

# PROCUREMENT INFORMATION MEMORANDUM

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**Subject:** Large, High-Risk IT Project Contract Review and Approval Process

## I. REFERENCE

Wis. Stat. 16.973(13), (16)

## II. BACKGROUND

Wis. Stat. 16.973(13) requires DOA and executive branch agencies that have the authority to enter into contracts for materials, supplies, equipment, or contractual services with vendors of information technology to include in such contracts that “involve a large, high-risk information technology project as defined by statute or that has a projected cost greater than \$1,000,000” a stipulation requiring the vendor to submit to DOA for approval “any order or amendment that would change the scope of the contract and have the effect of increasing the contract price.” The stipulation must authorize DOA to review the original contract and the order or amendment to determine whether the work proposed in the order or amendment is (1) within the scope of the original contract, and (2) necessary, and if necessary, to negotiate with the vendor regarding any change to the original contract price.

## III. PURPOSE, OBJECTIVES

The purpose of this PIM is to:

- Describe the process that executive branch agencies will follow to submit to DOA for review and approval any contracts that involve a large, high-risk IT project as defined by the Division of Enterprise Technology in December 2021.
- Describe the process that executive branch agencies will follow to submit change orders and amendments for contracts that involve a large, high-risk IT project.

The following list includes, but is not limited to, document types that are considered contracts for the purposes of this process:

- Contract
- Participating Addendum
- Engagement Agreement
- Statement of Work
- Purchase Order (when the Purchase Order serves as a contract)

The objectives of this process are to ensure compliance with state statute and to provide better consultation with agencies for these types of contracts.



#### **IV. REVIEW AND APPROVAL OF NEW CONTRACTS**

1. Agencies will submit a request for DOA review of a new contract that involves a large, high-risk IT project using the Procurement Request Portal.

The scope of agencies' large, high risk IT projects will be documented in the Large, High-Risk IT Project Report submitted to the legislature per Wis. Stat. 16.973(16). Contracts involving large, high-risk IT projects are contracts that are entered into solely for the purpose of supporting or servicing the objectives of a large, high-risk IT project.

2. The State Bureau of Procurement (SBOP) will review agency requests and contracts to determine the:
  - Appropriate procurement authority;
  - Inclusion of a provision that requires the vendor to submit to DOA, via the contracting agency, for approval any order or amendment that would change the scope of the contract and have the effect of increasing the contract price;
  - Contract scope aligns with the scope of the solicitation (or waiver); and
  - Contract costs are in line with proposal/bid or do not exceed amount approved via waiver.
3. Once approved by SBOP, requests/contracts will be reviewed by the Division of Enterprise Technology (DET).
4. Agency requests that are approved by both SBOP and DET will be routed to the DOA Secretary's Office for final approval.
5. SBOP will notify the agency of the request approval or denial.

#### **V. REVIEW AND APPROVAL OF CHANGE ORDERS AND AMENDMENTS**

1. Agencies will submit a request for DOA review of a change order or amendment for a contract that involves a large, high-risk IT project using the Procurement Request Portal.

All change orders and amendments to new contracts subject to review under section IV, as well as all change orders and amendments on existing contracts that were entered into solely for the purpose of supporting or servicing the objectives of a large, high-risk IT project listed in the Large, High-Risk IT Project Report submitted to the legislature per Wis. Stat. 16.973(16) will be subject to this process.

2. SBOP will review agency requests and change orders or amendments to determine the work proposed in the change order or amendment is within scope of the original contract and the work proposed in the change order or amendment is necessary.
3. Once approved by SBOP, requests and change orders or amendments will be reviewed by DET, if necessary.



4. Agency requests that are approved by both SBOP and DET will be routed to the DOA Secretary's Office for final approval.
5. SBOP will notify the agency of the request approval or denial. SBOP will work with the agency in the event the amendment/change order requires any negotiation with the vendor regarding any change to the original contract price.

