

Policy Number 2013-006
Central Procurement Office
Delegation of Authority Policy

Effective: August 22, 2013
Last Amended: September 14, 2015
Prepared by: The Central Procurement Office of the State of Tennessee

1. Purpose.

To establish conditions under which the Chief Procurement Officer, with the approval of the Comptroller of the Treasury, may delegate authority to State Agencies to issue, execute, and manage contracts, purchases, grant contracts, or loans.

2. Scope.

This policy applies to all contracts, purchases, grant contracts, or loans that are issued pursuant to the delegated authority application process.

3. Definitions.

For purposes of this policy, the following terms shall have the meanings described below:

“Agency” - means each State board, commission, committee, department, officer, or any other unit of State government.

“Contract” - means any duly authorized and legally binding written agreement or purchase order for goods or services by and between the State of Tennessee and any person or any separate entity with the independent legal capacity to contract and sue and be sued.

“Central Procurement Office” - means the State office established and empowered by Tenn. Code Ann. § 4-56-104.

“Chief Procurement Officer” - means the official as defined by Tenn. Code Ann. § 4-56-104.

“Delegated Authority” - means approval given by the Chief Procurement Officer and the Comptroller of the Treasury to a State Agency to purchase goods or services or execute contracts within specified limits and guidelines.

“Delegated Grant Authority” - means approval given by the Chief Procurement Officer and the Comptroller of the Treasury to a State Agency to execute grant contracts for an individual program within specified limits and guidelines.

“Delegated Loan Authority” - means approval given by the Chief Procurement Officer and the Comptroller of the Treasury to a State Agency to loan funds and to enter into loan agreements with contracting parties in accordance with a State or federally funded program.

“Delegated State Agency” - means a State Agency that has received approval from the Chief Procurement Officer and the Comptroller of the Treasury to purchase goods or services, execute contracts, including revenue or no-cost contracts, execute grant contracts, or make loans for an individual program within specified limits and guidelines.

“Purchase Order” - means a document issued by the Central Procurement Office or a State Agency to a contracting party authorizing a purchase. Upon delivery to the contracting party, a “purchase order” becomes a binding contract on both parties.

“Special Delegated Authority for a Declared Disaster” - means approval given by the Chief Procurement Officer and the Comptroller of the Treasury to the Tennessee Emergency Management Agency to execute grant contracts related to a specific federal or state declared disaster.

“State” - means the State of Tennessee, including its departments, agencies, and entities that fall under its purview.

“State Building Commission” or “SBC” - means the entity created pursuant to Tenn. Code Ann. § 4-15-101.

“State Agency” - means the departments, agencies, and entities of the State of Tennessee.

“Statewide Contract” - means a contract for goods or services established by the Chief Procurement Officer that all State Agencies must utilize and that may be used by local governments, higher education, and certain not-for-profit entities under Tenn. Code Ann. § 33-2-1001.

4. Delegated Authority - Generally.

In no event shall a State Agency initiate a purchase, contract, grant contract, or loan agreement under a delegated authority until the Chief Procurement Officer and Comptroller of the Treasury approve the delegated authority application. An approved delegated authority application shall remain in force and effect for no more than twelve (12) months unless an approved Rule Exception Request is obtained using the Rule Exception Request for the DA or DG templates document. Amendments to a delegated authority must use the Delegated Authority Amendment Model prescribed by the Central Procurement Office and must be approved by the Chief Procurement Officer and the Comptroller of the Treasury. An approved delegated authority application may be revoked at any time if the Delegated State Agency fails to comply with State or federal law, or with Central Procurement Office rules, policies, and procedures.

5. Delegated Authority Types Covered by This Policy.

This policy applies to any Delegated Authority, Delegated Grant Authority, Delegated Loan Authority and Special Delegated Authority for a Declared Disaster.

5.1. Delegated Authority.

A Delegated Authority authorizes a State Agency to purchase goods or services or execute contracts for the specified program within the limits, guidelines, and conditions specified within the approved Delegated Authority. Use of a Delegated Authority is appropriate when the Delegated Authority's maximum liability is greater than fifty thousand dollars (\$50,000) or the goods or services being purchased are inappropriate for the use of the State Agency's local purchase authority. State Agencies shall not use a Delegated Authority to procure goods or services that are available on a Statewide or Agency Term Contract.

