

BUDGET LETTER

	NUMBER: 04-01
SUBJECT: GUIDELINES FOR INFORMATION TECHNOLOGY CONTRACT EXEMPTIONS AND EXEMPTION REQUESTS FOR THE CONTRACT, EQUIPMENT ACQUISITION, AND TRAVEL BAN	DATE ISSUED: January 16, 2004
REFERENCES: EXECUTIVE ORDER S-4-03; BUDGET LETTER 03-43	SUPERSEDES:

TO: Agency Secretaries
Agency Information Officers
Department Directors
Department Chief Information Officers
Departmental Budget Officers
Departmental Accounting Officers
Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

Budget Officers are requested to forward a copy of this Budget Letter (BL) to departmental Business Services Officers.

This BL provides departments with guidelines and instructions for information technology (IT) contract exemptions and exemption requests for the Contract, Equipment Acquisition, and Travel Ban established by Executive Order S-4-03 and discussed in BL 03-43.

I. Background

On December 5, 2003, Executive Order S-4-03 was signed to prohibit State Agencies and departments from (1) entering into any new contracts or agreements to lease or purchase equipment, and (2) entering into any new services contract or make any changes to an existing contract that would increase the amount or extend the term of any contract.

In addition, State Agencies and departments are required to cancel all plans for any non-essential trips such as seminars, conferences, or training until further notice.

Where permissible by law and regulations, all State Agencies and departments are ordered to disencumber non-essential contracts or purchase agreements funded from the General Fund, where goods and services have not been received, and to cancel the related contracts. Examples include, but are not limited to: publications, memberships, equipment upgrades, excess supplies, furniture, and remodeling activities.

The provisions of the Executive Order do not apply to the Legislative and Judicial branches of government or the Constitutional Officers of this State. However, these other branches of government and the Constitutional Officers of this State are invited to participate. In addition, the University of California and the California State University System are requested to consult with the Department of Finance (Finance) for the purpose of determining the appropriate level of savings in the current year, to implement the provisions of this Executive Order. Participation, however, should be limited to a level that will not interfere with meeting their educational mission.

Finally, BL 03-43, issued on December 5, 2003, provided State Agencies and departments criteria and instructions for exemption request review and approval. BL 03-43 identified IT contracts, as a category of contracts receiving exemption request consideration and indicated further instructions

regarding IT contracts may be forthcoming. This BL provides the IT contract exemption request instructions referenced in BL 03-43.

II. IT Contract Exemptions and/or Contracts to be considered for Reduction, Disencumbrance, or Cancellation

Finance recognizes the critical role of IT projects in assisting departments to meet their mandated program or service delivery requirements. Accordingly, specific IT contracts as described in #1 below are exempt from the ban, and others will be considered as exemption requests for approval at the department or Agency level or by Finance, as described in #2 or #3 below. In addition, IT activities and contracts funded by special funds, and for which a blanket exemption has been approved per BL 03-43, are exempt from the ban. Purchase Orders and Interagency Agreements are considered contracts for the purpose of interpreting this BL.

To assist with the State's current and projected budget deficits, departments are strongly encouraged to reduce, disencumber, or cancel all but the most essential IT contracts. Accordingly, departments should review their essential IT contracts for opportunities to reduce the contract cost and scope by eliminating any components that are not absolutely essential (e.g., technology refresh, training, travel, etc.). In addition, IT contracts or activities that are non-essential, or could be delayed without creating a significant impact to the delivery of state programs, should be considered for reduction, disencumbrance, or cancellation.

Finance has identified the following exemption categories and levels of review and approval authority for exemption requests related to IT expenditures.

- 1. Exempt IT Activities and Contracts:** Contracts required for ongoing support and operations of existing IT systems such as production systems maintenance and operations contracts and software license agreements are exempt from the provisions of the ban provided they do not exceed their last approved cost or scope by more than 10 percent. Current or future IT projects approved by Finance via a Feasibility Study Report (FSR), Special Project Report (SPR), budget action (e.g., Budget Change Proposal), or equivalent documents are exempt from the provisions of the ban provided they do not exceed their approved cost and scope by more than 10 percent. Contracts necessary for compliance with State IT oversight and security requirements are also exempt.
- 2. Exemptions Requiring Agency Review:** Contracts required to maintain the existing level of critical IT infrastructure (i.e., infrastructure resources not specific to a particular system, but necessary for the operation of existing systems), contracts for delegated IT projects under the department's Finance delegated IT cost threshold, and contracts for essential IT services (that do not exceed the last approved contract cost or scope by more than 10 percent) do not require Finance approval. Review and approval of these IT contract exemptions are delegated to Agency Secretaries. Agency Secretaries may delegate this responsibility to their department directors. For departments that do not report to an Agency, review and approval authority for this category of exemption requests is delegated to the department director. Delegations require auditable tracking.
- 3. Exemptions Requiring Finance Review:** IT contracts for activities that do not meet one of the above exemptions (such as technology refresh or software version upgrades), new contracts exceeding the department's Finance delegated IT cost threshold (unless exempted above), or contract extensions or amendments that exceed the cost or scope of the previous contract by more than 10 percent require Finance approval.

It should be noted that the provisions of Executive Order S-4-03, BL 03-43, and this BL 04-01 do not relieve the department from requirements to submit an FSR or SPR, as defined in the State Administrative Manual Sections 4800 through 4945.2.

III. Exemption Request Responsibilities

The exemption request form (DF-170) must be completed by the department receiving services from the contract and from whose funds the contract will be paid. If a third party, such as a state data center or another department via an interagency agreement or purchase request, is acting as an agent for the department in processing the contract; the department receiving the goods or service is responsible for ensuring compliance with the contract ban. State data centers and other third parties are not expected to process exemption requests on behalf of customer departments.

Exemption requests must be reviewed, approved, and signed by the department director, Agency Secretary or designee, and Finance if applicable, per the instructions in Section II, above.

Departments requesting an IT contract exemption from Finance for the Contract, Equipment Acquisition, and Travel Ban must receive approval on a Request for Contract, Equipment Acquisition, and Travel Ban Exemption Form (DF-170). Refer to BL 03-43 for instructions on completing the DF-170 form. An electronic version of the DF-170 is available on the Finance website, under Information for Government Agencies, Budget Analyst Guide, Forms Finance Budget (Departmental) at: http://www.dof.ca.gov/html/budlettr/forms/fin_form.htm.

Exemption requests for IT contracts must be submitted separately from exemption requests for other types of contracts. These requests must clearly identify their nature as related to IT. Please submit three hard copies of each IT contract exemption request to Debbie Leibrock, Chief, Technology Investment Review Unit. The electronic submission of forms (i.e., electronic mail) will not be accepted. Incomplete requests will not be considered and will be returned.

Questions regarding individual departmental IT Requests for Contract, Equipment Acquisition and Travel Ban Exemptions should be directed to your Technology Investment Review Unit Manager.

/s/ Veronica Chung-Ng

Veronica Chung-Ng
Program Budget Manager

Upcoming Budget Letters

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