

HB1088 – Chapter 34 Changes and Associated Updates

FMAC,

November 6, 2019

HB1088 Effective 8/28/19

- Chapter 34 Changes
- Department Procurement Authority Delegation
- Rules Update
- Procurement Manual/Contract Management Guide
- Training

Chapter 34 Changes

HB1088-What's New in Chapter 34?

1. Changes to Dollar Thresholds for Formal and Informal, IT and Non-IT Bidding Requirements – **COMMISSIONER'S AUTHORITY ONLY**

COMPETITIVE BIDS

*34.040. 1. All purchases in excess of [three] **ten** thousand dollars shall be based on competitive bids, except as otherwise provided in this chapter.*

*2. On any purchase where the estimated expenditure shall be [twenty-five] **one hundred** thousand dollars or over, except as provided in subsection 6 of this section, the commissioner of administration shall:...*

HB1088-What's New in Chapter 34?

Commissioner's Dollar Authority (continued)

COMPETITIVE PROPOSALS:

*34.042. 1. When the commissioner of administration determines that the use of competitive bidding is either not practicable or not advantageous to the state, supplies may be procured by competitive proposals. The commissioner shall state the reasons for such determination, and a report containing those reasons shall be maintained with the vouchers or files pertaining to such purchases. All purchases in excess of ~~[five]~~ **ten** thousand dollars to be made under this section shall be based on competitive proposals.*

*2. On any purchase where the estimated expenditure shall be ~~[twenty-five]~~ **one hundred** thousand dollars or over, the commissioner of administration shall: ...*

Commissioner's Dollar Authority (continued)

IT BIDDING REQUIREMENTS:

*34.047. Notwithstanding any provision in section 34.040, section 34.100, or any other law to the contrary, departments shall have the authority to purchase products and services related to information technology when the estimated expenditure of such purchase shall not exceed **[seventy-five] one hundred fifty** thousand dollars, the length of any contract or agreement does not exceed twelve months, the department complies with the informal methods of procurement established in section 34.040, and 1 CSR 40-1.050(1) for expenditures of less than **[twenty-five] one hundred** thousand dollars, and the department posts notice of such proposed purchase on the online bidding/vendor registration system maintained by the office of administration. For the purposes of this section, "information technology" shall mean any computer or electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of information, including audio, graphic, and text.*

HB1088-What's New in Chapter 34?

2. Reverse Auction Added - New Procurement Tool

8. The commissioner of administration may hold reverse auctions to procure merchandise, supplies, raw materials, or finished goods if price is the primary factor in evaluating bids, excluding items in section 34.047. The office of administration shall promulgate rules regarding the handling of the reverse auction process.

HB1088-What's New in Chapter 34?

3. Shortlisting Ability with Negotiation Affirmed

*3. The contract shall be let to the lowest and best offeror as determined by the evaluation criteria established in the request for proposal and any subsequent negotiations conducted pursuant to this subsection. In determining the lowest and best offeror, as provided in the request for proposals and under rules promulgated by the commissioner of administration, negotiations may be conducted with responsible offerors who submit proposals selected by the commissioner of administration on the basis of reasonable criteria for the purpose of clarifying and assuring full understanding of and responsiveness to the solicitation requirements. Those offerors shall be accorded fair and equal treatment with respect to any opportunity for negotiation and subsequent revision of proposals; **however, a request for proposal may set forth the manner for determining which offerors are eligible for negotiation, including, but not limited to, the use of shortlisting.** Revisions may be permitted after submission and before award for the purpose of obtaining best and final offers. In conducting negotiations there shall be no disclosure of any information derived from proposals submitted by competing offerors. The commissioner of administration shall have the right to reject any or all proposals and advertise for new proposals or purchase the required supplies on the open market if they can be so purchased at a better price.*

Hurdles/Concerns Along the Way

- Legislative expectations – Purchasing Training, Responsible Oversight, Transparency, Correct
- 4x on Formal-Non IT; 2x on Formal-IT
- Higher dollar amounts = potentially higher scrutiny, protests, public interest (media, legislators, losing vendors)

Department Procurement Authority Delegation

Department Procurement Authority Delegation (DPAD)

- New DPAD sent on 8/23/19 as a result of HB1088 which became effective 8/28/19.
- Agreement to follow procurement laws, rules, executive orders, Procurement Manual, and Contract Management Guide.
- Identifies delegated dollar thresholds - Standard and IT Procurement Authority (charts).
- MissouriBUYS:
 - 1) issue RFQ's and IFB's in MissouriBUYS (transparency, increased competition);
 - 2) establish awarded contracts in MissouriBUYS; and
 - 3) issue purchase orders for Chapter 34 purchases unless using p-card, etc. (spend data for strategic procurement decisions; procurement transparency).

