

January 25, 2013

## Procurement Reform implementation update

Effective January 1, 2013, all procurement and contracting activities will be governed by chapter 39.26 RCW. Until all the policies and best practices are established, the old policies and procedures can be used as guidance as you embark on procurements in the 2013 calendar year.

### Website update

The Procurement Reform website was recently changed to <http://des.wa.gov/about/pi/ProcurementReform/Pages/default.aspx>. Please update your bookmarks to the procurement reform website. Email notice will be sent to the procurement reform distribution list when the web page has been updated, to help you stay current.

### Posted Final Policy Sequence

Final procurement reform policies have been posted on the Procurement Reform website and notice was sent out for the following:

1. Final Delegation of purchasing and contracting authority (interim pending agency procurement and contracting risk assessment) – Letters sent to agencies
2. Final sole-source contracts
3. Final emergency contracts
4. Final direct-buy purchases
5. Final protest and complaint

### Best Practices

Many pages of best practice suggestions have also been received and are being organized into best practices along with modifications to the many systems involved with procurement reform. Many more are expected once these initial policies are put into operation by state agencies and higher education. We encourage you all to continue to submit after January 1, 2013 best practice suggestions to Washington State Department of Enterprise Services [DESprocurementreform@des.wa.gov](mailto:DESprocurementreform@des.wa.gov) the procurement reform email box. The best practices that will be rolled out beginning January 2013 are:

1. Competitive processes
2. Best value
3. Best and final offer
4. Procedures for terminating contracts for cause and other reasons
5. Electronic signatures
6. Electronic bid submittal

### Next Steps

- Enterprise Services publishes additional procurement reform policy recommendations.
  - Enterprise Services publishes additional procurement reform final policies.
  - Enterprise Services publishes procurement best practices including electronic signatures.
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- Enterprise Services responds to agency requests for additional procurement authority.
- Enterprise Services finalizes and publishes the draft rules for vendor debarment.

## **Phase 2 Procurement Reform Refinement Project**

We fully expect to continue to refine the policies, requirements and best practices as they are put into operation by state agencies and higher education and we learn about successes and failures. In the spirit of continuous process improvement and LEAN practice, we have tentatively scheduled July 1, 2013 as the start date for Phase 2 of the Procurement Reform Policy Refinement Project. In order to prepare for this project, we encourage you all after January 1, 2013 to continue to submit questions and concerns about the procurement reform final policies to [DESprocurementreform@des.wa.gov](mailto:DESprocurementreform@des.wa.gov) the procurement reform email box. We will be using all questions and concerns received after January 1, 2013 as the begin point for the Phase 2 Procurement Reform Refinement Project.

## **Questions and Answers**

Apart from draft policy input and best practice suggestions, we have also received questions about the final policies requesting policy interpretation, clarification, and definitions. It has become apparent some of these cannot wait for a training event and we have heard from the community a desire for these questions to be answered in writing for future reference. It was also requested that the answers to be published as questions arose. In order to respond to this request, a few questions will be selected and answered in each of these updates.

### **1. What happened to the Procurement WACS?**

The Procurement WACS 236-48 and others were re-coded to WAC 200-300 and others in the conversion from the Department of General Administration to the Department of Enterprise Services, use this link <http://apps.leg.wa.gov/documents/laws/wsr/2011/23/11-23-093.htm> for a general crosswalk and use this link <http://apps.leg.wa.gov/WAC/default.aspx?dispo=true&cite=236> for a detailed crosswalk with corresponding RCW references. With respect to procurement reform, WAC 200-300 has become mostly obsolete and will largely be replaced by best practices during the Phase 2 Procurement Reform Refinement Project. DES will be initiating a rule-making process to repeal these rules.

