



A REPORT
TO THE
MONTANA
LEGISLATURE

PERFORMANCE AUDIT

*Administration of State
Procurement and Contract
Management*

Department of Administration

NOVEMBER 2018

LEGISLATIVE AUDIT
DIVISION

17P-04

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PERFORMANCE AUDITS

Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Members of the performance audit staff hold degrees in disciplines appropriate to the audit process.

Performance audits are conducted at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

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November 2018

The Legislative Audit Committee
of the Montana State Legislature:

This is our performance audit of the Administration of State Procurement and Contract Management, which is administered by the Department of Administration. This report includes recommendations to improve oversight of procurement delegation, provide more guidance for contract management, require training for contract managers, and increase usage of an online contract management module. A written response from the Department of Administration is included at the end of the report.

We wish to express our appreciation to department staff and contracted officials for their cooperation and assistance throughout the audit.

Respectfully submitted,

/s/ Angus Maciver

Angus Maciver
Legislative Auditor

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MONTANA LEGISLATIVE AUDIT DIVISION

PERFORMANCE AUDIT

Administration of State Procurement and Contract Management

Department of Administration

NOVEMBER 2018

17P-04

REPORT SUMMARY

Two-thirds of state agencies are not meeting all required conditions for delegated purchasing agreements with the Department of Administration, due to a lack of required trainings for key procurement staff and other shortcomings. The department spent over \$1 million on an online system that has improved the tracking and reporting of agency procurement and contracting activities, but incomplete agency use of the system's contract management function is limiting the accountability of statewide contract spending.

Context

The Department of Administration's (department) State Financial Services Division (SFSD) oversees the procurement of supplies and services needed by state agencies to fulfill their respective missions. Most day-to-day procurement duties are assigned to the State Procurement Bureau (SPB). Like most states, SPB allows agencies to procure needed supplies and services up to delegated monetary thresholds. Beyond these thresholds, SPB staff work with agencies to conduct procurements. When a procurement leads to a contract, the agency assumes the role of the contract manager to oversee the daily execution of the contract, which includes verifying supplies and services are delivered as promised, terms and conditions of the contract are enforced, and vendor invoices are approved. In recent years the department has implemented several online tools to help agency staff solicit, procure, and manage contracts. eMACS, the department's primary information system, provides these vendor management services, bid and procurement processes, and contract management tools.

Results

We found weaknesses in both the process to develop and monitor delegation agreements with agencies, and with agency contract management practices. These agreements authorize the agencies to procure supplies and services up to approved monetary values. Depending on the level of authority granted, agencies can be granted purchase authority up to either \$25,000 for services and \$50,000 for supplies (Level I agency) or \$200,000 for both (Level II agency). Issues identified include a lack of specific criteria for delegating purchasing authority in Montana Operations Manual policies, unclear agency expectations outlined in delegation agreements, minimal compliance with required delegation agreement trainings, and limited use of the eMACS contract management module. Audit recommendations to the department include:

- ◆ Defining and establishing criteria for delegation agreement liaisons and procurement staff,
- ◆ Verifying procurement training for delegation agreement liaisons and procurement staff,

(continued on back)

- ◆ Requiring contract management training for delegation agreement liaisons and contract managers,
- ◆ Improving agency procurement and contract management reviews,
- ◆ Developing comprehensive procurement and contract management manuals,
- ◆ Completing the connection between the eMACS contract management module and SABHRS, and
- ◆ Increasing agency use of the eMACS contract management module.

Recommendation Concurrence	
Concur	7
Partially Concur	0
Do Not Concur	0
Source: Agency audit response included in final report.	

For a complete copy of the report (17P-04) or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to lad@mt.gov; or check the web site at <http://leg.mt.gov/audit>
 Report Fraud, Waste, and Abuse to the Legislative Auditor's FRAUD HOTLINE
 Call toll-free 1-800-222-4446, or e-mail lad@mt.gov.

Chapter I – Introduction

Introduction

The Department of Administration's (department) State Financial Services Division (SFSD) oversees the procurement of supplies and services needed by state agencies to fulfill their respective missions. SFSD assigns these responsibilities to its State Procurement Bureau (SPB). (In fiscal year 2016 SPB moved into SFSD from the department's General Services Division.) Through procurement delegation agreements between the department and state agencies, agency staff can procure needed supplies and services up to defined monetary thresholds. Beyond these thresholds, SPB staff will work with the agencies to conduct procurements.

Procurement processes can take many forms based on the cost or availability of the needed supply or service. When a procurement leads to a contract, the agency assumes the role as contract manager to oversee the execution of the contract. This includes verifying supplies and services are delivered as promised, the terms and conditions of the contract are enforced, and vendor invoices are approved. In recent years the department has implemented an online system with several functions to assist agency staff to solicit, procure, and manage contracts. The Montana Acquisition & Contracting System, or eMACS, provides these solicitation and procurement processes, vendor management services, contract management tools, and an online marketplace.

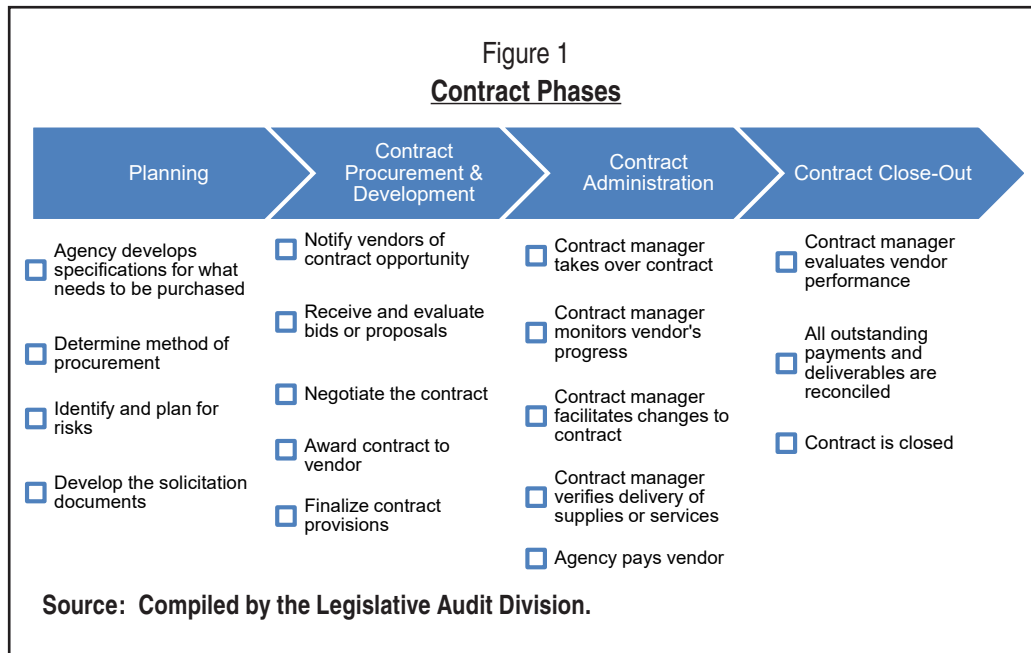
The Purpose of Procurement and Contract Management

According to ARM 2.5.201(26), procurement is defined as the “acquisition with or without cost, buying, purchasing, renting, leasing, or otherwise acquiring any supplies or services. It includes all functions that pertain to the obtaining of any supply or service, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.” Public procurement is one of the processes most vulnerable to fraud and corruption in government. For example, the federal government reported that billions of dollars in federal funds are potentially lost each year to procurement fraud. Since millions of dollars are spent annually on supplies and services by Montana State government, transparent and effective procurement processes are needed to ensure it is done according to the highest professional standards. Procurement involves the purchase of supplies and services by state agencies through contracts and purchase orders with vendors, which are the eventual seller of supplies or services. These are both defined below:

- ♦ **Contract:** A legally binding document between two or more parties that defines the terms and conditions for the purchase of supplies or services at a set price. Contracts are typically long-term agreements with options to renew up to a defined number of years.

- ◆ **Purchase Order:** A document used to formalize a purchase with a vendor that lists the quantity, description, and price of the supplies or services. This includes payment terms, discounts, dates of performance, and delivery terms. Purchase orders are typically a one-time transaction.

The state government procurement process typically involves four phases: planning, procurement and contract development, contract management, and the contract close-out, each described in the figure below.



An agency is involved in all four of these phases. Within most state agencies, certain staff have dedicated procurement duties and are responsible for the planning and soliciting of supplies and services. Once a contract is developed, an employee designated by the agency is responsible for contract administration. The procurement process is guided by state laws, administrative rules, and state policies. These are discussed in the following sections.

The Montana Procurement Act

SPB is responsible for overall administration of state government procurement activities. Overall authority and guidelines of these duties is found under the Montana Procurement Act, codified in Title 18, Chapter 4, MCA, and further defined in its accompanying administrative rules in ARM Title 2, Chapter 5. Some important aspects of the Montana Procurement Act include:

- ◆ Simplifying, clarifying, and modernizing the law governing state procurement,

- ◆ Permitting the continued development of procurement policies and practices,
- ◆ Making procurement laws consistent among the various jurisdictions,
- ◆ Increasing public confidence in procurement procedures,
- ◆ Fostering effective competition, and
- ◆ Providing remedies for unlawful bid solicitations or contract awards.

Procurement Act Exclusions

There are some procurement exclusions found under §18-4-132(3), MCA. Some examples include:

- ◆ Grants or contracts between the state and its political subdivisions or other governments,
- ◆ Construction contracts involving the department's Architecture and Engineering Division and the Long-Range Building Plan, which are administered under other procurement laws,
- ◆ Montana State Fund contracts associated with insurance-related services,
- ◆ Employment of certain professionals, such as professional engineers, physicians, and dentists, and
- ◆ The purchase or commission of art for a museum or public display.

Types of Procurement Defined by State Law

The Montana Procurement Act and its associated administrative rules define the types of procurement available to state agencies. This includes both competitive and noncompetitive procurement methods that can be used. Table 1 (see page 4) displays both competitive and noncompetitive methods of procuring supplies and services in Montana. The highlighted types are those we reviewed during our fieldwork.

Table 1
Types and Methods of Procurements in the State of Montana

Types of Supplies and Services and Contracts	
Controlled Items	Commonly used supplies and services that, when consolidated for purchasing purposes, result in volume to obtain discounted prices. Agencies must purchase these supplies and services through SFSD, unless exempted via a delegation agreement. Examples include vehicles, office and janitorial supplies, and printing.
Noncontrolled Items	All supplies and services that do not fall under the definition of "controlled items."
Term Contract	A contract in which supplies or services are purchased at a predetermined unit price for a specific period of time. These contracts are created and monitored by SPB, so that agencies can use them to quickly purchase select items, typically office supplies.
Exclusive Contract	A contract in which state agencies must obtain the specified supply or service from the contract holder, unless the contract allows otherwise. Examples include office and janitorial supplies.
Nonexclusive Contract	A contract that does not require agencies to purchase the supply or service from the contract holder and allows agencies to use other sources, following the requirements of Title 18, MCA, and their delegation agreement.
Noncompetitive/Informal Procurement Methods	
Small Purchase	A purchase not exceeding \$5,000, for which agencies may choose a procurement method that best meets their needs. This method does not apply to "controlled items" such as exclusive term contracts.
Informal/Limited Solicitation	An informal method of purchasing noncontrolled items that does not require sealed bids or proposals, but does require a minimum of three written or oral quotations, if available. The total value of a limited solicitation contract must be between \$5,001 and \$25,000 for services and between \$5,001 and \$50,000 for supplies.
Exigency	A purchase made without following normal purchasing procedures due to a sudden and unexpected happening or unforeseen occurrence/condition that requires immediate action. The determination must be in writing and must state the basis for an exigency procurement and for the selection of the particular vendor.
Sole Source	A procurement of a supply or service from the only known capable vendor.
Competitive/Formal Procurement Methods	
Invitations for Bid (IFB)	Sealed bids publicly opened simultaneously and awarded to the lowest qualified bidder. IFBs are used when an agency can precisely describe the specifications or scope of work.
Requests for Proposal (RFP)	Sealed bids resulting in negotiations and awarded based on initial criteria established in RFP. RFPs are used when precise specifications or scope of work cannot be prepared.

Source: Compiled by the Legislative Audit Division from department records.

Montana Operations Manual Policies

The Montana Operations Manual (MOM) contains policies and procedures related to the operation of state government. The department developed procurement and contract management MOM policies that state agencies must follow when procuring supplies and services. While the Montana Procurement Act defines the law governing procurement by the state of Montana, MOM further explains how agencies are to carry out procurement and contract management. These policies cover an array of topics such as managing the procurement process, how to open and award solicitation responses, how to properly manage post-procurement contract issues that may arise, and how to manage subsequent contracts.

