single contract. The SCR form and further information can also be found on the DGS/Procurement Division website and in SCM 2.
  2. DGS Categorical Exemptions (PCC § 10348; historical references: SAM Section 1233, Management Memo (MM) 03-10).
    - a. Services contracts using a DGS Leverage Purchase Agreement;
    - b. Subvention and local assistance contracts as defined in SCM 1, section 3.17. This exception applies only when services are provided to the public and not specifically to a state agency;
    - c. Maintenance agreements under \$250,000 per year 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 under \$250,000.00 per year;
    - d. Contracts where the state is unable to compete and select a different contractor because a contractor has already been selected by a federal, state, city, county, or other regulatory entity to perform a service in a specific geographical area (e.g., refuse and/or sewage disposal contracts where there is an exclusive franchise agreement that has no exception for the state);
    - e. Public entertainment contracts for state-sponsored fairs and expositions;
    - f. Contracts that can only be performed by a public entity as defined in Unemployment Insurance Code Section 605(b);
    - g. Contracts for conference or meeting facilities, including room accommodations for conference attendees, not to exceed \$250,000;
    - h. 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; (historical reference: MM 05-04.)

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## SAM—CONTRACTS

(Continued)

### CONTRACTS EXEMPT FROM CALIFORNIA STATE CONTRACTS REGISTER ADVERTISING AND COMPETITIVE BIDDING

1233 (Cont. 2)

(Revised 01 /13)

- i. 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 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; (historical reference: MM 05-04.)
- j. 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;
- k. Proprietary subscriptions, proprietary publications and/or technical manuals regardless of media format, up to \$250,000. This includes access to *pre-existing* proprietary research data through a non-IT services contract, however “subscription” is not intended to include the performance of any personal *services* (such as, but not limited to, consulting, advice, research);
- l. Rental of proprietary postage meters if they are interfaced and intermembered with existing mailing equipment and there is only one authorized manufacturer’s branch or qualified dealer representative providing services for a manufacturer in a specified geographical area. This exemption applies only in circumstances where annual postage meter rental services are less than \$100,000;
- m. Departmental memberships in professional organizations provided it is solely a membership and does not include the performance of any personal *services*. Note: Memberships for represented employees are governed by applicable collective bargaining agreements and memberships for non-represented employees are governed by CalHR rules; (See SCM 1, section 3.23.)
- n. Contracts for non-IT services training for state personnel if the cost of the training contract does not exceed \$50,000 and the cost of multiple training contracts with a single contractor does not exceed \$50,000 cumulatively in any 12-month period. (Historical reference: MM 11-05.) The exemption is for pre-existing training courses; it does not cover development of training or other personal or consulting services. Agencies shall not split contracts to avoid competitive bidding or other contract requirements. Agencies with recurring training needs should assess the cumulative amounts departmentally and generally should go out to bid if there are ongoing and/or department-wide needs.