8/28/19 Delegated Authority-Standard

STANDARD PROCUREMENT AUTHORITY CHART (EFFECTIVE 8/28/2019)			
ESTIMATED ANNUAL EXPENDITURE FOR PRODUCT/SERVICE	PROCUREMENT AUTHORITY (DEPARTMENT OR PURCHASING)	IS BIDDING REQUIRED?	ARE FORMAL OR INFORMAL BIDS REQUIRED?
\$0 to \$10,000	DEPARTMENT	No	None required, but informal or formal bids may be obtained
\$10,000.01 to \$49,999.99	DEPARTMENT	Yes	Informal or Formal
\$50,000+	PURCHASING	Yes	\$50,000 to \$99,999.99: Formal or Informal \$100,000+: Formal

8/28/19 Delegated Authority-IT

INFORMATION TECHNOLOGY PROCUREMENT AUTHORITY CHART (EFFECTIVE 8/28/2019)			
ESTIMATED ANNUAL EXPENDITURE FOR <u>INFORMATION TECHNOLOGY</u> PRODUCT/SERVICE	PROCUREMENT AUTHORITY (DEPARTMENT OR PURCHASING)	IS BIDDING REQUIRED?	ARE FORMAL OR INFORMAL BIDS REQUIRED?
\$0 to \$49,999.99	See Standard Procurement Authority Chart Above		
\$50,000 to \$100,000	DEPARTMENT, but must post on MissouriBUYS Bid Board	Yes	Informal
\$100,000.01+	PURCHASING	Yes	\$100,000.01 to \$150,000: Formal or Informal \$150,000.01+: Formal

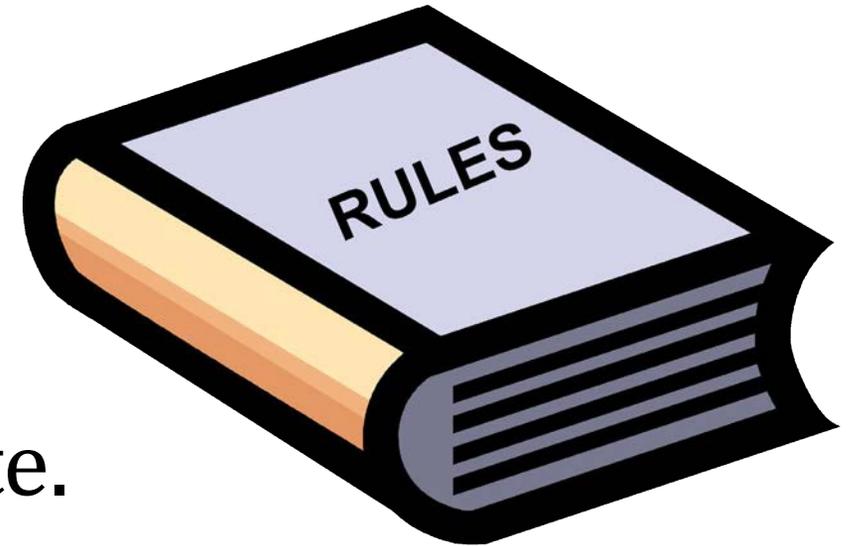
Statutory and Delegated Authority

	OLD Statutory and Delegated Authority	NEW <u>Statutory</u> Authority (Commissioner)	NEW <u>Delegated</u> Authority (Agencies)
No Bids:	\$3,000 and under (Department)	\$10,000 and under	\$10,000 and under (Department)
Informal Bids-Non IT:	\$3,000.01-\$24,999.99 (Department)	\$10,000.01-\$99,999.99	\$10,000.01- \$49,999.99 (Department)
Informal Bids-IT:	\$3,000.01-\$75,000 (Department)	\$10,000.01-\$150,000	\$10,001- \$100,000 (Department)
Formal Bids-Non IT:	\$25,000+ (Purchasing)	\$100,000+	\$50,000+ (Purchasing)
Formal Bids-IT:	\$75,000.01+ (Purchasing)	\$150,00.01+	\$100,000.01+ (Purchasing)

