

# Grants and Other Exemptions

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# Agenda

- History of Exemptions
- Overview of Non-Procurement Transactions
- Grants
- Payments Made Pursuant to Statute
- Resources


# History of Exemptions




- In 1985, then Attorney General Bronson La Follette issued an opinion indicating certain transactions are not purchases and exempt from the provisions of Subchapter IV of Chapter 16. In other words, these transactions are not subject to procurement rules and procedures.
- Those transactions include:
  - Awards under various grant programs.
  - Acquisitions of property or services by one State agency from another State agency.
  - Payments made pursuant to statute when only one provider is statutorily permissible, and the rate of reimbursement is set by statute.

# The Opinion in Summary

“The distinction between purchases and grants is essentially the difference between buying and giving.”



State purchasing statutes do not distinguish between grants and purchases, but it was clear the Legislature intended for such a distinction because various statutes use the words grants.



Because the Legislature has determined DOA is the State agency for purchasing under 16.71, any agency which is unsure whether a program is a purchase or a grant should submit the issue to DOA for its consideration and determination.

# The Opinion in Action

- Then DOA Secretary Doris J. Hanson issued a memo to all agency heads and purchasing offices with the following guidance:
  1. An agency that wants to exempt a grant or payment from procurement rules must prepare a letter to the SBOP Director.
  2. The letter must be signed by the agency purchasing officer who is the special designated agent certifying the program does not constitute a purchase.
  3. The request is reviewed by SBOP to determine appropriateness.
  4. Approved exemptions are certified back to the agency.
  5. Any new or modified programs can be exempted by following the same procedure.
    - No need for follow up certification unless changes are made to exempt programs.

# Why Does This Matter?



- The authority to exempt a program as a grant or payment made pursuant to statute does not come from statute or administrative code.
- There is not as much prescriptive guidance or processes for agencies to follow as there are for procurements which leaves room for interpretation by both the agencies and SBOP.
- Exemptions must be reviewed and approved on a case-by-case basis as there are many variables that must be considered.

# Non-Procurement Transactions

- The guidance issued 40 years ago is still relevant and covered in State Procurement Manual [PRO-503, Grants and Other Non-Procurement Transactions](#)
- The policy covers five types of non-procurement transactions:
  1. Interagency
  2. Intergovernmental
  3. Utilities
  4. **Grants**
  5. **Payment Pursuant to Statute**
- Today's presentation is focused on grants and payments made pursuant to statute.

# Non-Procurement Transactions

## Interagency

- Purchasing directly from a Wisconsin State agency as the supplier
- Does not require approval from SBOP

## Intergovernmental

- Purchasing directly from the federal government as the supplier
- Does not require approval from SBOP

## Utilities

- Payment to only one source because of regulated or natural monopoly (excludes telecom)
- Does not require approval from SBOP



# Grants



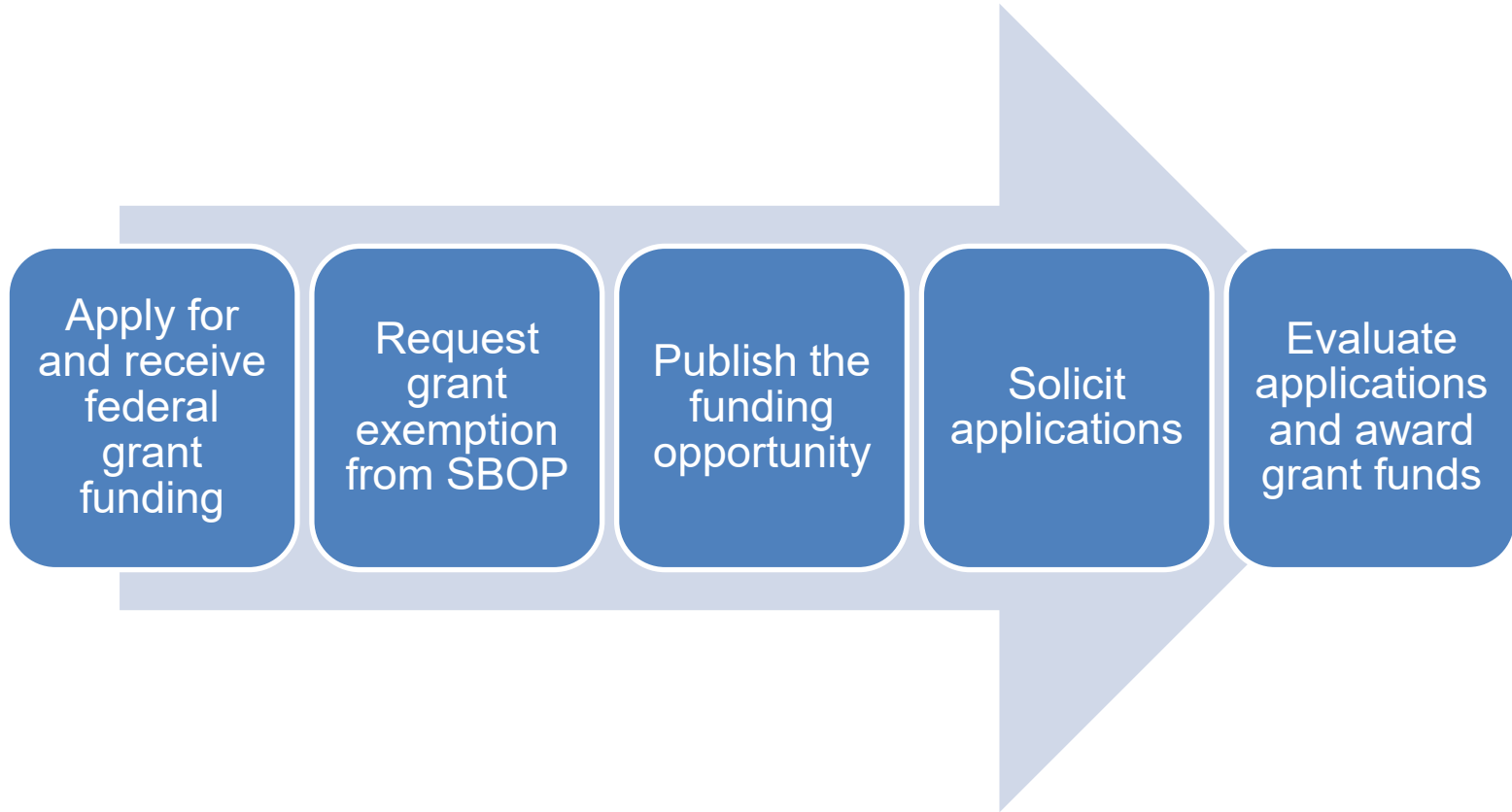
# What is a Grant?