These MOM policies, along with laws and rules, are used by agency staff during soliciting and procuring activities. Their use is especially important given that individual agencies procure most of the state's supplies and services under delegation agreements issued by the department.

Delegated Purchasing Authority Agreements

Like most states, Montana's procurement process is decentralized, as most supplies and services are solicited, procured, and managed by individual state agencies. Under §18-4-222, MCA, the department may further delegate procurement authority to designees or to any state department, agency, or official. Administrative rule also allows the department to delegate procurement authority for purchases over \$5,000 through delegation agreements. Delegated purchasing authority agreements (delegation agreements) are biennial agreements between SFSD and individual state agencies and are overseen by SPB staff. These agreements start every odd-numbered year on October 1. Because every state manages procurement activities, we wanted to get a nationwide perspective on procurement and contract management activities. We found the use of delegation agreements is commonplace throughout state governments nationwide. Table 2 (see page 6) compares delegation authority to agencies in various states.

Table 2
Delegated Procurement Authority by State

Procurement Methods	Montana (Two Levels)	Idaho	Virginia	Indiana	Arizona
Small Purchase (No bids are required)	No restrictions for purchases up to \$5,000.	No restrictions for purchases up to \$10,000. (Some agencies restricted to a maximum of \$2,500 or \$5,000).	Minimum of one written or telephone quote for purchases up to \$5,000.	No restrictions for purchases under \$500.	No restrictions for purchases up to \$10,000.
Limited Solicitations (All require a minimum of three quotes from vendors)	Level I and II - \$5,001 to \$25,000 for services, \$5,001 to \$50,000 for supplies.	\$10,001 to \$100,000	\$5,001 to \$100,000 – VA's eProcurement system is required for all unsealed bids and proposals.	For supplies from \$500 to \$5,000. For contracts from \$500 to \$2,500.	\$10,001 to \$99,999
Formal Solicitations (RPF, IFB) (Require sealed proposals/bids)	Level I - Done by SPB Staff * Level II - \$25,001 - \$200,00 for services and \$50,001 to \$200,000 for supplies.	Greater than \$100,000	Greater than \$100,000	\$5,001 to \$75,000 for supplies. \$2,501 to \$75,000 for contracts. Purchases over \$75,000 done by Procurement Division.	\$100,000 or greater.
Delegation Agreements Notes	Montana has two levels.	No established levels. Administrator may decide on the level of purchasing authority by agency.	There is only one delegation level.	There is only one delegation level.	Three levels: Up to \$10,000, up to \$100,000, and unlimited procurement delegation.

Source: Compiled by the Legislative Audit Division from Montana and other state laws and rules.

* Level I agencies only have delegated authority to purchase up to \$25,000 for services and up to \$50,000 for supplies. Procurements exceeding these amounts must be done by SPB.

As shown, while procurement delegated authority levels vary by state, the practice is common nationwide. In Montana, each delegation agreement specifically mentions both a designated agency liaison and procurement staff, which are discussed below:

- ◆ **Liaison:** This is the employee specifically listed on the delegation agreement who represents the agency. According to department staff, the liaison typically has procurement duties as all or part of their everyday duties, and can solicit, procure, and approve contracts for the procurement of supplies

and services. Under the delegation agreement, the liaison is required to complete certain trainings and may also be required to have prior public procurement experience.

- ◆ **Procurement Staff:** Currently, this role is not defined in law, rule, or MOM policy. However, according to interviews with liaisons in several agencies, in most cases these staff are those responsible for single or multiple steps within the procurement process. As will be discussed in this report, these staff are required to complete certain trainings under the delegation agreements between their agency and the department.

SPB grants delegation authority on the determination that an agency has: (1) a satisfactory performance history exercising similar authority, and (2) employees trained in procurement policies and procedures. According to SPB personnel, within this delegated system, the bureau is primarily involved in agency procurement when the value of the agency's needs exceeds its delegated authority level. In addition, SPB staff also provide consultations to agencies regularly on other procurements.

Audit Objectives

During audit assessment work we reviewed all laws, rules, policies, and delegation agreements that govern the practices of procurement and contract management in the state of Montana. This included the department's role in overseeing state procurement, as well as the processes by which agencies are given delegated authority to both procure supplies and services up to designated monetary values and oversee the management of their corresponding contracts. The potential risk areas centered on delegation agreements, required trainings for procurement staff, contract oversight, and the department's new statewide, online procurement and contract management system. As a result, we developed the following audit objectives:

- ◆ Are delegations of purchasing authority provided by the Department of Administration to individual state agencies based on documented criteria and subject to regular review?
- ◆ Do existing policies, procedures, and training for contract administration and management provide agencies with the tools needed to effectively and efficiently execute contracts?
- ◆ Does Montana's procurement system (eMACS) provide management information that increases the accountability and transparency of state purchasing activities, while meeting the needs of agency staff as well as vendors doing business with the state?

Audit Scope

Audit assessment work and interviews with department and agency staff led us to focus our audit work on several areas, including reviewing of procurement and contract management documentation; analyzing contracts within eight sampled agencies;

checking agency compliance with delegation agreements; examining training records for agency procurement staff; and evaluating agency use of eMACS. The audit period focused on a review of sampled contracts considered active or closed during fiscal year 2017. Although the Montana University System also has delegation agreements with the department, we did not include the system in audit work outside of reviewing their agreements.

Audit work also included surveying procurement staff to help assess how agencies are carrying out procurement duties within their agencies. The survey also helped us: gauge agency opinions of existing laws, rules, and MOM policies; determine if agencies have their own internal policies; evaluate their understanding of delegation agreements; discern their opinions of state procurement trainings; and assess their use of performance guarantees within contracts. A second survey was sent out to contract managers to learn more about how they manage contracts, their experience levels, their time and effort associated with contract management duties, trainings they have undergone, and interactions with contracted vendors.

A final survey was sent to state vendors with accounts established within eMACS. The survey gave us a better understanding of the number and types of contracts vendors have with SPB, why they sometimes choose not to respond to state solicitations, and how they interact with eMACS. All three surveys also provided input about agency and vendor relationships with SPB staff.

Audit work further included a review of contract files within eight sampled agencies with varying levels of delegated authority (departments listed below). This included looking at all available procurement and contract management documentation within the folders, such as requisition forms, scoring data, contracts, invoices, and contract close-out processes, to determine if agencies are following laws, rules, and MOM policies. Follow-up interviews with sampled agency staff gave us a better understanding of procurement and contract management processes in place at these agencies. Audit scope did not include a review of construction services procurements as these are not subject to the Montana Procurement Act. The eight agencies were:

- ◆ Department of Commerce
- ◆ Department of Environmental Quality
- ◆ Department of Fish, Wildlife and Parks
- ◆ Department of Justice
- ◆ Department of Labor and Industry
- ◆ Department of Public Health and Human Services
- ◆ Department of Transportation
- ◆ Montana State Fund

Audit Methodologies

The following methodologies were performed to answer our objectives:

- ◆ Reviewed state laws, administrative rules, and Montana Operations Manual policies related to procurement and contract management.
- ◆ Reviewed procurement delegation agreements between the department and state agencies.
- ◆ Conducted interviews with procurement staff at eight state agencies and SPB.
- ◆ Conducted contract file reviews at eight sampled agencies.
- ◆ Reviewed SPB procurement and contract forms.
- ◆ Reviewed Professional Development Center (PDC) procurement and contract management course attendance records for delegation agreement liaisons and sampled-agency procurement staff.
- ◆ Attended various PDC procurement and contract management courses and eMACS trainings courses put on by SPB.
- ◆ Used and analyzed the eMACS procurement system.
- ◆ Sent a survey to 46 procurement staff and delegation agreement liaisons (57 percent response rate) to determine their procurement experiences and interactions with SPB.
- ◆ Sent an additional survey to 46 agency contract management staff (57 percent response rate) to determine how many contracts they manage and how they manage these contracts.
- ◆ Surveyed 7,872 vendors found within the eMACS system (9 percent response rate) to determine their experiences with state procurement and eMACS, and their interactions with SPB staff.
- ◆ Reviewed procurement reports and audits from the U.S. Government Accountability Office, the Legislative Audit Division, and other states.
- ◆ Interviewed state procurement staff from four other states nationwide.

Report Contents

The remainder of this report contains chapters providing information regarding our audit findings, conclusions, and recommendations.

- ◆ Chapter II details agency adherence with purchasing delegation agreements.
- ◆ Chapter III analyzes contract management processes within state agencies.
- ◆ Chapter IV details the use and effectiveness of Montana's eMACS online procurement system.

Chapter II – Inconsistent Adherence to Delegation Agreement Requirements

Introduction

In this chapter we will discuss our first objective, which was to determine if delegations of purchasing authority provided by the Department of Administration (department) to individual state agencies are based on documented criteria and subject to regular review. Audit work consisted of interviews with both the department's State Procurement Bureau (SPB) staff and staff from multiple agencies; reviewing agency procurement staff training records; analyzing contract documentation at eight sampled agencies; surveying both procurement and contract management staff in nearly all executive branch agencies and offices; and reviewing delegation agreement requirements, state laws, rules, and policies. Overall, we determined SPB cannot definitively demonstrate delegation agreements are being granted and renewed based on complete and thorough criteria. As a result of this analysis, we made recommendations to help the department clarify delegation agreement requirements and to improve its processes ensuring agencies are complying with procurement laws, rules, policies, and their delegation agreements.

Delegated Purchasing Authority Agreements

SPB delegates procurement authority to state agencies based on a determination the agency has: (1) a satisfactory performance history exercising similar authority, and (2) employees trained in procurement policies and procedures. SPB staff also determine how much purchasing authority state agencies will be granted. This is defined in terms of the amount of money an agency can spend without further approval or permission from SPB and are categorized as either Level I or Level II authority. Each level is described below:

- ◆ **Level I:** Agency can spend up to \$25,000 on service contracts and up to \$50,000 on supply contracts. Currently 22 state agencies are delegated Level I procurement authority. Procurements above these amounts must be conducted by SPB unless it falls under an unlimited delegation agreement commodity code, which is a standard classification code designated for certain supplies and services. For these unique commodity codes, the agency can procure an unlimited amount of supplies or services without approval. An example is tree-thinning services used by the Department of Natural Resources and Conservation.
- ◆ **Level II:** Agency can spend up to \$200,000 on both services and supplies. Currently eight state agencies, the University of Montana, and Montana State University have Level II procurement authority. Procurements above these amounts must be conducted by SPB unless it is under an unlimited delegation agreement commodity code. According to Montana Operations

Manual (MOM), to qualify as a Level II agency, “the predominant duty of the agency’s procurement representative must be to provide supervision or management of the agency’s procurement needs.”

According to SPB staff, there is no set criteria used to decide which delegation level an agency will be granted. Rather, Level II authority is granted to agencies considered larger and having more resources and higher contract spending.

Key Delegation Agreement Requirements and Definitions Are Not Clear

Audit work found SPB does not actively ensure delegation agreement requirements are being met by agencies when they are renewed every two years. We identified several areas where SPB can improve agency adherence with delegation agreements. This includes establishing a clear role for the delegation agreement liaison and procurement staff, and defining satisfactory performance and procurement experience. The following sections discuss each of these areas.

The Role of the Delegation Agreement Liaison Is Not Clear

In Montana, the identity and role of the delegation agreement liaison are not well defined in law, rule, or policy. Because the liaison is required to have certain trainings, it would be beneficial to know who in an agency should be the liaison, how they are chosen for that role, and what their duties should entail. While not very well defined in Montana, we found other states have defined these roles. For example, in Georgia, the Agency Procurement Officer (APO), or liaison, serves as the primary point of contact between the State Purchasing Division (SPD) and the agency and is responsible for dispensing communications from SPD to the APO’s procurement staff. The APO has other responsibilities and duties, including:

- ◆ Ensuring all purchasing laws, rules, regulations, and procedures are observed within the agency,
- ◆ Providing information to SPD regarding purchasing transactions as requested,
- ◆ Maintaining all necessary state entity procurement records, and
- ◆ Providing an annual self-audit and spend analysis report to SPD.

Although similar requirements are found in the department’s delegation agreements, it is not clear who is responsible for implementing them. In addition, the Indiana Department of Administration defines an agency liaison as a resource to the agency’s procurement personnel and vendors. They are considered the agency’s experts and confirm all purchasing personnel are submitting and retaining paperwork in a manner that will allow for successful procurement audits.

