

Montana Code Annotated 2009

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18-4-132. Application. (1) This chapter applies to:

(a) the expenditure of public funds irrespective of their source, including federal assistance money, by this state acting through a governmental body under any contract, except a contract exempted from this chapter by this section or by another statute;

(b) a procurement of supplies or services that is at no cost to the state and from which income may be derived by the vendor and to a procurement of supplies or services from which income or a more advantageous business position may be derived by the state; and

(c) the disposal of state supplies.

(2) This chapter or rules adopted pursuant to this chapter do not prevent any governmental body or political subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

(3) This chapter does not apply to:

(a) either grants or contracts between the state and its political subdivisions or other governments, except as provided in part 4;

(b) construction contracts;

(c) expenditures of or the authorized sale or disposal of equipment purchased with money raised by student activity fees designated for use by the student associations of the university system;

(d) contracts entered into by the Montana state lottery that have an aggregate value of less than \$250,000;

(e) contracts entered into by the state compensation insurance fund to procure insurance-related services;

(f) employment of:

(i) a registered professional engineer, surveyor, real estate appraiser, or registered architect;

(ii) a physician, dentist, pharmacist, or other medical, dental, or health care provider;

(iii) an expert witness hired for use in litigation, a hearings officer hired in rulemaking and contested case proceedings under the Montana Administrative Procedure Act, or an attorney as specified by executive order of the governor;

(iv) consulting actuaries;

(v) a private consultant employed by the student associations of the university system with money raised from student activity fees designated for use by those student associations;

(vi) a private consultant employed by the Montana state lottery;

(vii) a private investigator licensed by any jurisdiction;

(viii) a claims adjuster; or

(ix) a court reporter appointed as an independent contractor under [3-5-601](#);

(g) electrical energy purchase contracts by the university of Montana or Montana state university, as defined in [20-25-201](#). Any savings accrued by the university of Montana or Montana state university in the purchase or acquisition of energy must be retained by the board of regents of higher education for university allocation and expenditure.

(h) the purchase or commission of art for a museum or public display;

(i) contracting under [47-1-216](#) of the Montana Public Defender Act; or

(j) contracting under Title 90, chapter 4, part 11.

(4) (a) Food products produced in Montana may be procured by either standard procurement procedures or by direct purchase. Montana-produced food products may be procured by direct purchase

when:

(i) the quality of available Montana-produced food products is substantially equivalent to the quality of similar food products produced outside the state;

(ii) a vendor is able to supply Montana-produced food products in sufficient quantity; and

(iii) a bid for Montana-produced food products either does not exceed or reasonably exceeds the lowest bid or price quoted for similar food products produced outside the state. A bid reasonably exceeds the lowest bid or price quoted when, in the discretion of the person charged by law with the duty to purchase food products for a governmental body, the higher bid is reasonable and capable of being paid out of that governmental body's existing budget without any further supplemental or additional appropriation.

(b) The department shall adopt any rules necessary to administer the optional procurement exception established in this subsection (4).

(5) As used in this section, the following definitions apply:

(a) "Food" means articles normally used by humans as food or drink, including articles used for components of articles normally used by humans as food or drink.

(b) "Produced" means planted, cultivated, grown, harvested, raised, collected, processed, or manufactured.

History: En. Sec. 44, Ch. 519, L. 1983; amd. Sec. 1, Ch. 548, L. 1989; amd. Sec. 2, Ch. 359, L. 1995; amd. Sec. 5, Ch. 443, L. 1997; amd. Sec. 1, Ch. 407, L. 1999; amd. Sec. 1, Ch. 580, L. 1999; amd. Sec. 30, Ch. 7, L. 2001; amd. Sec. 15, Ch. 181, L. 2001; amd. Sec. 1, Ch. 153, L. 2003; amd. Sec. 2, Ch. 289, L. 2005; amd. Sec. 22, Ch. 449, L. 2005; amd. Sec. 1, Ch. 146, L. 2007; amd. Sec. 3, Ch. 439, L. 2009.