### **2. Client services contracts are in need of clarification with regard to the Statewide Administrative and Accounting Manual SAAM Chapter 16 and which procurement reform requirements apply.**

Client services contracts are exempt from competition under RCW 39.26.125(6). As such, client services contracts are not be considered as sole-source contracts, direct-buy or emergency contracts and do not have to be filed with DES. However, client services contracts are subject to the annual transparency reporting requirements of procurement reform (RCW 39.26.210).

### **3. Purchase orders exempt from the annual transparency reporting requirements of procurement reform. RCW 39.26.210 needs to be defined as it is not clear what qualifies as a purchase order under procurement reform.**

Purchase orders also known as field orders are terms to define instruments used to place orders against a master contract or a convenience contract. Since these contracts would already be reported the purchase orders or field orders against them would double report.

**4. An earlier procurement reform newsletter said that DES would be publishing a template for the request for additional or unlimited delegated authority for agency specific or unique commodities and services. When will these templates be published?**

A decision was made to put the criteria for a request letter in the final procurement delegation policy, instead of creating a separate template. The final delegation of procurement authority policy includes the following language, which may be used as qualifying criteria for a letter to the DES director requesting additional delegated authority for agency specific or unique procurements:

*“In addition to the delegations of authority, agencies may request additional delegated authority. To do so, the agency head must submit the request to the DES director with answers to the following questions:*

- 1) What is the purpose, the scope and the specific nature of the request?*
- 2) What is the projected dollar value of the request, including analysis that determined the cost estimate?*
- 3) How might the state/agency benefit should the request be approved?*
- 4) What are the risks should the request be denied?*
- 5) Does the agency possess the necessary experience and expertise to conduct the procurement and/or to manage the contract? If so, explain.*
- 6) What measures have been established to ensure that all applicable procurement requirements will be met?*
- 7) Contact information of the person responsible for implementing the requested delegation of authority.”*

### **Risk Assessment Project**

The pilot agencies have already met twice and will come together, approximately twice a month for the first four months to:

- Develop the pilot charter and determine how the pilot will operate.
- Determine the success criteria for the pilot.
- Finalize the risk matrix and factors to be assessed.
- Conduct the assessments and reach agreement with each agency on their risk assessment.
- Develop delegation based on the risk assessment.
- Develop a regulatory framework based on the risk assessment.

After the initial work is completed, the pilot agencies will meet once a month to discuss the progress of the pilot. At the end of the year, the DES and the participants will issue a report on the pilot, including an assessment of recommended changes. A risk assessment tool roll out schedule for all of state government will be developed.

This is an estimated schedule overview. The final work breakdown structure and project schedule will be developed by the pilot agencies.

- Early January 2013 - Scope the pilot, draft a project charter, and finalize the risk matrix/risk factors and develop parameters for delegation and oversight as related to the assessed level of risk
- Late January 2013 - Conduct the assessments and reach agreement on agency risk level,
- February 2013 - Determine level of each pilot agency delegation and oversight
- Early March 2013 DES & pilot agencies start operating with their delegation and oversight authorities
- Late March 2013 - Start monthly meetings between DES and pilot agencies to assess the pilot
- October 2013 - DES & pilot agencies review project success factors and challenges and make recommended changes.
- December 2013 - Prepare and issue final report on pilot and the policy on the risk assessment, delegation and oversight. Provide a schedule for rolling this out to all state agencies.
- January 2014 - Develop a statewide schedule and begin procurement risk assessment implementation with all non-pilot state agencies

### **Debarment Procedures - proposed rule**

Under this new law, the director of the Department of Enterprise Services may debar a vendor from future state contracting opportunities. The debarment rules have been published for comment and the rule-making hearing is scheduled for March 13, 2013. Please visit web link

<http://des.wa.gov/about/LawsRules/Pages/RuleMaking.aspx#debarment> for current documents and planned activities. If you are interested in following or participating in this rule-making activity, please send an email to [rules@des.wa.gov](mailto:rules@des.wa.gov) and include "debarment rules interested party" in the subject line. You will be added to the rule making mailing list and will receive future notifications and updates.

### **For more information**

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