**VI. ADDITIONAL RESOURCES**

[Large, High-Risk IT Project Definition](#)

[DOA-3730 Large, High-Risk IT Project Contract Review Request](#)

Appendix A Frequently Asked Questions (attached)



# Appendix A

## Large, High-Risk IT Contract Review Process

### Frequently Asked Questions

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#### General Policy

- 1. Is this policy for all IT contracts that the agency utilizes, including enterprise? For example, if I want to purchase over \$1M of IT equipment on contract and the need to do so meets the high-risk requirement, would I need to follow this process?**

This process is meant for all contracts that are entered into solely for the purpose of supporting or servicing the objectives of a large, high-risk IT project as well as IT contracts with a value of \$1,000,000. If the equipment or software is being purchased to support a large, high-risk IT project then it would be subject to this process regardless of amount.

If any singular purchase from an Enterprise Contract is over \$1,000,000, then that purchase would be subject to this process. If throughout the year an agency makes multiple purchases, that are neither over \$1,000,000 nor for the purpose of supporting or servicing the objectives of a high-risk IT project, then those singular purchases would not be required to go through this process.

- 2. Will this trigger for existing contracts where the price has already been negotiated but the contract has not yet been finalized?**

Yes. If you have a contract that would be subject to this process that hasn't been finalized by the effective date of this process, that contract should be submitted for review through this process.

- 3. Is there any wiggle on price increase? For example, the potential for allowing up to 5% overage or \$10,000, whichever is greater? I see some contracts changing minimally for some extra time (if done hourly) to do an activity or the cost of travel may have gone up (for a training element) in the meantime. All sorts of things like this could occur which are minor and incremental in the case of this. I think there should be some level of authority at the agency level for change orders/amendments or the change order needed must be on the actual IT hardware or software and not any maintenance, training, etc.**

There is no wiggle room on price increases based on the statutory language, so we won't be able to build that flexibility into the process. However, this is the type of feedback we'll use to propose revisions as we move through the process.

- 4. Is it agency procurement or agency IT's responsibility to monitor spend on a project to determine when it crosses the threshold into "high-risk IT project" status? Do you envision agency procurement staff typically depending on agency IT staff to apply the high-risk IT definition and do the reporting? How will this work in DOA for DOA projects?**

This is a difficult question for DOA to answer as each agency operates differently however, it seems that this will require collaboration between agency procurement and IT staff to accurately monitor spend on a project. Similarly, procurement and IT staff should work together to apply the definition.

In DOA, each division reports to DET any projects for inclusion on the large, high-risk IT project report. Each division is responsible for monitoring spend to ensure projects are appropriately reported.

- 5. In general, does this policy apply to annual maintenance? Is there any difference between the timespan when maintenance is under the original procurement contract vs. being purchased from a re-seller vs. on a waiver (perhaps because it's not available through a re-seller)? Are we in the same "project" for as long as we have the product, no matter how we're paying, if we're paying something for it? So, in addition to doing the annual IT waiver for some maintenance, that goes to the governor's office, agencies could be doing this process also?**

We would expect if we were still in implementation (like training after go-live, or dealing with high-level tickets after go-live) and have to pay maintenance triggered by go-live, that maintenance would be within scope of this policy. But if we are in annual maintenance mode, with the maintenance payments already locked-in via pricing terms that haven't changed and not adding additional licenses or asking for additional services – that regular annual maintenance for every renewal wouldn't necessarily need this review, right?

If we are going back into a project because the software needs an upgrade or to be moved to the cloud, etc. – then we'd be back in this policy, we understand. But if the maintenance payments just continue as-planned and something like that doesn't happen – what then?

Once the project is implemented the maintenance expenses don't trigger a new process provided the scope or expenses don't change in such a way that requires an addendum or a change order.

The impact of the cost of maintenance is part of the cost of the contract as a whole and does impact if the "greater than \$1,000,000" threshold is met.

- 6. I understand from our procurement staff that the existing VMS Contract is impacted by this process. At the beginning of the fiscal year, we have 80 contractors on a single contractor PO. If during the middle of the year 4-5 of those contractors are assigned to work on a high-risk project, what would we submit to DET from a VMS standpoint? I'm wondering if we should**

**only submit VMS POs to DET if the contractors were hired for the sole purpose of working on a high-risk project.**

If the cost for the purchase order that contains 80 contractors is greater than \$1,000,000, that purchase order would be subject to this process regardless of the projects those contractors will be assigned to. If the original purchase order does not exceed \$1,000,000 and during the middle of the year, the agency assigns any of those contractors to work on a project that falls within the definition of large, high-risk, the agency will be required to submit those contractors for approval through this process. The exact form for that submission will be determined based on what document the agency negotiates with the VMS supplier for that work.

