

Salt Lake Community College

# Purchasing Services Operating Guidelines

Brandon Thomas  
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# INTRODUCTION

**PURPOSE**

The purpose of this manual is to provide a guide for purchasing personnel to procure the supplies and services required by the College while ensuring fair and open competition and adherence to all applicable laws and regulations.

## **MISSION STATEMENT**

Purchasing Services is responsible for the procurement of all supplies and services required by Salt Lake Community College and all its departments. The most important function of Purchasing Services is to serve other campus departments and to help them obtain the supplies and services they need for effective operation.

It is our mission to:

- Acquire supplies and services on a timely and economical basis;
- Assure compliance with all applicable state and federal laws and College regulations during the procurement process;
- Provide assistance, consultation, and advice regarding all procurement needs of the College.

## DEFINITIONS

1. **Adequate Price Competition:** When a minimum of two competitive quotes, bids, or proposals are received from responsive bidders or offerors.
2. **Advance Payments:** Payments made prior to the actual receipt and delivery of supplies, services, or construction.
3. **Architect:** A person licensed to practice architecture which includes rendering, or offering to render, services in connection with the design, construction, enlargement, or alteration of a building, or group of buildings, and the space within and surrounding such building. These services include: planning; facility programming; preliminary studies; preparation of designs, drawings, and specifications; preparation of technical submissions; and administration of construction contracts.
4. **Bid Bond:** An insurance agreement, accompanied by a monetary commitment, by which a third party (the Surety) accepts liability and guarantees that the bidder will not withdraw the bid. The bidder will furnish bonds in the required amount and, if the contract is awarded to the bonded bidder, the bidder will accept the contract as bid, or the surety will pay a specified amount.
5. **Bid Rigging:** An agreement among potential competitors to manipulate the competitive bidding process, for example, by agreeing not to bid, to bid a specific price, to rotate bidding, or to give kickbacks.
6. **Bidder:** A person who responds to an invitation for bid or request for quotation.
7. **Brand Name or Equal Specification:** A specification which uses a brand name specification to describe the standard of quality, performance, and other characteristics being solicited, and which invites the submission of equivalent products.
8. **Brand Name Specification:** A specification identifying one or more products by manufacturer name, product name, unique product identification number, product description, SKU or catalogue number.
9. **Change Order:** A written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.
10. **Collusion:** When two or more persons act together to achieve a fraudulent or unlawful act. Collusion inhibits free and open competition in violation of law.
11. **Construction:** The process of building, renovating, altering, improving, repairing, or demolishing any College structure or building, major developmental work, or landscaping of College real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.
12. **Contractor:** A vendor who is awarded a contract with the College.
13. **Cooperative Procurement:** A procurement conducted by, or on behalf of, more than one procurement unit; or a procurement unit and a cooperative purchasing organization.
14. **Days:** Calendar days, unless expressly provided otherwise.
15. **Director:** The Director of Purchasing Services.
16. **Engineer:** A person licensed in the State of Utah as a professional engineer to perform services or creative works, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to the service or creative work as consultation, investigation, evaluation, planning, design, and design coordination of engineering works and systems, planning the use of land and water, facility programming, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications; any of which embraces these services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work

- systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, and including other professional services as may be necessary to the planning, progress, and completion of any engineering services.
17. **Invitation for Bid:** A formal procurement method for soliciting bids from suppliers interested in supplying requested supplies, services, or construction to the College. It includes documents that are attached or incorporated by reference. It is the standard solicitation for procurements over the large-dollar purchase threshold.
  18. **Large-Dollar Purchase:** The procurement of supplies or services for which the total cost is more than the large-dollar purchase threshold.
  19. **Large-Dollar Purchase Threshold:** The threshold established by Purchasing Services over which a formal, advertised solicitation must be conducted.
  20. **Mandatory Requirements:** Conditions set out in the specifications/scope of work that must be met without exception.
  21. **Minor Irregularity:** A variation from the solicitation that does not affect the price of the bid, proposal, or contract or does not give a bidder/offeror an advantage or benefit not shared by other bidders/offerors, or does not adversely impact the interests of the procurement unit.
  22. **Multiple Award Contracts:** The award of a contract for an indefinite quantity of a procurement item to more than one bidder or offeror.
  23. **Multi-year Contract:** A contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.
  24. **Non-compliant Purchase:** A procurement transaction circumventing established procurement policies and procedures, including those outlined in College Policies 241 through 244.
  25. **Offeror:** A person who responds to a request for proposals.
  26. **Participating Addendum:** An agreement issued in conjunction with a Cooperative Contract that authorizes an entity to use the Cooperative Contract.
  27. **Payment Bond:** A bond issued by a surety that guarantees that subcontractors will be paid for labor and materials expended on the contract.
  28. **Performance Bond:** A bond that protects the public entity from loss due to the contractor's failure to perform as required under the terms of the contract.
  29. **Procurement Contract/Agreement:** Any contract or agreement executed between the College and a vendor for buying, purchasing, renting, leasing, or otherwise acquiring any supply, service, or construction.
  30. **Procurement Item:** A supply, a service, or construction.
  31. **Procurement:** Buying, purchasing, renting, leasing or otherwise acquiring any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supplies, services, or construction, including description of requirements, selection process, solicitation of sources, preparation for soliciting sources, award of a contract, and all phases of contract administration.
  32. **Professional Services:** A service that requires a high degree of specialized knowledge and discretion in the performance of the service, including, but not limited to:
    - (a) Legal services
    - (b) Consultation services
    - (c) Architectural services
    - (d) Engineering
    - (e) Design
    - (f) Underwriting
    - (g) Bond counsel
    - (h) Financial advice



