



— State of —  
**North Dakota**  
*Office of the Governor*  
**Jack Dalrymple**  
*Governor*

## MEMO

DATE: October 7, 2011  
TO: Cabinet Members  
FROM: Jerod Tufte, Governor's Legal Counsel  
RE: Executive Order 2011-20

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As committees have begun meeting in accordance with Executive Order 2011-20, several questions have arisen relating to implementation of the order. Executive Order 2011-20 was issued to ensure that the Governor's Office, the Office of the Attorney General, the Office of Management and Budget, and the Information Technology Department – each with its individual expertise – are active and equal participants in the decision-making processes for the full lifecycle of IT projects with \$1M+ budgets. This memo is intended to provide answers to some questions that have been raised regarding the application of the order. If you have any questions regarding the application of the order to specific circumstances, please contact Jerod Tufte.

- **Q:** Are existing projects “grandfathered,” meaning that if a project was in progress on July 6, 2011, does it need to adhere to the new rules, or is it exempt?  
**A:** All projects in progress must adhere to the order no matter when they began.
- **Q:** What is included in the \$1M cost?  
**A:** The project budget includes the total cost required to fully resolve the business needs which are preventing the organization from meeting one or more areas of its mission, vision, or strategic objectives. Examples of costs include, but are not limited to: Efforts to charter the project, conducting various solution selection processes including RFI, RFP, and contract negotiations, all implementation costs including any initial hardware, licensing, maintenance, or other startup investments required to conduct the project, risk related funds, and associated closing costs.
- **Q:** Can there be more than the specifically mentioned five members on the executive steering committee?  
**A:** Yes, however only the five official members listed on the executive order are voting members.
- **Q:** What is meant by “information technology project” (Section 1)?  
**A:** Typically, an IT project is defined as a temporary endeavor undertaken to create a unique, technology-based, product, service, or result. For the purposes of this order, all projects with a technology component are assumed to be IT projects. When the

- agency submits the project planning questionnaire to ITD (which is part of the processes for SB 2015) an assessment will be made and the agency notified if the project is deemed to not be an IT project. The questionnaire can be found here: <http://www.nd.gov/itd/services/project-planning-questionnaire>
- **Q:** What is the process for reviewing RFPs and contracts (Section 2)?
    - The project team will create the rough draft of these documents. The team's procurement officer will send the draft to the ITD procurement officer, who will be responsible for soliciting feedback from the Attorney General's representative, the ITD project management subject matter expert, and agency representatives.
    - The ITD procurement officer is responsible for coordinating activities of the procurement committee including facilitating any meeting required by the procurement committee.
    - If the committee needs the project team to revise anything the ITD procurement officer will coordinate with the procurement officer and project manager so they can manage getting the changes made.
      - Any changes should be reviewed again by the procurement committee
    - Once the procurement document is approved by the procurement committee the ITD procurement officer will notify the procurement officer and project manager who can then notify the project team and the executive committee that the documents have been recommended to be approved, and work with the team to continue the procurement process
    - The procurement team:
      - ITD procurement officers – Pat Forster, Dirk Huggett
      - Contract attorney from AG's office – Matt Sagsveen or designated alternate
      - Project Management Subject Matter Experts – Dave Eckenrode, Justin Data, Mark Molesworth
      - Agency project sponsor
      - Agency member at large – designed by the agency
  - **Q:** Does the procurement expert review RFPs and contracts first or does the whole group review it right away?
 

**A:** Under the proposed process, the whole group would review the documents at the same time.
  - **Q:** Are three people on the procurement team always the same, with two other members for each project from the agency?
 

**A:** Under the proposed process, each of the 3 permanent representatives on the procurement team would generally attend personally but could send a representative to allow consistency and backup in case members are unavailable.

