

# IDAHO STATE POLICE PROCEDURE

## 02.16 CONTRACTS AND AGREEMENTS

### A. General

ISP enters into numerous and varied contracts and agreements for both financial and operational purposes. In some cases, contracts must be issued through Idaho's Division of Administration, Division of Purchasing (DOP). Contracts, memoranda of understanding (MOU), memoranda of agreement (MOA), letters of understanding and agreements between ISP and any other entities are legal documents that require specific signatory authority. These documents are archived in a central repository for agency reference. The ISP Financial Services Office (FSO) is the central repository for these original documents.

### B. Definitions

“Authorized signatory” means the person authorized to sign contracts or agreements. Only the Director, Financial Executive Officer, and Deputy Director are authorized to sign contracts, MOUs or MOAs, letters of understanding or agreements between ISP and vendors or other entities.

“[FSO Contract Administrator](#)” means the person designated to receive, review, process, initial, and retain all contracts, MOAs, MOUs, letters of understanding and agreements between ISP and any other entities. The FSO Contract Administrator does not sign contracts MOUs or MOAs, letters of understanding or agreements between ISP and other entities.

### C. Limited Delegation of Authority

The ABC Captain has limited delegated signatory authority for memoranda of understanding between ABC and other law enforcement agencies for the purpose of conducting underage alcohol compliance operations.

Other sub-bureaus, such as BCI-ILETS, BRANDS, POST and RACING, may have limited authority to contract with vendors due to their relationship status with ISP. However, paragraph D below still applies in order to ensure that ISP and the Department of Purchasing's contracting standards are met.

### D. Contract/Agreement Routing

1. All contracts, MOUs, MOAs, letters of understanding, and agreements regardless of signatory authority and content must be routed through the FSO Contract Administrator.

**There are some clauses that the state of Idaho cannot agree to and an ISP employee could be charged with a misdemeanor if state law is violated.**

a. *Indemnification:*

Most contracts in which a state agency seeks goods or services from a contractor or vendor will contain a provision requiring the contractor to indemnify the state. A typical clause will indemnify the state for losses that arise out of “the negligent or

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wrongful acts or omissions of the contractor, its employees, agents, or subcontractors.” Any proposed changes to indemnification provisions should be reviewed by legal counsel. However, the state cannot agree to indemnify another party. This is often requested of state entities, but they cannot comply because of constitutional and statutory limitations. (See [Idaho Constitution Art. VII, Section 11](#). [Idaho Code § 59-1015](#) prohibits state agencies and officers from entering into contracts that create any expense or liability in excess of an appropriation. [Idaho Code § 59-1016](#) provides that any such contract is void. [Idaho Code §59-1017](#) makes entering into such contracts a misdemeanor and bars the person authorizing the contract from state employment for four years.)

- b. Additional considerations, on prohibited clauses, found in contracts and MOU's may be viewed at: [Risk Management Considerations and Guidance Agencies Contract](#)
2. The FSO Contract Administrator:
  - a. reviews documents according to DOP rules, if necessary;
  - b. obtains approval by Legal, if necessary;
  - c. assigns a contract number;
  - d. obtains authorized signatures, and/or returns the document to its originator for appropriate signatures.
3. The original, or fully executed document, is returned to the FSO Contract Administrator for retention according to ISP retention policies, and who:
  - a. scans the document into pdf format;
  - b. posts a listing of the document in the Contracts log; and
  - c. files the document for retention in FSO.
  - d. A signed copy is forwarded to Legal.
4. ISP Contracts keeps a record of its contracts in a log. That log may be accessed for reference at [N:\Financial Services\contracts isp](#).