

**Attachment D  
Management Memo 03-10**

**Contracts Exempt by Policy**

The following categories of contracts may be awarded without advertising or competitive bidding subject to the restrictions noted. These categories are exempt 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). However, the dollar limits of contracting and delegated purchasing authority still apply. Therefore, contracts exceeding a department's approval authority must be submitted to DGS for approval and acquisition transactions exceeding delegated purchasing authority are required to be awarded by DGS.

1. Refuse and/or sewage disposal contracts where there is no competition because there is a single authorized franchise dealers providing services to a specific geographical area.
2. Medical care services with physicians, local community hospitals, medical groups (related offsite laboratory services are not included), 911 emergency ambulance service calls and ambulance service calls where there is a single provider serving a geographical area.
3. 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.
4. Public entertainment contracts for state-sponsored fairs and expositions.
5. 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 19130(a).
6. 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 extend beyond six months for a particular amendment.

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- 7. Amendments to existing contracts which were originally competitively bid subject to the following restrictions:**
  - a) Competitively bid contracts for both information technology goods and services and non-information technology goods, and which included options for changes (e.g., quantity or time) may be amended consistent with the terms of the original contract providing for such extension(s) if such options were evaluated during the solicitation process.**
  - b) Competitively bid contracts for non-information technology services which do not include options to extend may be amended as follows:**
    - Exemption shall only apply to the first amendment;**
    - Amendment shall add time only, not to exceed one year, or add not more than 30% of the original contract value, not to exceed \$250,000;**
    - The original contract must have permitted the amendment.**
- 8. 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 \$250,000; for facilities exceeding this amount, the requirements regarding non-competitive bid contracts for \$250,000 or more apply.**
- 9. Contracts for services under the Health Insurance Portability and Accountability Act (HIPAA) MSA shall be exempt from compliance with the restrictions imposed by the Executive Order and Management Memo subject to compliance with the following requirements and limitations:**
  - Agencies must prepare their Statement of Work (SOW).**
  - Office of HIPAA Implementation (OHI) reviews and approves all SOWs to ensure the agency complied with their HIPAA work plan.**
  - For contracts less than \$500,000, agencies must obtain a minimum of three (3) written offers, including one from a small business/DVBE if available, from the HIPAA MSA suppliers in a given category and award to the contractor achieving the best value to the state.**
  - For contracts greater than \$500,000, agencies must obtain a minimum of six (6) written offers, including one from a small business/DVBE if available, from the HIPAA MSA suppliers in a given category and award to the contractor achieving the best value to the state. If six (6) written offers cannot be obtained, the file must be documented with the reasons why suppliers did not respond. The file must contain responses and offers to equal six (6) contracts.**
  - Contracts/amendments providing for a contract value greater than \$50,000 for non-IT services are subject to review and approval by DGS.**

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- **Contracts/amendments providing for a contract value between \$500,000 and \$5 million for non-IT services are reviewed by OHI and approved by DGS.**
  - **Contracts/amendments providing for a contract value between \$500,000 and \$5 million for IT services are reviewed by OHI and approved by DGS.**
  - **Contracts/amendments providing for a contract value greater than \$5 million are reviewed by OHI and DGS and approved by the Department of Finance.**
- 10. Amendments to the California Integrated Information Network (CIIN) Agreement (CNT-001) to add products and services defined as mandatory per Management Memo 97-01 and DOIT Directive 1999-01. These mandatory services are defined as Lineside, Voice Network, Data Services, and Billing Services.**
- 11. Categories of contracts for the purchase of goods or services necessary to achieve program objectives in a timely manner, where the Department of General Services has determined in advance, in writing, that for a specific type of category of goods or services there is no viable competition, or that due to critical time requirements such competition cannot be completed by the exercise of reasonable efforts prior to the time such goods or services are required. Any individual order placed against a specified contract pursuant to this exemption that exceeds \$250,000 shall also require the approval of the Department of General Services. Special Category NCB Requests must be approved by the Department's Director and Agency Secretary or immediate next ranking official prior to obtaining DGS approval. Transactions placed against the approved Special Category NCB do not require these signatures. See the website [www.dgs.ca.gov/pd](http://www.dgs.ca.gov/pd) for the form and instructions.**
- 12. Proprietary pharmaceuticals and proprietary vaccines for which there are no generic equivalents and for which the Department of General Services will enter into contracts/price agreements with either the manufacturer or distributor. This commodity will be for the proprietary pharmaceuticals, proprietary vaccines purchased for public health programs by the Department of Health Services, Proprietary Vaccines used by state, local and public agency governmental entities, federal contracts as described in the 1990 Sharing Act, Botulism Immune Globulin Program, and pharmaceuticals outlined in Government Code, Chapter 12 (commencing with Section 14977) to Division 3 of Title 2. There will be no dollar limit on these acquisitions; master agreements will be established only by the Department of General Services for purchasing by state and local entities.**
- 13. Proprietary subscriptions, proprietary publications and/or technical manuals (manuals, law books, technical manuals, technical services related to publications, etc.) regardless of media format, up to \$250,000.**

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**14. Rental of proprietary postage meters are exempt 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 to be provided are less than \$100,000.**

**Rental service agreements for stand-alone proprietary postage meters, which are not interfaced, or intermembered with mailing equipment must be competitively bid.**

**Miscellaneous:**

**In determining whether the acquisitions of a particular state agency is exempt from this Management Memo, the funding source for the acquisition shall be determinative, notwithstanding the fact that DGS may be the procuring entity.**