- (i) Construction management
  - (j) Medical services
  - (k) Psychiatric services
  - (l) Counseling services
  - (m) art
  - (n) Software design and programming
    - (i) Does not include customization of ready-made, commercially-available software.
33. **Purchase Order:** A legal and binding written contractual document serving as a formal order for the supplies, services, and/or construction listed thereon and setting forth all applicable terms and conditions.
  34. **Purchasing Agent:** An individual duly authorized by the Director of Purchasing Services to perform procurement-related functions.
  35. **Real Property:** Land and its permanently affixed buildings or structures and related fixtures.
  36. **Request for quotations:** An informal procurement method for soliciting quotes from suppliers interested in providing requested supplies, services, or construction to the College. It is the standard solicitation used for procurements between the small-dollar purchase threshold and the large-dollar purchase threshold.
  37. **Request for Proposals:** A formal procurement method for soliciting proposals from offerors interested in providing requested supplies, services, or construction to the College. It includes documents that are attached or incorporated by reference.
  38. **Requisition:** A form used to initiate the procurement of supplies, services, or construction by Purchasing Services.
  39. **Re-solicitation:** The process of canceling a solicitation, revising the solicitation, and re-issuing the solicitation.
  40. **Responsible:** Being capable, in all respects, of meeting all the requirements of a solicitation and fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.
  41. **Responsive:** Conforming in all material respects to the solicitation.
  42. **Restrictive Specifications:** Specifications that unnecessarily limit competition by eliminating items capable of satisfactorily meeting actual needs, often by requiring features which exceed the minimum acceptable characteristics required for satisfactory performance.
  43. **Scope of Work:** A detailed, written description of the conceptual requirements for a project contained within a solicitation. The scope of work should establish a clear understanding of what is required.
  44. **Sealed:** Manually or electronically sealed and submitted bids or proposals.
  45. **Services:** The furnishing of labor, time, or effort by a vendor that does not involve the delivery of a specific end product, other than reports. It does not include employment agreements or collective bargaining agreements.
  46. **Small-Dollar Purchase:** The procurement of supplies or services for which the total cost is less than the small-dollar purchase threshold.
  47. **Small-Dollar Purchase Threshold:** The threshold established by Purchasing Services over which adequate competition must be sought in accordance with purchasing guidelines.
  48. **Sole Source Contract:** A contract resulting from a sole source procurement.
  49. **Sole Source Procurement:** A procurement over the small-dollar purchase threshold made without competition pursuant to a determination that there is only one source for the procurement item. Does not include purchasing items on a contract.

50. **Solicitation:** A request for quotations, an invitation for bids, a request for proposals, or any other document issued by the College for the purpose of obtaining quotes, bids, or proposals to form a procurement contract/agreement.
51. **Specification:** Any description of the physical or functional characteristics of, or the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.
52. **State Cooperative Contract:** Means a contract awarded by the Division of Purchasing for, and on behalf of, all public entities.
53. **Supplies:** All goods, including but not limited to equipment, materials, and printing.

## **POLICIES AND REGULATIONS**

Below is a list of relevant policies and regulations that govern the purchasing process.

- Utah Procurement Code
- Board of Regents Purchasing Policy
- Policy C2S10.01 – College Procurement
- P-Card Manual
- LCD Manual

## ETHICS

Purchasing Services employees must discharge their duties impartially so as to assure fair competitive access to College procurement by responsible contractors. They should conduct themselves in such a manner as to foster public confidence in the integrity of Purchasing Services and the College. All employees shall abide by the Purchasing Services Code of Ethics at all times. Purchasing Services employees are required to know, understand, and abide by the following laws pertaining to ethical behavior:

1. Section 63G-6a, Part 24 "Unlawful Conduct and Penalties," of the Utah Procurement Code;
2. Title 67, Part 16 "Utah Public Officers' and Employees' Ethics Act;"
3. Section 76-8-103, "Bribery or Offering a Bribe;" and
4. Any other applicable law.

College employees serving on an evaluation committee or otherwise involved in a procurement process or contract administration shall abide by the Purchasing Services Code of Ethics in respect to the applicable procurement or contract.

### **Socialization with Vendors and Contractors.**

1. A procurement professional shall not:
  - a. Participate in social activities with vendors or contractors that will interfere with the proper performance of the procurement professional's duties;
  - b. Participate in social activities with vendors or contractors that will lead to unreasonably frequent disqualification of the procurement professional from the procurement process; or
  - c. Participate in social activities with vendors or contractors that would appear to a reasonable person to undermine the procurement professional's independence, integrity, or impartiality.

