I. Policy

Based upon the Procurement Delegation Agreement between the Department of Administration and the Commissioner of Higher Education, all procurement and purchasing activities must be performed in accordance with the Montana Procurement Act, Title 18, chapter 4, MCA; Title 2, chapter 5, ARM; the Montana Operations Manual, and this policy.

A. Purchasing Controlled Items and Services

While the State Financial Services Division (“FSD”) delegates authority to State agencies to make some purchases, major areas of these "common-use" supplies and services are "controlled" by FSD, through the State Procurement Bureau (“SPB”) to ensure the greatest level of competition through the power of volume purchasing. Therefore, purchases of “controlled” items must be made through SPB. Controlled items fall under the following categories: (1) Requisition Time Schedule; (2) Exclusive or non-Exclusive Term Contracts; (3) Printing; (4) Vehicles; or (5) Cooperative Purchasing. The categories most often necessary for OCHE procurement include:

1. Exclusive and Non-Exclusive Term Contracts

Term Contracts are contracts established by SPB for high-use supplies or services, for a predetermined price, for a specific period. Term contracts are either exclusive or non-exclusive. Exclusive contracts must be utilized by OCHE, if available; Non-exclusive contracts are optional but should be used when practicable. If a term contract is not utilized, the appropriate procedure for the specific purchase category must be followed. A current listing of SPB term contracts is available on the State Procurement Bureau’s website: https://spb.mt.gov/.

Purchases of items that fall under term contracts may be made without additional competitive bidding. The contract vendor should be contacted directly to order goods or services from an active term contract. An additional purchase order or contract is not required; however, a purchase requisition must be submitted to Chief Procurement Officer if the initial contract period and any options to renew exceeds $25,000. Appropriate approval signatures must be obtained prior to placing any order.

2. Montana e-Market Center

The Montana eMarket Center is an on-line purchasing portal where authorized purchasers may purchase goods directly from contracted vendors. Agencies are encouraged to utilize the Montana e-Market Center for all purchases of office supplies. Additionally, term contracts have been established for janitorial supplies, coarse paper products, and many other commodities. Upon approval by a Deputy Commissioner, individual OCHE employees may be designated as “shoppers.” More information regarding the e-Market Center program and pricing can be found at: https://spb.mt.gov.

3. Printing

State Print and Mail operates a printing program on behalf of state agencies and has the exclusive authority to contract for all printing. Unless specifically authorized in writing by State Print and Mail, all printing and the procurement of printing-related purchases must be obtained from State Print and Mail. The following items are exempt and may be obtained from a vendor other than State Print and Mail: (1) business cards; and (2) specific printed materials for which State Print and Mail has issued a separate "printing term contract." Programs must contact State Print and Mail for at 444-3060 for specific

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information on current printing term contracts. More information regarding the State Print and Mail is available at: https://gsd.mt.gov/SPM.

B. Purchasing Non-Controlled Items or Services

Apart from the purchase of “controlled” items as set forth above, OCHE is delegated a specific level of authority to purchase “non-controlled” items and contracted services up to a designated amount. Purchases of non-controlled items within OCHE’s delegated purchasing authority must be procured as provided below and through the procedures provided in OCHE Policy 505. When determining the appropriate procurement category, the value of the purchase must be based upon the “total contract value,” which means the initial contract value plus any options to renew.

1. Small Purchases – Purchases of $5,000 or less

Purchases with a “total contract value” of $5,000 or less may be completed without a competitive process and through any technique that best meets OCHE’s needs; however, all small purchases must be made using prudent purchasing practices and competitive price quotations must be solicited where practical. Electronic quotations are allowed. All price quotations must be documented. Wherever possible, use of the State Central Vendor’s List is encouraged. The purchase of goods of $5,000 or less may be through invoice and does not require a separate written contract. For complete procedures related to purchases within this range see OCHE Policy 505- Purchase and Procurement Procedures.

2. Limited Solicitations – Purchases of $5,001 - $25,000 (services) and up to $50,000 (supplies)

OCHE may procure services with a total contract value between $5,001 and $25,000 or supplies with a total contract value between $5,001 and $50,000, using a limited solicitation procedure. To utilize this procedure for purchases of supplies over $25,000 or more, a signed Purchase Requisition form must be submitted to OCHE Procurement prior to initiating a limited solicitation. Three (3) written or oral quotations must be obtained, if available. Electronic quotations are allowed. The limited solicitation procedure must be documented using the OCHE Limited Solicitation form available at https://www.mus.edu/che/intranet/index.html under the Purchasing. This procurement method does not apply to controlled items.