- A grant is a transfer of things of value to the recipient to carry out a public purpose of support or stimulation as authorized by law.
- For something to be considered a grant, there must be no benefit to the State agency .
- Agencies must obtain approval from SBOP to exempt something as a grant.
- Exemptions remain in place for the life of the grant unless there are substantive changes.



***Receiving grant funds does not automatically exempt the expenditure of those funds from procurement rules.***

# Traditional Grant Process: “Pass Through”



# Grants – Selection Process



- Even though something is exempted as a grant, agencies must still use a transparent, fair and equitable process to select award recipients.
- The specific process will depend on the agency, grant requirements, funding limitations, etc.
- Some examples include:
  - Grant-specific Request for Proposal process (like Chapter 16 but without all the required elements)
  - Request for Application process

# When is a Grant Not a Grant?

- **Scenario #1:** The agency names the intended recipient when applying for the federal funding without having gone through a selection process.
  - The agency would be required to obtain approval via a Governor's sole source waiver.
- **Scenario #2:** The agency receives the funding and makes award decisions without going through an open selection process.
  - The agency would be required to obtain approval via a Governor's general waiver.



# Submitting Exemption Requests

Prepare a  
letter to  
SBOP  
Director

Address all  
requirements  
in DOA-3048  
Checklist

Include  
supplemental  
information

# Grant Exemption Letter



- Must be signed by the agency head or his/her designee and the Agency Purchasing Director (special designated agent).
- Explain the rationale used to determine the program is a grant.
  - Indicate how the program will carry out a public purpose.
- Concise explanation of the grant program.
- Statement of the public purpose of support or stimulation for the grant funds.
- Source of funding of the program.

*The certification Statement is supported by additional information in the letter to show there is no benefit to the agency/campus.*

# Grant Exemption Letter

- A description of the recipients of the funding.
  - Indicate who will be eligible to apply for the grant funding (i.e., municipalities, non-profits, school districts, etc.)
- A description of the process used to select the recipients.
  - Include how outreach will be conducted (i.e., posting notice on agency website, issuing surveys, etc.)



# Grant Exemption Letter

- A reference and concise description of the applicable State or federal statutes, rules, policies, procedures and/or regulations that govern the selection and distribution of fund recipients.
- These may be found in:
  - Federal Acquisition Regulations (FAR)
  - Code of Federal Regulations (CFR)
  - Office of Management and Budget (OMB) Circulars
  - Wis. Admin Code or Wis. Statute
  - Executive Orders
- Explanation of how requirements have been met.



# Grant Exemption Letter

- Statement that the funds do not directly benefit or will not be used by the requesting agency.
- Supporting documentation showing:
  - The applicable regulation or statute
  - Grant award letter
  - Grant announcement and/or application
    - If supporting documentation is not yet developed, provide a statement on how the opportunity will be announced and provide documentation when available.

***Reminder: The Special Designated Agent is responsible for ensuring the outlined selection process is followed and information is provided to SBOP when available.***

# Amendments

- If you need to make minor changes to an already approved grant exemption request, you might be able to submit an amendment request as opposed to a new exemption.
- Examples include:
  - Increased funding from the same funding source
  - Expanded grant term
- Be sure to reference the original grant exemption.
- Clearly explain what is changing.
- Include a Statement that no substantive changes have been made to the program including the scope, funding and eligible recipients.
  - Changes to these require a new request.