# PROCUREMENT METHODS

## **SMALL-DOLLAR PURCHASE**

### **PROCESS**

1. Procurements less than or equal to the Small-Dollar Purchase Threshold may be made using one of the following methods:
  - a. Purchasing Card (see P-Card Procedures).
  - b. Limited Cash Draft (see LCD Procedures).
  - c. Personal Expense Reimbursement.
  - d. Requisition Process. Purchasing agents may place orders with or without competition at their discretion.
2. Procurements over the Small-Dollar Purchase Threshold:
  - a. Handled through the requisition process.
  - b. Quotes will be solicited utilizing the request for quote process.
3. All procurements for construction, regardless of amount, will utilize the requisition process.
4. Purchasing Services may enforce the use of contracts for small-dollar purchases for specific commodities.
5. Alternative procurement methods may be used for certain commodities as outlined in the Alternative Procurement Methods section.

### **RECORDS**

1. Records must be kept for all procurements over \$50.

## REQUEST FOR QUOTE (RFQ)

### PURPOSE

The purpose of the request for quote process is to assist departments in procuring supplies and services at the lowest possible cost while seeking open and fair competition. The RFQ process is an informal bid process for procurements that are less than or equal to the large-dollar purchase threshold. Purchasing agents are not required to seek competition for procurements that are less than or equal to the small-dollar purchase threshold. However, purchasing agents may use their discretion when handling procurements under the small-dollar purchase threshold and may choose to seek competition.

1. Small-dollar purchases may be made by Purchasing Services without soliciting quotations when the purchasing agent determines, from available information, that the use of solicitation procedures outlined herein would not be sufficiently cost effective or expeditious to meet the needs of the requisitioning department or unit in a timely and economical manner.
  - a. Such exception requires a written justification statement by the purchasing agent and the approval of the Director.

### INITIATION

The RFQ process is initiated when a requisition is entered and approved.

### PREPARATION

1. Quotes will be solicited from at least two different sources by the assigned purchasing agent.
2. The RFQ shall include the following:
  - a. An adequate description of the commodities sought (see Specifications).
  - b. A due date and time.
  - c. Acceptable manner of submission.
    - i. These quotes may be submitted via fax or e-mail.
    - ii. Verbal quotes may be accepted when the total is \$20,000 or less.
    - iii. Catalog prices may be used at the discretion of the purchasing agent.
  - d. General bid provisions.
3. RFQs do not need to be posted online or advertised. The purchasing agent may choose to post an RFQ online in an attempt to obtain adequate competition.

### MAINTENANCE

1. Policies regarding small-dollar purchases, including split purchases and ongoing, continuous, and regularly scheduled procurements, must be followed.
2. The purchasing agent may answer vendor questions, provide clarification, extend the due date, etc. The purchasing agent must ensure that the process is fair and that maintenance activities are not performed in an attempt to provide any vendor with an advantage.

### OPENING

1. No formal bid opening is required.

### EVALUATION

1. If a vendor submits alternate bids, they are considered separate bids and should be evaluated as such.

2. If a vendor fails to provide adequate information to allow the purchasing agent to provide an objective rating, the purchasing agent may ask the vendor to provide additional information. The purchasing agent may also choose to reject the quote if it would be in the best interest of the College.
3. The purchasing agent may request aid from the requesting department or other qualified individuals in the technical evaluation process.

**AWARDING**

1. The contract will be awarded to the low cost solution that successfully meets the specifications.
2. The purchasing agent should award the bid as soon as practicable.
3. Notifications of award may be sent to all participating vendors at the discretion of the purchasing agent.

**CANCELATION**

If an RFQ or an award is cancelled, a written justification must be provided by the purchasing agent.

**RECORDS**

All documents related to the RFQ, including solicitation documents, questions and answers, addenda, responses, evaluations, and justifications are considered public and may be requested through GRAMA. Pricing information may be released to vendors without a GRAMA request.



## INVITATION FOR BID (IFB)

### PURPOSE

The purpose of the invitation for bid process is to seek open and fair competition. The IFB process is the default procurement process for all procurements over the Large-Dollar Purchase Threshold.

### INITIATION

1. The IFB process is initiated when one of the following occurs:
  - a. A requisition is entered and approved.
  - b. Purchasing Services decides to pursue a contract.

### PREPARATION

1. IFBs shall include the following:
  - a. An adequate description of the commodities sought (see Specifications).
  - b. A due date and time.
  - c. Date and time by which questions regarding the IFB must be asked (Optional).
  - d. Date, time, and location of a pre-bid conference (Optional).
  - e. Acceptable manner of submission if different than indicated in the General Bid Provisions (Optional).
  - f. General bid provisions.
  - g. Additional bid-specific provisions (Optional).
  - h. Standard contract terms and conditions.
  - i. Additional contract-specific terms and conditions (Optional).
  - j. Objective criteria for evaluation and how they will be rated (Optional).
    - i. Examples of objective criteria that may be included are:
      1. Experience.
      2. Performance rating.
      3. Inspection.
      4. Testing.
      5. Quality.
      6. Workmanship.
      7. Time and manner of delivery.
      8. References.
      9. Financial stability.
      10. Suitability for a particular purpose.
    - ii. Criteria will be rated objectively using one of the following methods:
      1. Pass/Fail.
      2. Quantitative calculations.

