

STATE CONTROLLER POLICY

PHASE I WAIVERS

- 1) **Phase I Waivers Definition.** Phase I waivers are contracts approved by the Office of the State Controller that are high volume, annually recurring contracts with identical fill-in-the-blank forms, where only the contracting party, dollar amount, and dates are subject to change. Changes to scope of work are not permitted in Phase I Waived contracts.
- 2) **Approval of Phase I Waivers-Agencies.** The Office of the State Controller will review and approve Phase I Waivers for State agencies and Institutions of Higher Education (IHEs) as outlined in the attached Procedures for Waiver of Central Contract Approval.

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State Controller

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PHASE I WAIVER PROGRAM PROCEDURE FOR WAIVER OF CENTRAL CONTRACT APPROVAL

- 1) **Purpose.** Recurring contracts based on single forms may not require processing by Central Approvers (State Personnel, State Purchasing, Attorney General, or State Controller). Central Approver functions can be performed by prior review and approval of recurring contracts possessing essentially identical provisions. Central Approvers will use the procedures in the Policy to waive eligible contracts from the central approval process.
- 2) **Scope and Limitations.** This Policy applies only to personal services contracts (agreements and grants are types of contracts), as defined below and applies only to approvals and routing requirements. It does not address delegations of authority, which are treated separately by each central approval official. All legal requirements for the selection and use of contractors must be met before Phase I Waivers are granted.
- 3) **Central Approval Authorities.** The central approval authorities and their roles and responsibilities, and the basis therefore, are as follows:
 - a) **Personnel (DHR):** The State Personnel Director determines whether contracts or purchase orders for services are permissible under State civil service laws. See CRS §24-50-509 and associated rules. For purposes of Personnel waiver, "contract" includes purchase orders.
 - b) **Purchasing (SPO):** The State Purchasing Director verifies that proper procedures have been followed in vendor selection. See CRS §24-102-202 and associated rules
 - c) **State Controller (OSC):** The State Controller's Office determines if a proposed commitment to pay money is properly documented and if available funds are properly set aside to pay it.
 - d) **Attorney General (OAG):** The Attorney General's Office reviews contracts for the State Controller (if requested by the OSC or if required by law) to verify that minimum legal requirements have been met.
- 4) **General Conditions of Approval.** The following Conditions apply to all waivers granted:
 - a) **Renewals.** All waivers granted before January 2008, shall be renewed hereunder. Unless otherwise stated, waivers are valid for five years from the date approved by the OSC or until there is a change in the law or program, whichever occurs first. If such changes occur, the Agency or IHE must identify the OSC, submit a new waiver application, and receive renewed authority to use the contracts or amendments on a Phase I Waiver basis. General State law or policy changes required by any or all of the central approvers and affecting large numbers of contracts will be handled on a case by case basis.
 - b) **Amendments and other Modifications.** Approval does not cover subsequent amendments unless the form and content of the amendment are approved as part of the original contract; provided however, that amendment forms may be submitted for separate waiver approval together with or after originating waived contracts are approved. Submissions shall include a request memorandum briefly explaining the need together with the form amendment and a copy of Part I of the contract waiver application. If Part II is inaccurate as a result of such changes, please submit a revised Part II as necessary. Agencies or IHEs wishing to incorporate other contract modification tools in their waiver requests should consult the State Controller's policy on, "*Modifications Of Contracts - Tools And Forms*" located on the OSC's website : www.sco.state.co.us.
 - c) **Extent of Approval.** The waiver applies only to the named program or contract type and approved contract form. **All changes to Waived Contracts require approval by the OSC** (until such approval, the changed contract is no longer waived and is subject to normal approval processes). Change submissions shall include a memorandum explaining the changes, a revised contract with the changes highlighted, and a copy of Part I of the approved contract waiver application. If Part II is inaccurate as a result of such changes, please submit a revised Part II as necessary.
 - d) **Special Conditions.** Waivers are subject to special conditions imposed by each central approving agency.
 - e) **Legal Review.** Only the OSC is authorized to grant a waiver of legal review, not the OAG. OAG approval is advice to the OSC and does not authorize action independent of the OSC.
 - f) **OAG Signature Line.** No one except an authorized attorney general may sign a contract on the line reserved for OAG approval. That line shall be left blank for waived contracts.
 - g) **State Controller Delegate Authority:** State law requires the State Controller or delegate to approve contracts to pay money. Waivers granted under this procedure are a limited delegation of the State Controller's function to the named individual at an Agency or IHE.

