2015 – 2017
STATE OF MONTANA
DEPARTMENT OF ADMINISTRATION
LEVEL TWO
PROCUREMENT DELEGATION AGREEMENT

University of Montana

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PROCUREMENT DELEGATION AGREEMENT
2015-2017

This Agreement is made and entered into between the State Financial Services Division, Department of Administration (DIVISION), and the University of Montana, (AGENCY). John McCormick represents the AGENCY. Brad Sanders, Chief Procurement Officer, State Procurement Bureau (SPB), State Financial Services Division, represents the DIVISION.

The AGENCY is granted Level Two delegation purchasing authority effective October 1, 2015 through September 30, 2017, unless terminated earlier under the terms stated in Section 17.0. This delegation of purchasing authority is contingent upon the AGENCY’s agreement to perform purchasing activities consistent with this Agreement and the provisions of Title 18, Montana Code Annotated (MCA), its accompanying administrative rules in Administrative Rules of Montana (ARM) Title 2, chapter 5; the Montana Operations Manual; and Title 2, chapter 17, part 5, MCA, and its accompanying administrative rules and policies.

1.0 OVERVIEW

The DIVISION is authorized to procure or supervise the procurement of all supplies and services needed by the State of Montana under section 18-4-221, MCA, with certain exceptions set forth in section 18-4-132, MCA. This Agreement applies to the expenditure of public funds irrespective of their source and includes supplies or services that are of no cost to the State and from which income may be derived by the vendor and from which income or a more advantageous business position may be derived by the State.

2.0 PURPOSE

The DIVISION conducts its purchasing activities through the authority and guidelines of Title 18, MCA, including the Montana Procurement Act, and its accompanying administrative rules in ARM Title 2, chapter 5. The purpose of the Montana Procurement Act is to (1) simplify, clarify, and modernize the law governing procurement by the State of Montana; (2) permit the continued development of procurement policies and practices; (3) make as consistent as possible the procurement laws among the various jurisdictions; (4) provide for increased public confidence in the procedures followed in public procurement; (5) ensure the fair and equitable treatment of all persons who deal with the State's procurement system; (6) provide increased economy in state procurement activities, maximizing the purchasing value of State funds; (7) foster effective, broad-based competition within the free enterprise system; (8) provide safeguards for the maintenance of a procurement system of quality and integrity; and (9) provide the exclusive remedies for unlawful bid solicitation or contract awards.

3.0 DELEGATION AUTHORITY

The DIVISION delegates procurement authority to state departments, agencies, or officials, including the state university system, based on a determination that AGENCY has: (1) a satisfactory performance history exercising similar authority, and (2) employees trained in procurement policies and procedures.
freight;
landfill charges;
supplies or services whose prices are regulated by the Public Services Commission or other governmental authority;
pastoral services;
training;
conference rental space and catering;
fresh fruits and vegetables;
fees for placing an advertisement in a publication or on radio, television, or electronic media sources;
educational instructors and guidance counselors for inmates under the supervision of the Department of Corrections; and
books and periodicals.

4.2 Sheltered Workshops. Purchases of supplies or services from Sheltered Workshops as listed on the following website: http://emacs.mt.gov/ShelteredWorkshops.

4.3 Interagency Agreements. Purchases made through interagency agreements within Montana state government, or other political subdivisions or governments, unless otherwise prohibited by law.

4.4 Surplus Property Program. Purchases made from the State’s Surplus Property Program.

5.0 PROCUREMENT METHODS

AGENCY shall utilize the following procurement methods when purchasing supplies and services:

5.1 Small Purchases – Purchases of $5,000 or less. AGENCY may choose a purchasing technique that best meets its needs for all purchases with a total contract value of $5,000 or less. AGENCY is encouraged to use the State Purchasing Card for all small purchases. "Total contract value" means the entire potential monetary worth of the project from beginning to completion, including the initial contract period and any options to renew.

