

MINNESOTA DELEGATION/RESCISSION OF AUTHORITY

This document is a public record and is available for public inspection. Please read the instructions on the back of this form before completing it.

1. DEPARTMENT (AGENCY, BUREAU, ETC.)
Pollution Control Agency

2. NAME OF DESIGNEE (INCLUDE TITLE)
Mary Heininger, Contract Specialist
Operations Division

3. PERSON DELEGATING/RESCINDING (INCLUDE TITLE)
Matthew Massman, Commissioner
Department of Administration

4. Choose one of the following actions:

X I hereby DELEGATE the powers and/or duties listed in No. 6 to the above named designee, effective:

I hereby RESCIND all prior delegations of authority on file for the above named person effective:

August 25 2016
Month Day Year

Month Day Year

5. AUTHORITY CITED:
(Please check all that apply)
Pursuant to: M.S. 15.06, Subd. 6
X Pursuant to: M.S. 16C.03, Subd. 16
(By the Commissioner of Administration)
Pursuant to: M.S. _____

6. If you are delegating powers and/or duties, mark the appropriate line(s) below.

X EXECUTE CONTRACTS
(Provide details below)

SIGN PURCHASING DOCUMENTS
(Provide details below)

X OTHER (Provide details below)

DETAILS: By virtue of the authority conferred upon me by Minn. Stat. §§ 16C.03, Subd 16, and other laws, I do hereby delegate to the named designee (Mary Heininger), the authority and power to exercise the power and duties imposed upon the Commissioner of Administration relating to the approval of professional and technical service work order contract certification forms, as identified below, in accordance with Minn. Stat. § 16C.08. This delegation of authority shall remain in force until revoked, amended, or withdrawn by the Commissioner of Administration.

This delegation is granted based on the Memorandum of Understanding (MOU) and Paragraph II. B., of Appendix A to that MOU dated August, 2016 between the commissioners of Administration and the Pollution Control Agency "Relating to Delegation of Contracting Authority." This delegation applies ONLY to the programs operated by the MPCA listed in Paragraph II. B. of Appendix A. The requirements and expectations of that MOU, and all updates to the MOU, are incorporated by reference and a part of this delegation.

7. SIGNATURES

Matthew Massman
DELEGATING/RESCINDING AUTHORITY

Mary Heininger
DESIGNEE

8. Copies to:
Designee
Designee's Appointing Authority
Commissioner of Administration

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170503



**MEMORANDUM OF UNDERSTANDING
RELATING TO DELEGATION OF CONTRACTING AUTHORITY**

This Memorandum of Understanding is between the Commissioner of the Minnesota Department of Administration and the Commissioner of the Pollution Control Agency ("Receiving Agency").

Pursuant to Minnesota Statutes §16C.03, subdivision 3, the commissioner of Administration "shall acquire all goods, general services, building construction and utilities needed by agencies" and the commissioner of Administration shall "conduct all contracting by, for, and between agencies." Additionally, the commissioner of Administration has responsibilities related to approval of professional and technical service and service contracts entered into by the State of Minnesota pursuant to Minnesota Statutes §§ 15.061, 16C.08, and 16C.09.

The commissioner of Administration "may delegate duties imposed by [Chapter 16B or 16C] to the head of an agency and to any subordinates of the agency head" and such duties are to be exercised "in the name of the commissioner [of Administration] and under the commissioner's direct supervision and control." Minnesota Statutes §16C.05, subdivision 1.

In accordance with these statutory provisions, the commissioner of Administration agrees to delegate to delegates, under Minnesota Statutes §16C.05, subdivision 1, of the receiving agency certain authority with respect to professional and technical service contracts and contracts for other services, as set forth in this Memorandum of Understanding, as follows.

I. TERM OF MEMORANDUM OF UNDERSTANDING AND DELEGATION

This Memorandum of Agreement ("MOU") is effective upon execution by both parties and remains in effect for two years as set forth in Minnesota Statutes §16C.06, subdivision 3b unless canceled earlier under the terms of this MOU.

II. SCOPE

The SCOPE of each proposed delegation is defined in one or more Appendix attached to this MOU and incorporated by reference into this MOU. Each Appendix referred to below is self-standing and can be amended and modified independently of this basic MOU. Each appendix will be executed separately, as an acknowledgement of both parties of the details and special conditions in each one.

Appendix A addresses the delegation of the authority of the commissioner of Administration to approve Professional/Technical Service contracts, entered into under Minnesota Statutes § 15.061, in accordance with Minnesota Statutes § 16C.08.

Appendix B addresses the delegation of the authority of the commissioner of Administration to approve other kinds of specifically listed contracts under Minnesota Statutes § 16C.05, that are Professional/Technical Service contracts.

Appendix C addresses the delegation of the authority of the commissioner of Administration to acquire specific or special classes of goods, services, (not professional/technical services), and utilities for dollar limits in excess of those available within the Authority for Local Purchase under Minnesota Statutes § 16C.03, that are NOT Professional/Technical Service contracts.

