

UTAH DEPARTMENT OF HEALTH AND HUMAN SERVICES POLICY AND PROCEDURES		
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AGREEMENTS AND PROCUREMENT		
<p>RATIONALE: This policy provides clarification, instruction, and expectations regarding the creation and execution of agreements, grant disbursements, and procurements.</p> <p><i>Related Policies, Applicable Standards, Statutes: U.C.A. 63G-6a (Utah Procurement Code), U.C.A. 63G-6b; DHHS Policy 07-04 Data Sharing, DHHS Policy 01-18 Emergency Procurement</i></p>		
Original Effective: July 1, 2022	Revision: June 11, 2025	Next Review Due: June 1, 2030

I. DESCRIPTION

This policy governs the management of department procurements and agreements, including contracts, grants, intradepartmental agreements, and memorandums of understanding. The policy requires results-based accountability principles to be included in agreements. The policy also requires executive director or deputy director approval before entering, amending, or early termination of certain agreements. The policy limits signatory authority to the executive director or deputy director, with limited exceptions.

This policy supersedes any previous department policy governing this subject matter. It does not supplant any existing federal, state, or department laws/policies to which the department shall adhere.

II. DEFINITIONS

The following terms are defined for this policy as:

- A. **Agreement:** Includes contracts, grants, IDAs, and MOUs.
- B. **Agreement initiator:** The main OU contact for the agreement who is responsible for entering data, submitting forms, and overseeing the

agreement process from start to finish. The agreement initiator may or may not be the subject matter expert (SME) and is responsible to start the agreement/procurement request form and agreement process.

- C. **Business associate agreement (BAA):** Under the HIPAA Privacy and Security Rules, a legally binding agreement entered into by a covered entity and business associate that establishes permitted and required uses and disclosures of protected health information (PHI), provides obligations for the business associate to safeguard the information and to report any uses or disclosures not provided for in the agreement, and requires the termination of the agreement if there is a material violation. Refer to 45 CFR § 164.502(e)(l) to determine when the standard is not applicable.
- D. **Contract:** Same as defined in the Utah Procurement Code.
- E. **Data-sharing agreement (DSA):** Includes agreements that do not include money and that are made specifically for the purpose of sharing DHHS data (including between DHHS OUs) or receiving data from an outside entity.
- F. **DHHS or department:** The Utah Department of Health and Human Services and any operational unit within.
- G. **EDO:** The DHHS executive director's office.
- H. **Evaluation committee:** A group of individuals responsible for assessing and scoring proposals or applications submitted during a solicitation process, like a request for proposal or grant application.
- I. **Grant:** An award of financial assistance that is used to enter into a relationship, the principal purpose of which is to transfer a thing of value to the recipient to carry out a public purpose, without requiring a procurement item in exchange. Grants include federal awards and funding arrangements from individuals, other state agencies, governmental, private, or nonprofit entities. Grant funds do not include:
 - 1. Appropriated general funds;
 - 2. Restricted or other funds established by the Legislature;
 - 3. Donations;
 - 4. Fees; or
 - 5. Client trust funds.
- J. **Intradepartmental agreement (IDA):** An agreement between two DHHS OUs that may or may not include money and does not include data sharing.
- K. **Memorandum of understanding (MOU):** An agreement that does not include an exchange of funds and includes letters of agreement, letters of understanding, memorandums of agreement, and other similar agreements.
- L. **Monitoring:** The systematic observation and review of the expectations laid out in any agreement to make sure they are being fulfilled, such as

frequency, timeliness, and quality. Monitoring occurs on the schedule laid out in the agreement or in department standards based on the level of risk, whichever is stricter. These activities can include, but are not limited to: phone calls, site visits, surveys, interviews, contract review, external review (objective third party), and desk review. Monitoring does not include day-to-day technical assistance.

- M. **OU:** Operational units within DHHS, including divisions, offices, or standalone operations whose director reports to the executive director, a deputy director, or an assistant deputy director. The Utah State Hospital and Utah State Developmental Center are considered OUs.
- N. **Procurement:** Same as defined in the Utah Procurement Code.
- O. **Results-based accountability (RBA):** A performance management tool designed by Mark Friedman to improve service delivery through the identification of outcomes that are measurable and tracked in order to determine whether DHHS clients are better off as a result of contracted services.