*Tip: Consult with SBOP before submitting an amendment to determine whether a new exemption request is more appropriate.*





**Using the Chat...**

**What Questions Do You  
Have?**



# Payment Made Pursuant to Statute

# Payment Made Pursuant to Statute

- Statute specifically permits only one provider to receive the funds, and the rate of reimbursement is set by statute.
- Agencies must obtain approval from SBOP to exempt something as a payment made pursuant to statute.



# Payment Made Pursuant to Statute Exemption Letter

- Must be signed by the agency head or his/her designee and the Agency Purchasing Director (special designated agent).
- Explain the rationale used to determine the program is a payment made pursuant to statute.
  - One provider is statutorily permissible and is named in statute.
  - Rate of reimbursement set by statute.
- Concise explanation of the payment program.
- Source of funding of the program.

# Payment Made Pursuant to Statute Exemption Letter

- A reference and concise description of the applicable State or federal statutes, rules, policies, procedures and/or regulations that dictate only one provider is statutorily permissible and the rate of reimbursement.
- Explanation of how requirements have been met (if applicable).
- A description of the recipients of the funding.
- Supporting documentation.
  - Applicable statute

*Tip: Include the applicable sections of the State or federal regulations/guidance (i.e., the first page and subsequent relevant pages).*



# Resources

- [PRO-504, Grants and Other Non-Procurement Transactions](#)
- [DOA-3048, Checklist for a Request for Exemption of a Grant or a Payment Made Pursuant to Statute](#)
- Visual Guide:  
<https://doa.wi.gov/ProcurementManual/Documents/GrantsNonProcVisualGuide.pdf> (next slide)

## Coming soon...

- An eLearning titled *Guide to Requesting Exemptions to Grants and Non-Procurement Transactions*

## GRANTS AND NON-PROCUREMENT TRANSACTIONS: A VISUAL GUIDE

Some purchases, either based on their nature, who they are with, or who they benefit, may be exempt from procurement rules. Before using this guide, first determine if it applies to you. This guide does *not* apply to you if:

- ✓ Good/service is covered by a mandatory contract
- ✓ Governed by special procurement rules (waivers (sole source or general); legal services; vehicles; printing)
- ✓ Your purchasing situation is not covered by the transaction types covered in this guide

My supplier is a state agency



**Interagency**

Spend with another State of Wisconsin agency, where they are your direct supplier, is not considered a procurement transaction. The notable exception to this is spend on signage from the Department of Corrections. All sign purchasing, even if the supplier is DOC, must be competitively bid if valued over \$3,500.

**Approval needed by State Bureau of Procurement?**  
None

My supplier is the federal government



**Intergovernmental**

With the notable exception of printing, payments made to the federal government for goods or services are not considered procurement transactions. They qualify as intergovernmental transactions under the authority of §16.75(6)(a), Wis. Stats.

**Approval needed by State Bureau of Procurement?**  
None

My supplier is a utility company



**Utilities**

Payment for utility services can be made to only one source, which is the only source as a result of a regulated or natural monopoly.

Telecom services are typically not able to be classified as utility payments because there is a competitive market.

**Approval needed by State Bureau of Procurement?**  
None

My agency received grant funds



**Grants**

Receiving grant funds **does not** automatically exempt the expenditure of those funds from procurement rules or a competitive process. There are conditions that must be met for grant spending to be considered exempt from procurement rules.

Who is the beneficiary or "user"?

If the agency itself is getting value from the good or service purchased with the grant funds, it is not eligible for exemption. Grants are transfers of things of value to recipients to carry out a public purpose of support or stimulation.

What is the selection process?

Many grants, particularly federal, will require the agency to follow their applicable or "local" procurement code to competitively select the recipients of the pass-through grant funding. Even if the grant is exempted by the Bureau from Ch. 16 processes, agencies still need to follow a competitive selection process unless the federal grant announces a specific entity or organization.

**Approval needed by State Bureau of Procurement?**  
Yes. See PRO-504, Grants and Other Non-Procurement Transactions

My agency is making a payment set by state statute



**Payment Pursuant to Statute**

If a payment needs to be made because state statute specifically permits only that provider to receive the funds, and the rate of reimbursement is set by state statute, it is considered a non-procurement transaction. However, it must be exempted first.

**Approval needed by State Bureau of Procurement?**  
Yes. See PRO-504, Grants and Other Non-Procurement Transactions

# Questions?

**November 12, 2025: 12:30 – 4:00 pm**

12:30 – 1:30 pm	General Session	Welcome, State of State Procurement – Cheryl Edgington & Becky Hoefs, State Bureau of Procurement		
1:30 – 1:45 pm	Break			
	Workshop A	Workshop B	Workshop C	
Breakout Session 1 1:45 – 2:45 pm	IT Best Practices	Understanding Grants and Other Exemptions	STAR Procurement in Progress: Enhancements, Insights, and What’s Next	
2:45 – 3:00 pm	Break			
Breakout Session 2 3:00 – 4:00 pm	Get to Know the IT Team	Get to Know the Enterprise Sourcing Team	Purchasing Best Practices with CAPS	



# Thanks!