- 7. Given the size of our agency, PC upgrades take over one year to complete. We use the state's Vanguard contract to purchase the PCs. While the objective of the PC upgrade project is to support "general agency operations," it's nevertheless high-risk. Would we submit the Vanguard contract to DET before the project begins?**

If the agency is purchasing the PCs from an existing state contract and the total cost exceeds \$1,000,000, the purchase would be subject to this review. In this case, the agency would not submit the enterprise contract with Vanguard for review under this process but likely the purchase order that is established for the purchase. If the agency signed a separate agreement with Vanguard under the authority of the state's enterprise contract, the agency would submit that agreement for review under this process.

- 8. The review process doesn't mention the possibility of excluding the stipulation. Will agencies still be able to use the process described in Wis. Stat. 16.973(13)(b) and PRO-508 Section IV.D., if the need arises?**

The exclusion process is still available to agencies and is included in PRO-508 which will be updated to include the role of the Joint Committee on Information, Policy and Technology.

- 9. What do you mean by the following language: "All change orders and amendments to new contracts subject to review under section IV, as well as all change orders and amendments on existing contracts that were entered into solely for the purpose of supporting or servicing the objectives of a large, high-risk IT project listed in the Large, High-Risk IT Project Report submitted to the legislature per Wis. Stat. 16.973(16) will be subject to this process."?**

**Does this mean that agencies will need to get approval on contract amendments that don't fall into the Large, High-Risk category, if there is any connection to a Large, High-Risk project?**

This statement means that agencies will be required to submit change orders and amendments on contracts that pre-date the new policy if the contract involves a large, high-risk IT project. In other words, even if the agency did not submit the original contract for review because the contract is in effect before the effective date of the policy and the contract involves a large, high-risk IT project, any change order or amendment issued against that contract would be subject to this process.

- 10. Do we have to amend a contract solely because it doesn't contain the needed/required language? Alternatively, do we wait until we have an amendment for another reason and add the language then?**

**If trying to add the language about needing DOA review for amendments to an existing contract negatively impacts negotiations/vendor relations, how should we proceed? Should we present an amendment for review in the Procurement Request Portal that does not have the language because we can't get the vendor to agree to it? Should we ask for the exemption described in statute at that point and skip the Procurement Request Portal steps?**

Agencies will not be expected to amend a contract because it does not contain the needed language, however agencies will be required to submit amendments or change orders for contracts that do not include the provision if the contract is subject to this review process. Changes in standard terms and conditions do not automatically trigger the need for an addendum. We understand changes in T&C's occur and we don't go back to every contract in place to amend them. Should a change be required due to a change in the climate, we would work with your agency and the vendor to work through the process.

- 11. How are MFD, Laptop, and PC upgrades viewed? These are ongoing purchases based on a replacement schedule. The total accumulated spend will often exceed \$250k. Do we need to track spend and go through the High-Risk IT Contract Review Process before we reach \$250k?**

Given the amount, these purchases will only need to go through the review process if they are purchased solely for the purpose of supporting or servicing the objectives of a large, high-risk IT project. If these purchases are made in support of general agency operations and no individual purchase exceeds "\$1,000,000," then they would not be subject to this process. If there is an equipment purchase solely for the purpose of supporting a large, high-risk IT project, the purchase would be subject to this process. Specifically, the contract document (most likely a purchase order in this instance) would be subject to this process.