III. POLICY

- A. DHHS OUs shall comply with the Utah Procurement Code, Utah Code 63G-6b, and DHHS Policy 01-18 Emergency Procurement Policy when entering into agreements, as applicable.
- B. Before entering, amending, or terminating an agreement or starting a procurement or grant disbursement, all approving parties shall fully complete and sign an agreement/procurement request form (APR form).
 - 1. Section III.B. includes agreements and procurements by other departments that are requested by DHHS, such as Division of Technology Services (DTS) or Division of Facilities Construction and Management (DFCM).
 - 2. Section III.B. does not apply if the agreement or procurement type is listed on the Policy 01-04 Exceptions sheet maintained by the Office of Procurement and Contract Management (PCM). This sheet is available from PCM's website. The DHHS executive director shall approve revisions to the Policy 01-04 Exceptions sheet.
 - 3. BAAs associated with another agreement do not require a separate APR form, but shall be noted on the APR form for the underlying agreement. Standalone BAAs should be treated as DSAs.

4. One APR form shall suffice for new agreements that arise out of a single procurement or grant. Unilateral amendments require an APR form.
 5. An agreement with a communications or media component requires the approval of the DHHS director of Public Affairs and Education. This includes communications, public relations, media campaigns, web development, marketing, billboards, signs, graphic design, video editing and creation, and similar services. Such agreements require an APR form, regardless of other exemptions.
 6. DSAs are subject to DHHS Policy 07-04 Data Sharing and are not governed by this policy. Agreements that contain data sharing are subject to this policy and require the Division of Data, Systems and Evaluation director's approval.
 7. The DHHS executive director, a deputy director, or an assistant deputy director shall sign agreements, unless the agreement or procurement type is listed on the Policy 01-04 Exceptions sheet maintained by PCM.
- C. Agreement initiators shall send agreements not in SharePoint to PCM. PCM shall maintain the central repository for DHHS agreements.
 - D. Agreements shall contain measurable outcomes, an explanation of how the outcomes shall be measured, and an explanation of how the outcomes shall be reported to DHHS. Outcomes shall be established following RBA principles.
 - E. Agreements shall be fully executed and work shall not proceed before the agreement effective date unless the DHHS executive director authorizes otherwise. The DHHS executive director does not have authority to approve backdated state purchasing agreements.
 1. Agreements that are backdated more than 30 days require executive director or deputy director preapproval. Agreements backdated fewer than 30 days do not require executive director or assistant deputy director preapproval.
 2. Requests to expedite review of APR forms, scopes of work, or the signature process require a written justification from the OU director that is approved by EDO.
 - F. Agreements shall be put into a DHHS-approved repository.
 - G. Purchases of \$50,000 or more require EDO approval.
 - H. This policy does not govern Medicaid provider enrollment agreements.
 - I. PCM and Risk Management shall approve exceptions to standard insurance or indemnity requirements. To request this exception, submit the request and the proposed agreement to dhhscontracts@utah.gov.
 - J. The person responsible for monitoring an agreement shall not serve on the

evaluation committee for the agreement.