Without clear expectations or duties outlined for a liaison, agencies might have a delegation agreement liaison that is not qualified for the role, or even confusion about who the liaison is. For example, in our procurement survey we found 1 out of 26 respondents incorrectly stated they were the liaison and another respondent who did not know they were the liaison even though they were listed as the liaison on the delegation agreement. Our contract management survey found similar issues. For example, 1 out of 26 respondents incorrectly indicated they were the liaison and another respondent indicated they were the liaison even though their office does not have a delegation agreement with the department.

Satisfactory Performance History Is Not Defined

Two questions arise when verifying if an agency has a satisfactory performance history: what is “satisfactory performance,” and how does SPB staff verify it is occurring? Audit work found no definitions of satisfactory performance in law, rule, or MOM policy. Based on interviews with SPB staff, satisfactory performance is not defined. Staff stated they only have indications that performance at an agency is unsatisfactory if a vendor issues a contract complaint, claim, or protest against an agency. In addition, we found SPB reviews of agency procurement and contract management activities and processes are currently in their infancy. The department has limited standards it can use to determine if an agency has a satisfactory procurement performance history. Since the department has an expectation for satisfactory performance history within the delegation agreement, it should have a specific definition of what this means and what it expects from the agencies. For example, this could include expectations involving how an agency negotiates with a vendor for fair and reasonable contract terms and conditions or how an agency evaluates bids and proposals.

Role of Procurement Staff Is Not Clearly Defined

Within the delegation agreement, “procurement staff” are required to take certain trainings based on delegation level. According to SPB staff, procurement staff are those that have procurement duties as a function of part of their jobs. However, this is not defined in law, rule, MOM policy, or the delegation agreements. As part of our audit work we reviewed contracts and interviewed staff at eight sampled agencies; four Level I and four Level II. We also asked these liaisons for a list of employees within their agency they considered to have procurement duties as a part of their job duties. The number of staff with procurement duties reported is as follows:

Level I Agencies

Commerce - 3

Justice - 214

Labor and Industry - 3

State Fund - 7

Level II Agencies

Environmental Quality - 61

Fish, Wildlife and Parks - 3

Public Health and Human Services - 71

Transportation - 5

As seen, the number of staff with procurement duties varies widely from agency to agency, and there does not appear to be a correlation between the number of procurement staff and the size of the agency or the number of contracts it enters and manages. For example, the Department of Fish, Wildlife and Parks (FWP) has only three staff with procurement duties, compared to the 214 found at the Department of Justice (DOJ). Based on a procurement survey results, we were told FWP manages approximately 250 contracts, while DOJ manages 500 contracts. As a result, DOJ has an employee with procurement duties for every two contracts while FWP has one for every 83. This difference may be tied to how agencies define their procurement staff. However, we could not determine specific reasons for this high level of inconsistency between agencies in the number of procurement staff they reported.

This distinction is important because there are certain training requirements for procurement staff at an agency with a delegation agreement. Within the delegation agreement, to procure noncontrolled supplies and services up to the threshold stated in the agreement, Level I agency procurement staff must have completed the department's Professional Development Center's (PDC) Basic Procurement Methods and Issues course, and Level II agency procurement staff must have completed the Advanced Procurement Methods and Issues course. As we will discuss later in this chapter, many state agency employees with designated procurement authority are not receiving this required training.

Public Experience Requirement Is Not Clear

Level II delegation agreement liaisons are also required to complete the PDC's Advanced Procurement Methods and Issues course. In addition, the liaison must have at least three years of public procurement experience. However, "public experience" is not defined, so it is unclear what exactly this experience entails. For example, does this mean procurement duties must encompass a majority of their overall duties for at least three years, or does it simply mean being able to sign off on a requisition form for at least three years? Should this experience also include managing contracts? The risk of improper procurement increases when staff responsible for state agency procurement do not have sufficient training or experience.

Overall, MOM does not clearly define key requirements within delegated purchasing authority agreements. This includes defining what satisfactory performance history means, who should be considered procurement staff, and what public procurement experience is expected. Until these areas are more clearly defined, confusion among liaisons and agency procurement staff will continue and it will be difficult for SPB to ensure agencies meet the requirements of their delegation agreements.

RECOMMENDATION #1

We recommend the Department of Administration clearly define, in Montana Operations Manual policy and in the delegation agreement template:

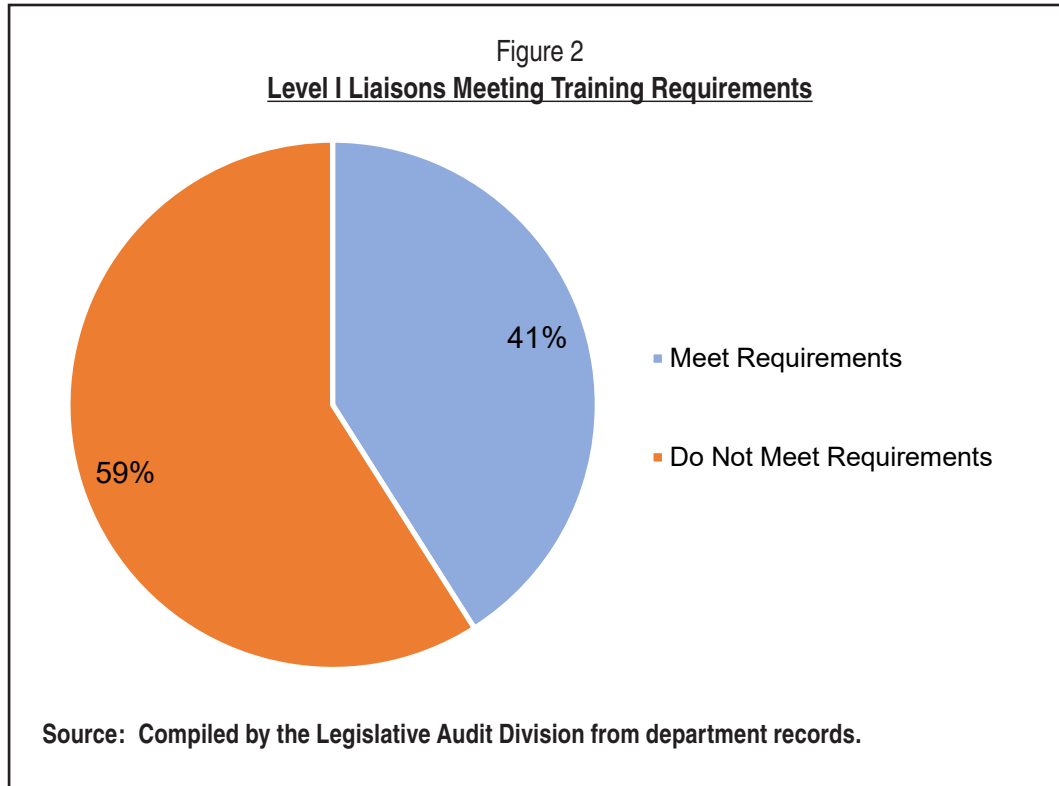
- A. The role and responsibilities of the delegation agreement liaison, and
 - B. “Satisfactory performance history,” “procurement staff,” and “public procurement experience.”
-

Agency Staff Lack Clear Responsibilities and Required Training

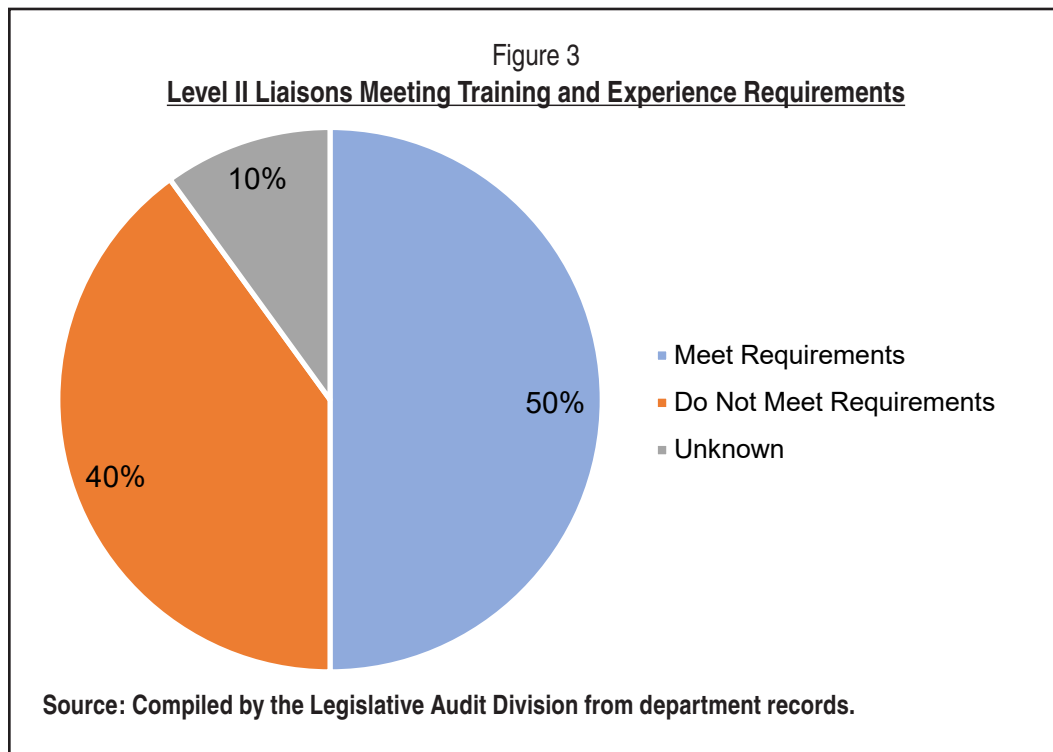
The Procurement Rules and Methods MOM policy states the conditions agencies with delegation authority must meet. Specifically, Level I liaisons must have completed the PDC’s Basic Purchasing Methods and Issues, and Level II liaisons must have completed the Advanced Purchasing Methods and Issues course. As part of audit work, we compared delegation agreement liaisons listed in all 32 delegation agreements agencies (22 Level I and ten Level II) and procurement staff in our eight sampled agencies to PDC training records from January 2000 through November 15, 2017. The following discusses the issues we identified regarding this requirement.

Most Liaisons and Procurement Staff Are Not Meeting Training Requirements

Currently, SPB staff are not comparing training records with agency liaisons and procurement staff when delegation agreements are renewed every two years. Further, SPB is not verifying the liaison still works for the agency when the agreements are signed and renewed. For example, the most recent delegation agreements were renewed in October 2017. If due diligence had been done, SPB would have noticed that the employee listed as the liaison on the Department of Justice agreement left that agency in November 2016, 11 months beforehand. In addition, the absence of a thorough review has resulted in agreements being given to agencies with both liaisons and procurement staff missing key required trainings. For example, per the delegation agreement, Level I agency liaisons must complete the PDC’s Basic Procurement Methods and Issues course. When matching liaisons with PDC training records we found many do not have this required training. This is shown in the Figure 2 (see page 16).



As shown, 59 percent of all Level I liaisons have not received the procurement trainings required within their delegation agreement. Given this, we question whether liaisons within these agencies should be procuring services up to \$25,000 and supplies up to \$50,000. We found similar issues with Level II liaisons. Within their delegation agreements, these liaisons must 1) complete the Advanced Procurement and Methods course, and 2) have three years of public procurement experience. Within our procurement survey, we asked liaisons to report the number of years of public procurement experience they have. Using this data, we then compared the liaisons in all ten Level II agencies to PDC records from January 2000 through November 15, 2017, to determine if they meet the two requirements listed above. Figure 3 (see page 17) shows these results.



Our work found a significant number of Level II agencies are not meeting requirements outlined in their delegation agreements. Specifically, 40 percent of the ten Level II agency liaisons do not have either the required trainings or three years of public procurement experience.

As with any process, procurement best practices evolve over time. In addition, state laws, rules, and policies are updated as best practices change. We evaluated when the last procurement course was completed by liaisons in each sampled agency, if at all, which is shown in Table 3 (see page 18).

Table 3
Year Delegation Agreement Liaison Last Completed PDC Procurement Courses

Level I Agency	RFP Process	Basic Procurement	Advanced Procurement
Commerce		2007	
Justice	2013	2013	2013
Labor and Industry	2013	2013	2013
State Fund	2003		
Level II Agency	RFP Process	Basic Procurement	Advanced Procurement
Environmental Quality	2006	2006	2006
Fish, Wildlife and Parks	2012		
Public Health and Human Services	2003	2003	2003
Transportation	2006	2006	2006

Source: Compiled by the Legislative Audit Division from department records.