- **Q:** Would the project manager be the facilitator of the procurement committee meetings?
- **A:** No, under the proposed process the ITD procurement officer would be responsible for facilitating meetings for the procurement team.
- **Q:** Does the agency need to pay for the project management time needed in the procurement committee review process?
- **A:** No, not for the procurement committee-related activity. However, there will be a charge from the Attorney General's unless they are general funded.
- **Q:** If charges apply, and if the agency has a trained/qualified project manager and procurement officer (meeting criteria in section 7) can the agency get a waiver to act as the project manager in the review?
- **A:** No, the intent of having three permanent representatives is to have consistency across all projects.
- **Q:** Do work orders need to go through the procurement committee process also, or just the executive steering committee for approval?
- **A:** Work orders costing \$250,000 or more must go through the procurement team processes described here for approval. However, work orders under \$250,000 may be deemed by the ESC to go through the full procurement process utilizing the major change processes described in Section 4 of this order.
- **Q:** Do extensions of existing contracts need to go through the procurement committee process also, or just the executive steering committee for approval?
- **A:** Extensions to existing contracts are the same as amendments, and will need to go through the processes described here.

### **Section 3 –**

- **Q:** What is the committee reviewing the project for? Completeness? Subject Matter? Ensuring that the contract is written correctly?
- **A:** The procurement committee's purpose is to ensure RFP and contracts are meeting procurement best practices and administrative rules, that adequate protections are included for the State, and that the content is thorough and written correctly. The procurement committee is not intended to judge or otherwise analyze business decisions relating to the business solution.

### **Section 4 –**

- **Q:** Must all scope changes be presented to the committee?
- **A:** Yes, unless the committee has established a policy for this in which a particular level or type of scope change does not need their review. These criteria must be documented in the project plan.

- **Q:** What is a major scope change?  
**A:** As in the prior response, this may be documented in the project plan. However, any committee member has the right to deem any change a major scope change that needs to go to a vote.
- **Q:** Who facilitates this steering committee?  
**A:** The project sponsor is the committee lead or chairperson, however, the project manager may facilitate the process. Any member of the committee may add an item to the agenda for discussion and may distribute or request advance distribution of materials relating to agenda items.
- **Q:** Can it be larger than five members?  
**A:** Yes, but only the five designated in the order can vote. Serious consideration should be given to creation of a separate meeting rather than adding members of the executive steering committee to an existing larger meeting.
- **Q:** What about schedules?  
**A:** Schedule is also intended to be included in this executive order
- **Q:** In the interest of time, can the committee utilize email voting?  
**A:** Yes, if the committee is interesting in using this type of process. This process must be defined in the project management plan. Please note that any voting member may request that the committee convene for more interactive discussion prior to casting their vote.

#### **Section 5 –**

- **Q:** Does the CIO need to sign the project charter also?  
**A:** No, however it is recommended that the agency makes the CIO aware of the project.
- **Q:** Does the CIO need to sign all contracts, even small sub-contracts?  
**A:** The executive steering committee needs to review all contracts, contract amendments, and work orders. The CIO may not need to sign every work order, but will need to sign master agreements, contracts, and contract amendments.
- **Q:** Will the CIO have a designee in case she is unavailable?  
**A:** Yes.

#### **Section 7 –**

- **Q:** Do we need to produce a document that proves we meet the project manager criteria?  
**A:** Yes, the project manager will need to submit a project manager information questionnaire, which will be available online in the near future.

- **Q:** Is a PMP required only when there are multiple PMs?  
**A:** The PMP is required at all times and must have primary responsibility for the overall project management activities.
- **Q:** What about coordinating between multiple entities? What exactly is meant by multiple entities?  
**A:** Examples of multiple entities are agency-to-agency, division-to-division within agencies, agency-vendor relationships, and other scenarios that are more complex.
- **Q:** If a project manager hasn't managed or co-managed, how do they ever meet the criteria?  
**A:** That person would have to co-manage a project until they meet the criteria.
- **Q:** What is sufficient experience in ND PM practices?  
**A:** Experience must include having worked on a full lifecycle of a large project following large project oversight processes, with demonstrated compliance to standard.
- **Q:** Who's going to judge whether the person meets the criteria?  
**A:** The State CIO.