

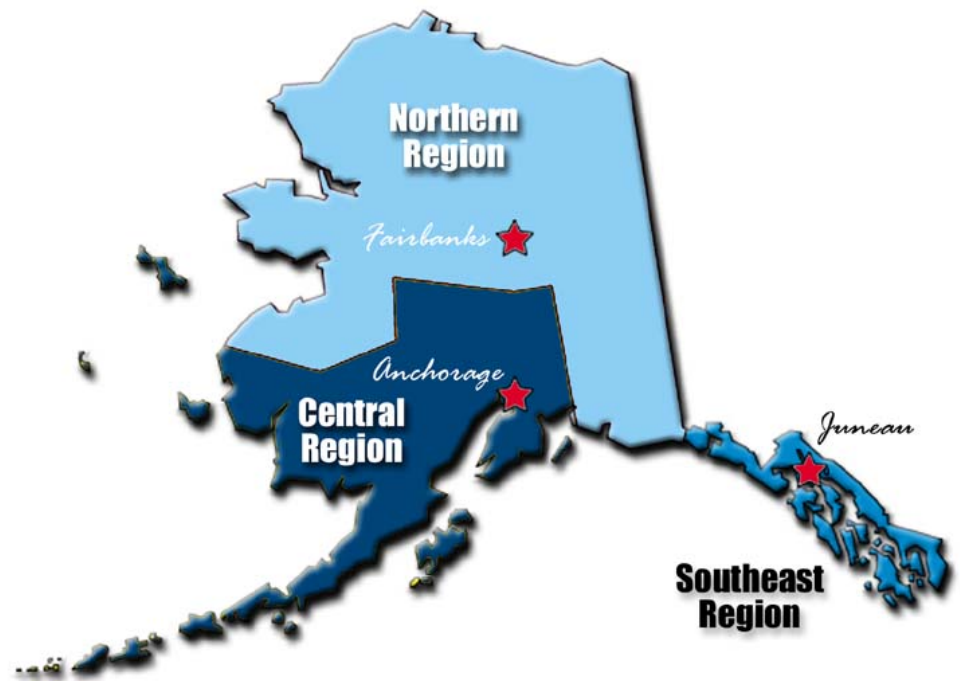


Alaska Department of Transportation and Public Facilities

MANUAL

Statewide Contracting
and Procurement

CONSTRUCTION CONTRACTING WARRANT SYSTEM



*Revised
October 1, 2005*



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Construction Contracting Warrant Application Form



A. Purpose

The Warrant System implements the State of Alaska, Department of Transportation and Public Facilities policy to formalize the delegation of authority for construction related procurements to the lowest possible level. This will to ensure expedience and competence in the procurement process for professional services and other construction related procurement and contract administration activities.

The purpose of this manual is to provide guidance to State of Alaska employees, including agencies operating under delegation from the Department of Transportation. The guidelines provided in this manual are in accordance with Alaska Statute, Title 36, Public Contracts and 2 AAC 12.

B. Scope

The Warrant System is intended for use in activities leading to the development and execution of construction and construction related projects.

The Warrant System policies and procedures apply to all employees in the Department who are responsible for preparing documents that encumber the Department via the procurement of professional services and construction related activities, including the construction of ferries and related equipment. Additionally, the policy applies to those employees of Delegated Operating Agencies who are acting under the delegated authority from the DOT&PF for construction activities for their agencies.

Construction Contracting Warrants are issued at the discretion of the Department and Delegated Operating Agencies, to those employees delegated the procurement authority to support the Department or a Delegated Operating Agency in construction related procurement.

The warrant certifies that the holder has met the requirements for procurement authority at a certain level and delegates the procurement activities a warrant holder is authorized to perform.

C. Types of Warrants

A distinction is made between all activities up to and including signing a contract (procurement) and those activities that occur after signing the contract (contract administration). These are separate functions and require different training. The Construction Warrant System governs the procurement activities. Individuals who administer existing contracts by negotiating change orders, issuing Work Orders or Directives, and making progress payments are doing a much different job than those who are establishing new contracts or procuring professional services. There will be many people who do both but if your job is construction contract administration your training requirements are much different. Under the revised Warrant System, a Warrant is not required for contract administration duties.