### POSTING

1. IFBs are posted online for a minimum of seven (7) days.
  - a. A shorter posting period may be used if the purchasing agent determines in writing that a shorter time period is needed and that competition from multiple sources may be

adequately obtained within the shorter period of time. This determination must be signed by the purchasing agent and the Director.

- b. The purchasing agent may choose to accept electronic and/or paper bids. If the purchasing agent chooses to accept paper bids, paper bids must be submitted in a sealed envelope and remain sealed until the bid closes.

## **MAINTENANCE**

1. Question and Answer
  - a. The purchasing agent may indicate a date and time by which questions regarding the IFB must be asked.
  - b. Questions and the associated answers should be posted online.
  - c. Bids may be extended if needed to provide vendors with adequate time to respond to the answers.
  - d. If the answer to the question requires changing the requirements of the bid, the purchasing agent should consider releasing an addendum.
2. Pre-Bid Conference/site visit (walkthrough)
  - a. A pre-bid conference, mandatory or optional, may be held at the discretion of the purchasing agent. It must state in the IFB whether the pre-bid conference is mandatory or optional.
  - b. The date, time, and location of the pre-bid conference must be included in the IFB.
  - c. Vendors must be provided with adequate time to attend the pre-bid conference.
  - d. Roll must be taken at the pre-bid conference. If the pre-bid conference is mandatory, the bid will be restricted to the vendors that attend.
    - i. Following the pre-bid conference, the roll of attendees must be posted.
  - e. A representative of Purchasing Services must be present at all pre-bid conferences. Representatives from the appropriate department(s) should also be present.
  - f. Pre-bid conferences should not be used as a way for vendors to provide specifications for a project. However, during a pre-bid conference, changes to the specifications may be made.
  - g. Price shall not be discussed at pre-bid meetings. Pre-bid meetings are to discuss and clarify technical requirements only.
  - h. The purchasing agent should provide information to vendors regarding parking. Parking costs are the responsibility of the vendor, unless the requesting department chooses to pay for parking.
  - i. The purchasing agent must stay until all vendors have departed.
  - j. The purchasing agent shall compile the notes taken during the meeting and release them as an addendum.
3. Addenda
  - a. If the department or Purchasing Services finds that additional specifications must be provided in order to assure adequate responses, an addendum must be released.
  - b. Addenda may include additional specifications, additional or altered terms and conditions, extended due dates, etc.

- c. Addenda shall be distributed within a reasonable time to allow prospective bidders to consider the addenda in preparing bids. The purchasing agent may extend the due date of a bid to provide vendors with adequate time to respond to any addenda.
4. During the bid process, all correspondence related to the bid must be done through the purchasing agent. Direct correspondence with the department by a vendor is not appropriate as it may provide a vendor with an unfair advantage and it may appear as favoritism. Information related to the bid provided to one vendor, must be provided to all other participating vendors. Purchasing agents are responsible to assure fair and open competition. If it is found that a vendor has had direct contact with the department during the solicitation process, the vendor's bid may, at the discretion of the purchasing agent, be considered not-responsive.

#### **OPENING**

1. Bid responses should be submitted through the online bidding system, unless otherwise listed in the solicitation.
2. Information provided by a vendor in a bid submission must be held in confidence until the bid is opened.
3. If it is stated in the solicitation that paper bids are an acceptable method of submission, a public bid opening with one or more witnesses must be held. If only electronic bids are accepted, a bid opening is not required as long as the electronic bid allows the public to see who responded and the amount of each bid.
4. Bids, or changes to bids, will not be accepted after the due date.
5. A decision to permit the correction or withdrawal of an inadvertently erroneous bid shall be made in writing and be signed by the purchasing agent. Under no circumstance shall changes to bid pricing, cost evaluation formula or other provisions that are prejudicial to fair competition be made after bid opening.
6. All paper bids must be uploaded to the online bidding system.
7. Samples obtained during a solicitation become the property of the College, unless otherwise indicated in the bid. If the samples cannot be used by the department or Purchasing Services, they must be sent to the Surplus department for disposal.
8. Minor irregularities can be waived or corrected if there is no harm or unfairness to other bidders and provided there is no change to the price, quantity, quality, delivery, or material contractual conditions. If a mistake or error in the bidding document is discovered, but a different intention is clearly evident, the bidding document shall be corrected.
  - a. Examples include: typographical errors or unit costs do not match the extended total costs (the unit cost shall supersede any error in calculating the total costs).