Provided by Montana Legislative Services

**DEPARTMENT OF ADMINISTRATION
GENERAL SERVICES DIVISION
STATE PROCUREMENT BUREAU**

www.discoveringmontana.com/doa/gsd



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**Questions and Answers on Limited Solicitation
Prepared by the State Procurement Bureau
Department of Administration
October 2003**

1. What is the purpose of limited solicitation?

Limited solicitation provides state agencies with a tool to procure low cost items in an expedited manner. This method can be used for both supplies and services up to \$25,000. (By administrative rule, the State Procurement Bureau (SPB) does not require competition for purchases under \$5,000.)

2. What are the required procedures?

Agency personnel must obtain a minimum of three viable quotes, if available. Quotes can be oral, written, faxed, or e-mailed. Agencies must use SPB's Limited Solicitation Forms, available on our website at: <http://discoveringmontana.com/doa/gsd/procurement/forms.asp>. Documentation is required, including vendors contacted, quotes received, complete product description and/or service requirements, and all award conditions (e.g., delivery requirements, sole brand, and packaging). If the purchase is based upon "sole brand," a "Sole Brand" Procurement Justification Form, available on the above-listed website, is also required as documentation for the purchase. The contract must be awarded to the lowest acceptable quote if cost is the only consideration.

3. Can factors other than cost be used?

Yes. It is allowable to use criteria other than cost (e.g., qualifications, available staff, references, etc.) in making an award. Vendors must be provided with all the criteria and their relative importance. The evaluation criteria must be completed prior to accepting responses. This method of limited solicitation must be done in writing.

4. What does "viable quote" mean?

It means asking the appropriate and responsible vendors for quotes.

5. What if three vendors are not available?

This may happen occasionally. If three are not available, include a short explanation why. Remember, you have to justify how you selected your vendors, so use good judgment.

6. Should agencies include a list of standard terms and conditions with a limited solicitation?

In some cases, terms and conditions should be attached to the solicitation and the contract. This will require the solicitation to be done in writing. The minimum terms and conditions the State Procurement Bureau recommends are found on the backside of the SPB's Limited Solicitation Form. Agencies should evaluate the service or product to determine if additional terms should be included, such as commercial general liability insurance, workers' compensation insurance, and payment and shipping terms. Please contact the SPB at 444-2575 if you have any questions.

7. Is it okay to fax a quote page to vendors rather than calling each one?

Yes. This may be more time efficient than calling because all of your conditions will be in writing with less chance for misinterpretation.

8. What if I estimate the product to be under \$25,000, and all quotes come in above \$25,000?

If the lowest acceptable quote is significantly higher than anticipated, make no award and re-bid using other methods (sealed bid or proposal). If the lowest quote is slightly higher, contact the SPB at 444-2575.

9. Do I need to issue a purchase order?

The State Procurement Bureau recommends using a written agreement for all purchases, but it is not required.

10. Can I use a state procurement card for payment?

Yes, pro-card can be used as a payment method for any purchase. Just remember that use of pro-card is not a replacement for a competitive procurement method.

11. If I use criteria other than cost, do I need to assemble a committee to review responses?

No, one person can perform the analysis.

12. Can I use a limited solicitation process if I want the ability to renew the contract?

Maybe, however, if the total cost, including both the initial contract period, plus any possible renewal(s) exceeds \$25,000, agencies must use either a formal sealed bid or proposal process. Limited solicitation is designed for one-time or small-dollar purchases that do not exceed a total contract value of \$25,000.

13. Can protests be filed on a limited solicitation purchase?

No. Per section 18-4-242, MCA, vendors may not file a protest on limited solicitations or small purchases.



STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
POLICY DIRECTIVE

Policy No. DOC 1.2.8	Subject: PROCUREMENT
Chapter 1: ADMINISTRATION AND MANAGEMENT	Page 1 of 4
Section 2: Fiscal Management	Effective Date: May 1, 1996
Signature: /s/ Mike Ferriter, Director	Revised: 04/18/06; 09/28/10 Reviewed: 10/31/07; 12/15/08

I. POLICY

The Department of Corrections will administer the procurement of goods and services in accordance with the Montana Procurement Act (Title 18, Chapter 4, MCA) and Montana Operations Manual (Chapter 1-0700) which will ensure the fair and equitable treatment of all parties involved in the procurement process.

II. APPLICABILITY

All Department divisions, facilities, and programs.

III. DEFINITIONS

Procurement – An acquisition with or without cost, buying, purchasing, renting, leasing, or otherwise acquiring any supplies or services. It includes all functions that pertain to obtaining any supply or service, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. It does not include the acquiring of supplies or services by gift.

Total Contract Value – The entire potential monetary worth of the project from the beginning to completion, including the initial contract period and any options to renew.

IV. DEPARTMENT DIRECTIVES

A. Purchasing Procedures

The Department has several methods available for purchasing supplies and services. These methods are based on the “total contract value” of the item or service desired. A description of each method is further detailed in the Department of Corrections Contract and Purchasing Procedure Manual. Questions should be directed to the DOC Contracts Manager, DOC Purchasing Agent or your Facility Procurement Officer.

1. Availability of State Resources

In the event there is a potential the contractor may use state owned property or other resources, then the Department will state in the procurement document that such property or resource is available for the contractor’s use.

2. Basis of Award

Procurement documents shall include specifications that clearly indicate the evaluation methodology that will be used to determine contract award.

Evaluations may include physical testing of products, review of manufacturer's literature, mathematical calculations using vendor pricing and identified usage data, or any other form of evaluation that serves the Department's best interests and is specifically identified in the procurement document.

If a mathematical formula will be used to determine a cost/score, then examples should be included to promote a better understanding of the procedures, methodology, and intent.

3. Selection and Composition of Request for Proposal (RFP) Evaluation Committees

a. RFP Evaluation Process

All divisions will strictly adhere to the Request For Proposal (RFP) Evaluation Process – Instructions (<http://gsd.mt.gov/ProcurementServices/rfpprocess.mcp>) that have been developed by the Department of Administration, General Services Division (GSD) for this purpose. In addition, DOC staff will utilize GSD's document titled "Initiating and Navigating the Request for Proposal Process" and will select appropriate Evaluation Committee members in accordance with the aforementioned document and the guidelines listed below.

b. Role of the Evaluation Committee in the RFP Process

The Evaluation Committee's role in the RFP process is to provide a fair and unbiased evaluation of all offers in accordance with the criteria established in the RFP document, culminating in a recommendation for contract award to the most responsible and responsive offeror.

c. Formation and Composition of the Evaluation Committee

The Evaluation Committee shall be formed prior to the time/date set for receipt of proposals in order to ensure that there is no perception that the Evaluation Committee was formed to favor a particular offeror.

The Evaluation Committee will generally include individuals that are familiar with the goods/services requested in the RFP and also possess a particular knowledge and/or expertise in this area. If necessary, the Evaluation Committee may consult with other staff or "subject experts" regarding technical or specialized aspects of the RFP, but only Evaluation Committee members may deliberate and participate in the evaluation process to recommend contract award.

d. Non-conflict of Interest

All Evaluation Committee members are required to sign a "Non-conflict of Interest" statement prior to serving on an Evaluation Committee. Individuals that have a known, perceived, or possible conflict of interest with any potential offeror should not serve on the Evaluation Committee.

Individuals who become aware of an actual, perceived or possible conflict of interest during their service on the Committee shall immediately notify the Purchasing Agent or Procurement Officer.

e. **Responsibilities and Conduct of Evaluation Committee Members during the Procurement Process**

i. Evaluation Committee members shall:

- Become familiar with the requirements of the RFP prior to the evaluation process;
- Adhere to the evaluation criteria set forth in the RFP;
- Conduct themselves in a professional manner at all times, whether with other Evaluation Committee members, bidders, or the public;
- Be objective, impartial, unbiased, and fair in all aspects of the evaluation process;
- Attend all Evaluation Committee meetings and vendor presentations;
- Refer all vendor/public inquiries related to the submission and/or evaluation of proposals to the Procurement Agent/Officer responsible for the RFP;
- Immediately contact the assigned Procurement Agent/Officer if any real or perceived conflict of interest should develop at any time during the evaluation process;
- Have no direct contact with an offeror during the RFP evaluation process, unless job duties/functions absolutely require such contact; and
- Make a recommendation of contract award.