Rules Update

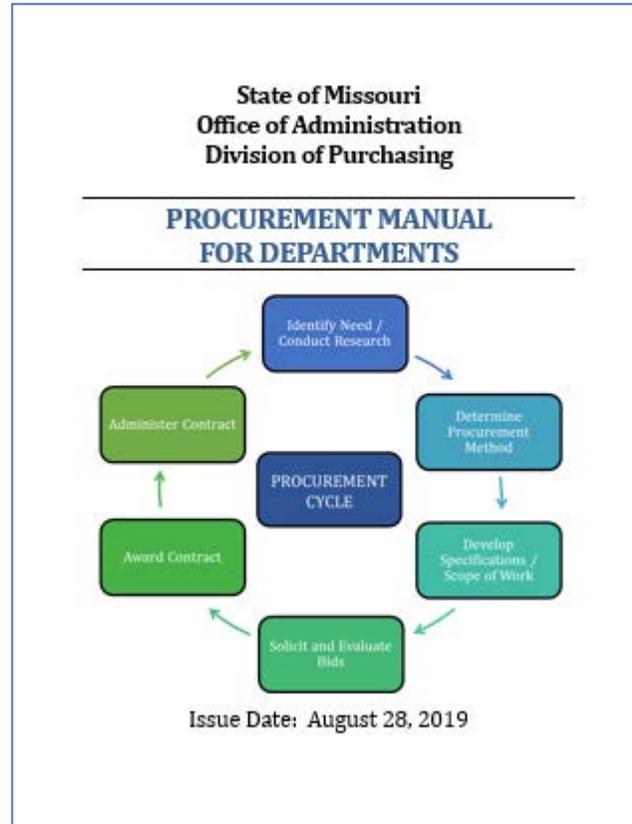
Rules Update

- Rules have been drafted.
- OA-Legal, GO review.
- Standard filing process will be followed when reviews complete.

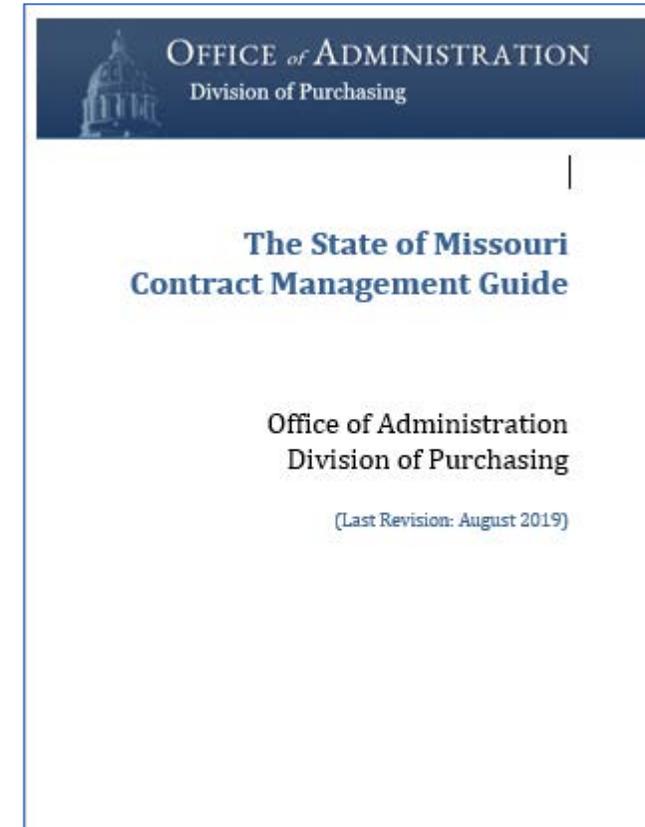


Two Recently Updated Purchasing Publications

Procurement Manual



Contract Management Guide



<http://oapurch.state.mo.us/procurementsources.shtm>

Procurement Manual/ Contract Management Guide

Procurement Manual – What Changed?

1. Updated the Procurement Authority Levels to align with HB 1088 (refer to Section Two)
2. Referenced the newly issued DPAD and the local authority being granted to state agencies
3. Referenced the newly issued Contract Management Guide
4. Addressed the differences and the appropriate usages for non-written solicitations, RFQs, and IFBs
5. Updated references from SAM II to MissouriBUYS, where applicable. Updated processes which were impacted by MissouriBUYS.
6. Incorporated the Guidelines, Solicitation Language, Procedures and Training, previously located on Purchasing's Agency Information website, into the Procurement Manual and appendices.

Procurement Manual Changes, cont'd

7. Simplified the process for the procurement of products/services under \$10,000
8. Added references to Purchasing's new Liaisons
9. Added reference to the anticipated training that will be provided by Purchasing
10. Added reference to research that can be conducted by the agencies, including conducting a Request for Information
11. Addressed the recommended number of renewal options
12. Addressed the criteria for a contract amendment

Procurement Manual Changes, cont'd

13. Updated the Department Packet documents, including the change from a Million Dollar Worksheet to a Quarter Million Dollar Worksheet
14. Updated Resource Manager information
15. Updated website addresses and hyperlinks
16. Changed “Division of Purchasing and Materials Management” to “Division of Purchasing”, and “DPMM” to “Purchasing”
17. Use of the word “vendor” rather than “bidder/offeror”
18. Appendices were updated to incorporate the language from the Guidelines, Solicitation Language, Procedures and Training, previously located on Purchasing’s Agency Information website. Also, documents related with like-content were merged into one document, with instructions provided as to how to use the document and when certain languages should be used.

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Contract Management Guide-New

- CMG = simplified desk reference; for all contract types
- Roles/responsibilities-Contract Mgr, Project Mgr, OA
- New Tools/Templates
- New Renewal Checklist
- New Health Checks for “Key Contracts”
- Contract Closeout Checklist
- Contractor Performance Evaluation Form

Contract Management – Health Checks

	Initial Health Check Meeting	Regular Health Checks
WHAT:	Reviewing/Aligning Key Contract Listing and Overview of Health Check Process	Reviewing “health” of Department Key Contracts (first regular meeting – overview of process to make best use of future sessions)
WHEN:	Scheduling currently in process	Semi-Annually with each Department
WHO:	Sheila Reed, OA-Purchasing and Department Procurement Director	<ul style="list-style-type: none"> • Sheila Reed, OA-Purchasing • Dept Procurement Director • Contract Managers for Key Contracts • Anyone else Department would like to have attend.

Training



MISSOURI

Office of Administration, Division of Purchasing

2019 Version 2.0

ASPIRATION We will drive strategic, fiscally-responsible procurement outcomes across state government with value-added services and support

THEMES	Maximize the State's Return on Investment in MissouriBUYS	Deliver Expedient, Competitive, Sound Procurement Solutions	Drive Strategic Procurement Using Spend Data And Market Research	Implement Sustainable Contract Management Practice	Build Comprehensive Training Infrastructure
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INITIATIVES	<p>1A. Transition agencies' requisitions from SAMII to MissouriBUYS.</p> <p>1B. Shift Government to Government contracts (AOCs) from SAMII to MissouriBUYS.</p> <p>1C. Expand agency utilization of informal and formal procurements, contracts and catalogs in MissouriBUYS.</p> <p>1D. Rollout MissouriBUYS technology and support to local government entities.</p> <p>1E. Promote MissouriBUYS Bid Locator Tool to assist vendors, staff.</p>	<p>2A. Refine ratings-based RFP evaluations to improve contract outcomes.</p> <p>2B. Drive increased competition through updated Terms & Conditions and a reengineered solicitation document that includes a vendor response packet.</p> <p>2C. Improve internal turnaround times through adoption of lean processes and implementation of standards for procurement tasks.</p>	<p>3A. Use spend data analysis across spend categories to increase the statewide contract portfolio and increase the amount of admin fee received.</p> <p>3B. Using spend management tools, develop methodical process to ensure sustainable strategic sourcing priorities.</p> <p>3C. Develop a process for identifying contract gaps compared to agency spend.</p> <p>3D. Establish internal procedure for collaborating with local government entities on statewide procurements through email/newsletter.</p>	<p>4A. Issue updated Contract Management Guide, tools, templates to assist agencies with contract management responsibilities.</p> <p>4B. Launch Contract Health Check concept to ensure overall contract health and proactively assist with identified emerging issues through key contract meetings.</p> <p>4C. Implement MissouriBUYS contract management tools.</p>	<p>5A. Develop training for purchasing staff.</p> <p>5B. Develop training for state agency staff.</p> <p>5C. Refine MissouriBUYS training for purchasing staff, agency staff and local governments.</p> <p>5D. Refine contract management training for state agencies and their contract managers.</p> <p>5E. Develop sustained spend management training for purchasing staff.</p> <p>5G. Develop vendor training.</p>
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Training Overview

LONG-TERM TRAINING INFRASTRUCTURE		
Purchasing Staff	State Agency Staff	Vendors
Comprehensive Procurement Training: Why We Do What We Do and How to Do it Effectively from Agency Request to Contract Closeout	-Local Authority Procurement Basics: from Simple to Complex Bids; -Formal Procurements: Planning, Requirements Development and Submission, Adjectival Evaluations	Bidding with State of Missouri: Putting Your Best Foot Forward
	Contract Management Basic and Advanced	
MissouriBUYS: (1) Requests (2) Solicitations; (3) Contracts (4) Catalogs (5) Leveraging Templates, Libraries, Settings, Contract Management Tools, Reports (6) Bid Tabulations	MissouriBUYS: (1) Requests (2) Solicitations; (3) Contracts (4) Catalogs (5) Leveraging Templates, Libraries, Settings, Contract Management Tools, Reports (6) Bid Tabulations	MissouriBUYS: (1) How to Bid Online; (2) Tips for Getting Maximum Value from Your MissouriBUYS Vendor Registration

Purchasing Staff/Agency/Vendor Training-Next Steps

- To Address Legislative Concerns with Higher Authority.
- Strategic Plan Element.
- Trying to have agency training ready by end of fiscal year (target).
- Purchasing staff training and agency training will be closely aligned.
- **QUESTION** – Is there a specific set of topics you would suggest being included? Concepts that have been most challenging to learn that we should be sure to include?

Questions?