



STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF THE BUDGET
STATE CAPITOL
ALBANY, NEW YORK 12224

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Governor

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BUDGET BULLETIN	B-1184 REVISED	December 1, 2014
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TO: ALL DEPARTMENT AND AGENCY HEADS

FROM: Robert Megna *Robert J. Megna*

SUBJECT: Agency Contracts, Non-Personal Service and Capital Spending Controls

This Bulletin replaces Budget Bulletin B-1184 issued on November 14, 2013. It establishes revised guidelines for the implementation of agency Contracts, Local Assistance, Capital, and Non-Personal Service spending controls effective immediately.

Revised Agency Spending Controls

All State agencies must continue to implement the cost-control measures described herein. Pursuant to the thresholds contained in the *ASCA User Guide*, expenses requiring Budget Division and Executive Chamber review have been modified. Agency commissioners are accountable for all spending within their agencies and should ensure that purchases are prudent and remain critical for the agency's core mission. If agencies are showing difficulty remaining in their cash ceilings, stricter thresholds will be enforced.

All agency spending not involving Federal reimbursement of at least 75 percent or presenting an immediate threat to public health and/or safety (with the exception of out-of-State travel) is subject to a pre-approval process, using the Agency Spending Controls Application (ASCA). Those expenses not subject to pre-approval must be accompanied by an Agency Head/Designee attestation.

Contracts, Local Assistance Grants, Capital, and Non-Personal Service Expenditures Subject to ASCA Approval Process:

- 1. Contracts and Local Assistance Grants Received by OSC:** New contracts, existing contracts that are amended, modified, renewed, or otherwise changed (including but not limited to commodities, construction, rehabilitation, consultants, equipment, grants, land purchases, leases, printing, and services) and local assistance grants must receive the joint prior approval of the Division of the

Budget (DOB) and the Executive Chamber, including meeting the Minority and Women Owned-Business Enterprises (M/WBE) utilization goal as applicable, before submittal to the Office of the State Comptroller (OSC). Other agency approvals, normally required, must follow existing procedures and should precede this pre-approval process. In addition, agencies must obtain pre-approval before engaging in any aspect of the contractual process, including the issuance of requests for proposals or notices of funding availability. Contract Reporter exemption requests submitted to OSC, for single or sole source contracts, must also receive pre-approval prior to announcing actual awards for funding. Additionally, agencies must adhere to the specifications set forth in Budget Bulletin H-1032 titled "New York State Grants Reform" prior to approval. Any modifications or exemptions to the requirements for prior approval as described above will be identified separately by DOB.

2. **Capital Spending:** All capital commitments must receive strict scrutiny prior to advertising, letting and/or contracting. Any new capital commitments incurred will be subject to either pre-approval by DOB/Executive Chamber or Agency Head/Designee attestation. Examples of criteria to be considered before advancing new capital commitments should include: 1) potential for clear health and safety issues arising if a project is not advanced; 2) condition of essential infrastructure that if allowed to deteriorate would create a substantially higher cost to the State; 3) availability of significant Federal or non-State funding for projects; and 4) projects for which failure to complete will directly violate a court order or Federal, State, or local law.

3. **Non-Personal Service:** All non-personal service (NPS) expenses must receive strict scrutiny prior to purchase or procurement and all non-critical agency spending should be eliminated. Based on the thresholds set forth in the *ASCA User Guide* (available via the [Help link](#) in ASCA), all purchases or expenses incurred will be subject to either pre-approval by DOB/Executive Chamber or Agency Head/Designee attestation (see below). Any NPS spending requests subject to pre-approval must conform to one of the categories within the NPS type selection in ASCA (see Addendum 2).

Process for Expenditures/Contracts Subject to Pre-Approval (Attachment A)

Agencies must provide compelling justification for contracts, capital, local assistance grants and non-personal service expenditures describing the consequences should the request not be approved. Based on the thresholds contained in the *ASCA User Guide*, spending requests must first be submitted to DOB using ASCA Attachment A. Requests that have been approved by DOB and subsequently validated by the Executive Chamber will be available via ASCA to be printed and submitted by agencies with their contracts and other requests to OSC. Please note that all out-of-State travel requests, regardless of cost (including zero-cost), funding source, or any public health/safety issues, require Executive Chamber approval and will be processed as an Attachment A.