- 12. There may be a situation where an agency used the re-seller contract to buy licenses, then decided to not do the discretionary cloud brokerage review, and then the first time DET is hearing about all this is at the high-risk IT review. The high-risk IT process needs to accommodate both situations where we've been talking to DET all along (and this is the 2nd or 3rd time they are aware of what we're doing, actually, by the time we get to high-risk IT review), AND situations where this is the first time they are seeing the info about the purchase. I don't think the reporting DET is capturing would always capture this because that reporting is only open for a certain timespan and not continuous. So, reporting may have already closed, and we need to report the purchase the next time it is open again. But we also need to proceed with the project.**

The large, high-risk IT contract review process in the Procurement Request Portal is a different effort than the annual high-risk reporting process. Once an agency is aware a project might meet the criteria for a large, high-risk IT project, then the process for reporting through the Portal needs to be initiated. There will be times where a project expands beyond what was expected.

For those situations where agencies have been working with DET on a contract or purchase that is subject to this process, agencies can note the point of contact or service request number in the "Notes" section of the submission.

**13. What are DET's review criteria?**

DET will be reviewing for the following:

- The work being proposed is in scope of the large, high-risk IT project.
- The work does not conflict with any existing enterprise service or direction.
- The work being proposed is necessary.

**14. How will this policy be monitored/audited?**

As time goes on and we understand more about the types of requests we are reviewing, we will be able to determine how best to monitor/audit agency compliance with the process.

**15. Will this impact the VMS Contractors contract? For example, we have several contractors for NetSuite Upgrades which is an ongoing IT Project which will be over 12 months. Will our agency need to get approval for the contractor costs associated with this?**

Yes. In this scenario, the VMS contractors are being utilized to support a large, high-risk IT project. As such, the document that DOC issues for that purchase will be subject to this process.

**16. Could you provide examples of contracts that are not for hiring an IT Contractor that you would need submitted for review through this process?**

Any contract that is entered into solely for the purpose of supporting or servicing the objectives of a large, high-risk IT project is subject to this process. That would include a contract for consultants that are hired for a large, high-risk IT project, or contracts for the purchase of hardware or software that will support a large, high-risk IT project.

**17. At the 1/26/22 DET meeting, agencies shared that the stand-alone criteria of "an IT project that is more than 12 months from start date to completion date" should be removed. We understood DET said they would remove it, but it's still listed. Will that stay or be removed?**

There have been no changes to the language at this time.

**18. Based on recent ITDC feedback, could the high-risk IT project definition be revised before the policy becomes effective or soon after?**

There have been no changes to the language at this time.

**19. Does this excerpt from the definition of high-risk IT mean a prior failure doesn't count against an agency as long as it happened in the maintenance period? "The agency failed to successfully complete a prior IT project with substantially similar business outcomes (excluding maintenance activities)."**



This component is only meant to capture failed project implementations, not maintenance activities.

**20. Regarding high-risk project determination, do you know if other agencies are including FTE labor costs as part of a project's total cost?**

As part of large, high-risk efforts that all IT-related staff (FTE, LTE, Contractor) costs should be included.

**21. Do we think an amendment to the Standard T's and C's is imminent or should we create our own language to put into solicitations? Does DOA have an example of such language they are drafting for use in an upcoming RFP?**

Changes to the Standard Ts and Cs (DOA-3054) are not imminent. We will need some time to work through this process to decide what is appropriate to update in the DOA Terms and Conditions.

**22. I'm not clear on how the DET approval process associated with the NASPO cloud solutions contract differs from the Cloud Brokerage process. Does the first trigger the second? Then if we go through one or both of those steps, does that meet all necessary requirements so we don't have to go through the High-Risk IT Contract Review Process?**

The cloud brokerage process; Large, High-Risk Contract Review process through the Portal; and the High-Risk IT reporting are different processes. One does not trigger the other. Regarding the requirement stated on VendorNet that agencies contact DET before purchasing from the cloud solutions contract, DET will evaluate the need to have agencies continue to contact DET as part of the contract.

**23. We leverage the VMS contract for staff augmentation to supplement our IT FTEs. Some of these contractors may spend some or all of their time working on a high profile project. Is there a percentage of time that VMS contract employee must spend working on a high-profile project for their PO to fall under the umbrella of this process?**

The guidance currently provided in the PIM considers whether the sole purpose of the contract (or in this case the engagement of contractors) is to support or service the objectives of a large, high-risk IT project, then these requirements apply. We don't currently have guidance specific to a contractor's percent of time spent on a large, high-risk project. In this case, DCF should consider the purpose for the RFS issued against the VMS contract when deciding.

