

Georgia Department of Public Safety Policy Manual

SUBJECT CONTRACTS AND MEMORANDUM OF UNDERSTANDING	POLICY NUMBER 7.15
DISTRIBUTION ALL EMPLOYEES	REVISED DATE 6/4/2018
	POLICY REVIEWED 6/4/2018

7.15.1 Purpose

To establish a quality assurance procedure for the processing and review of Department contracts.

7.15.2 Policy

The Department of Public Safety (DPS) shall insure that all contracts and agreements are properly reviewed and authorized in compliance with Department policy and procedures and State law.

7.15.3 Procedures

A. Departmental Contracts

1. This policy and formal contract review must be followed when the Department seeks to purchase new or used goods or services that (i) involve expenditures of \$1,000 or more; or (ii) require a signature on behalf of the Department. The following expenditures are exceptions to this policy and do not require full or formal contract review:
 - a. Acquisitions through the DPS Procurement Office or Approved Federal Programs (1122). Goods and services acquired through the State procurement process or approved federal programs utilize pre-approved contract language. Thus, a Department member shall not agree to modify such contract language or accept the vendor's standard contract form, whether at inception or by renewal. To the extent that a modification exception becomes necessary, the formal contract review process shall be followed.
 - b. Leases and Subleases – Leases and subleases involve real property as vetted by the Georgia State Properties Commission, and do not require the signature of the DPS Commissioner. All leases and subleases must be submitted to Legal Services for a determination of legal sufficiency. A lease or sublease exceeding Departmental expenditures of \$1,000 requires the full formal contract review process, with final signature and approval by the Division Director. The member who obtains signatures on behalf of the Department shall forward an executed original and a scanned version to Legal Services.

- c. Items acquired with a requisition/purchase order (PO) or purchase card transaction. [POs and purchase card transactions are governed by policy #7.11 – Purchasing and Procurement.]
 - d. Gasoline
 - e. Utilities: Utilities also include other routine services, such as garbage, pest-control services and other similar routine services. Water purification systems and water coolers are not considered a utility. Thus, agreements for water purification systems or water coolers require formal contract review.
 - f. Vehicle repair costs of less than \$500.00 may be approved by the Post Commander/Unit Supervisor. The DPS Fleet Services Supervisor may approve vehicle repairs for \$500.00 to \$2,999.00. Vehicle repair costs of \$3,000.00 or greater must be approved by the Budget Director.
 - g. Aircraft Repairs required due to normal operation and regularly scheduled maintenance shall require prior approval through their chain of command.
2. Applicable contracts shall be forwarded through the chain of command to the appropriate Division Director for approval. However, before his or her approval, the Division Director shall utilize discretion and address any new concept or idea formulated by the contract with the DPS Commissioner. All contracts forwarded shall have the DPS-546 Contract Review Form attached to the front of the contract document with the appropriate information provided.
 3. If approved by the Division Director, the contract shall be forwarded to the Comptroller's office for budget review. All contracts forwarded shall have the Contract Review Form indicating the Division Director's approval attached. The budget office shall screen the contract for budgetary approval of available funds and compliance with billing and accounting procedures.
 4. If budgetary funds are not available, the contract shall be returned to the requesting party. The Contract Review Form shall indicate that the contract request was denied due to lack of funding.
 5. If budgetary funds are available, the Comptroller or his designee shall indicate on the Contract Review Form. The Comptroller or his designee shall also indicate on the Contract Review Form any recommended language to be added to the agreement to insure compliance with billing and accounting procedures; including providing for sufficient payment times and schedules and proper billing notification information such as the designated individual and addresses for sending invoices.
 6. Following review by the Office of the Comptroller, applicable contracts shall be forwarded to Legal Services for review. The contracts shall be forwarded with the original Contract Review Form which shall include the Division Director's approval and approval of the availability of funds and any recommendations for changes in contract language.
 7. Contracts shall be reviewed by Legal Services for legal sufficiency. Legal Services shall attach a memorandum of review if the contract is not legally sufficient or for making recommendations for modifications needed for legal compliance.

8. If the contract requires modification due to recommendations from either the office of the Comptroller or Legal Services, the contract shall be returned to the requesting party for review and drafting of modifications. Legal Services will be available for assistance in drafting modifications or to conduct further negotiation of terms with the opposing contractual party.
 9. Once an applicable contract has had budgetary approval and approval by Legal Services, Legal Services shall finalize the contract or review the finalized originals. Originals will be forwarded to the Commissioner or his designee for Command approval and signature. The Contract Review Form and Legal Services' memorandum of review shall be included for informational purposes.
 10. If the contract is already signed by the opposing contractual party, the contract shall be forwarded in duplicate to the Commissioner or his designee for signature.
 11. Once both parties have signed the contract, the contract is deemed executed. Upon signature, one executed original shall be forwarded to the Accounts Payable Manager. The executed original of an agency contract to purchase an item(s) from a vendor, the signed executed original shall be forwarded to the Purchasing Director. One executed original should be returned to the opposing contractual party.
 12. It shall be the responsibility of the Accounts Payable Manager to provide copies of the executed original to the member initiating the request for a contract and to Legal Services.
 13. All original contracts shall be retained by the Accounts Payable Manager for a period seven (7) years after contract expiration.
- B. Department Inter-Agency Memorandum of Understanding
1. All Inter-Agency Memorandum of Understanding (MOU) [also referred to as Memorandum of Agreement (MOA)] shall be forwarded through the chain of command to the appropriate Division Director prior to signing.
 2. Agreements approved by the Division Director shall be forwarded to Legal Services for review of the legal sufficiency of the agreement.
 3. Where legal modifications are required, the agreement shall be returned by Legal Services to the Division Director along with a memorandum outlining the recommended changes. Legal Services will be available, as requested by the Division Director, for assistance in drafting modifications or to conduct further negotiation of terms with the opposing contractual party.
 4. If the Inter-Agency MOU/MOA has any impact on the Department's budget or finances (including, payroll, accounting or asset forfeiture) then a copy of the proposal shall be sent by Legal Services to the Comptroller for review and approval. Any MOU having possible budgetary impact shall be submitted for review utilizing the DPS Contract Review Form (DPS-546). The MOU/MOA shall be sent by Legal Services to the Comptroller along with a copy of the Legal Service's memorandum of review. MOUs/MOAs having budgetary impact will not be executed without the approval of the Comptroller's office.
 5. An Inter-Agency MOU/MOA may only be signed by the Commissioner or his designee. MOU/MOAs should be executed in duplicate. The member who

obtains signatures on behalf of the Department shall forward an executed original and scanned version to Legal Services. (One executed copy is returned to the outside agreeing agency.) If the MOU/MOA has budgetary impact, an executed copy shall be forwarded by Legal Services to the Comptroller.

6. Legal Services shall retain all original MOUs/MOAs for a period of seven (7) years.