

**PROCUREMENT DELEGATION AGREEMENT
AMENDMENT #2
2015-2017**

This Amendment #2 is made and entered into between the State Financial Services Division, Department of Administration (DIVISION), and the Department of Corrections, (AGENCY). April Grady represents the AGENCY. Brad Sanders, Chief Procurement Officer, State Procurement Bureau (SPB), State Financial Services Division, represents the DIVISION.

- 1) AGENCY is hereby granted Level Two delegation purchasing authority effective upon signing through September 30, 2017.
- 2) Section 5.3 entitled Formal Competition (Invitation for Bids or Request for Proposals) Services Purchases above \$25,001 and Supplies Purchases above \$50,000, is replaced in entirety by the following:

5.3 Formal Competition (Invitation for Bids or Request for Proposals) Services Purchases above \$25,001 and Supplies Purchases above \$50,000. AGENCY shall use either an invitation for bids (IFB) or request for proposals (RFP) process to purchase services with a total contract value between \$25,001 and \$200,000 and supplies purchases with a total contract value between \$50,001 and \$200,000. AGENCY shall forward any purchase with a Total Contract Value over \$200,000 to SPB for processing.

- 3) Section 5.4 entitled Sole Source/Sole Brand, is replaced in entirety by the following:

AGENCY may make a determination that a purchase is a sole source/sole brand for purchases with a total contract value of \$200,000 or less. For purchases over an AGENCY's level of delegated procurement authority, the DIVISION shall make the sole source/sole brand determination unless specifically authorized in Section 18.0 of this Agreement. In cases of reasonable doubt, competition should be solicited.

- 4) Section 6.0 entitled Delegation Authority, is amended as follows (new language noted in bold font, deleted language noted by strikethrough):

AGENCY may purchase all non-controlled **supplies or** services (see Section 8.0) with a total contract value up to **\$200,000** ~~\$25,000 and non-controlled supplies with a total contract value up to \$50,000.~~

- 5) The following Section 6.2 is hereby added:

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) The previous Section 6.2 is replaced in entirety by the following:

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.

7) The following Section 6.4 is hereby added:

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.

8) Sections 6.3, Purchases above Level of Delegated Authority; 6.4, SPB Signature; and 6.5, Referral to Division; are hereby renumbered 6.5, 6.6, and 6.7, respectively.

9) Section 7.0 entitled General Requirements is hereby replaced in entirety as follows:

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 and Contracting System (eMACS). Procedures developed by the DIVISION will be used to issue each solicitation using the commodity code that most accurately describes the supplies and services being sought.

7.3 Posting Evaluation Committee Meetings and Contract Awards. All evaluation committee meetings must be posted on the DIVISION's public meetings website located at the following website address: <http://vendorresources.mt.gov/Meetings>.

Once a month SPB will post all contract awards on the DIVISION's contract awards website located at the following website address: <http://sfsd.mt.gov/SPB/Notifications>.

7.4 Requests for Exceptions to Standard Terms and Conditions and Contracts. AGENCY agrees that all vendor requests for exceptions to the DIVISION's Standard Terms and Conditions and the DIVISION'S standard contract either be (1) approved by the DIVISION, or (2) approved in writing by AGENCY's legal counsel.

7.5 Purchasing Vendors List. The DIVISION maintains a purchasing vendors list for supplies and services typically purchased by state agencies. The purchasing vendors list is available in eMACS. AGENCY shall use the purchasing vendors list for all formal solicitations.

**PROCUREMENT DELEGATION AGREEMENT
AMENDMENT #1
2015-2017**

This Amendment #1 is made and entered into between the State Financial Services Division, Department of Administration (DIVISION), and the Department of Corrections, (AGENCY). April Grady represents the AGENCY. Brad Sanders, Chief Procurement Officer, State Procurement Bureau (SPB), State Financial Services Division, represents the DIVISION.

- 1) Section 9.2 entitled Information Technology Resources and Contracts, is replaced with the following:


9.2 Information Technology Resources and Contracts.

- A. The Montana Information Technology Act (MITA) defines "information technology" as hardware, software, and associated services and infrastructure used to store or transmit information in any form, including voice, video, and electronic data. 2-17-506(7), MCA. Under MITA, the State Information Technology Services Division (SITSD) is required to review the use of information technology resources for all state agencies and review and approve state agency specifications and procurement methods for the acquisition of information technology resources. § 2-17-512(1)(j)(k), MCA.
- B. The CIO or designee is required to review, approve and sign all state agency contracts and review and approve other formal agreements (statements of work or amendments to contracts, for example) for information technology resources provided by the private sector and other government entities associated with procurements requiring SITSD's pre-approval. § 2-17-512(1)(l), MCA; ARM 2.12.204. AGENCY shall use SITSD's IT contract for any such information technology resources purchased.
- C. MITA also requires that if the CIO determines that an agency is not in compliance with MITA and applicable IT statutes, rules, policies, plans, standards, and architectures, the CIO may cancel or modify any contract, project, procurement, or activity that is not in compliance. § 2-17-514, MCA.
- D. AGENCY acknowledges that Executive Order No. 09-2016 authorizes only SITSD to buy and deploy servers, storage and cloud services, unless otherwise directed by the Budget Director and the CIO. This Executive Order covers the Executive Branch and exempts elected official agencies, SITSD, and those entities identified in §2-17-516, MCA.

EXCEPTION: Provided agencies ensure their IT procurements comply with the MITA and other applicable IT statutes, rules, policies, plans, standards, and architectures, CIO prior approval is not needed for IT procurements that meet the requirements detailed in the ITPR Delegated Authority Guidelines, found at <http://sitsd.mt.gov/Portals/77/docs/Procurement-Vendor/ITPR%20documents/ITPRdelegatedauthorityguidelines.pdf>. Agencies may obtain assistance from SITSD to ensure IT procurements comply. This exception does not apply to the servers, storage, and cloud services covered by Executive Order No. 09-2016.

SIGNATURES


Approved for AGENCY by:

 7/15/16
Mike Batista, Director Date
Department of Corrections

Approved for the DIVISION by:

 7/21/16
Sheila Hogan, Director Date
Department of Administration

Reviewed for Legal Content by:

 7/20/2016
Mike Manion, Chief Legal Counsel Date
Department of Administration