

# IT POLICY LETTER

	NUMBER: <b>ITPL 11-02</b>
SUBJECT: <b>SERVICE CONTRACTS WITH INFORMATION TECHNOLOGY COMPONENTS</b> <b>Emphasis:</b> Compliance with Government Code Section 11546.4 for California Technology Agency review of service contracts with IT components.	DATE ISSUED: FEBRUARY 17, 2011 <hr/> EXPIRES: Until Rescinded
REFERENCES: Chapter 719, Statutes of 2010, (Senate Bill 856) Chapter 404, Statutes of 2010 (Assembly Bill 2408) Government Code Sections 11545 and 11546.4 Public Contract Code Section 1102 State Administrative Manual Sections 4819.2, 4819.31, 4819.32, 4819.37 and 4819.41 Statewide Information Management Manual Section 05A and 16	ISSUING AGENCY: CALIFORNIA TECHNOLOGY AGENCY

**DISTRIBUTION** Agency Secretaries  
 Agency Chief Information Officers (CIO)  
 Department Directors  
 Department Chief Information Officers

**PURPOSE** Chapter 719, Statutes of 2010, (Senate Bill 856), requires the Office of the State Chief Information Officer (OCIO) to review, approve, and provide oversight of information technology (IT) components within service contracts. In addition, Chapter 404, Statutes of 2010 (AB 2408), renames the OCIO the California Technology Agency (Technology Agency) effective January 1, 2011. The purpose of this ITPL is to:

- Establish a certification requirement for state agencies<sup>1</sup> regarding all proposed service contracts, including service contract amendments, to identify service contracts with IT components that may be subject to Technology Agency review, approval and oversight.
- Explain the process for determining when Technology Agency review of proposed service contracts and contract amendments is applicable.
- Provide updated content to the State Administrative Manual (SAM) and new content to the Statewide Information Management Manual (SIMM) to facilitate compliance with this policy.

**BACKGROUND** Within the authority of Government Code Section 11545, the Technology Agency has broad responsibility and authority to guide the application of information technology (IT) in California State government. This includes

<sup>1</sup> When capitalized, the term “Agency” refers to one of the state’s super Agencies such as the State and Consumer Services Agency or the Health and Human Services Agency. When used in lower case, the term “agency” refers to any office, department, board, bureau, commission or other organizational entity within state government. Within this ITPL, “agency” and “department” are used interchangeably.

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establishing and enforcing state IT strategic plans, policies, standards, practices, and enterprise architecture.

Chapter 719 adds Section 11546.4 to the Government Code (GC) which states:

*Notwithstanding any other law, any service contract proposed to be entered into by an agency that would not otherwise be subject to review, approval, or oversight by the office of the State Chief Information Officer but that contains an information technology component that would be subject to oversight by the Office of the State Chief Information Officer if it was a separate information technology project, shall be subject to review, approval, and oversight by the Office of the State Chief Information Officer as set forth in Section 11546.*

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## **POLICY**

Effective immediately, departments must complete and sign a Service Contract Information Technology (SCIT) Certification for all proposed service contracts and service contract amendments, however procured. The SCIT Certification is used to determine if IT components that are included in a proposed service contract or service contract amendment are subject to review and oversight by the Technology Agency. The SCIT Certification is in addition to the existing certification requirements in [SAM Section 4819.41](#).

The SCIT Certification has been added to the SIMM as Section 16A, and includes a step-by-step process for determining which department officials are required to sign the SCIT Certification, and the criteria for transmitting service contracts to the Technology Agency or directly to the DGS.

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## **PROCESS**

### **Early Engagement When Developing Service Contracts:**

Departments are advised to engage and consult with their respective CIOs early in the service contract development process for guidance in identifying whether a proposed contract contains IT components. Departments are directed to inform their Technology Agency Program Management Office (PMO) representative as soon as possible if it appears likely that the proposed contract will contain IT components that are not already subject to Technology Agency review, approval and oversight.

