



Washington State Department of Enterprise Services

POLICY # DES-090-00	DELEGATION OF AUTHORITY (RCW <u>39.26.090</u>)			
Purpose:	<p>This policy provides the following information:</p> <ol style="list-style-type: none"> 1) The interim delegation of authority to state agencies for the procurement of goods and services. 2) Information and direction on how an agency may request and receive additional delegated authority. 3) Exemptions from the delegated authority requirement. 4) Information on how final delegation of authority will be determined. 			
Enabling Legislation: RCW <u>39.26.090</u>	<p>Beginning January 1, 2013 DES is authorized to contract for all goods and services needed to support and maintain agency operations, except as otherwise provided in law. The Director of DES is also charged with establishing policies for delegating authority to state agencies. Delegation policies must be based on a risk assessment process developed by the department and specify restrictions as to dollar amount or specific types of goods and services.</p>			
General Delegated Authority:	<p>Effective January 1, 2013 and unless otherwise exempted by law, agencies are delegated authority for the procurement of goods and services according to the criteria outlined in the table below. This delegation is independent of the funding source for the procurement. When projecting contract values, agencies should do so in a manner that is true to the intent of these thresholds.</p>			
	Agency Size	Commodities (projected amount per purchase event)	Services (projected amount of initial contract term)	Information Technology (projected amount of the initial contract term)
	*Micro (Less than 50 FTEs)	\$50,000	\$50,000	\$50,000
	*Small (50 – 200 FTEs)	\$50,000	\$250,000	\$250,000
	Medium (201 – 500 FTEs)	\$50,000	\$500,000	\$500,000
	Large (more than 500 FTEs)	\$50,000	\$1 million	\$1 million
<p>*The delegation to micro and small agencies is limited to those agencies that have “dedicated procurement professionals” performing agency procurements. If the agency does not have procurement professionals on staff, the agency will need to contact DES to obtain its interim authority.</p>				

<p>Additional Delegated Authority</p>	<p>Agencies have unlimited delegated authority when purchasing directly from a “qualified master contract”.</p> <p>If a master contract requires a second tier competition, agencies delegation of authority is:</p> <ol style="list-style-type: none"> 1) Unlimited when the contract requires DES to conduct the second tier competition; or 2) Limited to the delegation set forth above if the agency will be conducting the second tier competition.
<p>Additional Requirements:</p>	<ol style="list-style-type: none"> 1) Agencies must use existing “qualified master contracts” unless the contract cannot justifiably satisfy agency needs. 2) Agencies must satisfy all applicable Washington State procurement requirements when conducting procurements within their delegated authority. 3) Agencies may implement further restrictions or requirements at the agency level. 4) Agencies must notify DES in advance regarding procurements that may exceed the agency’s delegated authority. DES will consult with the agency to determine whether to conduct the procurement, monitor the agency conducting the procurement or delegate full authority to the agency to conduct the procurement. 5) For contracts that include a combination of goods and services, apply the category threshold that represents the predominant category for that procurement. For example: <ul style="list-style-type: none"> A Medium sized agency will be contracting for a combination of goods (\$40,000) and services (\$60,000) for a combined value of \$100,000. Because this contract is predominately services (\$60,000) and the value is below the delegated threshold for that category, the agency can proceed without further involvement of DES. If these values were reversed (\$60,000 goods, \$40,000 services totaling \$100,000), the contract would be predominately goods. Since the value of the goods exceeds the threshold for that category, the agency would not have delegated authority and would need to engage DES.
<p>Information Technology Procurements:</p>	<p>Chapter <u>43.41A</u> RCW provides the Office of the Chief Information Officer (OCIO) authority over <u>the types of</u> information technology (IT) goods and services agencies may acquire.</p> <p>Effective January 1, 2013, DES under Chapter <u>39.26</u> RCW will establish <u>how</u> goods and services are to be acquired.</p> <p>Therefore, in addition to DES delegated authority, agencies may also be required to receive OCIO approval for certain IT goods and services as required by OCIO <u>Policy #121</u>. Agencies should coordinate with their assigned <u>OCIO consultant</u>. DES will also be available to assist agencies.</p>

<p>Additional Delegated Authority Requests</p>	<p>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:</p> <ol style="list-style-type: none"> 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.
<p>Compliance:</p>	<p>DES may at any time and at its discretion withdraw or modify an agency’s delegated authority based upon its procurement compliance, performance, and/or risk profile. Agencies are encouraged to implement agency-wide requirements and processes that best ensure that the agency conforms to applicable procurement requirements.</p>
<p>Exemptions:</p>	<ol style="list-style-type: none"> 1) Institutions of Higher Education having independent purchase authority under RCW <u>28B.10.029</u>. 2) Emergency Purchases that qualify under RCW <u>39.26.130</u>. 3) Exemptions as outline under RCW <u>39.26.100</u>. 4) Interagency agreements. 5) Interlocal agreements.
<p>Definitions:</p>	<p>“<u>Dedicated procurement professional</u>” means a state employee possessing the knowledge, skills, and abilities through training and education who is able to develop and draft transactionally relevant procurement and contract documents to support agency operations.</p> <p>“<u>Qualified master contracts</u>” means:</p> <ol style="list-style-type: none"> 1) DES Master Contracts. 2) Cooperative contracts that conform to all applicable Washington State procurement laws, rules, policies and trade agreements. <p>“<u>Information technology</u>” under RCW <u>43.41A.006(8)</u> includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines. DES will be coordinating with the OCIO to provide additional clarification.</p>

FAQs:	<p>Q1: How is delegated authority to be applied to a project that may include multiple contracts?</p> <p>A: For those projects that warrant the creation of multiple contracts, the dollar value of each contract will determine which delegated authority applies.</p> <p>Q2: How are procurements that are already underway to be handled once chapter 39.26 RCW becomes effective on January 1, 2013?</p> <p>A: The applicable procurement authority in existence prior to January 1, 2013 will apply to procurements that were advertised prior to January 1, 2013 but have not been awarded. All applicable procurements advertised after January 1, 2013 must comply with chapter 39.26 RCW.</p>
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