3. Formal Bids – Purchases over $25,000 (services) or $50,000 (supplies)

All purchases with a total contract value over $25,000 for services or $50,000 for supplies shall be made using formal competitive procedure and require a completed and signed Purchase Requisition form to be submitted to Chief Procurement Officer for processing. The Chief Procurement Officer will assist OCHE staff to determine and develop the appropriate solicitation method such as an RFP or IFB, and will forward any purchases of supplies or services above OCHE’s purchasing authority as provided in the MUS Procurement Delegation Agreement to the SPB for processing.

4. Sole Source Procurement

Under limited circumstances, OCHE staff may need to consider making a “sole source procurement.” “Sole source procurement” means an award for a supply or service to the only known capable vendor, occasioned by the unique nature of the requirement, the vendor, or market conditions. Sole source procurement is not permissible unless required due to: (1) compatibility of services or equipment; (2) uniqueness of the service or equipment; and (3) the required service or good is available only from a single vendor. Sole source distinguishes itself from “sole brand” in that only one vendor is available to provide the product. With a sole brand request, several vendors are available to distribute a specific brand.
Certain items do not require sole source justification and may be purchased directly by OCHE as provided the Montana Procurement Act, Title 18, chapter 4, MCA and Title 2, chapter 5, ARM, including the following: (1) professional licenses; (2) dues to associations; (3) renewal of software license agreements; (4) purchase or renewal of maintenance agreements for software or hardware; (5) publications available only from a single supplier; (6) travel and per diem; (7) freight; (8) training; (9) conference space and rental and catering; (10) advertisements (not including fees for the development, design, and distribution of the advertisement); and (11) books and periodicals.

C. Exigency Purchases

Normal purchasing procedures do not apply if a public exigency exists. An exigency purchase is "a purchase made without following normal purchasing procedures due to a sudden and unexpected happening or unforeseen occurrence or condition which requires immediate action." Any exigency purchase should rarely be used and is limited to those supplies or services necessary to meet the exigency. The exigency procedure may not be used to satisfy personal preferences, lack of planning, or convenience on the part of OCHE or the program, for preventing funds from reverting at the end of the fiscal year, or for any reason that seeks to circumvent the regular procurement methods. Because exigency purchases are made outside of the normal purchasing procedures, all exigency purchases must be reviewed by a Deputy Commissioner, legal, and OCHE Procurement.

D. Securing Prior Approval for Certain Supplies and Services

OCHE is required to obtain prior approval to purchase certain supplies and services, regardless of OCHE’s delegated procurement authority. OCHE Procurement shall obtain prior approval from the appropriate state agency before submitting a requisition to SPB for the items listed below. All approvals must be obtained before a purchase is made or a solicitation is sent to any vendors. The following supplies and services require prior approval:

- All large scale printing-related equipment involving duplicating, printing, bindery, and graphic arts equipment to be used within a 10-mile radius of the capitol area must be approved by State Print and Mail. See § 2-17-301, MCA.
- Mail equipment to be used within a 10-mile radius of the capitol area must be approved by State Print and Mail. See § 2-17-301(3), MCA.
- Surplus property trade-ins must be approved by the General Services Division’s Surplus Property Program. See § 18-4-226, MCA.

E. Debarred Vendors

OCHE is prohibited from contracting with debarred vendors. SPB maintains a list of vendors that have been debarred from doing business with the State of Montana. The list may be accessed at the following site: [https://spb.mt.gov/Agency-Resources/DebarredSuspendedVendors](https://spb.mt.gov/Agency-Resources/DebarredSuspendedVendors). The federal government also maintains a list of vendors that are prohibited from receiving certain types of federal contracts and awards. Contact OCHE Legal Counsel for additional information.

II. Procedures

Please refer to OCHE Policy 505 for Purchase and Procurement Procedures.

References:
Montana Procurement Act, Title 18, Chapter 4, MCA
Title 2, chapter 5, ARM.
OCHE Policy 505 “Purchase and Procurement Procedures”.