Individuals who are initiating new contracts need familiarity with the state procurement code and department procedures for the various levels of procurement. Within DOTPF, the Contracts Chief in each region must hold a Level 3 warrant. They will be responsible for all procurement activities in their region.



D. Responsibilities

The DOT&PF Commissioner is ultimately responsible for delegation of authority for construction related procurements. The Commissioner has delegated this authority to the DOT&PF Chief Contracting Officer (CCO) who is responsible for re-delegating authority to Appointing Officers. The CCO is also responsible for approval of warrant officer application requests.

The DOT&PF Headquarters Section is responsible for maintaining central records including applications, experience, and continuing education records.

Headquarters is also responsible for disseminating information on current interpretations or changes to statutes and training program oversight.

The Appointing Officers will be responsible for re-delegating authority and appointing the appropriate number of warranted persons at appropriate warrant levels necessary to meet the intent of this Warrant System.

In order to accomplish this they are responsible for completing all actions necessary to initiate and sustain these warrants, such as assure any experience, continuing education or training requirements are met prior to requesting a warrant and initiating appropriate warrant authority termination actions.

Appointing Officers are directly responsible for the procurement related actions of Warranted individuals that they appoint.

They shall perform an annual review prior to 1 July that examines the warrants under their jurisdiction to assure 1) warrants are actively used, 2) staff have the correct warrant for level, dollar authority and position referenced, and 3) all unused warrants are terminated for 'administrative' and for 'cause' reasons.

A warranted individual is responsible for carrying out the needed procurement activities in accordance with Department policy and established rules and regulations. They are responsible for meeting continuing education requirements to stay current with their delegation.

All warranted individuals shall immediately report any possible conflict of interest to their immediate supervisor.

E. Basic Requirements

Warrants are only issued where procurement authority is essential to the support of the program.

Employee training shall be emphasized to ensure that individuals are aware of and comply with all applicable Alaska Procurement Rules and Regulations, Departmental Policies and Procedures. Descriptions of current training courses are referenced in the Training Section of this manual.

Experience is judged by the Appointing Officer familiar with the needs and requirements of the employee's position and warrant responsibilities.



Exceptions

Commissioners, Directors or other management positions who do not conduct procurements are not required to obtain warrant certification. Performing ministerial management tasks like signing contracts or authorizing someone else to solicit for or procure construction related contracts is not considered procurement and does not require certification.

Employees without warrants shall not have the authority to procure goods or services unless the action falls within one of the exemptions listed below.

1. Procurements of less than \$5,000.
2. A warranted person may exceed his or her warrant level or delegated authority in the event of an emergency requiring protection of life or property. Notification must be provided immediately to his or her supervisor, and the DOT&PF Chief Contracting Officer.

F. Effective Dates of Warrants

Warrants shall be issued when individuals are hired or promoted or when their job duties are modified such that a Construction Warrant is required.

Certified Warrants remain in effect provided Continuing Education requirements are met. They do not expire but they may be revoked for cause or failure to obtain required continuing education

G. Warrant Levels and Qualifications

As new Warrants are issued they will conform to the revised table below:

<u>Warrant Level</u>	<u>Authority Level</u>
Level 1	Up to \$25,000
Level 2	Up to \$100,000
Level 3	Over \$100,000

The revised Warrant Levels are intended to mirror the Statutory Procurement levels since they require different procurement methods and training. Newly issued warrants will also designate the dollar value of Delegated Authority. At the discretion of the Appointing Officer the Warrant may have an Authority Level lower than the maximum warrant level.

For example, a Level 2 warrant allows procurement up to \$100,000. The training required qualifies the individual to make procurements up to this value. However, the Appointing Officer may establish a \$50,000 delegation limit for this warrant. In that case the Warranted Individual would only have procurement authority up to \$50,000.

Increased warrant levels require increased training and qualifications. Following the Level Descriptions is an evaluation matrix to aid in comparison of the warrant levels.



LEVEL 1 – Small Procurements under \$25,000

Warrant Amount:	Up to \$25,000
Example Positions:	Delegated Operating Agency Facilities Maintenance
Qualifications:	<u>Training:</u> Completion of the online Construction Related Small Procurement course <u>Experience:</u> Discretion of Appointing Officer
Qualifications Equivalencies:	Justifications of proposed equivalencies for training or experience requirements are to be submitted in writing with the warrant application to the Appointing Officer for consideration.
Continuing Education:	Discretion of the Appointing Officer.
Comments:	Appropriate for small construction procurements.

