Procurement Guide
OCHE POLICY 504 & 505

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Introduction
This guide was created to provide you with the information you need to navigate the procurement processes required to comply with OCHE policies 504 & 505, our Delegation agreement with the State Procurement Bureau, and Montana State law. Although the following pages should provide you with helpful information, there are always exceptions, unique situations, and projects that just don’t quite fit. If you are unsure about anything, please do not hesitate to contact OCHE Procurement. We are here to help!

Delegation
The State Procurement Bureau has granted the Montana University System (MUS) and the Office of the Commissioner of Higher Education (OCHE) Level Two delegation authorizing OCHE Procurement to purchase non-controlled items up to $500,000. The delegation is for two years and can be revoked. OCHE Procurement further delegates this purchasing authority to OCHE Units to allow them to purchase non-controlled items up to $5,000, if department personnel have been trained. Delegation can be revoked or decreased if procurement procedures are not followed.

The 3 phases of procurement
The procurement process has three phases: funding approval, competition (bidding), and contracting. These phases can take different forms depending on many factors: controlled purchases, pre-bid contracts, competitive exempt purchases, and use of vendor agreements. However, the biggest driver of all of these phases is cost, and more specifically Total Contract Value.
Total Contract Value (TCV)

Total Contract Value is the initial contract period, plus any options to renew, including shipping, warranties, maintenance, etc. Total Contract Value is essentially any and all costs that OCHE will incur during the length of the Contract. Once you determine the TCV, you will be able to determine what steps you need to take to complete your purchase.

As you can see in the pie chart, the cost of this item only makes up about 50% of the total contract value of this item. Shipping, warranty, renewal options and maintenance add significantly to the cost and can make this purchase much larger than originally anticipated. This is why it is always important to consider all costs associated with the purchase.
Controlled and Non-Controlled Purchases

Controlled purchases are restricted and MUST be made by the State Procurement Bureau or through contracts established by them. Some examples include:

- New or Used Vehicles
- Exclusive Statewide Term Contracts
- eMACS Marketplace (office supplies, fine and coarse paper, janitorial supplies)
- Printing

Non-controlled purchases can be made at the Agency level, subject to Delegation Agreement.

Exclusive and Non-Exclusive Contracts

The State Procurement Bureau establishes Term Contracts for the benefit of State Agencies. These contracts fall into two categories: “Exclusive” and “Non-Exclusive”

- **Exclusive**: OCHE must utilize these contracts for these goods and services. Some examples include janitorial supplies, office supplies, commercial card solutions, bulk propane, bulk fuel.

- **Non-Exclusive**: These contracts are optional use. They can be utilized with no further competitive bidding requirement. If not used, standard procurement
policy/procedures must be followed. Some examples include background screening services, E-waste recycling/destruction, office furniture, IT equipment and services, photocopiers, document shredding, temporary worker services.

State Term Contracts can be found here: [https://spb.mt.gov](https://spb.mt.gov) under “agency resources”

**Important Note:** When using existing State Term Contracts, competitive procurement (bidding) is not required. However, both the funding approval and contracting phases still need to be completed as dictated by TCV. All required approvals, processes and forms must be completed **before** purchase is made. Procurement forms can be found here: [https://www.mus.edu/che/intranet/ochepolicy/index.html](https://www.mus.edu/che/intranet/ochepolicy/index.html).

If you need to purchase a good or service that cannot be accommodated by a term contract, you will need to consider the Total Contract Value (TCV). This amount will dictate whether your purchase is considered small, medium, or large and the required funding approval, competition (bidding), and contracting processes to follow.
Small Purchases: $0 to $1,000 TCV

**Required Approvals:**
- **Supervisor:** Obtain pre-approval by sending an email to your supervisor. Include: a clear business purpose associated with the purchase, identify what Org will be charged, total cost of purchase, and any supporting documentation.

**Required Processes:**
- **None:** Competitive procurement (obtaining bids) not required but shop around for best pricing.

