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Jonathan Miller
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MEMORANDUM

TO: Cabinet Secretaries
Agency Heads

FROM: Jonathan Miller 
Secretary

DATE: January 25, 2008

SUBJECT: Implementation of Executive Order 2008-011

This is to follow up on my memorandum of January 10, regarding the Governor's Executive Order to reduce costs. This additional guidance is being provided to implement the Order's provisions regarding contracts and purchases.

Under the previously established procedures, the Finance and Administration Cabinet (FAC) will continue to review agencies' procurements of equipment, commodities, services, and leased space. However, the types of purchases being reviewed have been broadened, and the scrutiny of the proposed spending will be heightened.

1) **General Process.** In order to make this process as efficient as possible, a new Request Form has been designed. The "E.O. 2008-11 Request Form" will replace the letters and memos and the CAF (Computer Acquisition Form) that agencies had been submitting for approval of all purchases. The submittal process is as follows:

- a. All information technology (IT) requests should be electronically submitted on the Request Form to: COT.ComputerAcquisitions@ky.gov.
- b. All non-information technology requests should be electronically submitted on the Request Form to: Finance.EO2008-11@ky.gov.

FAC review occurs weekly on Thursdays -- requests must be received by noon on Wednesdays.

2) **Threshold for Approval.** The Request Form is designed to permit agency submittal of all types of new and modified contracts, and any other procurement method for the acquisition of items or services. The form allows the agency to clearly state the circumstances and need for the proposed purchase, and to specify the planned approach for making the acquisition. The threshold for submission of requests for any contract or purchase is set at \$1,000. If the contract or purchase exceeds \$1,000, it must be submitted on the form. Agencies shall not use split purchasing, or any other methods, to artificially circumvent this requirement.

- 3) **Examples of Contracts.** Contracts and modifications to be submitted for review include any contract for professional or non-professional services, construction, leases, or commodities, when the contract exceeds \$1,000. Agencies shall obtain FAC approval prior to the issuance of any solicitation for such contracts. Memoranda of Agreement (MOA's) also require review by the FAC. Agencies are reminded that all PSC's for legal services must still be first approved by the General Counsel in the Governor's Office.
- 4) **Examples of Purchases.** Proposed purchases to be reviewed include equipment and furniture, delivery orders, KCI (Kentucky Correctional Industries) and Surplus Property purchases, vehicles, and all commodities and services. Replacement items, even for items that are "lost or damaged" are to now be submitted. Agencies must obtain approval prior to their submission of a procurement or payment document in eMARS. For purchases less than \$1,000, authority is delegated to each Cabinet Secretary or Agency Head to establish procedures for careful internal review and approval. In addition, purchases of Utilities (water, sewer, gas, electric, trash disposal, etc) will not require FAC approval. However, Cable TV service is still to be submitted, if the cost exceeds \$1,000 annually.
- 5) **Cabinet Secretary Approval.** All Request Forms, although electronically submitted, must indicate the personal approval from the appropriate Cabinet Secretary or Agency Head, and a signed hard copy of the document shall be maintained in the agency. When FAC approves, an electronic copy of such will be returned to the agency and must be attached to the eMARS document submitted to the Office of Procurement Services to execute the procurement (such as the DO or RQS). The requirements are the same if the purchase involves special authority awards -- PO, PO2, CTT, CTT2 documents --or direct payments (PRC's).
- 6) **"Blanket Waivers."** Recognizing that some contracts and purchases represent routine expenditure and are "non-discretionary" in nature, agencies may request a "blanket waiver" from recurring submittals. The Request Form provides agencies the opportunity to apply for a waiver from review and provide explanation and justification of the special situation. For instance, there may be specific federal or state statutory requirements that mandate disbursements through MOA's with other public entities, or the agency may have the need to make ongoing purchase of certain commodities, such as food items for Parks cafeterias. These must be specific and limited to clearly defined situations or programs.
- 7) **Steps after Approval.** FAC approval of a Request Form means the review required by the Executive Order has been completed, and the items or services have been authorized to begin the procurement process. It does not mean that any procurement rules are dispensed with. Agencies must procure these items or services with approved methods (i.e., Requisition, Order from Existing Agreements, Small Purchase, Agency Authorization, Approved Special Authority, etc).
- 8) **Procurement Cards.** ProCards shall not be utilized to circumvent the Executive Order and this approval process. If a purchase being made with a procurement card is for furniture or equipment or a purchase of like items over time totaling \$1,000 or more, the purchase must be submitted in advance on a Request Form.

The Executive Order, this memorandum, an electronic version of the E.O. 2008-11 Request Form, and detailed instructions for completing the Request Form will be posted on the FAC webpage at <http://www.finance.ky.gov>. This information and any updates will also be published in the eMARS newsletter. Additional requirements relating to the Executive Order's mandates on travel and printing will be provided in the next few weeks.