LEVEL 2 – Small Procurements under \$100,000

Warrant Amount:	Up to \$100,000
Example Positions:	Project Managers, Public Facility Project Manager, Construction Group Chief, Statewide Planning Director, appropriate staff of DOA/DivALP, DOA/GS, DE&ED, DPS
Qualifications:	<u>Training:</u> Online Small Procurement course plus Level II-Small Procurements under \$100,000. <u>Experience:</u> Discretion of Appointing Officer
Qualifications Equivalencies:	Justifications of proposed equivalencies for training or experience requirements are to be submitted in writing with the warrant application to the Appointing Officer for consideration.
Continuing Education:	Must accumulate, within three years of Warrant issuance date, 16 hours of training on current practices and interpretations of Alaska Procurement Rules and Regulations, Departmental Policies and Procedures, and Contract Administration.
Comments:	Appropriate for small construction procurements, Letters of Agreements and Professional Services Agreements (PSA).



LEVEL 3 – Complex Procurements

Warrant Amount:	Over \$100,000
Example Positions:	Chief of Contracts, Chief of Public Facilities, Marine Highway Manager, Appropriate staff of DOA/DivIS, DH&SS, DM&VA, DF&G, DOC.
Qualifications:	<u>Training:</u> Same subjects as Level 2, plus Level 3-Complex Procurements <u>Experience:</u> Discretion of Appointing Officer
Qualifications Equivalencies:	Justifications of proposed equivalencies for training or experience requirements are to be submitted in writing to the Appointing Officer for consideration.
Continuing Education:	Must accumulate, within three years of Warrant issuance date, 16 hours of training on current practices, interpretations of Alaska Procurement Rules and Regulations, Departmental Policies and Procedures, Contract Administration and process review, and innovative procurements.
Comments:	Appropriate for most complex procurements such as large construction procurements, large Professional Services Agreements (PSA), innovative procurements including Design Build.

Contracting Officers-No Warrant Required

Example Positions:	Region Directors Chief Engineer Commissioners of AID&EA, DC&RA, DNR	Preconstruction Engineers D&ES Division Chief
Qualifications:	<u>Training & Experience:</u> As directed by the Commissioner.	
Continuing Education:	Should accumulate appropriate training on current practices, interpretations of Alaska Procurement Rules and Regulations, Departmental Policies and Procedures, Contract Administration, and process review.	
Comments:	Appropriate for signature of all construction and PSA contracts and major change orders.	



H. Warrant Levels and Qualifications Matrix

Warrant Level	Warrant Amount	Example Positions	Qualifications	Continuing Education	Comments
1	Up to \$ 25,000	<ul style="list-style-type: none"> Delegated Operating Agencies Facilities Maintenance 	Training: Complete online Small Procurement course. Experience: Discretion of Appointing Officer	At the discretion of the Appointing Officer.	Level 1- Small Procurement for construction (under \$25,000).
2	Up to \$100,000	<ul style="list-style-type: none"> Project Managers, RE's Construction Group Chief Statewide Planning Director Appropriate staff of DOA/DivALP, DOA/GS, DE&ED, DPS 	Training: Same as Level 1 plus Level 2 - Small Procurements under \$100,000 Experience: Discretion of Appointing Officer	16 hours in three years, current practices and interpretations of statutes and contract administration.	Level 2 – Larger value Small Procurement for construction, Letters of Agreements and Professional Services Agreements (PSA).
3	Over \$100,000	<ul style="list-style-type: none"> Chief of Contracts Procurement Managers Appropriate staff of DOA/DivIS, DH&SS, DMVA, DF&G, DC 	Training: Same as Level 2 plus Level 3 - Complex Procurements Experience: Discretion of Appointing Official	16 hours in three years, current practices, interpretations of statutes, contract administration, process review, and innovative procurement.	Level 3 – Complex Procurements appropriate for large construction procurements, large Professional Services Agreements (PSA) and innovative procurements such as design build
<div style="border: 1px solid black; padding: 5px; display: inline-block;">Appointing Officer</div>		<ul style="list-style-type: none"> DOT&PF Chief Contracting Officer Regional Directors D&ES Division Chief Chief of Contracts Appropriate staff of AIDEA, DCRA, DNR 	Training & Experience: As directed by the Commissioner	Appropriate training in current practices, interpretations of statutes, contract administration, and process review	Signature of all construction and PSA contracts and major change orders. Approves lower level Warrants.