#### **EVALUATION**

1. If a vendor submits alternate bids, they are considered separate bids and should be evaluated as such.
2. Bids are evaluated to determine if they are responsive and responsible.
  - a. When a bid guarantee or bond is required and a bidder fails to furnish the guarantee in accordance with the requirements of the invitation for bids, the bid may be rejected.

- b. A written justification for the determination of not responsive or not responsible must be provided by the purchasing agent and filed with the bid documents.
  - c. A bidder may be disqualified if it is found that they have violated the Utah State Procurement Code, the requirements of the invitation for bids, unlawful or unethical conduct, or a change in circumstance that, had the change been known at the time the bid was submitted, would have caused the bidder to not be the lowest responsive and responsible bidder who meets the objective criteria described in the IFB. If a purchasing agent is going to disqualify the lowest bidder, a written justification for the disqualification must be signed by the purchasing agent and the Director. A copy of the written justification must be sent to the disqualified bidder. This document shall be included in the bid file.
  - d. If only one responsive and responsible bid is received, an award may be made to the single bidder if the purchasing agent finds that the price submitted is fair and reasonable, the solicitation was posted appropriately to obtain adequate competition, and other prospective bidders had reasonable opportunity to respond, or there is not adequate time for re-solicitation.
3. Conformity to Solicitation Requirements
- a. Any bid that fails to conform to the mandatory requirements of the solicitation shall be rejected.
  - b. Alternate bids can be accepted if it is stated in the solicitation. The procurement item(s) offered as alternates must meet the mandatory requirements specified in the solicitation.
  - c. Any bid that fails to conform to the delivery schedule may be rejected.
  - d. A bid may be rejected when the bidder imposes conditions or takes exceptions that would modify requirements or terms and conditions of the solicitation or limit the bidder's liability to the procurement, if to allow the bidder to impose such conditions or take exceptions would be prejudicial to other bidders. For example, bids or proposals shall be rejected in which the bidder:
    - i. Protects against future changes in conditions, such as increased costs, if total possible costs to the procurement unit cannot be determined;
    - ii. Fails to state a price and indicates that price shall be "price in effect at time of delivery" or states a price but qualifies it as being subject to "price in effect at time of delivery;"
    - iii. When not authorized by the solicitation, qualifies a bid by stipulating that it is to be considered only if the bidder receives an award under a separate solicitation;  
or
    - iv. Limits rights of the College under any contract clause.
  - e. A low bidder may be requested to delete objectionable conditions from a bid provided doing so is not prejudicial to other bidders or the conditions do not go to the substance, as distinguished from the form, of the bid. A condition goes to the substance of a bid where it affects price, quantity, quality, or delivery of the procurement item(s) offered.
4. Technical Evaluation:

- a. Bids will be evaluated to determine conformance to the specifications listed in the IFB and any objective criteria listed in the solicitation. This is called a technical evaluation.
    - i. You cannot use criteria not listed in the solicitation.
    - ii. Criteria must be evaluated objectively and not subjectively as outlined in the IFB.
    - iii. If a vendor has failed to provide adequate information to allow the purchasing agent to provide an objective rating of any criteria, the purchasing agent may ask the vendor to provide additional information in writing. If the vendor does not provide the requested information, it is assumed that the bidder does not meet the criteria.
    - iv. The purchasing agent may request aid from the requesting department or other qualified individual in the technical evaluation process.
  - b. After the technical evaluation is completed, the passing bids will continue to pricing evaluation.
    - i. Bids that do not meet minimum specifications, or do not adequately pass the rating process, will be eliminated from further consideration.
5. Pricing Evaluation:
- a. Rank bids that pass the technical evaluation according to cost.
  - b. All bids are over budget.
    - i. If all bids are over budget, and the low bid is no more than 5% over budget, a purchasing agent may negotiate an adjustment of price and/or requirements with the low bidder to bring the bid within budget.
    - ii. If all bids are over budget by more than 5% or if negotiations are not successful, the solicitation should be canceled.
  - c. Tie bids.
    - i. In the case of a tie bid, the award will be determined by using one of the following methods:
      1. Award to a provider of State products.
      2. Award to the bidder closest to the place of delivery (proximity).
      3. Award to the bidder who received the prior bid award.
      4. Award to the bidder who will provide the earliest delivery date.
      5. Award by drawing lots.
      6. Award by any other reasonable method.
    - ii. The purchasing agent will provide a written justification statement for selecting the method used. This justification shall be included in the bid file.

#### **AWARDING**

1. The contract will be awarded to the low cost solution that successfully passes the technical evaluation.
2. The purchasing agent should award the bid as soon as is practicable.

3. Notifications of award should be sent to all participating vendors.

**CANCELATION**

If an IFB or an award is cancelled, a written justification must be provided by the purchasing agent.

**TEMPLATES**

1. Invitation for Bid Template.
2. Pre-Bid Conference Attendance Roll.

**RECORDS**

All documents related to the bid, including solicitation documents, questions and answers, addenda, responses, evaluations, and justifications are considered public and may be requested through GRAMA. Pricing information may be released to vendors without a GRAMA request.