B. Controlled Purchases

1. The Department of Administration, General Services Division (GSD) retains control of specific purchases (controlled items), and the Department is required to purchase these items through GSD. Controlled items may be obtained through GSD in these ways:
 - (1) Requisition Time Schedule;
 - (2) Exclusive or Non-Exclusive Term Contracts;
 - (3) Central Stores;
 - (4) Printing;
 - (5) Vehicles;
 - (6) Cooperative Purchasing.
2. In addition to the items listed above, the Department has also identified other purchases that require specific approval and/or assistance by designated individuals or programs. These include Cellular Telephone service, Computer Hardware and Software, Telecommunications systems, and Photocopiers. For procurement and approval of these items, questions should be directed to the DOC Contracts Manager, DOC Purchasing Clerk or your Facility Procurement Officer.

C. Exceptions

Exceptions are supplies and services purchased outside standard procedures due to unique requirements or unusual circumstances. By definition, they are few in number and may require additional justification and documentation. For procurement and approval of these items, questions should be directed to the DOC Contracts Manager, DOC Purchasing Agent or your Facility Procurement Officer.

- Salaries/Fees/Professions/Training/Other
- Sheltered Workshops
- Interagency Agreements
- Exigencies
- Offender Clothing

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D. Purchasing Documents

The Department's documentation of purchases will be accounted for in compliance with *Title 18, MCA; ARM Title 2, Subchapter 5*; the Purchasing Authority Agreement between the Department of Administration and the Department of Corrections; and the Department's Contracting and Purchasing Procedures Manual.

E. Purchase Compliance

The director and each warden, superintendent, and division administrator is responsible for ensuring Department compliance with these procedures.

F. Purchase Authorization

Special purchase authorization may be granted through an agreement between the Department of Administration and the Department of Corrections.

V. CLOSING

Questions concerning this policy should be directed to the Administrative and Financial Services Division Administrator.

VI. REFERENCES

- A. *18-1-101 through 18-11-112 (2007) Public Contracts Generally, MCA; 53-1-203, Powers and Duties of Department of Corrections (2007) MCA; 2.5.101 through 2.5.801, Administrative Rules of Montana*
- B. *Purchasing Authority Delegation Agreement between the Departments of Administration and Corrections*
- C. *Department of Corrections Contracting and Purchasing Procedure Manual, <http://cor.state.mt.us/resources/Purchasing/Purchasing Manual.pdf>*
- D. *Department of Corrections Purchasing Cardholder Manual (Procurement Card)*
- E. *Montana Operations Manual, Chapter 1-0700*

VII. ATTACHMENTS

None.

Jenicek, Michelle

From: Willems, Gary
Sent: Monday, April 25, 2011 4:26 PM
To: Jenicek, Michelle
Subject: Common/Important Purchasing Links

DOC Home Page <http://www.cor.mt.gov/default.mcpX>

DOC Purchasing Manual Link <http://www.cor.mt.gov/content/Resources/Purchasing/Manual.pdf>

DOC Purchasing Policy 1.2.8 <http://cor.mine.mt.gov/PoliciesandForms/IndexDetailChapter1/1-2-8.mcpX>

State Procurement Bureau (Home Page) <http://gsd.mt.gov/ProcurementServices/default.mcpX>

General Services Division (Laws, Rules, Policies)
<http://gsd.mt.gov/ProcurementServices/montanaprocurementlaw.mcpX>

Montana Procurement Act http://data.opi.mt.gov/bills/mca_toc/18_4.htm

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