**Required Forms:**
- **None:** No Procurement forms required. Submit supervisor’s approval, invoice, p-card receipt, or p-card log to Operations and Administration for payment and retention of documents.

Small Purchases: $1,001 to $5,000 TCV

**Required Approvals:**
- **Supervisor**
- **Unit/Program Director**
- **Budget Analyst**
- **Supervising Deputy Commissioner**

**Required Processes:**
- **Complete Purchase Requisition:** fill out purchase requisition form (OCHE-1) and route for signatures. Competitive procurement (obtaining bids) not required but shop around for best pricing.
Required Forms:
- Supervisor’s approval email
- Purchase Requisition (OCHE-1)

Submit supervisor’s approval, purchase requisition, invoice, p-card receipt, or p-card log to Operations and Administration for payment and retention of documents.

Medium Purchases: $5,001 to $25,000 TCV

Required Approvals:
- Supervisor
- Unit/Program Director
- Budget Analyst
- Operations and Administration Director
- Supervising Deputy Commissioner

Required Processes:
- Complete Purchase Requisition: fill out purchase requisition form (OCHE-1) and route for signatures.
- Limited Solicitation: obtain a minimum of three informal bids, and purchase from the lowest cost. If criteria other than cost needs to be considered, contact OCHE Procurement.
- Brand Name Justification: if only one brand or make/model is required, you must justify. If approved, informal bids still required, but you may limit to a specific brand.
- Sole Source Justification: if good or service can only be obtained from one source, you must justify. If, approved purchase can proceed from only available source without bidding.
Required Forms:

- Supervisor’s approval email
- Purchase Requisition (OCHE-1)
- Brand Name Justification (OCHE-13, when appropriate)
- Sole Source Justification (OCHE-14, when appropriate)
- Limited Solicitation Form (OCHE-20)
- Departmental Purchase Order (OCHE-12; for goods) or Contracted Services Agreement (OCHE-49; for services)

Submit all procurement documents and invoice to Operations and Administration for payment and retention.

Large Purchases: $25,001 and above TCV

Required Approvals:

- Supervisor
- Unit/Program Director
- Budget Analyst
- Operations and Administration Director
- Supervising Deputy Commissioner
- Commissioner of Higher Education (above $250,000 only)

Required Processes:

- **Complete Purchase Requisition**: fill out purchase requisition form (OCHE-1) and route for signatures.
- **Formal Invitation for Bid (IFB)**: Issued by OCHE procurement. Purchase Order or Contract awarded to lowest cost vendor that meets all requirements. IFB process takes about 3-4 weeks so plan accordingly.
• **Formal Request for Proposals (RFP):** Issued by OCHE procurement. Purchase Order or Contract awarded to vendor that scores highest in a combination of cost and other criteria. RFP process takes a minimum of 8 weeks and can take even longer depending on complexity.

• **Brand Name Justification:** if only one brand or make/model is required, you must justify. If approved, IFB or RFP process will still be required, but you may limit to a specific brand.

• **Sole Source Justification:** if good or service can only be obtained from one source, you must justify. If, approved, OCHE Procurement will issue Purchase Order or Contract to only available source without bidding.

**Required Forms:**

• Supervisor’s approval email
• Purchase Requisition (OCHE-1)
• Brand Name Justification (OCHE-13, when appropriate)
• Sole Source Justification (OCHE-14, when appropriate)

Submit all documents to OCHE Procurement. Procurement will review justifications, administer any formal procurement, and issue Purchase Order’s/Contracts as necessary. Procurement will also ensure submission of all required documents for retention.
Drafting a Contracted Services Agreement (CSA) for purchasing services under $25,000 TCV

When procuring services below the $25,000 TCV threshold a CSA (OCHE-49 form) should be issued. Please contact Operations and Administration for assistance. The CSA provides the following benefits:

- A written record that legally binds OCHE and the Contractor.
- Provides terms and conditions that are favorable to OCHE.
- Provides a contract number, which should be referenced on all correspondence.
- Identifies the Contractor and the person who authorized the contract.
- Defines the scope of work, period of performance, and payment terms, etc.
- Many contractors prefer an official contract.