## MULTI-STAGE BID (MSB)

### PURPOSE

Multiple stage bidding is a two-stage process consisting of a technical stage (Stage 1) in which bidders submit unpriced technical proposals to be evaluated and a pricing stage (Stage 2) in which those bidders whose technical proposals are determined to be acceptable during the technical stage submit their price bids. It is designed to obtain the benefits of competitive sealed bidding by award of a contract to the lowest responsive, responsible bidder, and at the same time obtain the benefits of the competitive sealed proposals procedure through the solicitation of technical proposals and the conducting of discussions to arrive at technical proposals and terms acceptable to the College and suitable for competitive pricing.

A justification must be written and approved by the Director before pursuing an MSB. The guidelines listed below are in addition to the guidelines listed under IFB.

### INITIATION

1. The MSB process is initiated when one of the following occurs:
  - a. A requisition is entered and approved and a written justification has been completed and approved.
  - b. Purchasing Services decides to pursue a contract.

### PREPARATION

1. An MSB Committee may be formed by the requesting department. Committee members must be approved by the purchasing agent.
2. The requesting department will fill out the MSB Statement of Needs template and e-mail the draft to the purchasing agent.
  - a. The purchasing agent will work with the MSB Committee to prepare the MSB for posting.
  - b. When the MSB Statement of Needs has been prepared, the purchasing agent shall copy the information to the appropriate sections of the MSB template and prepare the document for release.
3. In addition to the items listed under IFB, MSBs shall include the following:
  - a. A description of the requirements and purpose of each stage.
    - i. The first stage is for prequalification only. During the first stage, bidders will submit technical bids outlining how they meet the requirements listed in the bid. The first stage may include multiple phases including the submission of written technical bids, presentations, demonstrations, tests, proofs of concept, and/or other activities.
    - ii. A bidder may not submit any pricing information in the technical stage of the process.
    - iii. Following the evaluation of technical bids, price bids will be requested from those bidders found to have submitted an acceptable technical bid.

### POSTING

1. The first stage of an MSB should be posted online for a minimum of seven (7) days.
  - a. A shorter posting period may be used if the purchasing agent determines in writing that a shorter time period is needed and that competition from multiple sources may be adequately obtained within the shorter period of time. This determination must be signed by the purchasing agent and the Director.
2. The purchasing agent may choose to accept electronic and/or paper bids. If the purchasing agent chooses to accept paper bids, paper bids must be submitted in a sealed envelope and remain sealed until the bid closes.

## **EVALUATION**

1. Technical Evaluation:
  - a. Bids will be evaluated by the purchasing agent and/or the MSB Committee based on the criteria listed in the solicitation. This is called a technical evaluation.
    - i. You cannot use criteria not listed in the solicitation.
    - ii. The committee will provide a rating of acceptable, potentially acceptable, or unacceptable.
    - iii. If a bid receives an unacceptable rating for any criteria, the bid is eliminated from further consideration. The purchasing agent shall notify the bidder that their bid has been eliminated. The bidder shall not be afforded an additional opportunity to supplement technical proposals. A brief written explanation of why the bid was found unacceptable must be filed with the bid documents.
    - iv. If a bid receives a potentially acceptable rating for any criteria, the committee may discuss the technical bid with the vendor in order to determine an acceptable or unacceptable rating. All bids must ultimately receive an acceptable or unacceptable rating.
    - v. Technical evaluations may include demonstrations, testing, presentations, proofs of concept, and/or other activities. These activities shall be used to determine whether a bid is acceptable or not acceptable.
    - vi. Discussion of a technical proposal may be conducted by the purchasing agent and the MSB committee with any bidder who submits an acceptable or potentially acceptable technical proposal. During the course of these discussions, the purchasing agent and the committee members shall not disclose any information derived from one unpriced technical proposal to any other bidder. Once discussions have begun, any bidder who has not been notified that its proposal has been finally found unacceptable may submit supplemental information modifying or otherwise amending its technical proposal at any time until the closing date established by the purchasing agent. This submission may be made at the request of the purchasing agent or upon the bidder's own initiative.
  - b. After the technical evaluation is completed, the passing bids will continue to Stage 2, Price Bid.



- i. Bids that do not meet minimum specifications or do not adequately pass the rating process, will be eliminated from further consideration.
2. Pricing Evaluation:
  - a. The second stage includes only those vendors whose technical bids were found to be acceptable in the first stage. The timeframe for the second stage shall be set by the purchasing agent.
  - b. Bidders may not make any changes to their technical bid during this stage.
  - c. Once the due date for the second stage is reached, the price bids are opened and ranked according to cost.

#### **AWARDING**

The contract will be awarded to the low cost solution.

#### **TEMPLATES**

1. MSB Statement of Needs.
2. Multi-Step Bid Template, Stage 1.
3. Multi-Step Bid Template, Stage 2.
4. Pre-Bid Conference Attendance Roll.
5. Evaluator Agreement.
6. Technical Evaluation Template.