I. Scope of Warrants

Warrants are issued to qualified individuals to facilitate the construction related procurement activities required throughout the Department or Delegated Operating Agency.

Warrants are issued to named individuals and they may not be transferred or re-delegated to any other individual.

Each warrant level carries a maximum value, however, the warrant authority actually delegated may be any amount up to that maximum. Warrants will clearly show the dollar value of Delegated Authority an individual must operate under as provided by the appropriate Appointing Officer.

An individual must submit a Department Officers' Warrant form of Notification to receive approval to use an existing warrant when transferring into a new position.

A "Special Projects - Interim Warrant" is an interim warrant issued just for a special project. It is approved and issued in cases where it is in the Department's best interest to allow an existing warrant holder a warrant at a higher level only for the length of a specific project.

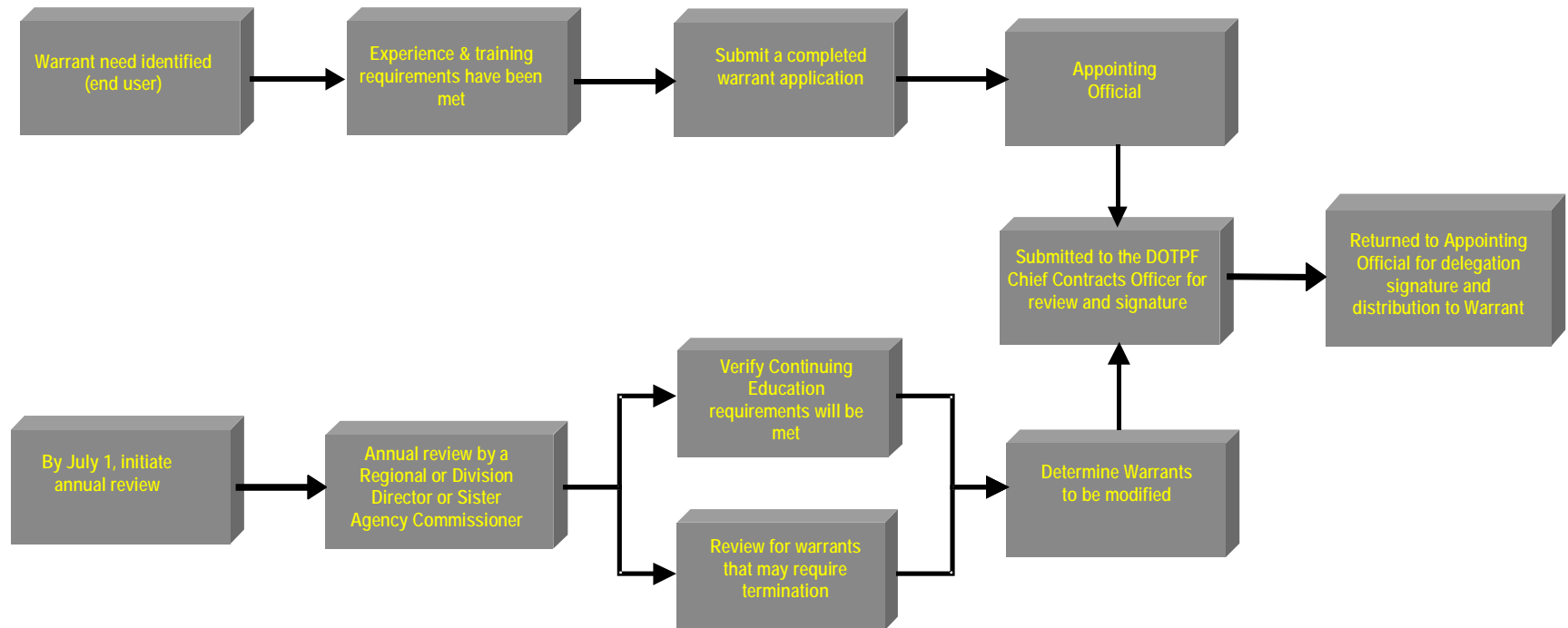
J. Application and Maintenance Process Flow Chart

The process flow on the following page summarizes the steps of submitting a warrant application, monitoring active warrants and ensuring the continuing education requirements are met.