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- h) **DHR and SPO Delegated Authority.** Approval for personal services review by the DHR and for purchasing review by the SPO may be delegated by those divisions. If Agencies or IHEs have such delegation and the delegate approves a contract, DHR and SPO reviews for Phase I contracts are waived.
- i) **Files.** Agencies and IHEs shall maintain current waiver files, including a fully signed copy of each individual contract for the retention period mandated by State law. A photocopy of the approved waiver Application form, the accompanying list of contractors to which the waiver applies, and a copy of the Agency or IHE routing form showing required internal approvals shall be filed with each contract executed pursuant to the waiver. Agency and IHE contract files shall properly document required approvals. Agencies or IHEs may use an internally developed form to document required internal approvals.
- j) A completed Certification of Personal Services Contracts shall be submitted with each waiver application.
- 5) **Special Conditions of Approval.** Special Conditions may be imposed in addition to the General Conditions of Approval if waivers pose unique concerns for any Central Approver. If Special Conditions are imposed, they will be set forth in the approval.
- 6) **Application Form and Instructions.** The application form consists of two parts (please complete all applicable portions of each part). Part I contains General Information and space for recording the requested and approved waivers. This is the document Agencies and IHEs retain as evidence of all required approvals, along with the accompanying master list of all contracts covered by the waiver (See General Conditions of Approval 3(h)). Part II contains Agency or IHE supplied background information for the Central Approvers. Please use the forms available on the OSC website.
- 7) **Submission Information.** Send Waiver Applications to:

Hard Copies:	Electronic Copies
Office of the State Controller Attn: Central Contracts Unit 633 17 th St, Suite 1500 Denver, CO 80202	ccuadmin@state.co.us

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APPLICATION FOR CONTRACT ROUTING WAIVER

PART I - GENERAL INFORMATION

Instructions: Complete all items and submit one signed original and three copies, including four copies of the form of contract submitted for waiver. Submit one application for each contract form. Slight variations on a single basic program contract should be submitted under one application.

- DEPARTMENT: DIVISION OR INSTITUTION COFRS CODE (IF APPLICABLE) PROGRAM NAME: _____
- APPROXIMATE NUMBER OF CONTRACTS TO BE WAIVED PER FISCAL YEAR:
- DATE OF REQUEST: WAS THIS CONTRACT WAIVED PREVIOUSLY? YES NO . If Yes, list the #
- CONTRACT ADMINISTRATOR NAME (contact person): _____ PHONE: () - FAX: () - EMAIL:
- ADDRESS: Street City, CO Zip
- CONTRACT TYPE: Personal Services, Grant, Purchased Services, Professional Services, Other-List
Contractor/Grantee is (select all that apply) Inter-Agency, Inter-Governmental, Non-Governmental
(SEE Fiscal Rule 3-1 and OSC Policy entitled Categories and Identifiers for State Contracts.)

WAIVER REQUESTED

Check all that apply. **DO NOT** request a waiver for a function already fully delegated.
Example: Group II procurement agencies do not need a waiver from State Purchasing.