## REVERSE AUCTION (RA)

### PURPOSE

The purpose of a reverse auction is to allow vendors to bid against each other in an open forum. This process is the only procurement method which allows open auction tactics.

### INITIATION

1. The RA process is initiated when one of the following occurs:
  - a. A requisition is entered and approved.
  - b. Purchasing Services decides to pursue a contract.

### PREPARATION

1. A written justification for performing a reverse auction must be approved by the Director.
2. Bidders must prequalify to participate in a reverse auction.
  - a. To prequalify, bidders must agree to the following:
    - i. Specifications of commodities (see Specifications).
    - ii. Terms and conditions.
    - iii. Reverse auction procedures.
  - b. If the total amount of the resulting procurement will be less than or equal to the large-dollar purchase threshold, the RA may be restricted to 3 or more vendors that are known to meet the minimum qualifications.
  - c. If the total amount of the resulting procurement will be over the large-dollar purchase threshold, a request for supplier qualifications (RFSQ) must be completed.

### POSTING

1. The RFSQ, if applicable, shall be posted online for seven (7) days allowing vendors to submit certification of meeting the qualifications requested. (See RFSQ Guidelines)
  - a. The RFSQ will include the following:
    - i. Intent to perform a reverse auction.
    - ii. Description of the items (see Specifications).
    - iii. Date and time of the reverse auction.
    - iv. Minimum requirements for prequalification.
    - v. Terms and conditions.
    - vi. The procedure that will be used to conduct the auction.
2. Bidders who have prequalified will be invited to participate in the reverse auction.
  - a. The solicitation shall conform to the applicable RFSQ/IFB guidelines.

### MAINTENANCE

1. Vendors will be allowed to lower their bids until no more bids are made before the initial bid close time.

### OPENING

1. The “bidding war” shall be visible to the purchasing agent as well as the bidders.
2. After the “bidding war” ends, the final bid results may be opened for award.

**EVALUATION**

1. Technical Evaluation:
  - a. There is no technical evaluation for RAs. A technical evaluation is done during the RFSQ process to determine prequalification.
2. Pricing Evaluation:
  - a. Rank the bids by cost.

**AWARDING**

1. The contract will be awarded to the low bidder.
2. The purchasing agent should award the bid as soon as is practicable.
3. Notifications of award should be sent to all participating vendors.

**CANCELATION**

If an RA or an award is cancelled, a written justification must be provided by the purchasing agent.

**TEMPLATES**

Request for Supplier Qualifications (RFSQ).

**RECORDS**

1. A record including the name of each bidder and the amount of their final bid must be included in the bid file.
2. If possible, a record of all bids submitted should be kept.

## REQUEST FOR PROPOSAL (RFP)

### PURPOSE

The purpose of the RFP process is to request proposals from vendors to fulfill a need. RFPs are awarded to the vendor proposing the best value to the College. Generally, most products and services can be procured through the Invitation for Bid (IFB) process. However, at times, the RFP process may be a better tool. A purchasing agent will determine if the RFP process is appropriate. Among the criteria to consider are:

- Specifications or needs of the department cannot be clearly defined.
- The department has defined a need and requests proposals for the best method for accomplishing it.
- Cost is only one criterion in determining the award and needs to be weighed against other factors in determining the best value.

### INITIATION

1. The RFP process is initiated when one of the following occurs:
  - a. A requisition is entered.
  - b. The Purchasing Services decides to pursue a contract.

### PREPARATION

1. The purchasing agent shall review the requirements and determine whether an RFP process is the appropriate method of procurement. If it is determined that an RFP process should be used, the purchasing agent shall prepare a written justification and obtain approval from the Director.
2. An RFP Committee, consisting of at least three individuals, shall be formed by the requesting department and must be approved by the purchasing agent.
3. The requesting department should fill out the RFP Questionnaire and e-mail the draft to the purchasing agent.
  - a. The purchasing agent will work with the RFP Committee to prepare the information for posting.
  - b. When the RFP Questionnaire has been prepared, the purchasing agent shall copy the information to the appropriate sections of the RFP template and prepare the document for release.
4. RFPs shall include the following:
  - a. An adequate description of the commodities sought (see Specifications).
  - b. A due date and time.
  - c. Date and time by which questions regarding the RFP must be asked.
  - d. Date, time, and location of a pre-proposal conference. (Optional)
  - e. Acceptable manner of submission.
  - f. RFP-specific provisions.
    - i. Single or multiple contracts.
    - ii. Contract period, if a multi-year contract.
    - iii. If the RFP will be performed in multiple stages, include a description of the requirements and purpose of each stage.