5.1.1. A Delegated Authority for purchases may be approved when:

- The need for goods or services is sporadic, and an advance determination of the volume, delivery, or exact costs of goods or services needed is not possible;
- It is impractical to award one or more fee-for-service contracts for the category of goods or services needed with compensation based upon unit or milestone rates;
- The program needs and general categories of goods or services are such that adequate guidelines can be developed to direct the State Agency in competitively making each purchase;
- All goods or services purchased can be delivered or performed in ninety (90) days or fewer or represent a single transaction, as provided in Central Procurement Office Policy 2013-004, Section 4.3.2;
- The procurement terms, conditions, and criteria to be followed by the agency in making each purchase will be of such uniformity that the Central Procurement Office's individual, independent, and prior approval of each purchase is unnecessary; and
- The purchases involved will be of such uniformity, volume, and pressing need that the individual approval of each purchase by the Central Procurement Office is impractical.

All purchases made under an approved Delegated Authority shall be made using purchase orders that include the terms and conditions specified in the Purchase Order Terms and Conditions Template.

5.1.2. A Delegated Authority for contracts may be approved when:

- The program needs and general categories of services are such that adequate guidelines can be developed to direct the State Agency in competitively executing a number of similar contracts;
- The individual contracts involved will be of such uniformity and standardization of processes, procedures, and contract terms that individual, independent, and prior approval is unnecessary and impractical; and
- All individual contracts executed will create a "contractor" relationship as defined in Central Procurement Office Policy 2013-007.

5.2. *Delegated Grant Authority.*

A Delegated Grant Authority authorizes a State Agency to execute grant contracts for a particular program or programs within the limits, guidelines, and conditions specified within the approved Delegated Grant Authority.

A Delegated Grant Authority may be approved when:

- The program needs and category of services are such that adequate guidelines can be developed to direct the agency in competitively or impartially executing a number of similar grant contracts; and
- The individual grant contracts involved are of such uniformity and standardization of processes, procedures, and contract terms that individual review and approval by the Central Procurement Office is unnecessary and impractical.

A Delegated Grant Authority shall set forth all provisions, including but not limited to selection criteria, required by the Central Procurement Office rules, policies, and applicable State statutes.

No changes shall be made to the terms and conditions of the grant contracts included within the approved Delegated Grant Authority without an amendment to the Authority.

5.3. *Delegated Loan Authority.*

A Delegated Loan Authority authorizes a State Agency to make loans and associated loan agreements for the specified program that are within the limits, guidelines, and conditions specified within the approved Delegated Loan Authority.

A Delegated Loan Authority shall set forth all provisions, including but not limited to selection criteria, required by the Central Procurement Office rules, policies, and applicable State statutes.

No changes shall be made to the approved loan and associated loan agreement form detailed within the Delegated Loan Authority without an amendment to the Authority.

5.4. *Special Delegated Authority for Federal or State Declared Disaster.*

A Special Delegated Authority for Declared Disaster is for Tennessee Emergency Management Agency (“TEMA”) use only. It authorizes TEMA to execute grant agreements related to funds awarded for the response to and recovery from a disaster formally declared by the federal government or the

Governor of Tennessee.

6. Delegated State Agency Requirements and Responsibilities.

Delegated authority applications must be signed by the State Agency head or authorized designee. Unless purchases, contracts, grant contracts, or loan agreements made or entered into under an approved delegated authority application are authorized by the State Agency head or his or her designee, they are null and void.

All purchases, contracts, grant contracts, and loans made or entered into under a delegated authority are subject to applicable Central Procurement Office rules, policies and procedures. The Delegated State Agency must use the current Central Procurement Office templates and models and maintain a procurement file for all purchases, contracts, grant contracts, and loans made or entered into under a delegated authority. All relevant documentation must also be maintained in Edison as appropriate.

The Delegated State Agency is responsible for ensuring that it does not exceed the scope of its authority delegation and that all conditions of the approved delegated authority application are met. Further, the head of the Delegated State Agency is responsible for ensuring all staff carrying out the terms of the approved delegated authority application are properly authorized and trained to perform the necessary tasks. The exercise of delegated authority shall not violate or circumvent state or federal law, executive orders, appropriations, or state rules, policies, and procedures.