As shown, in some cases, the last time a liaison took a required PDC course was as far back as 2003. We extended this evaluation to all 22 Level I and 10 Level II agencies and found Level I liaisons last took the Basic Purchasing Methods and Issues course an average of nearly 8 years ago, while Level II liaisons last took the Advanced course an average of nearly 11 years ago. In Georgia, delegation agreement liaisons and other procurement staff are required to complete certain trainings through the Georgia Procurement Certification Program (GPCP), which includes two main certifications for purchasing and contract management that are valid for five years. In addition, North Dakota provides staff with training related to the type of procurements they conduct. Each of their three certifications, done through classroom training, is a prerequisite for the next level of training. Although there is not a certification program in Montana, interviews with SPB staff found this is an area they are currently pursuing.

Finally, as previously mentioned, our eight sampled agencies sent us the names of employees their liaison considered to be procurement staff. Based on their respective delegation agreement level, these staff are also required to take either the Basic or Advanced Procurement and Methods course. Table 4 (see page 19) shows the number of Level I and Level II procurement staff that took the required PDC course.

Table 4
**Number of Agency Procurement Staff That Completed the
 Required Procurement Methods and Issues Course**

Level I Agency	Total Procurement Staff	Number That Completed Basic Course	Percentage That Completed Basic Course
Commerce	3	2	67%
Justice	214	15	7%
Labor and Industry	3	2	67%
State Fund	7	1	14%
Level II Agency	Total Procurement Staff	Number That Completed Advanced Course	Percentage That Completed Advanced Course
Environmental Quality	61	6	10%
Fish, Wildlife and Parks	3	2	67%
Public Health and Human Services	71	7	10%
Transportation	5	4	80%

Source: Compiled by the Legislative Audit Division from department records.

Based on the findings above, none of our sampled agencies meet the delegation agreement requirement related to procurement staff trainings. Consequently, these agencies should not be able to purchase noncontrolled supplies or services under their delegation agreements. Based on survey data, collectively, these eight sampled agencies self-reported the total value of the contracts they were managing as of October 2017 to be \$1.1 billion.

Agencies Outside of Sample Also Not Following Delegation Agreements Requirements

Overall, using both survey and PDC training records, we found that at least 15 of 22 Level I agencies (68 percent) do not meet the delegation agreement training requirements. In addition, we found that at least 7 of 10 Level II agencies (70 percent) do not meet training or public experience requirements. As a result, we can definitively say that at least 22 of 32 (69 percent) Level I and II agencies are not meeting their delegation agreement training or experience requirements. The department needs to take a more active role in monitoring required trainings during delegation agreement renewal periods and decide when or if it needs to revoke agreements for those agencies not meeting all the requirements of their delegation agreements.

RECOMMENDATION #2

We recommend the Department of Administration:

- A. *Implement procedures to ensure delegation agreement liaisons and procurement staff are obtaining all trainings and years of public procurement experience as required within the delegation agreement.*
 - B. *Suspend delegation agreements for agencies not meeting the agreements' requirements until corrective actions are taken by the agency.*
-

Contracts and Purchase Orders Missing Required Signatures and Documentation

According to the Contract Management MOM policy, all parties to a contract shall sign the contract before services may begin or supplies are provided. The same policy then outlines what documents are required to be kept within an agency's contract files. To determine if MOM policies regarding soliciting, procurement, and contract management are being followed, we reviewed ten judgmentally-selected contracts and purchase orders from each of our eight sampled agencies. To do this we sent requests to the eight sampled agencies asking for all contract files containing all documentation beginning with the requisition request through the eventual signing and managing of the contract or purchase order. We found several instances where agencies were not following MOM policies when contracting for services and procuring supplies. These are discussed in the following sections.

Procurement Documentation Is Not Always Signed

The signing of documentation is a necessary and important part of the procurement and contracting process. Signing a document ensures all parties agree to its terms and conditions and agree to enter the contract. Without proper signatures, the procurement and contracting process should not move forward. We found properly signed procurement documentation varied among our sampled agencies, with some having a much more thorough process than others. We also found instances in which late signings created potential risks for both the state and its vendors.

Signature types are outlined in SPB’s contract template. Directions include checklist of “appropriate executors,” as well as the order in which they should sign. This list includes:

1. State Procurement Bureau (in the event SPB staff oversaw the procurement)
2. Legal Counsel
3. Chief Information Officer (for an information technology-related procurement)
4. Contractor
5. State Agency
 - a. The last signature to be placed on a contract should always be the department’s representative (typically the department director)

The instructions do not explicitly state that all these signatures are required. However, the template does include signature lines for the procurement officer, legal counsel, state agency, and the contractor/vendor, and an optional line for the department’s chief information officer in the event the contract is an IT contract. Some of the signature-related issues we found during our contract review include:

- ◆ **Instances of missing signatures:** Four agencies had contracts or purchase orders with missing signatures (the departments of Justice, Environmental Quality, Public Health and Human Services, and State Fund). The lack of a signature effectively means the contract is not fully executed. Without a fully executed contract, the contract is not legally binding. One example includes a limited solicitation for hardware installation services at State Fund for \$16,562 which did not include an authorized signature.
- ◆ **The state is not always the last to sign the contract:** Department of Public Health and Human Services had two contracts signed by the vendor after the state. Risk increases if the state signs before the vendor because problems could result if changes are made by the vendor after they receive it from the state. For example, one contract we identified at the Department of Public Health and Human Services was for oxygen tank services totaling \$240,000 where the vendor signed after the state. Any changes made by the vendor would essentially become a valid part of the contract.
- ◆ **Final signatures took place after the contract execution date:** Four agencies had contracts that were signed 12 to 210 days after the contract effective date (the Departments of Commerce, Labor and Industry, Public Health and Human Service, and State Fund). We identified a contract for in-home reunification and preservation services at the Department of Public Health and Human Services totaling \$176,633. This contract was signed 97 days after the execution date. MOM policy for contract management stipulates that “All parties to a contract shall sign the contract before services may begin or supplies are provided.”

Department of Administration Has Not Historically Conducted Agency Reviews

Through surveys and contract reviews, we noted several instances of agencies not following contract documentation requirements (this is discussed in greater detail in Chapter III). Without consistent and proper oversight, these issues will likely continue. This could be improved if SPB conducted thorough and regular review of a sample of contracts and purchase orders within all state agencies. However, historically, this has not occurred.

Because the department can delegate certain procurement duties to agencies, §18-4-221(1), MCA, allows it to “audit and monitor the implementation of its rules and the requirements of this chapter.” In addition, under ARM 2.5.202(8), the department “...may perform reviews of agency purchasing procedures to ensure compliance with the delegation agreement.” These audits, or “reviews” as SPB prefers to call them, are a valuable tool to verify agencies under procurement delegation authority are complying with procurement statutes, policies, and procedures. Audits can also be used to ensure agencies are, in fact, demonstrating a satisfactory performance history as required in the delegation agreements.

Agency Reviews Increased During Audit Work

During our initial audit work, we found SPB reviews were being planned for the first time. A survey of agency procurement staff in October 2017 found 6 of 26 respondents (23 percent) stated their agency had an SPB review within the last two years. However, during fieldwork, SPB undertook a more active role in agency reviews, which are sometimes referred to as “meet-and-greets.” According to SPB staff, bureau staff visited several agencies and reviewed a sample of contract files to determine if procurement documentation were present and accurate. SPB staff presented documentation showing they visited 28 agencies since October 2017. According to interviews with SPB staff, the idea is to physically meet each agency’s staff in person every two years, and for SPB staff to call all agencies quarterly to determine if they have any concerns or comments. These meetings will cover the SPB organizational structure, delegation agreements, available resources and trainings, and communication. The changes implemented by SPB are a step in the right direction.

Agency Reviews Can Be Further Enhanced

SPB is taking more active steps to review agency procurement practice. We identified ways SPB can further strengthen the review process it has implemented. SPB is creating a new template to be used to answer questions based on the review. Topics covered include purchases exceeding delegation authority, formal complaints, sole

source procurements, and internal agency procedures. However, a standardized review checklist providing guidance could further improve these reviews. For example, Indiana's Department of Administration has an audit checklist that is more in-depth and covers more procurement areas than the department's template. This checklist is broken down into three areas: statute, policies, and procedures, with 40 pass/fail areas to examine. There is also a point-valued rating system with audit criteria based on the severity of the violation. After the audit, the assigned error points will be totaled and subtracted from 100, giving a performance rating per file.

When a review is announced, SPB staff ask agency staff to choose the contract files the agency wants reviewed. Having the agencies choose the contracts does not ensure an independent review is conducted and necessary improvements identified. For example, at the Department of Justice we found a single sole source procurement for two purchases, that when added together was over the agency's delegated authority for supplies. (The purchase was for a software system upgrade, which included purchases of \$44,500 and \$14,000 on the same invoice). We found other states do not ask agencies to select contracts to be reviewed. For example, Indiana's Procurement Division staff request and review a random selection of the agencies' procurement files from the previous two quarters; agency staff are not allowed to pick which contracts they want reviewed. The ability for their division staff to pick files provides a more meaningful review than the practice of having the agencies pick the files.

Agency procurement staff do not receive any formal SPB feedback after their review is conducted. This includes feedback noting which areas are working well or areas that need to be improved. Indiana provides agencies with an "Audit Summary," which gives an overall score and details the strengths and errors found during the review. The agency is then given three days to respond to the score. These reviews can be used to help identify procurement staff in need of additional training and agencies that should go through additional reviews.

RECOMMENDATION #3

We recommend the Department of Administration improve agency procurement reviews by:

- A. *Randomly and judgmentally selecting agency contracts to review,*
 - B. *Developing a review scoring system,*
 - C. *Providing feedback to agencies after reviews are completed, and*
 - D. *Verifying that issues identified during these reviews are corrected.*
-

Unlimited Delegation Authority Is Not Thoroughly Reviewed During Renewals

Along with purchasing authority based on delegation level, agencies can also be granted unlimited spending authority for certain commodity categories. For these unique commodity codes, the agency can procure an unlimited amount of supplies or services without SPB approval, such as tree thinning services within the Department of Natural Resources and Conservation. These codes are detailed in each delegation agreement and granted on an agency-by-agency basis, often based on specific expertise held by the agency. According to SPB staff, commodity codes requests are approved or denied using criteria found in ARM 2.5.202(6)(b). Such criteria include the degree of economy and efficiency to be achieved in meeting the state's requirements if authority is delegated, and the consistency of delegation under similar circumstances.

Our review of all the delegation agreements issued for 2015-2017 found a total of 199 commodity codes assigned as unlimited authority across 18 agreements, with one agency having 75 codes. We found there is confusion regarding how commodity codes are chosen. Interviews with sampled agency procurement staff found Level I agencies thought their codes were decided by SPB staff, while Level II staff stated they chose which codes were needed. Furthermore, when asked about their agency's unlimited delegation authority, many liaisons that responded to our procurement survey said they were unsure what their commodity codes were or if they even had such codes. For example, when asked if their delegation agreement contained commodity codes with unlimited delegation authority, 10 answered "yes" (38 percent), 13 answered "no" (50 percent), and 3 answered "I do not know" (12 percent). However, of the 10 that answered "no," 6 actually had unlimited authority commodity codes in place. This shows the liaisons are not always aware of what their delegation agreements contain. Furthermore, of the 10 that stated they do have unlimited authority to procure certain supplies or services, 50 percent were not aware of how they received the codes.

SPB staff stated codes are supposed to be reviewed when agreements are renewed to ensure the codes are still needed. If commodity codes are reviewed every two years when the agreements are renewed, liaisons would likely be more aware of which commodity codes are in their agreement, and if they are still necessary. For example, under §18-4-133(2)(a), MCA, the Departments of Corrections and Public Health and Human Services are exempted from the Procurement Act when purchasing uniforms. This statute does not exempt any other state agencies. However, we found the Department of Transportation (MDT) has unlimited delegated purchasing authority for both uniforms and vests, which means it could circumvent SPB involvement to procure single transactions over \$200,000 for uniforms or vests. During the renewal process, SPB staff should be questioning MDT's liaison to determine if such a commodity code is still necessary.

RECOMMENDATION #4

We recommend the Department of Administration review all commodity codes on each delegation agreement during the renewal process and communicate with the agency liaisons to determine if any codes are no longer necessary.

Chapter III – Weaknesses in Agency Contract Management

Introduction

Agencies are given the ability to procure supplies and services up to a certain dollar threshold through delegated purchasing authority agreements (delegation agreements) between the agency and the Department of Administration's (department) State Procurement Bureau (SPB). This chapter discusses our second objective, which focused on determining if existing policies, procedures, and training for contract administration and management provide agencies with the tools needed to effectively and efficiently execute contracts. We reviewed Montana Operations Manual (MOM) policies related to contract management, analyzed contract manager survey data, and reviewed procurement and contract management training records. We found although existing MOM policies are clear in addressing procurement of supplies and services, contract management policies could be enhanced to improve both administration and monitoring of contracts. This chapter makes recommendations for improvements to procurement and contract management guidance, and increased contract management training rates.

What Is Contract Management?

Effective procurement does not end when a contract is agreed upon between the state and a vendor. Once signed, the contract needs to be actively managed and monitored to ensure all the objectives, conditions, and terms of the contract are being met on time, as expected, and within budget. Effective contract management, which is not defined in rules or MOM policy, can be defined as the process that supports the effort and resources put into procuring and negotiating contracts by ensuring the value achieved through procurement is realized and risks addressed through contract development are monitored and managed. Contract management is typically the longest phase of the procurement and contracting process. Under §18-4-313(1), MCA, the total contract term, including any extensions or renewals, cannot exceed seven years. There are exceptions for information technology, employee health group benefits, and other categories, which can last up to ten years. Therefore, the time required to manage each contract may far exceed the time needed to solicit and procure the supplies or services.

SPB conducts its purchasing activities through the authority and guidelines of the Montana Procurement Act under Title 18, Chapter 4, MCA, and its accompanying administrative rules in ARM Title 2, Chapter 5. In Montana, like many other states, both procurement and contract management are decentralized. We found the management of contracts is not always effective in some agencies. This may be the

result of limited guidance on contract management in both the Procurement Act and its administrative rules. Instead, MOM policies are the primary source of guidance for the agency procurement and contract management responsibilities.

Fundamentals of Effective Contract Management

As noted, information on contract management in MOM is limited. Essentially, the policy states what documentation should be within a contract file and what a contract manager's responsibilities are. However, there is little guidance on how a contract manager should achieve these responsibilities. We reviewed other states and found some examples where detailed contract management guidance is given. For example, the state of Texas created a contract management guide in 2016, which gives a detailed description of how to effectively manage a state contract. The guide breaks down contract management in seven main steps:

1. Planning
2. Monitoring performance
3. Change management
4. Payment approval
5. Dispute resolution
6. Termination
7. Contract close-out

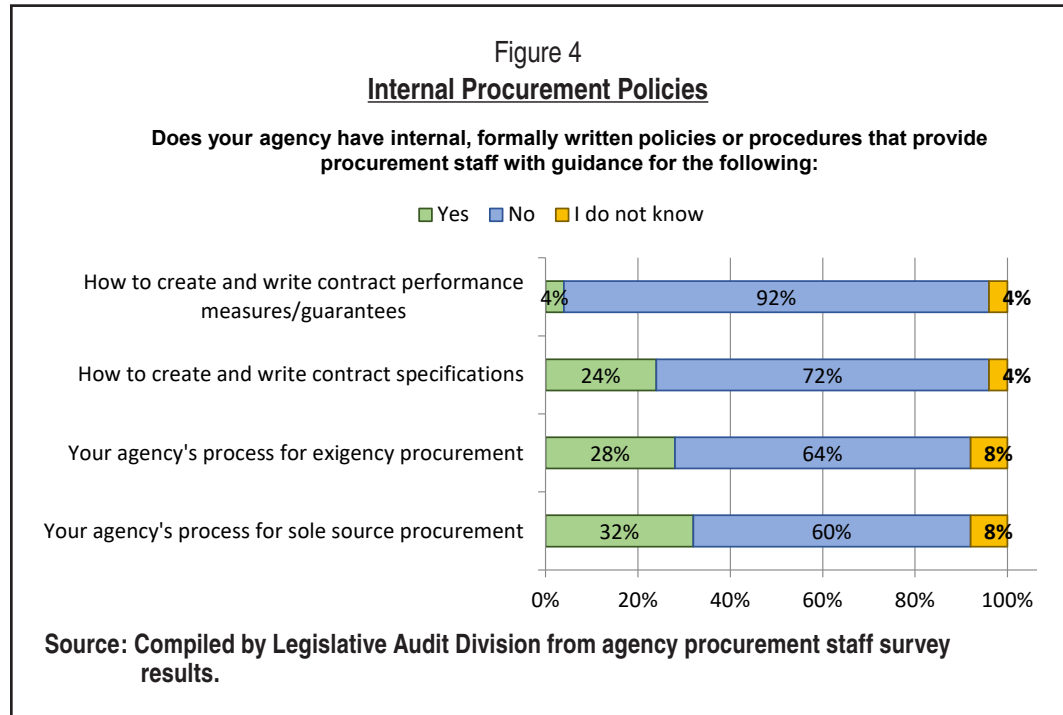
All these steps are to be overseen or completed by the contract manager/liaison listed in the contract. According to the Contract Management MOM policy, "The contract manager shall be responsible for ensuring the contract requirements are met according to the specified schedule and within budget." According to the Texas contract manager guide, "a good contract manager ensures that the contract requirements are satisfied, that the goods and services are delivered in a timely manner, and that the financial interests of the agency are protected." The guide further explains the roles of the contract manager. Among these roles are:

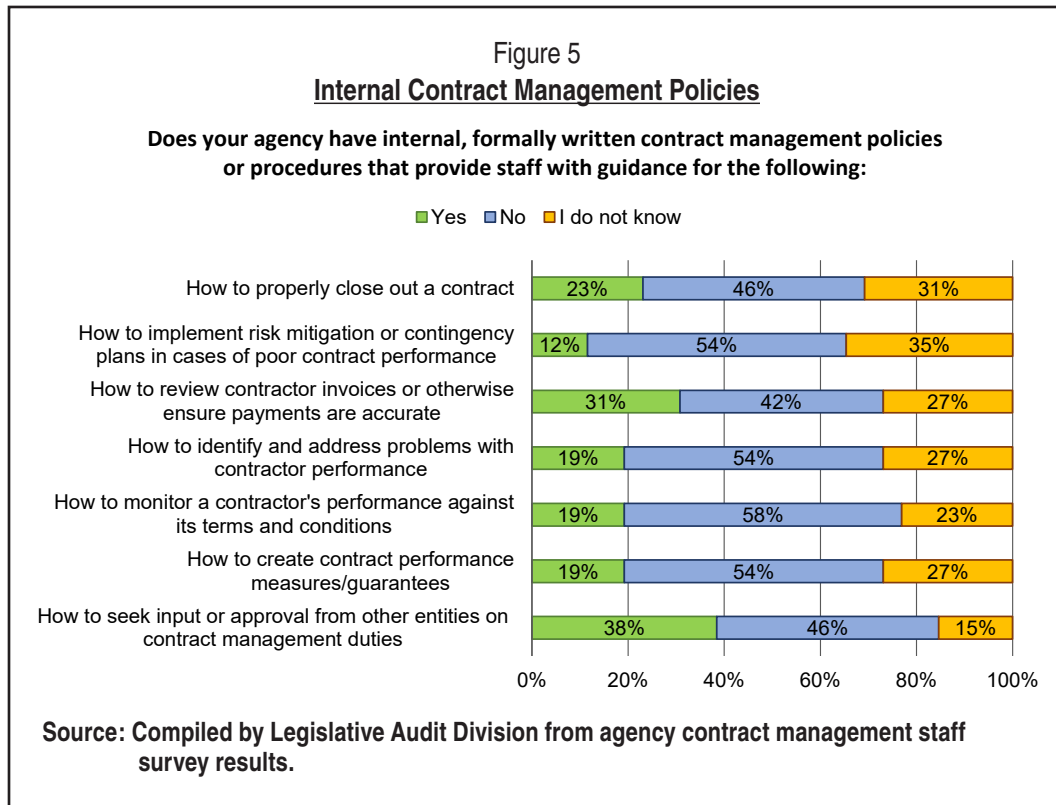
- ◆ Participating in developing the solicitation.
- ◆ Serving as the point of contact and communicating between the agency and the vendor.
- ◆ Approving contract modifications.
- ◆ Identifying and resolving vendor disagreements.
- ◆ Ensuring the contract's terms and conditions are met.
- ◆ Reviewing and approving all vendor invoices and monitoring the contract budget.
- ◆ Executing the contract close-out process.

When a contract is poorly managed, negative repercussions can occur. According to the Contract Management course offered by the department’s Professional Development Center (PDC), poor contract management can result in expectations not being met, unacceptable quality, invoicing and payment issues, and credibility problems. In addition, cost overruns and delays in receiving supplies and services are more likely if contract management is lackluster.

Usefulness of Agency Internal Policies Vary

In addition to MOM policies, agencies can develop their own internal policies on procurement and contract management. Below are examples of internal procurement and contract management policies found in those agencies that responded to our two separate procurement and contract management surveys.





As shown, internal policies are not a consistent presence within all state agencies, and those that do exist may only cover a few of many stages of procurement and contract management. More telling is that several procurement and contract management staff do not know if they even have internal policies in place. To get a better understanding of these internal policies, we reviewed policies within our eight sampled agencies. We found that many contained outdated information and have not been updated in several years. For example, one procurement manual referenced the department's Central Stores, which have been out of operation for many years. Another stated only information technology (IT) purchases over \$25,000 must be approved by the department's State Information Technology Services Division (all IT purchases must be approved by the division). We determined that although having these additional internal policies is good practice, they could in fact hinder their procurement and contract management process as information presented may no longer be relevant. More important is the general lack of contract management policies within our sampled agencies, which coincide with our contract management survey findings.

Montana Lacks a Comprehensive Procurement and Contract Management Manual

According to the U.S. Government Accountability Office, “a comprehensive procurement manual...provides purchasing staff with standardized, practical guidance for implementing procurement laws and regulations, and helps to ensure the consistent understanding and application of these laws and regulations.” A recent Arizona audit found states with decentralized procurement systems might have a lack of consistency in procurement activities. Our work found this to be the case in Montana. For example, some agencies in our sample had a very thorough requisition process, while others did not even use a requisition form. Some agencies kept all their formal solicitation scoring matrices and scoring committee meeting minutes documentation in the contract files, while others did not. Finally, the use and timing of signatures varied between sampled agencies. In a decentralized procurement state like Montana, a comprehensive procurement manual has even more importance as it would help guarantee relevant and consistent implementation of procurement laws and rules.

Currently, SPB maintains an extensive manual for the request for proposal (RFP) process. This manual, created in 2016, gives a detailed account of key definitions, a step-by-step process on how to create and score an RFP, and directions on how to upload an RFP into the state’s electronic procurement and contract management system, known as eMACS. However, there is not a manual for other key procurement methods, such as small purchases, limited solicitations, sole source, exigency, and invitation for bids (IFB). Instead, these procurement methods are found across multiple documents, such as laws, rules, and MOMs. One agency employee told us if they had questions about procurement they often switched back and forth between ARMs and MOM policies, while others said they did not refer to MOM policies. Furthermore, of the eight MOM policies that guide the procurement and contract management processes, seven focus directly on procurement while only one focuses on contract management. This lone contract management policy discusses what a contract manager’s duties shall be, but does not explicitly discuss how the manager can effectively achieve these duties.

Best practices in contract management suggest a wide-ranging policy and procedure manual for an effective procurement system. A well-developed procurement manual should also cover contract management/administration, which would include guidance for effective contract monitoring, modifying and renewing contracts, evaluating vendor performance, and maintaining appropriate documentation. This addition to a procurement manual may be especially important given the overall lack of internal agency policies found within Montana State agencies.

RECOMMENDATION #5

We recommend the Department of Administration develop and maintain a comprehensive procurement and contract management manual to clearly identify and implement industry best practices.

Contract Management Activities in Many Agencies Can Be Improved

Under the Contract Management MOM policy, agencies shall assign an agency contract manager for each contract that is responsible for ensuring the contract requirements are met both on time and within budget. Among other duties, these contract managers shall:

- ◆ Possess a complete understanding of the contract terms.
- ◆ Serve as primary contact for the vendor.
- ◆ Monitor contracts for adherence to contract terms.
- ◆ Maintain a complete record of contract information.
- ◆ Determine and document necessary contract modifications and prepare timely contract amendments as needed.
- ◆ Monitor contract end dates to allow lead time for renewal or re-solicitation.
- ◆ Review and approve invoices for payment.
- ◆ Document significant contract complaints, disputes, and terminations.
- ◆ Ensure completion and documentation of contract close-out actions.

Although these are necessary requirements, the MOM policy does not explain how to conduct these duties. This has created several contract management weaknesses we found in our contract review sample, such as missing documentation and a lack of formal close-out procedures. We reviewed ten contracts and purchase orders in each of the eight agencies we sampled. To prepare for our on-site review, we asked the delegation agreement liaison, who is typically also the agency's head procurement officer, for the official contract files for contracts and purchase orders we chose. We identified additional issues directly tied to contract management duties. These include missing documentation that is required to be in the contract file:

- ◆ We found instances of missing solicitation and vendor response documentation in six of eight agencies. For example, our review at the Department of Environmental Quality found one contract file had no solicitation documentation for a limited solicitation.

- ◆ According to the Contract Management MOM policy, an agency's contract file is required to contain solicitation documentation or specify the location of solicitation documentation. However, our reviews of formal solicitations (RFPs and IFBs) conducted at our four Level I sampled agencies could not locate any solicitation documentation. SPB likely held this documentation as they would have conducted the formal procurement. However, without this solicitation and procurement documentation, or a directive of where to locate the documentation, the eventual contract manager may not have a thorough understanding of the vendor and the services and supplies requested.
- ◆ During interviews with procurement staff, they explained the process in which vendor payments are made. However, audit work found seven out of eight sampled agencies did not have invoice and payment records in the contract files, as required under MOM; the exception was the Department of Fish, Wildlife and Parks.
- ◆ We reviewed 21 contracts related to RFPs and IFBs that closed in fiscal year 2017. Only two contained a close-out form although MOM policy requires them. Not having these forms makes it more difficult to know if the vendor's work was suitable and if the agency should work with them again in the future.

Along with contract management duties, agency contract managers often have other job duties outside of the contracts they manage. To get a better idea of the amount of time spent on managing contracts, we asked respondents in our contract management survey how many contracts they manage, the type of contracts, and the hours spent per week managing these contracts. The total time spent on the managing contracts varies considerably from a high of two hours per week per contract to a low of six minutes per week per contract. However, the size and complexities of these contracts may be a factor. Overall, these ten survey respondents spent an average time of 26 minutes per week per contract managing each of their respective contracts.

Our review of other states found that, similar to Montana, staff who manage contracts in other states often have little monitoring experience and time to dedicate to these duties and are often not prepared to actively manage the contracts. For example, a Virginia audit found this "...negatively affects both the monitoring and enforcement of contracts of all levels of complexity and cost, and has resulted in poor contract performance."

Required Contract Documentation Is Often Missing

Within the Contract Management MOM policy, the following documentation must be kept for each contract by the designated contract manager. This documentation may be electronic, hard-copy, or both, and should be maintained as a single file:

1. Signed contract (electronic scanned copy is acceptable),
2. Contractor's response to solicitation, if applicable (electronic version is acceptable),

3. Solicitation documentation or location of solicitation documentation, if applicable,
4. Record of contract amendments,
5. Record of all payments to the contractor,
6. Complaint or dispute history,
7. Relevant correspondence, including letters, e-mails, and records of key phone conversations, and
8. Proof of current insurance and/or performance security, if applicable.

When reviewing the contract documentation requirements found in MOM policy, we found compliance within our sampled agencies was mixed. The following table displays our assessment of how sampled agencies followed each of the above requirements.

Table 5
Assessment of Overall Compliance With Contract Management MOM Policy Within Sampled Agencies

Contract Folder Documentation Requirement	Commerce	Environmental Quality	Fish, Wildlife and Parks	Justice	Labor and Industry	Public Health and Human Services	State Fund	Transportation
1. Signed contract (electronic scanned copy is acceptable)	*****	*****	*****	*****	*****	*****	*****	*****
2. Contractor's response to solicitation, if applicable (electronic version is acceptable)	***	*****	*****	**	**	**	*****	*****
3. Solicitation documentation or location of solicitation documentation, if applicable	**	*****	*****	**	**	**	*****	*****
4. Record of contract amendments	*****	*****	*****	*****	*****	*****	*****	*
5. Record of all payments to the contractor	*	*	*	*	*	*****	*	*
6. Complaint or dispute history	Unknown *							
7. Relevant correspondence including letters, emails, and key phone conversations	*	*****	*****	*****	*****	*	*****	*****
8. Proof of current insurance and/or performance security, if applicable	**	*	*****	*	*	**	*	**
* No Compliance ** Poor Compliance *** Good Compliance **** Very Good Compliance ***** Full Compliance								

Source: Compiled by Legislative Audit Division through review of agency records.

* Audit work could not find complaint documentation, but complaints may not have been issued against any of these contracts.

As shown, state agencies are not always adhering to requirements within the MOM policy. For example, in regard to the requirement that a record of vendor payments be held within the contract file, we found this was only occurring at the Department of

Health and Human Services. Although this documentation may be held elsewhere within an agency, such as with accounts payable, it was not with other contract documentation as required.

In addition, we reviewed 21 contracts that officially closed in fiscal year 2017; only two (10 percent) folders included a close-out form. The purpose of this close-out process is to verify all contracted parties fulfilled their obligations and all supplies or services have been received and accepted, all reports have been delivered and accepted, and final payment has been made to the vendor. A close-out form also provides documentation of a contractor's past performance, which could support their determination in a future solicitation process, or be used as documentation for their suspension/debarment.

Finally, contract files at seven of the eight sampled agencies were either missing required insurance documentation or the forms were expired (the exception being the Department of Fish, Wildlife and Parks). At State Fund, eight of ten contract files reviewed did not have any form of insurance. The Department of Environmental Quality had six instances in which the insurance was missing or expired.

In addition to our file review, we also asked contract managers in our survey which documentation they keep in their contract files. For the 88 percent of respondents that confirmed their agency keeps a separate contract file for each contract, the results did not always match our findings. For example, although we found that the presence of the contractor's response to the solicitation, or an indicator of where it should be found, was poor, 78 percent of respondents thought it was in their contract file. However, only 30 percent of respondents stated their invoice records were in the contract file, which nearly mirrored our findings. Overall, many of these issues can be the result of a lack of training for those employees who are assigned as contract managers.

Many Agency Contract Managers Lack Training

As discussed in Chapter II, we found issues with training for delegation agreement liaisons and agency procurement staff. We found these issues also relate to contract managers within our sampled agencies. Although the PDC offers a course called Contract Management, this training is not required under the delegation agreement for contract managers. In fact, the role of a contract manager is not even discussed within the delegation agreement. As part of our audit work we requested the names of all fiscal year 2017 contract managers within our eight sampled agencies to determine how many managers have taken the Contract Management course. In our procurement survey we also requested an estimate of the total number of contracts

within the respondent's agency to get a better idea of the average number of contracts being monitored by each contract manager. The following table displays our findings.

Table 6
**Contract Management Course Attendance Records for Agency Contract Managers
Within Sampled Agencies**

Agency	Total Contact Managers	Managers That Completed Course	Percentage That Completed Course	Estimated Total Number of Contracts
Level I Agencies				
Commerce	59	2	3.4%	670
Justice	36	3	8.3%	500
Labor and Industry	9	0	0.0%	90
State Fund	18	0	0.0%	200
Level II Agencies				
Environmental Quality	29	4	13.8%	500
Fish, Wildlife and Parks	116	1	0.9%	250
Public Health and Human Services	3	0	0.0%	3,000
Transportation	140	3	2.1%	285
Totals	410	13	3.2%	

Source: Compiled by the Legislative Audit Division from department records and agency procurement survey responses.

As shown, contract managers may be managing hundreds of contracts, with the majority lacking formal contract management training. For example, the Department of Commerce reported an estimated 670 contracts were being managed by 59 contract managers (two of whom took the course), while the Department of Public Health and Human Services reported 3,000 contracts for three contract managers (none of which took the course). Overall, when comparing all the contracts managers in our sample to PDC training records, we found only 3 percent have completed the Contract Management training. In addition to PDC trainings, agency staff can also train contract management staff via internal agency-created trainings. However, 58 percent of contract management survey respondents stated they have not offered an internal contract management training in the past three years, with another 12 percent stating they were not sure.

Without proper training, these contract managers are likely missing out on key responsibilities of their duties and lack the ability to better manage these contracts. Although training is not required for contract managers in Montana, this is not the case

in some other states. In Georgia, employees responsible for administering contracts are required to complete certain trainings through the Georgia Procurement Certification Program (GPCP), which includes a contract management certification for contract managers that is valid for five years. Having a training requirement for agency contract managers would certainly help them gain a better understanding of their duties.

RECOMMENDATION #6

We recommend the Department of Administration identify appropriate contract management training, and update the delegation agreement template to require this training for all agency delegation agreement liaisons and contract managers.

Chapter IV – Montana’s Online Procurement and Contract Management System

Introduction

Our final objective focuses on the procurement and contract management system used by both state agencies and vendors to solicit, procure, and manage contracts. This online system, called the Montana Acquisition and Contracting System (eMACS), is overseen by the Department of Administration (department). eMACS started to roll out in phases in 2015. At the end of fiscal year 2018, the total cost for development, implementation, and licensing for eMACS was approximately \$1.6 million. The department estimates it will spend another \$575,000 on licensing fees through fiscal year 2020.

We wanted to determine if eMACS provides management information that increases the accountability and transparency of state purchasing activities while meeting the needs of agency staff, as well as vendors doing business with the state. We surveyed state procurement and contract managers to gain their opinions on the eMACS system, and also surveyed vendors to learn about their thoughts on responding to solicitations and their use of eMACS. In addition, we attended eMACS trainings, interviewed staff within our eight sampled agencies, and used the eMACS system to learn more about how it works and how its various modules interact. We found eMACS has been a valuable tool for the department and all state agencies. Both agency staff and vendors have been generally satisfied with the system and overall use is increasing. However, until the eMACS contract management module is linked directly with the state’s accounting system, we expect to see a limited number of agencies using this particular module, which impacts the department’s ability to provide information on total contracts issued and contract expenditures across the state.

eMACS Helps Support State Procurement and Contracting Activities

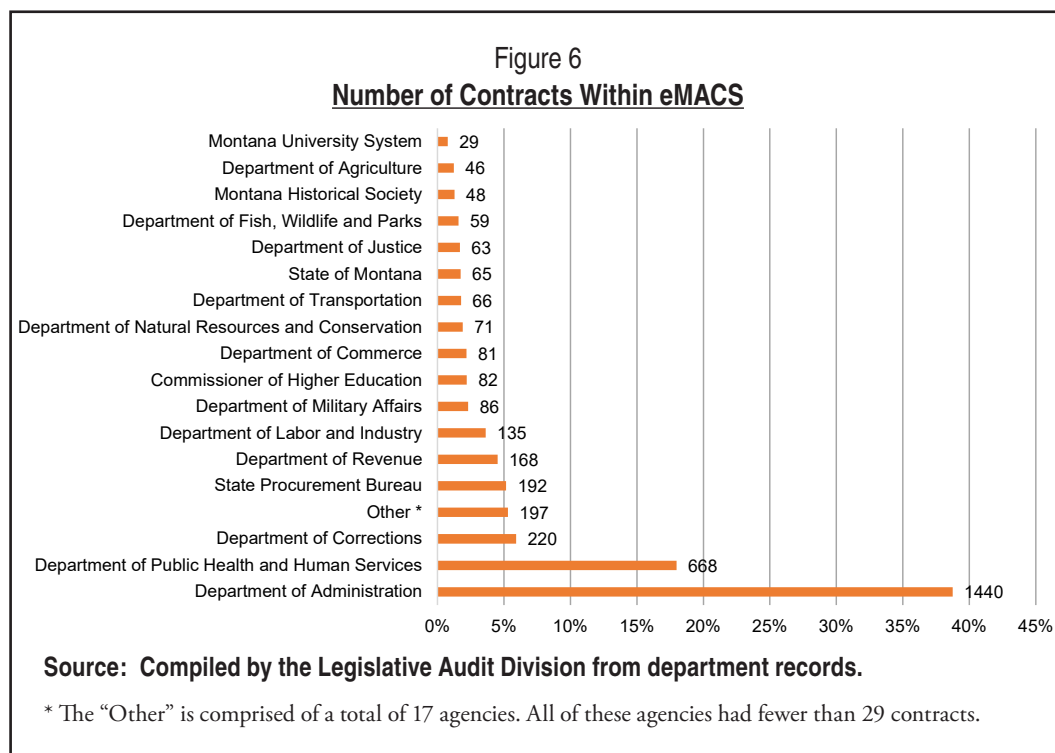
Through the years, there have been multiple attempts to improve the process of soliciting and procuring supplies and services in Montana state agencies through various systems that help track contracting activities across state government. Many of the systems were either not used by agencies or became outdated in a relatively short time frame. In 2012, the department’s State Procurement Bureau (SPB) launched a procurement and contract management strategic initiative. According to the department’s project charter, the system would “streamline procurement and contract management processes, improve access to procurement and contract information, examine and evaluate current contract processes, and identify areas for change and determine

opportunities for automation.” The result was the purchase and implementation of the eMACS system. eMACS provides vendor management services, bid and procurement processes, contract management tools, and an online marketplace through the use of four modules. These include:

- ◆ **eMarketPlace** (shopping module): This module is an online marketplace for the procurement of supplies (mostly office supplies) under term contracts negotiated by SPB. Agencies can use these contracts through the eMACS website as an online shopping function.
- ◆ **Sourcing Director** (solicitation module): This module is used to create and publicize invitation for bids (IFB) and requests for proposals (RFP).
- ◆ **Total Supplier Manager** (vendor module): This module allows vendors to self-register for alerts for certain types of contracts based on commodity codes. It is also a central location for vendors interested in bidding on IFBs and RFPs.
- ◆ **Total Contract Manager** (contract management module): This contract management module houses contracts in a centralized system. It sends automatic notifications to contract managers and procurement staff relating to contracts, such as vendor insurance forms and contract milestones (renewals or expirations). Once this module is integrated with Statewide Accounting, Budgeting and Human Resources System (SABHRS), contract managers will also be able to track total contract spending, but this function is not yet in place. When fully functional, this module should allow for better monitoring of statewide spending on supplies and services.

Since the start of implementation of eMACS in 2015, the system experienced significant use, especially for those procurements that are considered formal solicitations (i.e. RFPs and IFBs). Level I agencies are not allowed to procure supplies and services through formal solicitations, unless the procurement is covered by an unlimited authority commodity code in their delegation agreement. In these instances, SPB conducts these formal solicitations on an agency’s behalf. When this occurs, SPB staff start the solicitation process in the eMACS solicitation module after receiving a formal procurement requisition request from agency staff. SPB staff will work directly with agency staff to draft the contract, help create a scoring committee, obtain any required insurance documentation from the vendor, and award the contract. Once awarded, the final contract is then placed in the contract management module, and agency staff are responsible for contract management. (Level II agencies use the solicitation modules for formal solicitations up to \$200,000; solicitations greater than \$200,000 are done by SPB.) Through automated notices, SPB staff are sent alerts when insurance documentation is about to expire and when the contract is up for renewal. When up for renewal, SPB will ask agency staff if they want to renew the contract. The two parties work together and renew if needed. In August 2018 there were approximately 3,700 contracts in eMACS, with 1,742 of those currently being in effect. (The

remaining contracts were suspended, in draft form, terminated, expired, or out for signature or review.) The figure below illustrates all contracts found within eMACS by agency or contracting entity.



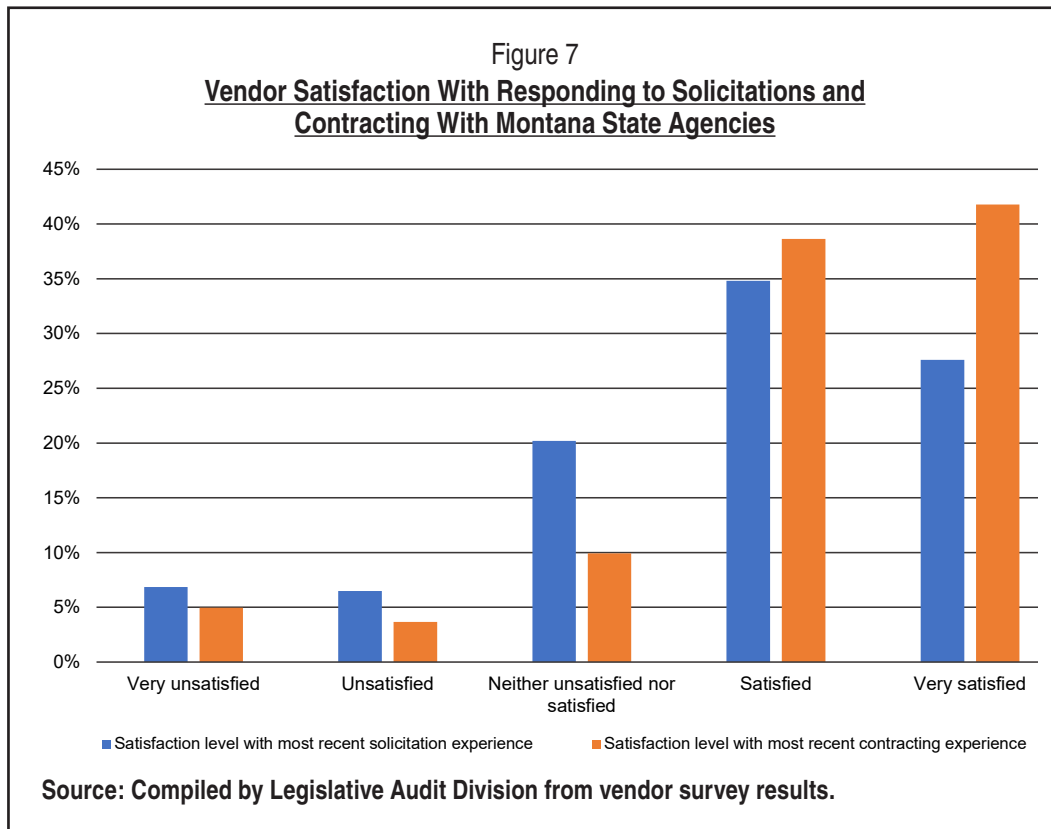
As shown, 57 percent of all 3,716 contracts found in eMACS in August 2018 were attributed to the department and the Department of Public Health and Human Services (DPHHS). Those contracts listed as belonging to SPB are typically statewide contracts. According to SPB staff, the contracts belonging to non-Level II agencies were entered into eMACS by SPB on behalf of the agencies.

Vendors Satisfied With the State's Solicitation and Contracting Processes

One of the main drivers for the purchase of eMACS was the implementation of the Total Supplier Module (vendor module). This module replaced OneStop, which was an antiquated system that did not allow the vendors to be automatically notified of solicitations they may want to bid on. Under OneStop, the state would upload a document on a website that would explain the solicitation. SPB or agency staff would then either individually e-mail or mail the vendors to notify them of the solicitation, and the vendors would then have to have send their response documentation through the mail to the state. Under the new eMACS vendor module, vendors can register online and be automatically notified of solicitations based on commodity codes they

are interested in. They can then respond to solicitations by uploading documentation into the module, which improves efficiencies for both the state and vendors.

We sought to obtain an understanding of vendor use and satisfaction levels of the eMACS vendors module. It was important to first understand their overall perceptions on responding to state agency solicitations and their eventual contractual relationships. To get this perspective, we e-mailed a survey to 7,872 present and potential vendors in eMACS as of May 2018. We received 688 responses, for a response rate of 8.7 percent. Of those that responded, 50 percent entered into a contract with the state within the past 12 months, 28 percent contracted more than a year ago, and 22 percent never entered into a state contract. Also, 72 percent of respondents have responded to an agency solicitation within the last two years. Of the vendors who have responded to a procurement solicitation, 62 percent were either satisfied or very satisfied with their most recent experience. Only 13 percent of respondents report not being satisfied. Finally, of those that responded to a solicitation, 72 percent have contracted with the state. Much like the satisfaction levels of those that have responded to a solicitation, 80 percent have been satisfied with their most recent contract experience, and only 9 percent were unsatisfied. Figure 7 shows both of these satisfaction levels.



As shown, as a whole, vendors are satisfied with how they respond to agency solicitations for supplies and services, and are also satisfied with the state's contracting process.

Vendors Also Satisfied With Interactions With State Procurement Bureau Staff

One of SPB's responsibilities is to assist vendors with questions on solicitations, contract awards, contract conflicts, etc. To get an understanding of interactions between vendors and SPB staff, and satisfaction levels involving these interactions, we asked the vendors a series of questions in our survey. According to our survey, 35 percent of respondents stated they have interacted with SPB staff in the past. Nearly 70 percent of those that have interacted with SPB stated it involved questions about the solicitation process, specifically the scope of services and its requirements. Contract modifications and renewals are also a main source of questions, followed by questions about eMACS. Also, about one in four respondents had questions regarding either the scoring of solicitations, or contract or purchase order conflicts. Based on these interactions, 71 percent of these respondents were satisfied with the assistance they received and only 8 percent were unsatisfied. For those who were satisfied, many provided additional comments stating staff were responsive, professional, and transparent in their interactions.

eMACS Has Increased Efficiencies Within State Agencies

The previous online shopping module used by the state was operated by the Western State Contracting Alliance (WSCA). Montana agency staff could subscribe to this group and make purchases through contracts developed by the National Association of State Procurement Officers, but the state was not allowed to add Montana-specific contracts to this group. However, through the eMACS eMarketPlace shopping module, Montana now has its own marketplace where it can add Montana-specific contracts, bring in additional contracts from WSCA, and make these contracts available to state agencies and local governments. Also, through eMarketPlace, SPB can track purchases and make sure agencies are only buying certain supplies through exclusive term contracts. Overall, this shopping module makes for better reporting, increased internal controls, and greater efficiencies for both SPB and agencies.

As previously discussed, vendors are able to respond to solicitation based on notifications through the eMACS vendor module. Response documentation is then housed in the new eMACS Sourcing Director (solicitation) module. SPB has been pleased with the solicitation module because agencies can view documentation and forward and approve documentation through an automated process. In addition, built-in controls prohibit agencies from creating solicitations outside their delegation agreement authority (unless these solicitations are covered by an agency's unlimited delegated authority).

Agency Use and Perceptions of eMACS

According to the eMACS' project charter, the purpose of the project is to "implement an enterprise eProcurement system, with vendor management, sourcing, and contract management software modules to provide for greater efficiency and effectiveness of the state's procurement and contracting processes." To achieve this purpose, there must be buy-in and steady use from state entities. To better understand both use and satisfaction from agencies, we surveyed agency procurement staff (mostly delegation agreement liaisons). Our survey found that 23 of 25 respondents (92 percent) use at least one of the eMACS modules. In addition, 65 percent of respondents use eMACS for soliciting vendors for procurements. However, only 3 respondents (13 percent) use the eMACS contract management module. According to MOM policy, agencies must use eMACS only for formal bids and proposals, while use is optional for limited solicitations. According to SPB staff, the reason eMACS is not required for limited solicitations is because the purpose of such solicitations is to allow for quick, easy procurements. Limited, or informal, solicitations only require a minimum of three written or oral quotations, if available. Our survey found 35 percent of respondents said their agencies use eMACS for all limited solicitations. Of those that do not use eMACS for limited solicitations, 50 percent stated it was because it was too time-consuming and 30 percent stated vendors would rather work directly with the agencies instead of through eMACS.

Agency Satisfaction With eMACS Varies by Module

Along with determining how agency staff use eMACS, we also wanted to learn their satisfaction levels with it. Apart from the eMACS contract management module, respondents are generally satisfied or very satisfied with eMACS. However, 75 percent of respondents stated they are not satisfied with the eMACS contract management capabilities. Comments focused on how exporting documents from eMACS is neither easy nor efficient, and how shopping through the eMarketPlace module can be challenging because the comparison of supplies can cross over multiple pages. When given the chance to describe what they thought were positive attributes of eMACS, 63 percent of respondents liked how all the documentation is kept in one, organized online repository. When asked about negative attributes, 50 percent thought the processes within eMACS are too time-consuming or confusing for both agency staff and vendors.

eMACS Not Used by Most Agencies to Manage Contracts

Some of the main functionalities of the contract management module are to house contract documentation; notify contract managers and procurement staff of important contract milestones, such as contract renewal deadlines; and track contract spending. However, even though this would be useful for both contract managers and

procurement staff, SPB staff stated only four agencies are using the eMACS contract management capabilities: the Department of Administration, DPHHS, the Office of the Public Defender, and the Department of Corrections. According to DPHHS procurement staff, they have been using the contract management module since early 2018 and have been pleased with the results. Staff stated there are many good features within the eMACS contract management components, like the electronic file cabinet, and the ability to route contract documentation to various staff within the agency for review and approval via an electronic signature component. In addition, eMACS gives their procurement staff read-only access to all contracts, which allows them to look at any contract at any time. This can help minimize disruptions in the event of procurement staff or contract managers turn over; new staff can easily track contract documentation and key deadlines within eMACS.

According to the department's project charter created to justify the purchase of eMACS, one of the assumptions was that the department "will be required to use the contract management system and it will be available to all state agencies." This is contrary to the department's position on the use of the eMACS solicitation module. According to MOM policy, Level I and II agencies "... must use SPB's eProcurement system, eMACS, for administering all formal bids and proposals issued under the Montana Procurement Act, according to procedures developed by the Division." This allows all vendors to go to one online portal to bid on formal solicitations. However, the department does not require the use of the contract management module.

The cost of eMACS is included in the rates agencies pay for SABHRS Financials; there is not separate fee for the use of each eMACS module. However, we found most agencies have chosen not to use eMACS to manage their contracts. The Department of Commerce and Department of Justice stated they have no interest in using it because they already have existing contract tracking software systems in place, which have ongoing licensing fees paid for by the agencies. Procurement staff from both of these agencies indicated their existing software already tracks contracts and allows for the payment of vendor invoices through SABHRS. A third agency's procurement staff stated their agency (Department of Transportation) will likely not use eMACS for contract management because they do not believe it will work alongside their existing software systems. Currently, the Department of Administration spends approximately \$385,000 annually on license fees for eMACS. This could help reduce duplicative spending among agencies to track information the department is already required to track. The department implemented eMACS to establish a centralized place where state government procurement and contracting activities can be tracked and to provide for efficient reporting of these activities.

Integration Between the Contract Management Module and SABHRS Has Been Delayed

When the state entered into the contract to implement eMACS in 2014, it was understood that the contract management module would be integrated with SABHRS for two reasons: 1) agencies would have the ability to easily monitor how much they have spent on a contract, and 2) it would give SPB the ability to get a much better estimate on what the state, as a whole, spends on procurement annually than what was previously available. At \$91,315, the implementation costs of the contract management module were 21 percent of the total implementation costs for all four of the eMACS modules. The plan to create the integration again emerged at the end of fiscal year 2017, and the plan was to have the functionality in place during fiscal year 2019. Based on interviews with SPB and eMACS staff, there were unforeseen problems with the vendor adapting the eMACS software with the SABHRS system. Vendor staff and department staff have been working in conjunction to complete this goal, but the deadline for integration has been a moving target. Twenty-one percent of procurement survey respondents were disappointed that the eMACS contract management module is not yet tied to SABHRS for contract spend-tracking purposes. Having this capability could increase the number of agencies willing to use the contract management module.

Limited Use of Contract Management Module Inhibits Accountability of Contract Activities and Expenditures

Under ARM 2.5.202(1), “The department is responsible for all procurements of all state supplies and services. All activities, including procedures, manuals, and forms, which govern such procurements will be prepared by or under the supervision of the department.” In addition, under §18-4-125, MCA, the department has the ability to collect data concerning state procurement. Under this law, “all using agencies shall cooperate with the department in the preparation of statistical data concerning the procurement, usage, and disposition of all supplies and services...” The department may then use this data for the reporting of supplies and services. Montana agencies spend hundreds of millions of dollars annually on contract supplies and services.

When the eMACS contract management module and SABHRS are finally linked, more agencies may be willing to start using it. According to SPB staff, five more agencies/offices have shown interest. Interviews with SPB found their staff is making efforts to meet with agency procurement staff on a one-on-one basis to educate them on the benefits of the contract management module and how to use the system. Continuing to do so will also allow the department to help ensure eMACS is meeting the needs of the agencies and to make additional improvements to the system as needed. In addition, SPB offers quarterly training on both the contract management module and

the solicitation module, and offers demos as requested by agencies. However, more efforts could be made by the department to showcase the ability of the module to increase efficiencies in contract management, and to explain how agencies can save money by using the contract management module, especially for those agencies that are currently using similar systems. Presenting updates to the legislature could also be an avenue to show how the investment in eMACS is improving both the solicitation process and the reporting of contract data.

Although the department mandates the use of the eMACS solicitation module for certain procurements under MOM, no such mandate exists for the use of the contract management module. As a result, limited use of the eMACS contract management module means the department cannot accurately determine the total number of state contracts issued by agencies, nor report the total value of these contracts to the legislature and to the public. For instance, in fiscal year 2016, SPB issued 106 IFBs and 83 RFPs. However, while SPB can determine the number of formal solicitations being done by agencies, it is unable to determine the total number of informal/limited solicitations being done, nor the value of these informal/limited solicitations. As a result, in its current form, eMACS is not meeting the purpose of the project charter, which is to implement a system that provides for greater efficiency and effectiveness of the state's procurement and contracting processes.

RECOMMENDATION #7

We recommend the Department of Administration:

- A. Complete the connectivity between the eMACS Total Contract Manager module and the Statewide Accounting, Budgeting and Human Resources System,*
 - B. Establish, in Montana Operations Manual policy, procedures for all state entities under delegation agreements to upload contract data into the eMACS Total Contract Manager module, and*
 - C. Develop and present a biennial report to the legislature detailing agency usage of all eMACS modules, and the existence of duplicative contract management systems currently in place at all agencies.*
-

DEPARTMENT OF
ADMINISTRATION

DEPARTMENT RESPONSE



MONTANA DEPARTMENT OF ADMINISTRATION

"the backbone of state government"

Director's Office

Steve Bullock, Governor • John Lewis, Director

November 26, 2018

Angus Maciver, Legislative Auditor
Legislative Audit Division
PO Box 201705
Helena, MT 59620

RECEIVED

NOV 26 2018

LEGISLATIVE AUDIT DIV.

Dear Mr. Maciver,

The Department of Administration thanks you for the opportunity to respond to the Administration of State Procurement and Contract Management audit. A thorough review of the audit was conducted by the State Financial Services Division (SFSD) and DOA Director's office. Thank you to you and your staff for your work and professionalism during this audit.

Our responses to the recommendations are as follows:

Recommendation #1 – We recommend the Department of Administration clearly define, in Montana Operations Manual policy and in the delegation agreement template:

- A. The role and responsibilities of the delegation agreement liaison, and*
- B. "Satisfactory performance history," "procurement staff," and "public procurement experience."*

Department Response: Concur

The Department will clearly define the following: roles and responsibilities of the delegation agreement liaison, satisfactory performance history, procurement staff, and public procurement experience in the Montana Operations Manual policy and the delegation agreement template.

Recommendation #2 – We recommend the Department of Administration:

- A. Implement procedures to ensure delegation agreement liaisons and procurement staff are obtaining all trainings and years of public procurement experience as required within the delegation agreement.*
- B. Suspend delegation agreements for agencies not meeting the agreements' requirements until corrective actions are taken by the agency.*

Department Response: Concur

The Department will implement a review/checklist process to ensure all requirements of the delegation agreement are met and implement corrective measures with agencies that are not meeting the requirements. If compliance is not met with corrective measures, agencies will be suspended.

Recommendation #3 – We recommend the Department of Administration improve agency procurement reviews by:

- A. Randomly and judgmentally selecting agency contracts to review*
- B. Developing a review scoring system, providing feedback to agencies after reviews are completed; and*
- C. Verifying that issues identified during these reviews are corrected.*

Department Response: Concur

The Department will develop a review process for randomly and judgmentally selected agency contracts including a scoring system, feedback, and verifying corrective actions.

Recommendation #4 – We recommend the Department of Administration review all commodity codes on each delegation agreement during the renewal process and communicate with the agency liaisons to determine if any codes are no longer necessary.

Department Response: Concur

The Department will review commodity code exceptions, needs, and usage as part of the agency delegation agreement process.

Recommendation #5 – We recommend the Department of Administration develop and maintain a comprehensive procurement and contract management manual to clearly identify and implement industry best practices.

Department Response: Concur

The Department will develop procurement and contract management manuals and communicate their availability to agencies.

Recommendation #6 – We recommend the Department of Administration identify appropriate contract management training and update the agency delegation agreement template to require this training for all agency delegation agreement liaisons and contract managers.

Department Response: Concur

The Department will implement contract management training for agencies and add this requirement to the delegation agreements.

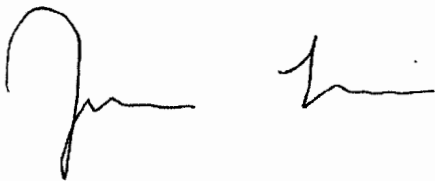
Recommendation #7 – We recommend the Department of Administration:

- A. Complete the connectivity between the eMACS' Total Contract Manager module and the Statewide Accounting, Budgeting and Human Resources System;*
- B. Establish, in Montana Operations Manual policy, procedures for all state entities under delegation agreements to upload contract data into the eMACS' Total Contract Manager module; and*
- C. Develop and present a biennial report to the legislature detailing agency usage of all eMACS modules, and the existence of duplicative contract management systems currently in place at all agencies.*

Department Response: Concur

The Department will continue to pursue the payment integration between eMACs TCM and SABHRS as a top priority. The Department will research and determine the most effective way to report contract data and establish associated procedures. The Department will develop and present a Biennial report to the legislature as specified in the recommendation.

Sincerely,

A handwritten signature in black ink, appearing to be 'John Lewis', written in a cursive style.

John Lewis, Director

c: Cheryl Grey, Administrator

Enclosures - Corrective Action Plan

Recommendation	Management View	Corrective Action Plan	Person Responsible	Target Date
<p>Recommendation #1: We recommend the Department of Administration clearly define, in Montana Operations Manual policy and in the delegation agreement template: A. The role and responsibilities of the delegation agreement liaison, and B. "Satisfactory performance history," "procurement staff," and "public procurement experience."</p>	<p>Concur</p>	<p>The Department will clearly define the following: roles and responsibilities of the delegation agreement liaison, satisfactory performance history, procurement staff, and public procurement experience in the Montana Operations Manual policy and the delegation agreement template.</p>	<p>Meghan Holmlund</p>	<p>2/28/2019</p>
<p>Recommendation #2: We recommend the Department of Administration: A. Implement procedures to ensure delegation agreement liaisons and procurement staff are obtaining all trainings and years of public procurement experience as required within the delegation agreement. B. Suspend delegation agreements for agencies not meeting the agreements' requirements until corrective actions are taken by the agency.</p>	<p>Concur</p>	<p>The Department will implement a review/checklist process to ensure all requirements of the delegation agreement are met and implement corrective measures with agencies that are not meeting the requirements. If compliance is not met with corrective measures, agency delegation will be suspended.</p>	<p>Meghan Holmlund</p>	<p>12/31/2018</p>
<p>Recommendation #3: We recommend the Department of Administration improve agency procurement reviews by: A. Randomly and judgmentally selecting agency contracts to review; B. Developing a review scoring system; C. Providing feedback to agencies after reviews are completed; and D. Verifying that issues identified during these reviews are corrected.</p>	<p>Concur</p>	<p>The Department will develop a review process for randomly and judgmentally selected agency contracts including a scoring system, feedback, and verifying corrective actions.</p>	<p>Meghan Holmlund</p>	<p>6/30/2019</p>
<p>Recommendation #4: We recommend the Department of Administration review all commodity codes on each delegation agreement during the renewal process and communicate with the agency liaisons to determine if any codes are no longer necessary.</p>	<p>Concur</p>	<p>The Department will review commodity code exceptions, needs, and usage as part of the agency delegation agreement process.</p>	<p>Meghan Holmlund</p>	<p>10/1/2019</p>
<p>Recommendation #5: We recommend the Department of Administration develop and maintain a comprehensive procurement and</p>	<p>Concur</p>	<p>The Department will develop procurement and contract management manuals and communicate their availability to agencies.</p>	<p>Meghan Holmlund</p>	<p>12/31/2019</p>

Recommendation	Management View	Corrective Action Plan	Person Responsible	Target Date
<p>contract management manual to clearly identify and implement industry best practices.</p>				
<p>Recommendation #6: We recommend the Department of Administration identify appropriate contract management training and update the agency delegation agreement template to require this training for all agency delegation agreement liaisons and contract managers.</p>	<p>Concur</p>	<p>The Department will implement contract management training for agencies and add this requirement to the delegation agreements.</p>	<p>Meghan Holmlund</p>	<p>12/31/2019</p>
<p>Recommendation #7: We recommend the Department of Administration: A. Complete the connectivity between the eMACS' Total Contract Manager module and the Statewide Accounting, Budgeting and Human Resources System; B. Establish, in Montana Operations Manual policy, procedures for all state entities under delegation agreements to upload contract data into the eMACS' Total Contract Manager module; and C. Develop and present a biennial report to the legislature detailing agency usage of all eMACS modules, and the existence of duplicative contract management systems currently in place at all agencies.</p>	<p>Concur</p>	<p>The Department will continue to pursue the payment integration between eMACs TCM and SABRS as a top priority. The Department will research and determine the most effective way to report contract data and establish associated procedures. The Department will develop and present a biennial report to the legislature as specified in the recommendation.</p>	<p>Meghan Holmlund</p>	<p>12/31/2019</p>