### **SCIT Certification Signature and Review Applicability:**

Department CIO signature and Technology Agency review is based on the following factors:

1. For service contracts that the department certifies as containing no IT components as defined in [SAM Section 4819.2](#).
  - a. Department CIO signature is not required
  - b. Technology Agency review and approval is not required
2. For service contracts that the department has certified as containing IT components excluded from the Technology Agency's authority as described in [SAM Section 4819.32, sub-sections 2, 3, 4, or 5](#):

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- a. Department CIO signature is required
  - b. Technology Agency review and approval is not required
3. For service contracts that the department has certified as containing IT components that do not meet the project reporting criteria as described in [SAM Section 4819.37, sub-sections 1, 2, 3, or 4](#):
    - a. Department CIO signature is required
    - b. Technology Agency review and approval is not required
  4. For service contracts that the department has certified as containing IT components that meet the project reporting criteria described in [SAM Section 4819.37, sub-sections 1, 2, 3, or 4](#):
    - a. Department CIO signature is required
    - b. Technology Agency review and approval is required

**Note:** IT goods and services, including contracts associated with a Feasibility Study Report (FSR) or FSR Reporting Exemption Request approved by the Technology Agency, would be procured using one of the IT contracting processes developed expressly for IT. Since these types of procurements are already subject to Technology Agency review and oversight requirements, completion of the SCIT is not necessary.

#### **SCIT Certification Submittal Instructions:**

Submit the contract package electronically as a scanned PDF, unless otherwise noted below, to the department's Technology Agency PMO representative. A listing of Technology Agency PMO representatives and their departmental assignments can be found at the Technology Agency Web site located at:

[http://www.cio.ca.gov/Contact\\_Us/staff\\_assignments.html](http://www.cio.ca.gov/Contact_Us/staff_assignments.html).

The contract package shall include the following:

- The completed and signed SCIT Certification.
- The completed proposed service contract, including the signed Standard Agreement Form 213 (STD 213), as well as all appendices, attachments and exhibits, submitted in Word, Excel, and/or PDF.

When naming each document, use **Org Code-SCIT-Service Contract ID Number-X of Y**, where:

- **Org Code** – Is the department's Organization Code.
- **Service Contract ID Number** – Is the identification number of the service contract as listed in the "Service Contract ID Number" box on page 1 of the SCIT Certification form.
- **X** – Denotes the number of that specific document.
- **Y** – Denotes the total number of documents included in the complete package.

For example, for a SCIT Certification and contract package

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containing two documents, name the first document **Org Code-SCIT-Service Contract ID Number-1 of 2**, and the second document **Org Code-SCIT-Service Contract ID Number-2 of 2**.

**SCIT Certification Review Determination:**

The Technology Agency will review the SCIT Certification and accompanying materials. For SCIT Certification approvals, the Technology Agency will provide a copy of the approved SCIT Certification to the submitting department. Any special conditions associated with the Technology Agency's approval of the SCIT Certification will be specified in a separate transmittal.

For service contracts requiring DGS approval, the Technology Agency's approved SCIT Certification serves as the department's notice to submit the proposed Service Contract and any other material, including the approved SCIT Certification, to the DGS in the quantity and format currently specified by the DGS.

For SCIT Certifications that are not approved, the Technology Agency will notify the department and the DGS, if applicable, and specify any special conditions in a separate transmittal.

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**DEFINITIONS**

For purposes of this policy, a service contract, as defined in Volume 1 of the State Contracting Manual (SCM), is a contract in which the contractor provides a duty or labor, as opposed to commodities or goods.

IT components include any of the following: IT Activities, IT Expenditures, IT Equipment, IT Procurements, and/or IT Projects, as defined in [SAM Section 4819.2](#).

An informational copy of the service contract definition from the SCM and the IT component definitions from the [SAM Section 4819.2](#) is included in this ITPL as Attachment A.

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**APPLICABILITY**

This ITPL applies to all agencies, departments, offices, boards, bureaus and commissions.

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**EMERGENCY EXEMPTIONS**

In the event of an emergency as defined in Public Contract Code section 1102, state agencies may conduct applicable acquisitions for IT goods and services with an aggregate value of \$25,000 or less without a SCIT Certification<sup>2</sup>. Such acquisitions may be conducted with concurrent notification to the Technology Agency.

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**SAM AND SIMM CHANGES**

SAM Sections 4819.31 and 4819.41 will be updated to incorporate the service contract certification requirements previously discussed. An advance copy of the SAM update is included in this ITPL as Attachment B.

The SIMM located at [http://www.cio.ca.gov/Government/IT\\_Policy/SIMM.html](http://www.cio.ca.gov/Government/IT_Policy/SIMM.html) has been updated to include the following changes:

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<sup>2</sup> An emergency is defined in Public Contract Code Section 1102 as a "sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services". SAM Section 6560 specifies that emergency expenditures cannot exceed \$25,000, unless approved by the Department of Finance.



