



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

JOHN D. CHERRY, JR.
LT. GOVERNOR

EXECUTIVE DIRECTIVE
No. 2009 — 3

TO: Department Directors and Autonomous Entity Heads

FROM: Governor Jennifer M. Granholm

DATE: July 28, 2009

SUBJECT: **Reduction in Contractual Expenditures, Moratorium on Personal Services Contract Expenditures, and Restrictions on the Use of Temporary Employees**

As you are well aware, the economic conditions facing the citizens and government of our state have caused serious and immediate fiscal difficulties for our state budget. Unprecedented restructuring in the auto industry and the significant decline in economic activity resulting from excess leverage and speculation in international financial markets have resulted in business contraction, bankruptcies, layoffs, and foreclosures. The People of Michigan and job providers throughout the state are suffering. Throughout the private sector, and particularly in the auto industry, profound changes are resulting in sweeping cost reduction measures, corporate restructuring, workforce reductions, and reduced compensation and unpaid furlough days for those who remain employed. These rapidly accelerated changes in our economy have resulted in a severe decline in state revenue. According to the most recent consensus revenue estimating conference, the impact of these economic changes reduces projected state revenue for the current fiscal year by more than 20% from revenue in the fiscal year ending September 30, 2008.

In response, as a state government, we must redouble our efforts to reduce expenditures and reform the way in which state government delivers vital services. In certain instances, state government will be forced to halt the provision of some services our citizens have come to expect. Additional sacrifice and efforts to adjust the level of state services provided to the amount of revenue available is needed to assure that we focus on the most vital needs of citizens. While the federal American Recovery and Reinvestment Act of 2009 will aid the state's response in important ways and soften the blow of the economic crisis, this new, one-time federal assistance is temporary and not sufficient on its own to restore stability to the state's finances.

Because more work is required to address sharply declining state revenue, to ease that burden, departments and autonomous entities within the executive branch of state government should immediately begin implementing all possible administrative efficiencies and economies when making spending decisions. Given the severity of the economic crisis, I am issuing this Directive now, which has as its objective across-the-board restrictions on contract expenditures. While I recognize that resources are already scarce, and that greater efficiencies already have been achieved in the administrative operations as a result of the often thankless work of state employees, it is critical to implement additional efforts to reduce costs and curtail spending. Accordingly, I direct:

I. REDUCTION IN CONTRACTUAL EXPENDITURES

A. The Director of the Department of Management and Budget shall take measures including, but not limited to, all of the following, with the goal of reducing by 5 to 10 percent existing department or agency contractual expenditures subject to Section 261 of The Management and Budget Act, 1984 PA 431, MCL 18.1261:

1. Negotiated reductions in existing contract pricing or negotiated reductions in contracts out for bid as part of a best and final offer.
2. Negotiated discounts in exchange for prompt payment by the State of Michigan.
3. Department or agency-initiated freezes for non-critical, optional use contracts.
4. Negotiated reductions in pricing with vendors with excellent performance in exchange for contract amendments.
5. Termination of underutilized contracts, such as those in place for more than one year but not utilized in the current fiscal year.

B. The Director of the Department of Management and Budget may issue, alter, or rescind administrative and procedural directives as determined to be necessary under Section 131 of The Management and Budget Act, 1984 PA 431, MCL 18.1131, to implement this Directive.

II. MORATORIUM ON PERSONAL SERVICES CONTRACT EXPENDITURES

A. An immediate moratorium on new or expanded personal services contract expenditures is imposed. Except as provided in Section II.B of this Directive, state departments and autonomous entities shall not make or authorize

expenditures for new personal services contracts or expansion of work under existing personal services contracts under Civil Service Commission Rule 7-3.

B. The Director of the Office of the State Employer may grant an exemption from the personal services contract expenditure moratorium imposed by Section II.A of this Directive only if the Director determines that the requested personal services cannot be performed by current department employees and the Director determines that the personal services contract expenditure is necessary for 1 or more of the following:

1. To comply with a legal mandate or court order.
2. To enable the delivery of non-discretionary basic services necessary to protect the health or safety of individuals in this state.
3. To provide for the basic living requirements of residents of state facilities, including, but not limited to, food, clothing, prescription drugs, and health care.
4. To produce substantial savings as defined under Standard D of Civil Service Commission Rule 7-3, as determined by the Director of the Office of the State Employer, that would not have otherwise been realized were the same personal services performed by a classified service employee.
5. To prevent a reduction in revenue otherwise payable to this state.
6. To avoid additional expenditures that will exceed any savings resulting from deferring the personal services contract expenditure.
7. To respond to a state of emergency or state of disaster declared by the Governor.
8. To assure compliance with the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5, as certified by the Director of the Michigan Economic Recovery Office.
9. To facilitate the efficient and effective expenditure of funds authorized by the federal American Recovery and Reinvestment Act of 2009, Public Law 111-5, as certified by the Director of the Michigan Economic Recovery Office.