"Application Process", "Maintenance", "Termination", and "Records Management" Sections provide detailed policy and process of the steps outlined in the process flow chart.



Warrant Application and Maintenance Process Flow Chart





K. Warrant Application Process

The Department Construction Contracting Warrant Application Form is used for the following purposes. It is available from the DOT&PF Chief Contracting Officer or other Appointing Officers:

Initial Warrant Application;

"Special Projects - Interim Warrant" Application;

Increase Existing Warrant Authority;

Deletion of Warrant from Warrant System due to Administrative Termination; and/or

Deletion of Warrant from Warrant System Due to Termination for Cause; and or

Administrative (Name Change).

Each warrant request should include the following support documentation as applicable:

Department Construction Contracting Warrant Application Form;

Copies of certificate of completion of required training;

Copies of course description and certificate of completion of any proposed equivalency training. Also include any prior approvals of acceptance as equivalent training by recommending official; and

Copies of validation of experience qualifications (resume or list of past work experience).

Appointment

The Appointing Officer reviews the application request and supporting documentation for completeness, evaluates the applicant's experience and training, and either recommends approval or returns the application request to the applicant with information as to why approval was not granted.

The approved applications are forwarded to the DOT&PF Chief Contracting Officer (CCO). The CCO reviews the application request and supporting documentation for completeness, evaluates the applicant's experience and training and approves or disapproves the recommendation. In the case of the DOT&PF Chief Contracting Officer's Warrant, the DOT&PF Commissioner reviews the application and approves or disapproves the Warrant request.

After final approval, the warrant is issued to the individual applicant. Warrants will show the warrant level and the delegation of authority level.

The newly issued Warrant is added to the Warrant Records Management System.

An individual must submit a Warrant Officers' Notification Form to receive approval to use an existing Warrant when transferring into a new position.



L. Maintenance

Warranted individuals are required to maintain their Warrants through continued training outlined for each of the levels in Section G - "Warrant Level and Qualifications." Proof of training, including the name of the instructor, sponsoring agency, date, location and subject matter is to be submitted to the Appointing Officer and forwarded to the DOT&PF Chief Contracts Officer when CE training is completed.

M. Terminations

Warrants may be terminated at any time at the discretion of the DOT&PF Chief Contracting Officer or the Appointing Official. The Warrant may be terminated for administrative reasons, or for cause. Typical reasons for terminating Warrants are that the need for a warrant no longer exists, training requirements have not been met, or that the Warrant holder is separated from the Department. Warrants may be terminated for cause when there is evidence of misconduct, unethical behavior, or disregard for Alaska Procurement Rules and Regulations, or Departmental Policies and Procedures. The Department Commissioner is responsible for any necessary actions relative to the DOT&PF Chief Contracting Officer's warrant.

Once a person leaves a position, resigns, or retires, the Warrant holder or his or her supervisor shall promptly submit a written request for termination, or transfer of the Warrant through the Appointing Officer to the DOT&PF Chief Contracting Officer for Records Maintenance. Appropriate warrant termination action will then be taken.

N. Records Management System

The Warrant Records Management System is managed by the DOT&PF Chief Contracting Officer.

Appointing Officers are responsible for performing an annual review prior to 1 July that examines the warrants under their jurisdiction to assure:

- Compliance with continuing education requirements
- Warrants are actively used
- Staff have the correct warrant for dollar authority and position referenced
- All unused warrants are terminated for 'administrative' and for 'cause' reasons

The Warrant Records Management System maintains the following data:

- Name of warranted personnel
- Appointing Officer
- Position
- Level and type of the warrant
- Delegated dollar authority (if less than the warrant level authority)
- Continuing education requirements expiration
- Training courses completed
- Summary of approved experience
- Cause for warrant termination

The system will maintain the information records and provide tracking of continuing education requirements.



O. Training

All of the Qualifications training classes will be offered under the T2 program or online. A user ID and password for the online Small Procurement for Construction course will be supplied after approval of the Warrant application.