5.2 Limited Solicitations – Services Purchases between $5,001 and $25,000 and Supplies Purchases between $5,001 and $50,000. AGENCY may use a limited solicitation procedure when making services purchases with a total contract value between $5,001 and $25,000 and supplies purchases between $5,001 and $50,000. This requires a documented solicitation from a minimum of three viable sources, if available, either orally or in writing, under the guidelines set forth in ARM 2.5.603. SPB encourages agencies to use the Montana Acquisition and Contracting System (eMACS) for issuing limited solicitations. eMACS is accessed through the ePass Montana Dashboard, https://app.mt.gov/epass/. Training for eMACS is available through the DIVISION, http://emacs.mt.gov/ProcurementTraining.
6.2 **Procurement Delegation Liaison.** AGENCY liaison listed above or their replacement must (a) have at least three years of public procurement experience; (b) attend required meetings of the DIVISION; and (c) provide the supervision and management of the AGENCY’s procurement needs as their predominant job duty.

6.3 **Staff Training Requirements.** The person listed as the AGENCY and Agreement liaison, or their replacement, and all other AGENCY procurement staff must have completed the "Advanced Procurement Methods and Issues" course offered by the DIVISION and any other training courses required by the DIVISION. AGENCY agrees that, if required at a later date, the liaison and all other AGENCY procurement staff shall obtain any DIVISION-required professional certification, either from the DIVISION or through a nationally recognized procurement certification program approved by the DIVISION.

6.4 **Attorney.** AGENCY shall provide the services of an attorney to review all contracts or contract templates issued within the AGENCY's delegated procurement authority.

6.5 **Purchases above Level of Delegated Authority.** AGENCY requiring the purchase of a supply and/or service above their level of delegated authority shall forward a requisition to SPB and a SPB Contracts Officer shall conduct the procurement. The deadline for fiscal year end procurements is April 1 for RFP solicitations and May 1 for IFB solicitations.

6.6 **SPB Signature.** All contracts established through SPB, including but not limited to IFB, RFP, Sole Source, and Exigency, must have the signature of a SPB Contracts Officer and AGENCY legal counsel before execution, unless AGENCY counsel reviews and determines their signature is not required. Any contract amendment issued against a contract established through SPB must also have a signature or initial of a SPB Contracts Officer before execution by either the AGENCY or contractor. A signature block must state “Approved as to Form” with space for the signature of the SPB Contracts Officer. In addition, all contract amendments must have the signature of AGENCY legal counsel if not using an approved contract template.

6.7 **Referral to Division.** If AGENCY chooses not to exercise its approved delegated procurement authority, it may submit its requisition to the DIVISION for action.

**7.0 GENERAL REQUIREMENTS**

7.1 **Procurement Documents.** AGENCY shall use the most current version of the DIVISION's procurement forms and standard terms and conditions in their entirety, including, but not limited to the following: (1) Standard Terms and Conditions; (2) RFP and IFB Templates; (3) Limited Solicitation; and (4) Sole Source/Sole Brand Justification Forms unless the DIVISION approves any exceptions. Requests for exceptions or changes to existing approved forms must be submitted to the DIVISION for approval. Forms are posted on the procurement forms site located at the following website address: http://emacs.mt.gov/AgencyProcurementForms.

7.2 **Issuing Formal Bids and Proposals.** AGENCY shall issue all formal IFBs and RFPs issued under the authority of the Montana Procurement Act in the Montana Acquisition
specific due dates when agencies are required to issue requisitions for vehicles are located on the DIVISION’s website at: http://emacs.mt.gov/AgencyVehiclePurchasing. AGENCY shall purchase used vehicles in the following manner:

a. **Contact Surplus Property Program.** AGENCY shall contact the Surplus Property program at (406) 444-9921 to seek information on the availability of used vehicles. If a suitable used vehicle is not available, the Surplus Property Program shall provide AGENCY with written permission to proceed with the purchase of a used vehicle according to this Agreement from the private sector.

b. **Purchase Price.** AGENCY shall submit a requisition to SPB if it is anticipated that the total purchase price of a used vehicle(s) may exceed AGENCY’s delegated procurement authority. If not, AGENCY may solicit competition for the used vehicle following the approved procurement methods referenced in Section 5.0.