Delegated State Agencies must develop written procedures for implementing approved delegated authority applications. A Delegated State Agency's procedures must comply with applicable Central Procurement Office rules, policies, and procedures and may contain more restrictive requirements than those specified by the Central Procurement Office. The Chief Procurement Officer may revoke a Delegated Authority at any time, at his or her sole discretion. The Chief Procurement Officer shall notify the Comptroller of the Treasury in writing of any such revocation.

Approvals or endorsements may be required for certain contracts depending upon the nature of the proposed contract scope of service. The Delegated State Agency must obtain signed approval or endorsement documentation and submit it with the delegated authority application to the Central Procurement Office and Comptroller of the Treasury. Required approvals and endorsements are indicated in the table below.

Contract Subject Matter	Required Approval or Endorsement
<ul style="list-style-type: none">Information technology	OIR Endorsement
<ul style="list-style-type: none">Medical/mental health-related professional, pharmaceutical, laboratory, or imaging	F&A eHealth Initiative Endorsement

<ul style="list-style-type: none"> • Contract between State Agencies that includes provisions for cooperative programs 	Governor
<ul style="list-style-type: none"> • Provision for State legal consultation services 	Attorney General ¹
<ul style="list-style-type: none"> • Contract with an individual; • Contract that involves training State employees (except training pursuant to an information technology system procurement); • Services relating to the employment of current or prospective State employees 	Human Resources Commissioner
<ul style="list-style-type: none"> • Contract that involves engineering or architectural services relating to an improvement (including demolition) to real property in which the State of Tennessee has an interest 	State Architect
<ul style="list-style-type: none"> • Delegation of procurement or contract authority by the Central Procurement Office; • Procurements for goods and services where authority exists under both the SBC and Central Procurement Office to procure and contract; • Auditing services; • Cooperative agreements as provided in Tenn. Code Ann. § 4-56-108(a)(4); 	Comptroller of the Treasury ²

¹ See Tenn. Code Ann. § 8-6-106.

² Pursuant to Tenn. Code Ann. § 4-56-108(b), without limitation of the audit authority of the comptroller of the treasury, the comptroller is authorized to examine any documents under the authority of the chief procurement officer.

<ul style="list-style-type: none"> • Fee-For-Service procurements or contracts with a maximum liability > \$5,000,000; • Grant contracts with a maximum liability > \$5,000,000; • Fee-For-Service procurements or contracts for new or replacement information systems and technical infrastructure projects for goods and services > \$500,000; • Procurements or contracts utilizing competitive or non-competitive negotiations with a maximum liability > \$250,000; • Revenue procurements/contracts; • No-Cost procurements/contracts; • Procurements/contracts with a term > 60 months (5 years); • Procurements/contracts that propose to limit liability to less than 2 times the maximum liability or revenue of the contract; • Procurements/contracts that propose to change the Records, Annual Report, Audit, or Monitoring clauses; • Procurements/contracts that allow for the negotiation of a necessary, mandatory, or standard contract clause; • Procurements allowing a cost proposal to be evaluated contemporaneously with or prior to the technical proposal evaluation; • Procurements/contracts containing an automatic price escalator; and • Such other procurements/contracts or other items as may be directed by the Central Procurement Office or the Procurement Commission. 	<p style="text-align: center;">Comptroller of the Treasury²</p>
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<ul style="list-style-type: none"> All requests to procure goods or services by negotiation with a single service provider (a noncompetitive contract) having a term of more than one (1) year or which contain term extension language authorizing a term of greater than one (1) year AND a cumulative value of \$250,000 or more 	Fiscal Review Committee ³
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Related Statutes, Rules and Policies

Tenn. Code Ann. Title 12, Chapter 3.

³ Pursuant to Tenn. Code Ann. § 4-56-107(b)(4), the Fiscal Review Committee, pursuant to its jurisdiction under § 3-7-103(a), is authorized to review any other State contract or contract amendment regardless of whether the contract or contract amendment meets these requirements.