## Existing Definitions

### STATE CONTRACTING MANUAL, VOLUME 1 EXCERPT:

**Service Contract.** A contract in which the contractor provides a duty or labor, as opposed to commodities or goods.

### STATE ADMINISTRATIVE MANUAL EXCERPTS:

#### Section 4819.2, Definitions

**Information Technology.** Information technology means all computerized and auxiliary automated information handling, including systems design and analysis, conversion of data, computer programming, information storage and retrieval, voice, video, data communications, requisite systems controls, and simulation. The term "information technology" is commonly abbreviated as "IT".

**Information Technology Activities.** Any activity listed below, or any combination of these activities for a single information technology project, is to be considered an "information technology activity."

1. IT facility preparation, operation and maintenance.
2. Information management planning.
3. Feasibility determination, development and implementation of application systems or programs, or changes to application systems or programs to meet new or modified needs, or maintenance, including: feasibility study preparation, systems analysis, systems design, purchase and installation of software, programming, conversion of data or programs, documentation of systems and procedures, and project appraisal or assessment.
4. Operation of application systems or programs including handling, assembling, or editing of input-output data or media where information technology equipment or information technology personnel are used.
5. Services or equipment received through an EDP Master Agreement (SAM Section 5207.5).
6. Acquisition, installation, operation, and maintenance of data processing equipment.
7. Other installation management activities including performance measurement, system tuning, and capacity management.
8. Preparation and administration of requests for proposals or bid solicitations for contracts for any of the above activities.
9. Preparation of contracts, interagency agreements, and purchase estimates for any of the above activities.
10. Employment of personnel in support of, or directly related to, any of the above activities, including: administration, technical services, clerical services, travel, training, and preparation of periodic and special reports.
11. Control functions directly related to any of the above activities.

**Information Technology Expenditure.** The expenditure of funds regardless of source by any state entity for information technology activities, equipment, facilities, personnel, services, supplies and the automated processing of information.

**Information Technology Procurement.** Any contract, interagency agreement or purchase estimate to conduct any activity listed below, or any combination of these activities is to be considered an "information technology procurement."

1. IT facility preparation, operation maintenance.
2. Development and implementation of application systems or programs, or changes to application systems or programs to meet new or modified needs, or maintenance, including: feasibility study preparation, systems analysis, systems design, purchase and installation of software, programming, conversion of data or programs, documentation of systems and procedures, and project appraisal or assessment.
3. Operation of application systems or programs including handling, assembling, or editing of input-output data or media where information technology equipment or information technology personnel are used.
4. Services or equipment received through an EDP Master Agreement. SAM Section 5207.
5. Acquisition, installation, operation, and maintenance of data processing equipment.
6. Other installation management activities including performance measurement, system tuning, and capacity management.
7. Employment of personnel in support of, or directly related to, any of the above activities, including: administration, technical services, clerical services, travel, training, and preparation of periodic and special reports.
8. Control functions directly related to any of the above activities.

**Information Technology Project.** A project that encompasses computerized and auxiliary automated information handling, including systems design and analysis, conversion of data, computer programming, information storage and retrieval, data transmission, requisite system controls, simulation, and related interactions between people and machines. Synonymous with IT project.

**IT Equipment.** Information Technology devices used in the processing of data electronically. The following are examples of IT equipment:

1. Central processing units (mainframes) and all related features and peripheral units, including processor storage, console devices, channel devices, etc.;
2. Minicomputers, midrange computers, microcomputers and personal computers and all peripheral units associated with such computers;
3. Special purpose systems including word processing, Magnetic Ink Character Recognition (MICR), Optical Character Recognition (OCR), photo composition, typesetting and electronic bookkeeping;
4. Communication devices used for transmission of data such as: modems, data sets, multiplexors, concentrators, routers, switches, local area networks, private branch exchanges, network control equipment, or microwave or satellite communications systems; and
5. Input-output (peripheral) units (off-line or on-line) including: terminals, card readers, optical character readers, magnetic tape units, mass storage devices, card punches, printers, computer output to microform converters (COM), video display units, data entry devices, teletypes, teleprinters, plotters, scanners, or any device used as a terminal to a computer and control units for these devices.

## Section 4819.32, Exclusions

For purposes of the IT Project Submittal and Approval Policy, the following are excluded from SAM Section 4819.3, which defines State information management authority and responsibility for IT projects:

2. Information technology activities directly associated with single-function process-control systems (such as those applied in the controlling of water gates, traffic signals, or environmental systems for buildings), analog data collection devices, or telemetry systems are excluded from SAM Section 4819.3. Process Control, for the purposes of the exclusions from the Technology Agency project approval and oversight, includes automated processing systems that monitor and control the operation of a single function system, and that can perform that control in isolation from other systems. Examples may include all components necessary to monitor and control the traffic lights at an intersection, the position of water restriction and diversion components in a water supply and distribution system, or to adjust the behavior of a motorized conveyer in response to changes in load and demand.