Appendix D addresses the delegation of the authority of the commissioner of Administration to acquire goods, services, (not professional/technical services), and utilities relating to the construction, maintenance and repair of buildings and roadways under Minnesota Statutes §§ 16C.03, subdivision 3, and 16C.25, that are NOT Professional/Technical Service contracts and NOT highway construction entered into under Minnesota Statutes § 161.32.

III. QUALIFICATIONS AND ACCOUNTABILITY

A. A delegatee shall be qualified for a delegation if:

1. The delegatee has a minimum of three year's prior experience drafting, negotiating and reviewing state contracts and/or state acquisitions;
2. The delegatee is a professional-level state employee (MAPE or MMA or manager), and a responsible decision-maker in the Minnesota Pollution Control Agency (MPCA), free from undue influence, and either individual or organizational conflicts of interest, in the execution of the duties delegated;
3. The delegatee attends contract or acquisitions training, depending on previous experience, provided by the Department of Administration, and has appropriate mastery of state contracting laws and requirements;
4. The delegatee shall consult staff of the Department of Administration when appropriate for support and assistance in the execution of these responsibilities; and
5. These qualifications may be adjusted to accommodate special circumstances by the two commissioners in the appropriate Appendix.

B. Appointment

1. A candidate for delegation will be interviewed by staff of the Department of Administration, for the purpose of determining the individual's past contracting experience, knowledge, willingness, and ability to adhere to fair contracting principles set forth in law and policy. The interview will be based upon information contained in the Department of Administration's *State Contracting Manual*.
2. The commissioner of Administration, upon consideration of the interview and candidate qualifications, issues the final delegation. A delegatee acts for and upon the authority of the commissioner of Administration.

C. Conditions for retaining a delegation

1. A delegatee shall at all times adhere to contracting policies and standards established by the Department of Administration, as outlined in its *State Contracting Manual* and other directives, and shall be responsible for maintaining any contracting policies developed or practiced within MPCA in a manner that is consistent with those of the Department of Administration, and in a manner that is easily referenced.
2. **A delegatee must promptly advise the Department of Administration of any violation of the State Contracting Manual and/or other directives. They must also notify the Department of Administration of any improper, illegal, or questionable contracting activities, including possible or actual conflicts of interest, of which the delegatee may become aware. Failure to**

do so may result in revocation of the delegation.

IV. MONITORING

A. Filing

Receiving Agency shall provide to the Department of Administration copies of the agency's internal manuals and policies related to contracting and conflicts of interest. On a regular basis, but no less frequently than monthly, and agreed to by both parties, the delegatee and agency shall provide to the Department of Administration copies of each professional and technical service and service contracts approved pursuant to a delegation.

A delegatee will maintain a file of all documents executed in the name of the commissioner of Administration. These files will be maintained in accordance with the agency records retention requirements, but in no case for a period of less than six (6) years after the contract end date.

B. Audit

The Department of Administration may conduct periodic audits, during normal business hours, of contracting practices and procedures undertaken pursuant to this MOU or a delegation, including interviews of individuals involved in the process and a review of any relevant documents, for the purpose of determining compliance with this MOU, the delegation, Minnesota law and applicable contracting policies.

C. Certification

With each contract executed under a delegation, the delegatee must submit to the Department of Administration a specific certification that they have determined that the requirements of Minnesota Statutes §16C.08, subdivision 3, have been reviewed and are being adhered to under the contract.

V. PERFORMANCE-BASED CONTRACTING

A. The agency receiving a delegation shall institute a program for monitoring internal processing of professional and technical service and service contracts and related documents; including the time required for vendor selection, negotiation, drafting, and final execution of professional-technical service and service contracts. One goal of this delegation is to reduce the internal processing time of contracts, related documents, and acquisitions in the delegated agency.

B. In the event of failure to meet program timelines, or otherwise to meet the requirements of state law or acquisition/contracting policy in the operation of this program, the Department of Administration may work with the delegatee to make a formal review of the program for the purpose of establishing methods to bring the program into compliance, prior to withdrawing the delegations.

VI. Cancellation

The commissioner of Administration, as authorized by Minnesota Statutes §16C.03, subdivision 16, "may withdraw any delegation at the commissioner's sole discretion."

Notwithstanding this provision, either party may cancel this MOU at any time, with or without cause, upon written notice to the other party. Cancellation of this MOU will automatically cancel any delegations issued under the authority of this MOU.

VII. NON-ASSIGNMENT

Neither party may assign, delegate, or transfer any rights or obligations under the MOU without prior written consent of the other party.

VIII. AMENDMENTS

Any amendments or modifications to this Memorandum of Understanding must be in writing and will not be effective until executed by both parties to this MOU.

IX. AUTHORIZED REPRESENTATIVES

The commissioners of Administration and the Pollution Control Agency have designated authorized representatives who are responsible for working out any details or problems related to this Memorandum of Understanding. These individuals have the authority, within their delegations of authority from the respective commissioners, to make all decisions related to this MOU not specifically reserved within the MOU.

