

<b>UTAH DEPARTMENT OF HUMAN SERVICES POLICY AND PROCEDURE</b>		
<b>Policy: 01-04</b>	Effective Date: May 15, 1984 Revision Date: September 2, 2014	Page 1 of 3
<b>CONTRACTS and AGREEMENTS</b>		

**DEFINITIONS:**

Contract – An agreement for the purchase, exchange or use of funds, supplies, services, technology, personnel, resources or other matters of value that establishes the obligations and responsibilities of the parties.

Memorandums of Understanding (MOUs) – Includes an agreement, grant, letter of agreement, memorandum of agreement or memorandum of understanding. There are two types of MOUs as follows:

- a. MOUs that are Contractual in Nature. These MOUs may omit some of the language found in our standard contracts, however they still involve the purchase, exchange or use of funds, supplies, services, technology, personnel, resources or other matters of value, and:
  - (1) May be exempt from procurement; and
  - (2) Exempt from processing through the Bureau of Contract Management (BCM).
  
- b. MOUs that are Not Contractual in Nature. These MOUs do not involve the purchase, exchange or use of funds, supplies, services, technology, personnel, resources or other matters of value, and are:
  - (1) Exempt from procurement; and
  - (2) Exempt from processing through BCM.

**PURPOSE:**

To provide clarification, instruction and expectations regarding the procurement and execution of contracts and MOUs.

**I. Policy Statement**

Utah Department of Human Services (DHS) complies with the requirements of the Utah Procurement Code (Title 63G, Chapter 6a). All DHS employees, Divisions, Institutions, Regions, Offices, and Bureaus (DIROBs) entering into any contracts must comply with both Utah procurement requirements and DHS internal contracting policy and procedures.

All contracts, regardless of whether or not funds are expended, shall be in writing.

The use of MOUs may assist in furthering partnerships.

The following matrix provides a summary of the three types of contracts defined above including their review and regulatory requirements:

REQUIRE OR BOUND BY THE FOLLOWING:	CONTRACT	MOU CONTRACTUAL	MOU NON-CONTRACTUAL
BCM Review	Yes	No	No
Procurement Rules	Yes	Yes	No
Legal Review	Yes	Yes	Yes
DHS Contract Policy	Yes	Yes	No
Financial Review	Yes	Yes	No

- II. Procedure: The following procedures only apply to Contracts and MOUs that are contractual in nature. MOUs that are not contractual in nature are exempt from these procedures. DIROBs shall:
- A. Work with the Bureau of Contract Management (BCM) to ensure contracts are made in compliance with Utah Procurement Code and this policy.
  - B. Ensure sole source procurement requests are approved **prior** to negotiating any sole source contract(s).
  - C. Be responsible to ensure all contracts and amendments:
    - 1. Are prepared using **only** State Purchasing or DHS approved forms;
 

If a vendor or provider form is required, it must be reviewed and, if needed, modified by a DHS Assistant Attorney General and the Office of Fiscal Operations to ensure compliance with procurement and policy.
    - 2. Contain clearly identified performance expectations, requirements and contractor qualifications;
    - 3. Are submitted to BCM for review (MOUs whether contractual or non-contractual in nature are exempt from BCM review);
    - 4. Are fully executed by individuals with the authority to legally bind their agency into a contract. (Fully executed means all necessary signatures have been obtained); and

5. Have a DHS or State Purchasing assigned contract number **before** any services are rendered or payments are made.

D. Contracts that are in the form of an MOU may **only** be entered into when:

1. Both parties are governmental entities within the executive branch of the State of Utah or the MOU format is required by law or federal grantors; and
2. A fiscal review has been conducted by the DIROB director or superintendent or their designee.

### III. Legal Review

DIROBs are expected to obtain a review of Requests for Proposals, contracts and amendments to contracts from a DHS Assistant Attorney General prior to submitting it to BCM.

- A. Engagement of a DHS Assistant Attorney General in the negotiation of an MOU or amendment to an MOU is also highly recommended whether the MOU or amendment is initiated by DHS or another party.



Ann S. Williamson, Executive Director  
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