Sensors, telemetry devices, functional components such as motors or traffic lights, electronic control processors, and the network system that connects those devices into a single-function process control system meet the process control system exclusion.

Process control should not be interpreted to include information processing and network systems in which data is gathered, stored, transmitted, processed, analyzed, displayed, printed or reported for purposes other than the direct, automatic monitoring and controlling of a single function system, or for the manual review of the performance and activities of that single system.

Any component that may be added to any process control system, such as additional sensors, processing capacity or network communications capability, that is necessary for use in conjunction with a current or planned information technology system must be included in all feasibility study reports, plans, proposals and budget estimates for the information technology system.

3. Acquisition of telecommunications equipment used exclusively for voice or video communications are excluded from SAM Section 4819.3. This exclusion does not apply to:
  - a. Voice systems that include the use of interactive databases.
  - b. Videoconferencing systems that include the transmission of sensitive data or the use of interactive databases.
4. Acquisition of electronic typewriters and copiers are excluded if they are NOT:
  - a. Capable of general purpose computing; or
  - b. Intended to be used as an input/output peripheral device to a computer system.
5. Acquisition of the following consumable items or office equipment necessary to support approved information technology activities and personnel are excluded:
  - a. Documents (such as standards and procedures manuals, vendor-supplied systems documentation, and educational training manuals);
  - b. Equipment supplies (such as printer forms, disk packs, "floppy" disks, compact disks, magnetic tape, and printer ribbons or cartridges); and,
  - c. Furniture (such as terminal tables and printer stands).

**Section 4819.37, Project Reporting Criteria:**

Before encumbering or expending funds on, or dedicating staff resources to, any of the following reportable projects, the agency must: (1) obtain the Technology Agency's approval of an FSR for the project; or (2) obtain the Technology Agency's approval of a Feasibility Study Report - Reporting Exemption Request (FSR-RER), with the subsequent approval of an FSR by the agency director:

1. Projects whose initiation depends upon decisions to be made during the development or enactment of the Governor's Budget, such as approval of Budget Change Proposal or Budget Revision to increase the agency's existing information technology activities related to the project;
2. Projects that involve a new system development or acquisition that is specifically required by legislative mandate or is subject to special legislative review as specified in budget control language or other legislation;
3. Projects that have a cost that exceeds the level the Technology Agency may have delegated to the agency and do not meet the criteria of a desktop and mobile computing commodity expenditure (see SAM Section 4989-4989.3);
4. Projects that meet previously imposed conditions by the Technology Agency.

Agencies that seek exemption from project reporting to the Technology Agency for a project meeting any of the above criteria must submit an FSR-RER (see SAM Section 4819.38) to the Technology Agency. An agency with an acceptable Disaster Recovery Plan and an Agency Information Management Strategy that has been approved by the Technology Agency may submit an FSR-RER.

### Updates to the State Administrative Manual

Note: The new addition to SAM Section 4819.31 is item #8. Subsequent items in Section 4819.31 have been renumbered. In addition, references to the OCIO are changed to the Technology Agency, and references to the Office of Information Security and Privacy Protection (OISPP) are changed to the Office of Information Security consistent with Chapter 404, Statutes of 2010.

#### **4819.31 BASIC POLICY**

(Revised xx/11)

Each state agency is required to:

1. Establish and maintain a Disaster Recovery Plan, so that it will be able to protect its information assets in the event of a disaster or serious disruption to its operations, and submit the plan or its update to the Office of Information Security (OIS) as outlined in the Disaster Recovery Plan Quarterly Reporting Schedule (SIMM Section 05). See SAM Sections 5350-5355.
2. Establish an ongoing information management strategic planning process to support the accomplishment of its overall business strategy (i.e., its strategy to carry out its programmatic mission) and submit its strategic plan to the Technology Agency for approval. See SAM Section 4900.2.
3. Adopt standards for an agency information technology infrastructure consistent with SAM Section 4900.1.
4. Prepare annually an IT Capital Plan for long-term planning of the State's strategic IT investments. See SAM Section 4904.
5. Use the California Project Management Methodology (CA-PMM) as described in SAM Section 4910 for managing all IT projects.
6. Implement their Enterprise Architecture in accordance with the guidelines and instructions included in SIMM Section 58.
7. Conduct a feasibility study in order to establish the business case for each proposed information technology project (development or acquisition) and obtain approval of the FSR from the Technology Agency, or, if approval authority has been delegated to the agency director, from the agency director before expending any resources on the project. See SAM Sections 4819.34-4819.35.
8. Complete and sign the Service Contract Information Technology (SCIT) Certification for each proposed non-IT service contract and service contract amendment, including non-competitive bids. Please note that IT goods and services, including contracts associated with a Feasibility Study Report (FSR) or FSR Reporting Exemption Request approved by the Technology Agency, would be procured using one of the IT contracting processes developed expressly for IT. In these cases, completion of the SCIT is not necessary, since IT procurements are already subject to Technology Agency review and oversight requirements. The SCIT Certification is available in SIMM Section 16A, and includes instruction for completing and submitting the SCIT Certification.
9. Manage information technology projects following the established IT Project Oversight Framework (SIMM Section 45) minimum requirements, to ensure that projects are completed on-time, within budget, and that they accomplish the objectives defined in their FSRs. See SAM Section 4800.

10. Protect the integrity of its information management capabilities and databases and ensure the security and confidentiality of information it maintains.
11. Establish an ongoing acquisition planning process to develop IT Procurement Plans (ITPP) for IT project acquisition of IT goods and services as determined by the Department of General Services.

If an agency fails to meet these requirements, the agency will be required to obtain the Technology Agency approval before expending any resources on information technology projects.

The project approval process is described in SAM Section 4819.34.

#### **4819.41 PROCUREMENT REVIEW AND CERTIFICATION**

(Revised xx/11)

##### 1. Review of Formal IT Procurement Solicitation Documents

Formal IT Procurement solicitation documents as defined in the State Contracting Manual (SCM), Volume 3, Chapter 4, Section B1.0, must be reviewed by the Technology Agency prior to release to the public. The Information Technology Procurement Plan prepared in accordance with Volume 3, Chapter 2, Section B3 of the SCM and approved by the DGS shall accompany each formal IT Procurement solicitation document submitted to the Technology Agency for review. The time frame for submitting formal IT Procurement solicitation documents to the Technology Agency for review is specified in SIMM Section 05A.

For addenda focusing on Technical or Functional Requirements within the solicitation document that are specific to the California IT Strategic Plan, alignment with the Statewide Enterprise Architecture, or alignment with IT reporting and approval requirements, the Technology Agency will collaborate with the DGS Procurement Division (PD), for DGS-Administered Procurements, and with the issuing department, for delegated procurements, prior to release. All other addenda will only be reviewed by the DGS PD or the issuing department, as appropriate. The time frame for submitting addenda will be determined in collaboration with the Technology Agency and the DGS PD or with the issuing department as appropriate.

##### 2. Certification for Information Technology Procurements

A signed certification of compliance with state information technology policies is required for all information technology procurements that cost \$100,000 or more and are in support of a development effort. Development is defined in SAM Section 4819.2 as "Activities or costs associated with the analysis, design, programming, staff training, data conversion, acquisition, and implementation of new information technology applications." Procurements of hardware, software, and services (including interagency agreements) are included in this requirement.

A certification is not required for:

- a. Procurements for less than \$100,000;
- b. Procurements limited only to maintenance services;
- c. Procurements in support of previously-approved efforts. See SAM Section 4819.40;

- d. Procurement of services to conduct a feasibility study, provided the services are limited to supporting or conducting the feasibility study and/or preparing the feasibility study report (SAM Sections 4927 and 4928); or
- e. Procurements of excluded activities as described in SAM Section 4819.32.

The certification must be completed by the agency that will directly utilize the procured goods or services, and the original signed certification must be included with the transmittal of the procurement package to the procurement agency or authority. For audit and review purposes, a copy of the signed certification must be retained in the procurement file. The required format for the certification is provided in SAM Section 4832.

3. Certification for Service Contracts

Departments shall complete and sign the Service Contract Information Technology (SCIT) Certification for each proposed service contract and service contract amendment, including non-competitive bids. Please note that IT goods and services, including contracts associated with a Feasibility Study Report (FSR) or FSR Reporting Exemption Request approved by the Technology Agency, would be procured using one of the IT contracting processes developed expressly for IT. In these cases, completion of the SCIT is not necessary, since IT procurements are already subject to Technology Agency review and oversight requirements. The SCIT Certification is available in SIMM Section 16A, and includes instructions for completing and submitting the SCIT Certification.