

UTAH DEPARTMENT OF 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/Tags:</i> DHS 03-02 Contractor Financial Reporting Requirements and Monitoring and Auditing Responsibilities; Utah Code 63G-6a-803; DHS 02-11 Educational Assistance</p>		
Original Effective: May 15, 1984	Revision: October 6, 2021	Next Review Due: June 24, 2024

I. DESCRIPTION

This policy governs the management of department procurements and agreements, including contracts, grants, data sharing agreements, and MOU’s. The policy requires Results Based Accountability principles to be included in agreements. The policy also requires executive director or deputy director approval prior to entering, amending, or terminating early an agreement. The policy limits signatory authority to the executive director or deputy director.

II. DEFINITIONS

The following terms are defined for this policy as:

- A. DHS or department: The Utah Department of Human Services (DHS) and any of its divisions, institutions, bureaus, or offices (DIBOs).
- B. Agreement: Includes Contracts, Grants, DSAs, and MOUs.
- C. Contract: Same as defined in the Utah Procurement Code, and includes MOUs that agree to expend funds to obtain a procurement item.
- D. Data Sharing Agreement (DSA): Includes agreements made specifically for the purpose of sharing DHS data with another entity, or receiving data from an outside entity.
- E. Grant: Same as defined in the Utah Procurement Code.
- F. Memorandum of Understanding (MOU): Includes letters of agreement, letters of understanding, memorandums of agreement, and other similar agreements
- G. Procurement: Same as defined in the Utah Procurement Code.
- H. 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 DHS clients are better off as a result of contracted services.

III. POLICY

- A. DHS DIBOs must comply with the Utah Procurement Code and DHS policy and procedure when entering into any Agreement. All Agreements must be in writing.
- B. Prior to entering, amending, or terminating any Agreement, or starting a Procurement (including Agreements and Procurements by other departments that are requested by DHS) or grant disbursement, an Agreement/Procurement Request Form must be fully completed and signed by all approving parties, unless the Agreement or Procurement type is listed on the Agreement/Procurement Request Form Exception List.
 - 1. Business associate agreements do not require a separate form, but must be noted on the Agreement/Procurement Request Form for the underlying Agreement.
 - 2. One Agreement/Procurement Request Form will suffice for all new contracts that arise out of a single Procurement or Grant.
 - 3. Any Agreement with a communications or media component requires the approval of the DHS Communications Director. This includes communications, public relations, media campaigns, web development, marketing, billboards, signs, graphic design, video editing/creation, and similar services.
 - 4. DSAs require the approval of the Management Information Center.
- C. Individuals with signatory authority are limited to the executive director, a deputy director, and an assistant deputy director. The executive director, deputy director, or assistant deputy director may delegate signature authority for designated agreements.
- D. All finalized Agreements must be sent to the Bureau of Contract Management (“BCM”) to be stored in the central repository for DHS Agreements.
- E. Agreements must contain measurable outcomes, an explanation of how the outcomes will be measured, and an explanation of how the outcomes will be reported to DHS. Outcomes must be established following RBA principles.
- F. Agreements should be fully executed, and work should not proceed, prior to the Agreement effective date.
 - 1. Agreements may not be backdated more than 30 days without executive director or deputy director approval.
 - 2. Requests to expedite review of Agreement/Procurement Request Forms, scopes of work, or the signature process require a written justification from the DIBO director.

IV. PROCEDURE

- A. The DIBO program specialist must complete an Agreement/Procurement Request Form prior to entering, amending, or terminating any Agreement, or starting a Procurement, unless the Agreement or Procurement type is listed on the Agreement/Procurement Request Form Exception List. The program specialist must submit the Agreement/Procurement Request Form to the following for review and approval:
 - 1. for Agreements with expenditure of funds and non-grant revenue agreements, the

- DIBO fiscal officer;
 2. the DIBO director/superintendent;
 3. BCM;
 4. for Agreements with expenditure of funds and non-grant revenue agreements, the Bureau of Finance; and
 5. the Executive Director's Office (EDO).
- B. The DIBO program specialist must attach a completed Subrecipient Determination Checklist to the Agreement/Procurement Request Form for all Contracts and Grants with governmental entities and all Agreements that are federally funded and not Procurements.
- C. Upon final approval of the Agreement/Procurement Request form, a BCM contract analyst will be assigned to work with the DIBO program specialist to assist with the scope of work/Agreement/Procurement.
1. The DIBO program specialist is responsible for program design and writing an initial scope of work following the DHS scope of work template.
 2. For Contracts, Procurements, and Grants that serve clients across divisions, the DIBO with the most anticipated spend will provide a lead program specialist.
 - (a) BCM will assist the lead program specialist with the scope of work/Procurement and will circulate the scope of work/Procurement to other DIBO program specialists for input.
 - (b) Any disagreements will be resolved by the DIBO directors/superintendents.
 3. The scope of work, MOU, or DSA must be reviewed and approved by the DIBO program specialist, DIBO director/superintendent, a BCM lead, an assistant attorney general, and EDO.
 4. All Agreements involving an expenditure of funds and non-grant revenue agreements must also be reviewed and approved by the DIBO fiscal officer and the Bureau of Finance.
- D. BCM will facilitate any required Procurement process.
1. If a State Purchasing Procurement is required, the DIBO will complete, and BCM will review and submit to State Purchasing any required solicitation questionnaires and forms.
 2. The Office of Fiscal Operations will submit the FINET requisition.
- E. The DIBO must complete a Risk Assessment form for each federal subrecipient award and submit the completed form to the Agreement monitor and BCM to be stored in the central Agreement repository.
- F. BCM will send Agreements for electronic signature.
- G. The DIBO or Office of Quality and Design will monitor Agreements in accordance with the DHS Policy 03-02 Contractor Financial Reporting Requirements and Monitoring and Auditing Responsibilities.
- H. The DIBO must send significant Agreement-related correspondence to BCM for inclusion in the central Agreement repository.

V. AGREEMENT/PROCUREMENT REQUEST FORM EXCEPTION LIST

The following types of Agreements and Procurements do not require an Agreement/ Procurement Request Form. This exception list does not exempt any of these items from the Procurement Code, other fiscal policies and procedures, or from the EDO signature requirement:

- A. The following types of agreements if less than \$10,000:
 - 1. Subscription service agreements;
 - 2. Licensing, copyright, and privacy term agreements;
 - 3. Agreements that are signed online on the contractor's website;
 - 4. Facility/construction related work orders;
 - 5. Pre-adoptive services; and
 - 6. Individual purchases that will not result in a contract.
- B. Amendments that only add new service codes to a contract where the scope of work is published online.
- C. Online agreements for federal government grant systems.
- D. Single-client residential placement sole sources.
- E. Purchases from state cooperative contracts that do not require an additional scope of work.
- F. Emergency purchases made under Utah Code 63G-6a-803.
- G. Procurements and grant disbursements that are less than \$10,000 that do not result in an agreement.
- H. Agreements entered under DHS Policy 02-11 Educational Assistance and educational assistance match commitments with the Department of Health.



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