**24. Are purchases/agreements, such as Microsoft EAs that are negotiated by DOA and could exceed \$1M for the 4-year term subject to this process?**

Yes. If the agreements are negotiated and signed by DOA, then it will be DOA's responsibility to ensure they are submitted for review through this process. If the EA is signed by the agency, then the agency will be responsible for submitting it for review through this process.

**25. Would multi-year lease agreements with a single vendor, and related to a mandatory contract, be subject to this process if no single device charge exceeds \$1M over its lease**

period, and the annual combined spend for all leases with the vendor does not exceed \$1M, but over any single device lease period (4 years) the overall spend with the vendor could exceed \$1M?

- a. **Example: We lease MFDs for individual 4-year periods (some may be on year 1 of 4, others year 2 of 4, etc.), and our overall spend with the vendor is >\$250K per year.**

If a single lease agreement with a vendor, regardless of how many years or devices it covers, exceeds \$1 million it is subject to this process.

- 26. If there are multiple purchases within a year for equipment which exceed \$1 million in total, does that require approval? If only \$800,000 is expected to be spent at the beginning of the year, but there are unforeseen additional costs that reach the \$1 million threshold later in the year? Do you report purchases forward from the date of the increase, or must you go back and report prior purchases?**

We are not looking at a cumulative total of multiple purchases within a year. If a single purchase exceeds \$1 million or a single purchase is made solely to support or service a high-risk project, the single purchase (or more specifically the document that supports the purchase) is subject to this policy.

- 27. Can you offer an example of standard language to use in contract documents?**

Pursuant to Wis. Stat. 16.973(13), Contractor is required to submit, via the contracting agency, to the Department of Administration for approval any order or amendment that would change the scope of the contract and have the effect of increasing the contract price. The Department of Administration shall be authorized to review the original contract and the order or amendment to determine whether the work proposed in the order or amendment is within the scope of the original contract and whether the work proposed in the order or amendment is necessary. The Department of Administration may assist the contracting agency in negotiations regarding any change to the original contract price.

- 28. Would special language need to be included on purchase orders where this criteria is met?**

The language provided in response to Question #27 can be placed in the notes of the purchase order.

## Procurement Information Memorandum (PIM)

- 29. Please clarify what this means in the PIM: “SBOP will notify the agency of the request approval or denial. SBOP will work with the agency in the event the amendment/change order requires any negotiation with the vendor regarding any change to the original contract price.” How can we renegotiate the original contract price when we’re seeking approval of an amendment that already changed the scope/price? It would seem to be too late. We could probably still negotiate the price for the new SOW but the original contract would already be said, done and paid at that point, right? SBOP would not ask us to go back and try to get a credit for prior work already done under the original contract, right?**

Statute authorizes DOA to negotiate directly with the vendor regarding any change to the original contract price when an agency submits to DOA for review a change order or amendment that would change the scope of the contract and have the effect of increasing the contract price before the amendment is finalized. Through this process, we are not asking agencies to renegotiate the pricing of the original contract but rather to consult on any subsequent change orders that would increase the original contract prices.

**30. If the reason we are doing a change order or amendment is because the original contract was not adequate in some respect, what does it mean for SBOP's review to include "the work proposed in the change order or amendment is within scope"?**

**About this part of the PIM – SBOP will review if "the work proposed in the change order or amendment is necessary." Does this mean that SBOP is going to make sure agencies really need the additional work described in the amendment? In other words, not agency governance but SBOP and DET. Does the word "necessary" constitute the statutorily required oversight?**

When we refer to in-scope we mean that the work being proposed was contemplated in the original solicitation (or other procurement method) and ties directly to the purpose of both the original solicitation and the resulting contract.

Statute requires DOA to determine that the work is necessary when reviewing and approving change orders and amendments. DOA will base this determination on the information provided by agencies in the request and through subsequent conversations with the agency, as needed.

**31. Section 2 of the PIM, last sentence – I read this as DOA would negotiate contract pricing for amendments or change orders. Is that a correct statement?**

That is a correct statement based on the statutory language. In practice, DOA would not negotiate directly with an agency vendor but rather provide support ranging from consulting with the agency on negotiation strategy to DOA participating with the agency in those negotiation conversations. The intent is for this to be a collaborative process.