Use **OCHE-49 Contracted Services Agreement** form and follow these instructions:

**Stick to boilerplate:** Only a few sections of the CSA can be changed. If any other revisions are needed contact OCHE Procurement.

**Use current form:** Always go to [https://www.mus.edu/che/intranet/ochepolicy/index.html](https://www.mus.edu/che/intranet/ochepolicy/index.html) to obtain the most current CSA version.

**Watch your formatting:** Before sending to the vendor, **red text** should be changed to black once your information is inserted.

**Parties:** Complete information for both contractor and OCHE. Also collect current W9 from contractor to provide to Operations and Administration.
**Purpose:** insert a sentence or two as to the purpose of the services you will be receiving.

**Effective Date and Duration:** Start date should be a specific date OR “upon execution.” not both. Make sure to remove upon execution if you are inserting a specific date. Remember CSAs cannot be backdated.

**Renewal Options:** Before including renewal options, determine whether TCV will exceed $25,000. If it will, contact OCHE Procurement and we will issue the contract. Remember that maximum term is seven years (ten years for IT or Benefits).

**Services:** Provide specific details of exactly what services the vendor will be performing and when. This is important so that both parties know what to expect to prevent any confusion. You can also refer to an attachment if you are providing a lot of details.

**Consideration:** Include specific information about when and how much the vendor will be paid. Do not pay in advance. Do not include a lump sum without detailing how payments will be made.

**Insurance:** Stick to boilerplate. General Liability should be included for all CSAs (with very rare exceptions). CSAs requiring travel should also include Auto insurance. Contact procurement if unsure how to apply this provision. Collect certificate of insurance from contractor before work begins.

**Contract execution and retention:** Contractor, Requestor, Chief Procurement Officer, Legal Counsel, and the appropriate Deputy Commissioner should be the signatories on these agreements. Route your CSA in DocuSign for signatures. Make sure that Operations and Administration receive a copy and keep a copy for your files.
Drafting a Departmental Purchase Order (DPO) for Purchasing supplies/equipment between $5,000 and $25,000 TCV

When procuring supplies/equipment between $5,000 & $25,000 a DPO (OCHE-12 form) should be issued. The DPO provides the following benefits:

- A written record that legally binds the buyer and seller.
- Provides the Standard Terms and Conditions that are applicable to purchases up to $25,000. These terms and conditions are favorable to OCHE.
- Provides a DPO number, which should be referenced on all correspondence.
- Identifies the Supplier and the person who authorizing the order.
- Provides a complete shipping address, ensuring delivery of the supply/equipment to the proper location.
- Many suppliers require an official purchase order.

Use OCHE-12 Department Purchase Order form and follow these instructions:

**Stick to boilerplate:** Only a few sections of the DPO need to be changed. If any other revisions are needed contact OCHE Procurement.

**Use current form:** Always go to https://www.mus.edu/che/intranet/ochepolicy/index.html to obtain the most current CSA version.

**DPO number:** Provide number that makes sense to your Unit/Program. If you do not have a specific one, something like fiscal year+ a number or the date in YYYYMMDD format will suffice. This number should be used on all correspondence and invoices.
Supplier: Complete contact information for supplier. Also collect current W9 from contractor to provide to Operations and Administration.

Billing Address: Complete information for OCHE billing address. This is where all invoices should be sent.

Shipping Address: Complete information for OCHE shipping address. This is where the supplies/equipment should be sent. This should be a physical address and not a PO Box.

Requestor: Provide name, phone number and email address of requestor.

Line Items: Provide description, catalog numbers (if applicable), quantity cost and extension. If ordering multiple items, use a different line and item # for each. Or conversely if you have a vendor quote you can state “XXXX supplies as per vendor quote #XXXX”

Shipping Cost: Make sure you determine with the vendor if shipping is included or there is an additional cost. Insert cost on form.