- g. Standard contract terms and conditions.
- h. Additional contract-specific terms and conditions. (Optional)
- i. Objective and subjective criteria for evaluation and how they will be rated.
  - i. Examples of criteria that may be included are:
    - 1. Experience.
    - 2. Performance rating.
    - 3. Inspection.
    - 4. Testing.
    - 5. Quality.
    - 6. Workmanship.
    - 7. Time and manner of delivery.
    - 8. References.
    - 9. Financial solvency.
    - 10. Suitability for a particular purpose.
    - 11. Management plan.
- j. The cost evaluation formula. Examples of cost evaluation formulae:
  - i. Default:  $(2 - ([\text{proposal price}] / [\text{low price}]]) * [\text{criteria weight}]$ .
  - ii. Reward low price:  $[\text{low price}] / [\text{proposal price}] * [\text{criteria weight}]$ .
  - iii. Reward average price:
    - 1. Determine average cost proposal value:  $[\text{total of all proposal prices}] / [\text{number of proposals}] = \text{average cost proposal value}$ .
    - 2. Determine range for point values:
      - a. Within 10% of average = 20 points.
      - b. Greater than 10%, but less than 20% = 15 points.
      - c. Greater than 20% but less than 30% = 10 points.
      - d. Greater than 30% from average cost proposal = no points awarded.
  - iv. Dollar per point:  $[\text{proposal price}] / [\text{technical points}]$ .
  - v. The use of any cost evaluation formula, other than the default, requires justification and approval by the Director.

## POSTING

- 1. RFPs are posted online for a minimum of seven (7) days.
  - a. Typically RFPs should be open for a minimum of three weeks. The purchasing agent should evaluate the ability of vendors to respond in the provided time, taking into consideration the timeframe needed to accept and respond to questions submitted by potential offerors.
  - b. The purchasing agent must ensure that the bid visibility settings are such to ensure that the contents of proposals, including costs, are kept confidential.
- 2. The purchasing agent may choose to accept electronic and/or paper responses
- 3. A shorter posting period may be used if the purchasing agent determines in writing that a shorter time period is needed and that competition from multiple sources may be adequately

obtained within the shorter period of time. This determination must be signed by the purchasing agent and the Director.

## **MAINTENANCE**

1. Question and Answer
  - a. The purchasing agent will indicate a date and time by which questions regarding the RFP must be asked.
  - b. Questions and the associated answers should be posted online for all vendors to see.
  - c. RFPs may be extended, if needed, to provide vendors with adequate time to respond to the answers.
  - d. If the answer to the question requires changing the requirements of the RFP, the purchasing agent should consider releasing an addendum.
2. Pre-Proposal Conference
  - a. A pre-proposal conference, mandatory or optional, may be held at the discretion of the purchasing agent. It must state in the RFP whether the pre-proposal conference is mandatory or optional.
  - b. The date, time, and location of the pre-proposal conference must be included in the RFP.
  - c. Vendors must be provided with adequate time to attend the pre-proposal conference.
  - d. Roll must be taken at the pre-proposal conference. If the pre-proposal conference is mandatory, the bid will be restricted to the vendors that attend.
    - i. Following the pre-proposal conference, the roll of attendees must be posted.
  - e. A representative of Purchasing Services must be present at all pre-proposal conferences. Representatives from the appropriate department(s) should also be present.
  - f. Pre-proposal conferences should not be used as a way for vendors to provide specifications for a project. However, during a pre-proposal conference, changes to the specifications may be made. Price shall not be discussed at pre-proposal meetings. Pre-proposal meetings are to discuss and clarify technical requirements only.
  - g. The purchasing agent should provide information to vendors regarding parking. Parking costs are the responsibility of the vendor, unless the requesting department chooses to pay for parking.
  - h. The purchasing agent must stay until all vendors have departed.
  - i. The purchasing agent shall compile the notes taken during the meeting and release them as an addendum.
3. Addenda
  - a. If the department or Purchasing Services finds that additional specifications must be provided in order to assure adequate responses, an addendum may be released.
  - b. Addenda may include additional specifications, additional or altered terms and conditions, extended due dates, etc.
  - c. Addenda shall be distributed within a reasonable time to allow prospective offerors to consider the addenda in preparing proposals. The purchasing agent may extend the due date of a bid to provide vendors with adequate time to respond to any addenda.

4. During the RFP process, all correspondence related to the RFP must be done through the purchasing agent. Direct correspondence with the department by a vendor is not appropriate as it may provide a vendor with an unfair advantage and it may appear as favoritism. Information related to the RFP provided to one vendor, must be provided to all other participating vendors. Purchasing agents are responsible to assure fair and open competition. If it is found that a vendor has had direct contact with the department during the solicitation process, the vendor's bid may, at the discretion of the purchasing agent, be considered not-responsive.

#### **OPENING**

1. Responses should be submitted electronically, unless otherwise listed in the solicitation.
2. Information provided by a vendor in a submission must be held in confidence until the proposal is opened.
3. If it is stated in the solicitation that a paper response is an acceptable method of submission, a public opening with one or more witnesses must be held. If only electronic responses are accepted, a public opening is not required.
4. Proposals, or changes to proposals, will not be accepted after the due date.
5. A decision to permit the correction or withdrawal of an inadvertently erroneous response shall be made in writing and be signed by the purchasing agent. Under no circumstance shall changes to pricing, cost evaluation formula, criteria weights, or other provisions that are prejudicial to fair competition be made after opening.
6. All paper responses must be uploaded.
7. