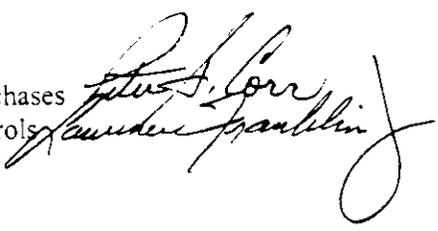


Department of Administration
MEMORANDUM

To: Chief Financial Officers

From: Peter S. Corr, Associate Director/Purchasing Agent, Division of Purchases
Lawrence Franklin, State Controller, Division of Accounts and Controls 

Date: January 8, 2002

Subject: **PURCHASE ORDER POLICY AND PROCEDURE**
REQUESTS FOR PAYMENT WITHOUT VALID PURCHASE ORDERS

With only a few exceptions (rent, utilities and final payment for conferences) all payments for the purchase of goods and services must have purchase orders. Purchase orders may be created by agency personnel under delegated authority, small purchase authority or releases against Master Blankets created by the Division of Purchases. All other purchase orders (those exceeding \$2500) must be created by the Division of Purchases based on requisitions prepared by agencies and authorized by the Budget Office (if over \$5000).

Some agency personnel have been using the RISAIL "Direct Pay" function for payments to vendors without following the above policy and procedure. Even if the agency believes that the vendor is a sole source for goods or services, a requisition accompanied by a sole source justification must be submitted to the Division of Purchases. If the Purchasing Agent determines that there is opportunity for competition, the Division will conduct a bid or Request for Proposals process before creating a Purchase Order or Master Blanket. If not, a purchase order will be issued to the suggested vendor.

You are reminded that State Law permits only the Chief Purchasing Officer to make sole source contract award determinations and that open competition results in the best value for taxpayers and the most fair opportunity for vendors. The General Assembly considers these factors to be key components of State Purchasing Law. To assure that these principles are followed, the General Assembly centralized the State's Purchasing authority.

[37-2-54(3)] No purchase or contract shall be binding on the state or any agency thereof unless approved by the Department [of Administration] or made under general regulations which the Chief Purchasing Officer may prescribe.

Furthermore, the General Assembly was clear that invalid transactions were unenforceable.

[37-2-13(6)] Contract provisions and contracts entered into in violation of state purchasing regulations shall be void "ab initio" [from inception].

Purchasing regulations promulgated pursuant to 37-2 are available at www.purchasing.state.nj.us under "Information." They state:

8.2.1.1 The terms and conditions of a valid Purchase Order and its supplements, as issued by the Office of Purchases and signed by the Purchasing agent or his designee, shall constitute the primary contractual instrument of the state.

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8.2.1.1.1 Unless specifically established by law, regulation or procedures published by the Chief Purchasing Officer, no other instrument shall constitute a state purchasing contract.

8.2.1.1.2 Oral Agreements - Any alleged oral agreement or arrangements made by a bidder or contractor with any agency or an employee of the Office of Purchases may be disregarded and shall not be binding on the state.

8.2.1.2.1 No state agency official shall have the right (capacity) to exercise purchasing contract authority through written or oral agreements or contracts or, in any other way, financially or otherwise obligate the State without the express written consent of the Chief Purchasing Officer.

8.2.1.2.2 No state agency may place orders or negotiate with suppliers or potential suppliers without the participation or express approval of the Chief Purchasing Officer.

Small Purchase Procedures are located in the same section under "Delegated Authority."

Until October, the Office of Accounts and Controls processed all direct pay invoices signed by authorized agents with the understanding that such payments were for purchases made in accordance with published procedures. Since the end of October, the Controller's Office has returned direct invoices which are not based on the above policy and procedure.

For payments to be authorized, agencies must cancel the Direct Pay Invoices and submit requisitions for these transactions to the Division of Purchases. All requisitions exceeding \$5000 must be approved by the Budget Office. Requisitions must be accompanied by:

1. A letter from the appropriate agency manager explaining why State Purchasing Regulations were not followed and outlining what procedures will be put in place to prevent future violations.
2. If applicable, any sole source justification.
3. A copy of any "order" sent to the vendor.
4. A copy of the invoice from the vendor.

Purchase orders will be issued to vendors who have acted in good faith, but they will be advised that, in the future, they are responsible for adhering to State law, and that future claims for payments for goods or services delivered without valid purchase orders may be considered "void *ab initio*."

Please share this information as soon as possible with appropriate members of your staff.

Thank you for your cooperation.

cc: R. Booth-Gallogly