### 9.0 PRIOR APPROVAL REQUIRED

As required by law, AGENCY shall obtain prior approval to purchase certain supplies and services, regardless of AGENCY’s delegated procurement authority. AGENCY shall obtain prior approval from the appropriate state agency before submitting a requisition to SPB for the following items:

#### 9.1 Printing-related Equipment.
All large scale printing-related equipment involving duplicating, printing, bindery, and graphic arts equipment for state agencies within a 10-mile radius of the capitol area must be approved by the Print and Mail Services Bureau of the General Services Division. (ARM 2.5.202) Prior approval is not required for the purchase of office printers and copiers.

#### 9.2 Mail Equipment.
Mail equipment to be used within a 10-mile radius of the capitol area must be approved by the Print and Mail Services Bureau of the General Services Division. (Section 2-17-301(3), MCA)

#### 9.3 Surplus Property Trade-Ins.
Surplus property trade-ins must be approved by the General Services Division’s Surplus Property Program. (Section 18-4-226, MCA)

### 10.0 RECORDS

AGENCY shall maintain adequate records to document the procurement process. Training in procurement documentation methods and retention schedules is available through the DIVISION. Under section 18-4-221, MCA, the DIVISION may audit and monitor the implementation of its rules and the requirements of the Montana Procurement Act.
Any exceptions require prior DIVISION approval.

15.0 MODIFICATION

AGENCY may request a change to this Agreement by submitting a written request and justification to the DIVISION within 30 days before the desired effective date. Performance consistent with this Agreement shall continue until AGENCY receives written approval from the DIVISION. The DIVISION may modify any part of this Agreement upon 30 days advance written notice.

16.0 FAILURE OF ENFORCEMENT NOT A WAIVER

The DIVISION's failure to enforce any of the provisions of this Agreement at any time may not be construed to be a waiver of such provision and shall not affect the validity of any part of the Agreement or the right of the DIVISION to thereafter enforce such provision.

17.0 TERMINATION

If AGENCY fails to fulfill its obligations in a timely and proper manner, or violates any term or provision of this Agreement, the DIVISION may terminate any portion of this Agreement by giving written notice to the AGENCY specifying the effective date of termination. Termination of this Agreement does not relieve AGENCY of liability for damages sustained by it while acting under this Agreement.

18.0 AGENCY SPECIFIC DELEGATED AUTHORITY

18.1 The AGENCY is delegated unlimited authority for procurement of the following supplies/services:

<table>
<thead>
<tr>
<th>Commodity Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0101</td>
<td>Agricultural - Chemicals</td>
</tr>
<tr>
<td>0104</td>
<td>Agricultural - Supplies</td>
</tr>
<tr>
<td>0405</td>
<td>Books – On-Line Library Subscription Services</td>
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<tr>
<td>0406</td>
<td>Books – Publications, Subscriptions &amp; Textbooks from Single Supplier</td>
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<tr>
<td>0901</td>
<td>Computing Equipment &amp; Software – Data Center Equipment</td>
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<tr>
<td>0904</td>
<td>Computing Equipment &amp; Software – ISO Base Platforms</td>
</tr>
<tr>
<td>0905</td>
<td>Computing Equipment &amp; Software - Mainframe Computers</td>
</tr>
<tr>
<td>0906</td>
<td>Computing Equipment &amp; Software - Mid-Tier Computers</td>
</tr>
<tr>
<td>0907</td>
<td>Computing Equipment &amp; Software - PCs &amp; Peripherals</td>
</tr>
</tbody>
</table>
Commodity Code | Description
--- | ---
3301 | Media Communications - Advertising
5005 | Transportation Goods & Services - Bus Transportation

**SIGNATURES**

Approved for AGENCY by:

Royce Engstrom, President  
University of Montana  
1/9/16

Approved for the DIVISION by:

[Signature]  
Sheila Hogan, Director  
Department of Administration  
4/11/2016

Reviewed for Legal Content by:

Mike Mahion, Chief Legal Counsel  
Department of Administration  
4/11/2016

Bob Hlynosky  
Procurement Services UM  
4/25/16