The Department of Administration classes on procurement do not substitute for the training requirements of this program. However, certain of those classes may be considered for meeting continuing education requirements.

Training requirements for the various warrant levels are identified in Section G – "Warrant Level and Qualifications." The following training courses have been presented by the Department in the past and contain the kinds and type of information generally to be of use for procurement staff. These classes are suitable for Continuing Education. Specific class recommendations will be at the discretion of the Appointing Officer.

- 0.1 Procurement Rules & Regulations: Training addresses Alaska procurement rules and regulations, Departmental policies and procedures, Code of Ethics, mandatory and non-mandatory procurement restrictions, exemptions and transfer of responsibility, basic purchasing and solicitation, Alaska preference, professional versus non-professional services, solicitations, evaluation of response, documentation and protest procedures.
- 0.2 Contract Administration: Training addresses administering contracts under the Alaska Procurement Rules and Regulations, Departmental Policies and Procedures, procedures to enforce performance, quality, warranty as well as other contract terms. Issuing and negotiating changes and negotiating supplemental agreements, including analysis of claims or other requests for adjustment under other contract mechanisms such as delay of work clauses. Reviewing incurred costs and indirect costs for allowability and allocation, approval of invoices, progress payment requests, and/or cost vouchers for payment. Analyzing available remedies in the event of unsatisfactory performance and executing an appropriate course of action, including termination for default or convenience.
- 0.3 Effective Negotiating: Training emphasizes communications skills necessary for successful contract negotiations and include role-playing and feedback. Training addresses key negotiation concepts, predicting each side's power base, strategies and tactics, guidelines for concessions, effective questioning and listening skills, handling different behavior styles, impasse alternatives, body language and room arrangement, telephone negotiations, difficult negotiators and common errors.
- 0.4 Contract Law: Covers a broad range of legal issues that frequently arise in State of Alaska contracting. It sets out the principles that must be understood to ensure that all contracting actions are in accordance with the law, regulations, and legal precedents.
- 0.5 Innovative Contracting: Training provides an overview of negotiated type contracts such as Design/Build, Best Value, Single Source, and Professional Services Agreements.
- 0.6 Advanced Contract Law: Training addresses the general principles of state contract law, describes the statutory and administrative control of funds, explains socioeconomic policies associated with small businesses and labor standards (i.e. Davis Bacon, DBE, ADA), discusses contract formation issues and the bid process, and describes legal considerations associated with post award contract administration, claims, and terminations.



APPENDIX A

Definitions

"Action" – Includes any matter or proceeding in a court, civil or criminal.

"Appointing Official" – Refers to a warrant applicant's supervisor/manager who is authorized by the DOT&PF Chief Contracting Officer act in that capacity. The Appointing Official is authorized to approve their staff's warrant applications. The Appointing Official determines the appropriate Warrant Level and Delegated Authority level if lower than the maximum warrant level. They are responsible for the procurement actions taken by Warranted Individuals that they appoint.

"Award" – The acceptance of the successful bid.

"Change Order" – A written order signed by an authorized contracting officer, directing the contractor to make changes that the changes clause of the contract authorizes the contracting officer to order.

"Chief Contracting Officer" or "DOT&PF Chief Contracting Officer" – The Department of Transportation and Public Facilities head of contracting.

"Construction" – The process of building, altering, repairing, maintaining, improving, or demolishing a public highway, structure, building, or other public improvement of any kind to real property other than privately owned real property leased for the use of agencies; it includes services and professional services relating to planning and design required for the construction; it does not include the routine operation of a public improvement to real property nor does it include the construction of public housing.

"Continuing Education/Training" – Any education or training standard required for maintaining certification.

"Contract" – All types of state agreements, regardless of what they may be called, for the procurement or disposal of supplies, equipment for the state fleet, services, professional services, or construction.

"Contract Administration" – Contract Administration involves all activities performed after a contract has been awarded. It encompasses all dealings between the state and the contractor from the time the contract is awarded until the work has been completed and accepted, payment has been made, and disputes have been resolved. Typical issues include such things as the authority of state personnel who will administer the contract, quality control and testing, the specific contract deliverable requirements, special contract provisions, the state's procedures for monitoring and measuring performance, contractor billing and payment procedures and contract changes.