Total: Add up costs of all lines and shipping and insert it here.

DPO execution and retention: Obtain the signature of the appropriate Deputy Commissioner. Route your DPO with any vendor quote in DocuSign for signature. Once signed send to vendor to complete order. Also make sure that Operations and Administration receive a copy and keep a copy for your files.
Sole Source and Brand Name Justifications

Sole Source vs. Brand Name Justification: One or the other – **never** both!

- **Sole Source Justification:** when only one vendor can provide the good or service that you require
- **Brand Name Justification:** when a specific brand is required but it is still available from multiple suppliers

Subjective: *adj. based on or influenced by personal feelings, tastes, or opinions.* i.e., “this cake is the best!”

Objective: *adj. not dependent on the mind for existence; actual.* i.e., “there are four lemons.”

Criteria used to justify a sole source or brand name justification must be objective criteria. Forms that include subjective criteria will be rejected.

<table>
<thead>
<tr>
<th>Acceptable (Objective) Criteria</th>
<th>Unacceptable (Subjective) Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Specific Unique Expertise</td>
<td>Personal Recommendations</td>
</tr>
<tr>
<td>Compatibility with existing equipment/systems</td>
<td>“a quality provider”</td>
</tr>
<tr>
<td>Unique functionality that is required</td>
<td>“industry standard”</td>
</tr>
<tr>
<td>Space or size restrictions</td>
<td>Past positive experience with vendor</td>
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</tbody>
</table>
Cost is **not** a justification for doing a Sole Source Justification. If something is the lowest cost, then by definition it can be provided by other vendors. A solicitation should be done and awarded based on lowest bid.

Use **OCHE-13 Brand Name Justification or OCHE-14 Sole Source Justification** form and follow the instructions on the form. Sign as requestor and route for signatures in DocuSign. These forms must be approved by the Sole Source committee before you can proceed with your purchase.

**Competitively Exempt Procurement**

As allowed for in ARM 2.5.301 & 2.5.604 the following items do not require sole source justification and can be procured without issuing any formal or informal solicitation:

- Fees for those professions exempted by statute
- Travel and per diem
- Freight
- Training
- Conference space rental and catering
- Fees for placing an advertisement in a publication or on radio, television, or other electronic media sources; fees for the development, design, and distribution of the advertisement are not included in this exception
- Books and periodicals
- Professional Licenses
- Dues to Associations
- Renewal of software license agreements
- Purchase or renewal of maintenance agreements for software or hardware
- Publications available only from a single supplier
**Important Note:** Although the above purchase categories do not require competitive bidding, both the funding approval and contracting phases still need to be completed as dictated by TCV. All required approvals, processes and forms must be completed **before** purchase is made. All required forms can be found here: [https://www.mus.edu/che/intranet/ochepolicy/index.html](https://www.mus.edu/che/intranet/ochepolicy/index.html).

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**Information Technology Procurement**

As per OCHE Policy 505, all IT-related purchases, including software, must be pre-approved by the OCHE Office IT/Web Manager. This applies to any dollar amount.

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**Vendor Agreements**

Vendor agreements often contain clauses that we cannot agree to under Montana law and are unfavorable to OCHE. Send all vendor agreements to OCHE Procurement for review **before signing anything**. This applies to any dollar amount.

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**Independent Contractors**

Determining independent contractor classification is complex and based on many factors. Any time you are procuring services from an individual, contact OCHE Procurement. OCHE or University System employees cannot be independent contractors.
Resources
Procurement Policy, Procedures, and forms:
State Procurement Bureau website http://sfsd.mt.gov/SPB
Online Trainings SPB: https://spb.mt.gov/Agency-Resources/Procurement-Training
Online Trainings MSU:
https://www.montana.edu/ubs/procurementservices/procurement_training.html
OCHE Operations and Administration
OCHE Procurement