CENTRAL APPROVING OFFICE	CURRENT DELEGATIONS?	WAIVERS REQUESTED
State Personnel (DHR)	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
State Purchasing (SPO)	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
State Controller (OSC)	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>

AGENCY APPROVALS

CONTRACTS MANAGER or DIVISION DIRECTOR	DEPARTMENT OR INSTITUTION CONTROLLER OR EQUIVALENT
Name: _____	Name: _____
Title: _____	Title: _____
Signature _____	Signature _____
Date: _____	Date: _____
Phone: () -	Phone: () -

CENTRAL APPROVER	WAIVER APPROVED	SPECIAL CONDITIONS	AUTHORIZED REPRESENTATIVE
State Personnel (DHR)	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	_____ Signature _____ Date _____
State Purchasing (SPO)	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	_____ Signature _____ Date _____
State Controller (OSC)	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	_____ Signature _____ Date _____

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APPLICATION FOR CONTRACT ROUTING WAIVER

PART II - PROGRAM/CONTRACT SPECIFIC INFORMATION

- 1) **Instructions:** Please use a separate Word document to respond fully (This document is available as a Word form). Re-state each question before each answer. Attach a copy of the proposed contract form(s) and highlight contract text as necessary to answer the questions set forth below.
- 1) **Legal Authority, History & Purpose**
 - a. Specify the legal authority for the contract, including citations to relevant federal and state law.
 - b. Identify the specific procurement method and specific solicitation number (if any) used to award all such contracts. Attach a copy of the approved solicitation document. If the award is other than an RFP or Bid, attach a copy of the written methodology approved by the appropriate procurement official.
 - c. Consult with HR department to identify the specific statutory section under CRS §24-50-501 et seq. (privatization statute) authorizing the contracts. Complete and submit a Certification of Personal Services form or present waiver as applicable.
 - d. Provide a narrative description of the program (if applicable) and contract, including its history and purposes. For general contracts not attributable to a particular "program" (e.g., equipment maintenance), please provide details as to how the contract is used, and any history necessary to fully understand the need and present use.
 - e. If there are form variations on the same basic contract, explain the exact differences in contract text and usage. Highlight differing contract provisions. Do not include scope of work variations.
 - f. Affirm that the scope of work will always be identical in each contract or explain how it will differ.
- 2) **Fiscal**
 - a. Identify the source of funding (statutory or otherwise) and total dollar amount of all contracts for the applicable fiscal year.
 - b. Indicate Fund Number and Appropriation Code or G/L Account
 - c. If requesting waiver of individual contract encumbrances, State Controller approval is required and will only be granted if it is not possible to estimate the starting encumbrance for each contract. Obtain, complete, and submit the OSC encumbrance waiver request form. Each contract must include the maximum funding provision set forth in Fiscal Rule 3-1. Insert the maximum dollar amount appropriated and budgeted amount for the particular group of contracts involved. Where Agencies can estimate a starting encumbrance, but also anticipates mid-contract changes to such encumbrances, a simplified, waived amendment form should be included in the contracts to quickly amend individual contracts and encumbrances as needed. See the State Controller's Policy entitled "*Contract Modifications*," and Fiscal Rule 3-1.
 - d. If requesting permission to make advance payments, State Controller approval is required and the information concerning the following is required:
 - i) the historical use of advance payments in such program or contracts,
 - ii) any applicable federal or state laws authorizing or requiring advance payments,
 - iii) the nature or type of entities receiving advance payments (e.g., public, private, non-profit, for-profit),
 - iv) the standards used in determining when to authorize advance payments,
 - v) any other relevant information that may aid the State Controller's decision to approve the advance payments request.
- 3) **Miscellaneous**
 - a. Has the contract involved been waived previously (Yes No)? If Yes, identify all previous years and include a copy of the most recent year's waived contract form. Attach an explanation of exact changes (if any) in the current form submitted for waiver and highlight changed text in the new and old forms.
 - b. Specify procedures followed to ensure that each contract will be properly signed by authorized representatives of each contractor, as described in the OSC Policy entitled "*Vendor Signature Authority*"
 - c. Specify procedures followed to ensure consistency in the review and final execution of contracts.