"Contracting Officer" – The Regional or Division Director, or Commissioner of a Delegated Operating Agency receiving construction delegation authority, or their delegated representative, authorized to enter into and administer the Contract on behalf of the Department/Delegated Operating Agency. He or she has authority to make findings, determinations and decisions with respect to the Contract and, when necessary, to modify or terminate the Contract. The Contracting Officer is identified on the construction Contract.

"Delegated Operating Agency" – A state agency that has a delegation for construction authority from the DOT&PF.



"Department" – In the context of this document, means the Alaska Department of Transportation and Public Facilities. References to "Owner", "State", "Contracting Agency", means either the Department or the relevant Delegated Operating Agency receiving construction delegation authority.

"Departmental Policy" – Policy of the Alaska Department of Transportation and Public Facilities.

"May" – In some degree, is likely to do something; generally, indicates that a choice or action is permissive but not mandatory. Indicates a judgment, usually dependent on interpretation of unique circumstances.

"Must" – Commanded or required to do something; synonymous with "shall".

"Procurement" – Means buying, purchasing, renting, leasing, or otherwise acquiring supplies, equipment for the state fleet, services, or construction; it also includes functions that pertain to the obtaining of a supply, equipment for the state fleet, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

"Procurement Authority" – It is at times unclear which category of procurement can be approved at which level of hierarchy. DPDR 10.01.040 ALTERNATE PROCUREMENTS explains certain of these levels of authority. If you are uncertain of your authority, ask.

"Professional Services" – Means professional, technical, or consultant's services that are predominantly intellectual in character, result in the production of a report or the completion of a task, and include analysis, evaluation, prediction, planning, or recommendation.

"Project" – The total construction, of which the work performed under the Contract Documents, is the whole or a part, where such total construction may be performed by more than one Contractor.

"Project Manager" – The authorized representative of the Regional or Division Director, or Commissioner of a Delegated Operating Agency receiving construction delegation authority, who is responsible for administration of the Contract.

"Regulation" – AS 44.62.640(3) provides in part:

"regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of a rule, regulation, order, or standard adopted by a state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure, except one that regulates only to the internal management of a state agency;

"regulation" includes "manuals", "policies", "instructions", "guides to enforcement", "interpretive bulletins", "interpretations", and the like, that have the effect of rules, orders, regulations, or standards of general application, and this and similar phraseology may not be used to avoid or circumvent this chapter, whether a regulation, regardless of name, is covered by this chapter depends in part on whether it affects the public or is used by the agency in dealing with the public;

"Research and Technology Transfer Group (T2)" - T2 is the training arm of the DOT&PF known technically as the Research and Technology Transfer Group. They are the exclusive providers of the training for this Warrant program. Their website is:

http://www.dot.state.ak.us/external/state_wide/proc/top.html

"Shall" – Used to express a command; mandatory; generally, used in context of directing to do something.

"Should" – Should is used in an advisory sense; no sanctions or penalties can be used to enforce it.



"Small Procurement" – From AS 36.30.320, "A procurement for supplies, services, or professional services that does not exceed an aggregate dollar amount of \$50,000, construction that does not exceed an aggregate dollar amount of \$100,000, or lease of space that does not exceed 3,000 square feet may be made in accordance with regulations adopted by the commissioner for small procurements. - Small procurements need not be made through competitive sealed bidding or competitive sealed proposals but shall be made with competition that is practicable under the circumstances.

"State Agency" – A state department or agency, whether in the legislative, judicial, or executive branch; it does not include the University of Alaska, a municipality, or an agency of a municipality.

"Termination for Cause" – Termination when there is evidence of misconduct, unethical behavior, or blatant disregard for procurement regulations.

"Unauthorized Commitment" – An agreement that is not binding solely because the Government Representative who made it lacked the authority to enter into that agreement on behalf of the Government.

"Warrant" – A certificate of appointment to individuals that states any limitation on the scope of construction authority they may exercise, other than limitations contained in applicable laws or regulations.

"Warranted Person" – A Departmental or Delegated Operating Agency employee who has been appointed with a DOT&PF warrant for construction authority to procure under a defined maximum amount in a particular position within the Department, or an appropriate Delegated Operating Agency.