IV. PROCEDURE

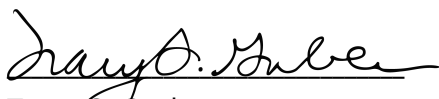
- A. The OU agreement initiator shall complete an APR form before entering, amending, or terminating any agreement or starting a procurement, unless the agreement or procurement type is listed on the Policy 01-04 Exceptions sheet maintained by PCM. This sheet is available from PCM's website.
- B. The Office of Information Privacy and Security shall receive copies of APR forms for DTS and IT contracts.
- C. The agreement initiator shall submit the APR form in SharePoint, which will route to the following for review and approval:
 - 1. For agreements with expenditure of funds, the fiscal officer;
 - 2. The OU director, or for the Office of Substance Use and Mental Health (OSUMH), the OSUMH director; and
 - 3. The DHHS executive director's office.
- D. To obtain preapproval for backdates 30 days or more, OUs shall send justification to dhhsedoapprovals@utah.gov before submitting the agreement for signatures, or if known in advance, include the justification on the APR form. If approved, the justification and approval shall be uploaded to SharePoint, or for agreements not in SharePoint, emailed to dhhscontracts@utah.gov to be filed with the agreement.
- E. Upon final approval of the APR form, a PCM contract analyst shall be assigned to work with the OU agreement initiator to assist with the scope of work, agreement, or procurement.
 - 1. The OU agreement initiator is responsible for program design and writing an initial scope of work following the DHHS scope of work template, which is available on PCM's website. For governmental entity agreements and federally funded agreements that are not entered in SharePoint, the OU shall submit a completed subrecipient determination checklist, which is available on PCM's website, to PCM along with the initial scope of work. OUs may start working on scopes of work before the APR form is approved, but there is no guarantee that the APR form will be approved.
 - 2. For agreements that serve clients across divisions, the OU with the most anticipated spend shall provide a lead agreement initiator.

- a) PCM shall assist the lead agreement initiator with the scope of work and procurement and shall circulate the scope of work and procurement to other OU agreement initiators for input.
 - b) OU directors or superintendents shall resolve disagreements.
- 3. The OU agreement initiator, OU director or assistant OU director, PCM, and EDO shall review and approve scopes of work and MOUs, unless listed on the Policy 01-04 Exceptions sheet maintained by PCM. The Office of Information Privacy and Security shall receive emailed copies on scopes of work for DTS contracts, but the office's approval is not required. The AAG who represents the Office of Information Privacy and Security shall review DHHS IT scopes of work.
- 4. The OU fiscal officer shall also review and approve all agreements involving an expenditure of funds.
- 5. IDAs shall be approved by the Division of Finance and Administration director and processed through PCM or entered into a department system for numbering, signatures, and storage in the central agreement repository.
- F. PCM shall facilitate required procurement processes.
 - 1. If a state purchasing procurement is required, the OU shall complete items that are not processed in SharePoint Purchasing. PCM shall review and submit required solicitation questionnaires and forms to state purchasing.
 - 2. The DHHS Office of Finance shall submit the Vantage requisition.
- G. The OU shall complete a risk assessment in SharePoint for each contract, grant expenditure agreement, and MOU.
- H. PCM shall send agreements that are paid in CAPS for electronic signature, unless such agreements may be processed in SharePoint.
- I. The OU or Office of Continuous Quality and Improvement shall monitor agreements, in accordance with the agreement and contract monitoring information provided on the Team DHHS intranet.
- J. The OU shall send significant agreement-related correspondence for agreements that are not in SharePoint to PCM at dhscontracts@utah.gov for inclusion in the central agreement repository.
- K. For agreements that are entered online on a contractor's website, the OU shall save or copy the terms and send them through PCM at dhscontracts@utah.gov for EDO and legal review.
- L. For agreements entered on a contractor's website, the OU shall save a PDF copy of the agreement and upload it to SharePoint.

- M. The director of PCM may grant exceptions for agreement types within the scope of this policy, but not specifically addressed in this policy.
- N. Items entered in the DHHS confidential access and confidentiality directives form are exempt from standard reviews, but the Data, Systems and Evaluations director shall approve the template.
- O. The program specialist may determine who serves on the evaluation committee, with the exception of the DHHS employee responsible for monitoring the agreement. If the individual responsible for monitoring the agreement is the only subject matter expert to serve on the evaluation committee, the program specialist will need to seek an exception to this policy. The program specialist shall provide written justification to EDO if the individual responsible for monitoring the agreement is the only subject matter expert on that agreement and as a result, may need to participate on the evaluation committee.
- P. Program specialists requesting an exception to have the agreement monitor serve on the evaluation committee, shall retain a copy of the exception request submitted to EDO and the approval of the request with all scoring documents, as well as other documents needed to ensure compliance with procurement rules.

V. EXCEPTIONS

- A. The executive director may make exceptions to this policy, in accordance with procedures outlined in DHHS Policy 01-01.


Tracy S. Gruber
Executive Director

June 11, 2025

Date