C. In granting an exemption from the personal services contract expenditure moratorium imposed by Section II.A of this Directive, the Director of the Office of the State Employer may consult with the State Budget Director.

D. The Director of the Office of the State Employer shall report to the Governor and the State Budget Director on a monthly basis all exemptions granted

under Section II.B of this Directive, including the number of exemptions and the rationale for providing each exemption.

E. Departments and autonomous entities within the executive branch of state government shall not request, and neither the Department of Management and Budget nor the Office of the State Employer shall approve, any personal services contract when the person seeking to contract with this state or a department, autonomous entity, agency, or political subdivision of this state is employed within state government either as an employee in the classified service or an unclassified employee of this state.

F. All of the following shall apply to personal services contract expenditures by departments or autonomous entities within the executive branch of state government:

1. All personal services contracts must be reported to the Office of the State Employer.

2. No personal services contract may be submitted to the Civil Service Commission for approval if the Office of the State Employer objects.

3. No personal services contract approved under Standard A of Civil Service Commission Rule 7-3 may extend beyond 480 hours without the prior approval of the Office of the State Employer.

4. No personal services contract under Standard B of Civil Service Commission Rule 7-3 may be submitted to the Civil Service Commission for approval without the prior approval of the Office of the State Employer.

5. No personal services contract under Standard C of Civil Service Commission Rule 7-3 may be submitted to the Civil Service Commission for approval without the prior approval of the Office of the State Employer.

6. No personal services contract under Standard D of Civil Service Commission Rule 7-3 may be submitted to the Civil Service Commission for approval without the prior approval of the Office of the State Employer.

G. The requirements of Section II of this Directive apply without limitation to requests to be submitted by an appointing authority to the Civil Service Commission under Civil Service Commission Rule 7-6 for approval to make disbursements for personal services to a person who is not a classified state employee, or requests under Civil Service Commission Rule 7-7 to add personal services to a preauthorized list.

H. The Office of the State Employer may request that the Director of the Department of Management and Budget rescind all delegations of authority

relating to personal services contract expenditures in effect at the time of the issuance of this Directive. Exemptions to the moratorium on personal services contract expenditures may be granted only by the Director of the Office of the State Employer.

III. LIMITING THE USE OF TEMPORARY EMPLOYEES

A. While state government regularly has a need to utilize temporary employees to deal with seasonal variation in the need for state government services, on-going fiscal constraints will result in the diminished use of temporary employees. However, when the use of a temporary employee is authorized, a department or autonomous entity within the executive branch of state government shall give first consideration to the employment of a laid-off state employee. The Office of the State Employer, in coordination with the Civil Service Commission, shall compile and maintain a list of laid-off state employees available to be hired as temporary employees by departments or autonomous entities with authorization. Except where commitments have been made to others prior to the issuance of this Directive, qualified laid-off state employees on the list shall be considered first before others are hired.

B. The use by departments and autonomous entities within the executive branch of student interns not paid by this state, whether for experience or as part of a student's credit requirements, continues to be encouraged.

IV. ENFORCEMENT

A. Department directors and autonomous entity heads within the executive branch are directed to closely and regularly monitor expenditures for personal services contracts to assure strict compliance with the spirit of this Directive and the efficient expenditure of limited tax dollars.

B. The Department of Management and Budget and the Office of the State Employer shall review department and agency personal services contract expenditures on a regular basis. The Department shall make every effort, including, but not limited to, implementing limits on the use of statewide contracts, direct vouchers, procurement cards, and employee reimbursements, to further reduce total expenditures using personal services contracts. If the Director of the Department of Management and Budget determines that a department or autonomous entity has failed to demonstrate significant and continuing progress in meeting the objectives of this Directive, the Director shall rescind procurement authority delegated to the department or autonomous entity, including, but not limited to, delegation authorized under Section 261 of The Management and Budget Act, 1984 PA 431, MCL 18.1261, or under Sections 0510.01 or 0510.12 of the Administrative Guide to State Government. The Office of the State Employer may

recommend to the Director of the Department of Management and Budget rescission of delegated purchasing authority under this paragraph.