**32. What will DOA be looking for when you say you are going to review contracts to determine the "appropriate procurement authority"?**

SBOP will be reviewing the procurement authority that resulted in the contract whether it was a solicitation, waiver, collective purchase, etc. SBOP will also ensure that all required steps were followed specific to the procurement authority. For example, if an agency has a contract that resulted from a Request for Proposal (RFP), we will ensure that the agency has an approved Procurement Plan on file.

## Request Form (DOA-3730)

**33. In Section 2, would you require a link of past projects provided to DET? Or are we starting this all now instead of looking for past information?**

No. This process is for new projects, however if a current project changes in scope and requires an amendment or change order, then it would need to be submitted via the Procurement Request Portal.

**34. In Section 4, if we put down the cost plus the renewals on the form, are we still obligated to come back again for review when we exercise the actual renewal? Even if the price was already established and nothing changed in scope – and we are just doing an amendment to exercise a pre-negotiated option that we already put on a prior form that was already reviewed?**

If all costs were identified during the initial contract review, agencies would not need to submit for review any amendments that do not change the scope or the cost of the contract.

## Procurement Request Portal

**35. Can our IT staff get access to the RPA System so they can handle the submitting of the requests?**

IT staff will likely have a significant role in preparing the request document that is ultimately submitted in the system, but we are limiting access to the system to procurement staff, similar to how we handle RPAs and Procurement Plans.

**36. Is there a different process for CAPS agencies re: entry into the Procurement Request Portal?**

CAPS agencies will submit the required documents to CAPS staff who will enter the request into the portal, just as they do for RPAs and Procurement Plans. We will be communicating this more widely to CAPS agencies.

**37. Is there a rush option?**

Yes. Agencies can choose a RUSH flag when submitting requests through the portal.

## Large, High-Risk IT Reporting to DET

**38. What happens if what we're running for high-risk IT review isn't on the report because it missed that deadline. Do we just report it the next time DET's portal is open for reporting and proceed with the purchase?**

Yes, the submission needs to go through this review process through the Procurement Request Portal.

Regarding the biannual process, the project should be reported per the policy; if the deadline is missed then it would move to the next reporting period.

- 39. I understand the IT reporting portal (DET's <https://doamilliondollaritreport.wisconsin.gov/>) will be open for submissions every 6 months, August for 1st half of current CY, and March for 2nd half of prior CY, and have periods where the portal is closed, and the data is cleaned out once the report is finalized. But the data that was already reported is available view-only, here: [https://detcc.wi.gov/Pages/ExecutiveBranch\\_Large\\_High\\_Risk\\_Reporting.aspx](https://detcc.wi.gov/Pages/ExecutiveBranch_Large_High_Risk_Reporting.aspx).**

**So, if a project starts in January, it wouldn't hit the report until August at the soonest. Meanwhile, the agency needs to negotiate a contract and run it through the Procurement Request Portal, and put on the SBOP form the project will be reported in a future reporting period, correct? (Because we are not going to wait until the portal opens for data entry again in August to negotiate the contract and begin implementation, correct?)**

The key is to keep the processes separate. You would enter the project into the Procurement Request Portal at the point it was developed enough to determine it met the criteria of a large, high-risk IT project.

At the point the biannual reporting for large, high-risk IT projects is due, then the project would be reported as part of that snapshot of a point in time.

- 40. And it would be commonplace, then, to answer Section 2 of the Request Form "No," correct? And state the future period of reporting?**

Correct.

- 41. Given that the IT reporting isn't going to be up-to-date lots of the time due to its inherent reporting windows that close, would agency procurement staff need to independently assess what fits the definition or falls into it (e.g., figure out a way to catch all the fish that need to go into the net as they are swimming)?**

**What tools would agencies use to accomplish that? For example, should we ask budget to get involved?**

The statutory requirement for reporting is capturing a point in time. What that picture looks like changes, so it is captured again six months later. Each agency will have to consider if their current process is working for them. In your example, your agency leans on their budget team, but a different agency may use a different mechanism.