For the Commissioner of Administration:

Betsy Hayes, Chief Procurement Officer (Justin Kaufman, Enterprise Contracts Council, if Betsy Hayes is not available).

For the Commissioner, Pollution Control Agency:

Cathy Moeger, Director, Operations Division (Joshua Bunker, Chief Financial Officer; Operations Division, if Cathy Moeger is not available).

X. ENTIRE AGREEMENT


This Memorandum of Understanding and the noted appendices contains the entire agreement between the parties. This agreement supersedes the previous Memorandum of Understanding on the same subject.

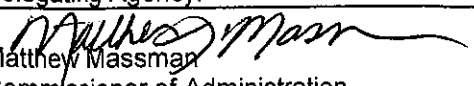
Appendix A: X

Appendix B:

Appendix C:

Appendix D:

Receiving Agency:	
John Linc Stine Commissioner, Minnesota Pollution Control Agency	
Date:	8/11/16

Delegating Agency:	
Matthew Massman Commissioner of Administration	
Date:	08/25/16

APPENDIX A
Delegation of Professional and Technical Services Contract Approval Authority
of the Commissioner of Administration Under § 16C.08
Contract Size Limits (established in each individual delegation)

II. SCOPE

A. Professional and Technical Service Contracts (Minnesota Statutes §§ 15.061 and 16C.08)

1. Type of Delegation This delegation will authorize the delegatee to review and approve unaltered professional and technical service contracts including joint powers agreements for professional and technical services within the monetary size limitations established in the individual delegation form filed with the Secretary of State, as defined by Minnesota Statutes §16C.08. A delegation is personal to the delegatee and may not be re-delegated.

2. A delegation under this Section A does NOT include:

- Master contracts, as defined in Department of Administration's *State Contracting Manual*;
- "Single source" contracts, as defined by Minnesota Statutes §16C.10, subdivision 1; unless a "single source" request has already been approved by Admin for the particular contract;
- Certification Forms required by Minnesota Statutes §16C.08, subdivision 2;
- Amendment pre-approvals required by Minnesota Statutes § 16C.05, subdivision 2c, or
- Other contract documents executed under Minnesota Statutes § 16C.05.

B. Master Professional and Technical Service Contract Work Orders and Related Certification Forms (Minnesota Statutes §§ 15.061 and 16C.08)

1. Type of Delegation To approve master professional/technical service contract work order certification forms and work orders up to the limit established in the individual delegation form filed with the Secretary of State, for the following programs and contracts operated by the Minnesota Pollution Control Agency (MPCA):

- Petroleum Remediation and Redevelopment Programs;
- Site Remediation and Redevelopment Programs;
- Closed Landfill Program;
- Dump Assessment Program;
- Site Assessment Program;
- Resource Conservation and Recovery Act Program;
- Voluntary Cleanup Program;
- Voluntary Petroleum Cleanup Program;
- St. Louis River – Area of Concern

Originally Signed: September 22, 2003

Appendix A

Page 1

Updated: January 2, 2004

Memorandum of Understanding

Updated August 19, 2005

Relating to Delegation of Acquisition and/or

Updated: May 23, 2008

Contracting Authority between

Updated: January 21, 2010

MN Department of Administration and MN Pollution Control Agency

Updated: March 25, 2011

Updated: July 20, 2012

Updated: June 24, 2014

Updated: August 19, 2014

Updated: August 8, 2016

Brownfields Assessment Program;
 Stormwater Program;
 Watershed Program;
 Natural Resource Damage Assessment Program;

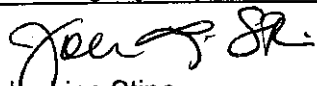
Investigation, Design, and Construction Oversight of CLP Master Contract
 Superfund, Petroleum & Department of Agriculture Master Contract;
 Watershed Master Contract;
 MPCA/USGS Master Joint Funding Agreement;
 Natural Resource Damage Assessment Master Contract
 Stormwater Manual Master Contract


IV. MONITORING

C. Agency Delegatee Certification With each professional and technical service contract executed under a paragraph II A delegation, the delegatee must submit to the Department of Administration an Agency Delegatee Certification that they have determined, as required by Minnesota Statutes §16C.08, subdivision 3, that the requirements of Minnesota Statutes §16C.08, subdivision 3, have been reviewed and are being adhered to under the contract. A model of the Agency Delegatee Certification will be provided to the delegatee when the implementing delegation is approved.

X. ENTIRE AGREEMENT

This Appendix A, as updated, contains the entire agreement between the parties related to Appendix A.

Receiving Agency:
 John Linc Stine Commissioner, Minnesota Pollution Control Agency
Date: 8/11/16

Delegating Agency:
 Matthew Massman Commissioner of Administration
Date: 08/25/16

Originally Signed: September 22, 2003

Appendix A

Page 2

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