C. In exercising general supervisory control over the functions and activities of all administrative departments, boards, commissioners, and officers of this state, and of all state institutions, as required under Section 3 of 1921 PA 2, MCL 17.3, the State Administrative Board shall monitor compliance with the requirements of Sections I and II of this Directive.

D. Violations of the requirements of Sections I and II of this Directive shall be reported to the Director of the Department of Management and Budget and to the Secretary of the State Administrative Board.

E. The State Administrative Board may take action to enforce the requirements of Sections I and II of this Directive as authorized under 1921 PA 2, MCL 17.1 to 17.3.

V. MISCELLANEOUS

A. Nothing in this Directive shall be construed to alter or modify any Civil Service Commission rule or regulation or collective bargaining agreement or construed to diminish or limit the power of the Civil Service Commission to exercise authority granted to the Commission under Section 5 of Article XI of the Michigan Constitution of 1963. A copy of this Directive shall be transmitted to the members of the Civil Service Commission and the State Personnel Director. The Civil Service Commission is urged to take any action necessary to implement this Directive.

B. The restrictions established under this Directive apply regardless of the state fund source financing a purchase or a contract.

C. The restrictions established under this Directive apply both to new contracts and to the amendment, extension, renewal, or reauthorization of existing contracts.

D. This Directive supersedes the requirements imposed by Paragraph I of Executive Directive 2007-21 and Executive Directive 2007-18.

E. As used in this Directive:

1. "Appointing authority" means any of the following:

a. A single executive heading a principal department of the executive branch of state government or an autonomous entity within a principal department of the executive branch of state government.

b. A chief executive officer of a principal department of the executive branch of state government or an autonomous entity within a principal department of the executive branch of state government headed by a board or commission.

c. The Lieutenant Governor.

d. The Governor.

e. A person designated by an executive under Sections V.E.1.a to V.E.1.d as responsible for administering the personnel functions of a department, autonomous entity, or other agency within the executive branch of state government.

2. "Autonomous entity" means an organization or function lawfully established within a principal department of the executive branch of state government, but specifically designated as a separate independent unit, with the intent that its authority, powers, duties, and responsibilities, including personnel, budgeting, procurement, and management-related functions be exercised free from the direction and supervision of the principal department.

3. "Civil Service Commission" or "Commission" means the commission required under Section 5 of Article XI of the Michigan Constitution of 1963.

4. "Classified service" means the Michigan state classified civil service established by Section 5 of Article XI of the Michigan Constitution of 1963.

5. "Contractor" means an independent contractor or special personal services employee who enters into a contract with a department or agency in the executive branch of state government to provide personal services.

6. "Department of Management and Budget" or "Department" means the principal department of state government created under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121.

7. "Independent contractor" means an individual contractor or an employee of a contractor who provides personal services to a department or autonomous entity within the executive branch of state government and who is not an employee of this state.

8. "Office of the State Employer" means the autonomous office created within the Department of Management and Budget by Executive Order 1979-5, whose duties include, but are not limited to, those assigned by Executive Orders 1979-5, 1981-3, 1988-6, 2002-18, and 2004-31.

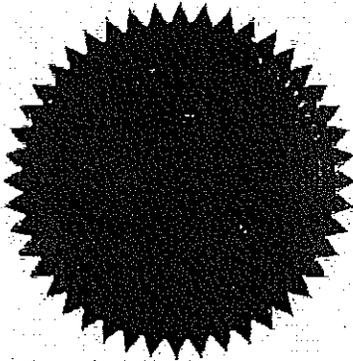
9. "Personal services" means work performed for the direct benefit of this state by an individual for compensation, such as a contractor or an independent contractor.

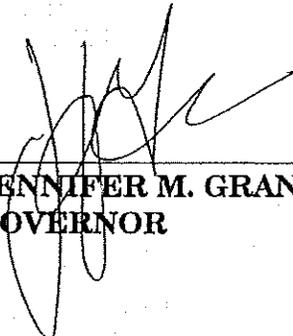
10. "State Administrative Board" means the board created under Section 1 of 1921 PA 2, MCL 17.1.

11. "State Budget Director" means the director of the office created within the Department of Management and Budget under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

I extend my sincere appreciation for your assistance and the continued hard work of state employees as we respond to unprecedented economic conditions.

This Directive is effective upon issuance.





JENNIFER M. GRANHOLM
GOVERNOR