Process for Expenditures/Contracts Subject to Agency Head Attestation (Attachment B)

Agency Heads/Designees must provide an attestation via ASCA that:

- Federal government will reimburse the State at least 75 percent of the cost of the expenditure; and/or
- A capital or non-capital contract or non-personal service expenditure represents an immediate and demonstrable threat to public health or safety.

Please note that based on the thresholds contained in the *ASCA User Guide*, in-State travel requests will be processed as an Attachment B, regardless of funding source or impact on public health/safety.

Such spending must undergo rigorous internal agency scrutiny to ensure that Federal funding is prudently and effectively maximized, and health and safety issues are immediate. While these spending transactions are exempt from the pre-approval process, they must still be entered in ASCA. Agencies must then use ASCA to print Attachment B Agency Head/Designee attestation forms and provide the hard copy to OSC with each transaction.

Process for Minority and Women Owned-Business Enterprises (M/WBE) Only approval (Attachment C)

Based on the thresholds contained in the *ASCA User Guide*, certain requests require "M/WBE Only" approval. These requests will be reviewed by the Executive Chamber to ensure compliance with State Law and the Governor's goal of increasing M/WBE participation rates across State agencies. Once approved, these requests will be available via ASCA to be printed and submitted by agencies with their contracts and other requests to OSC.

Resources and Questions

Questions regarding this Bulletin should be directed to your agency's Budget Examination Unit.

Attachments

**Contracts – Addendum 1
(Examples of those Subject to B-1184)**

Following is a listing of contract types that have been identified within the Agency Spending Controls Application. These contract types must be used when making a contractual pre-approval request. Examples of contract types that would require an Attachment A pre-approval include:

Request Type	Examples
<u>Contracts - RFP/RFI</u>	Applicable pre-contractual requests
<u>Contracts - New</u> (non-Capital) (OGS Emergency Construction Program; Emergency contracts under Section 163 of the State Finance Law and Revenue contracts are exempt)	Contracts for Commodities and/or Services Information Technology (IT) Contracts Equipment Contracts Multi-agency Contract Collective Bargaining Training Contracts Centralized State Contracts- main contract; agency subcontracts Mini-bids against OGS Contracts Preferred Source Contracts Non - Real Estate Lease or Lease Purchase Agreements T-Contracts Standby Contracts (initial)
<u>Contracts - Amendment</u>	All changes in scope/condition, term (renewal/extensions) or value of commodities/services in a contract. Payments associated with unaltered pre-approved contracts or leases will not require additional pre-approval.
<u>NPS Leases</u>	Real Estate and Other Leases; Amendments to Real Property and Other leases; Real property and other lease escalation, holdovers, related transactions; IT equipment maintenance and repair; Other equipment leases; Building NPS repair; or Maintenance and repairs on small and large office equipment.
<u>Local Assistance Grants</u>	Discretionary Grants only
<u>Capital - Design</u> (OGS Emergency Construction Program; Emergency contracts under Section 163 of the State Finance Law and Revenue contracts are exempt)	Design Contracts
<u>Capital - Construction</u>	Construction Contracts Rehabilitation Contracts
<u>Capital - Change Orders/Other</u>	Construction and/or Non Construction Change Orders; all changes in scope/condition, term (renewal/extensions) or value of commodities/services in a contract.
<u>NPS</u>	See Addendum 2 for detail

Non-Personal Service Expenditures – Addendum 2

(Examples of NPS Subject to B-1184; requiring Attachment A)

Examples of NPS items that would require an Attachment A pre-approval include:

Request NPS Category	Examples
<u>NPS Purchase</u>	Food and beverage Office supplies Clothing and footwear Materials for manufacturing Supplies and tools for maintenance and repairs Printing supplies Moving expenses Furniture and furnishings Office equipment -- small and large items Regional/institutional equipment -- small and large items Communication/network equipment Personal computers (both desktop and laptop) IT printers (including scanners, servers, mainframes, etc.) Purchase Orders -- as applicable, requiring OSC review
<u>Out-of-State Travel</u>	Includes expenses for transportation (air fare; train fare; rental cars; personal car mileage, etc.) per diem; meals associated with travel; lodging; reimbursable incidental expenses, etc.
<u>Contractual Services</u>	Software/licenses; software installation/integration Software or hardware maintenance Legal services Advertising Accounting and auditing Laundry and linen services Building and property services Conferences, training, and memberships Security and clerical services External printing services Highway maintenance services Other services (e.g., exterminator or tree removal service)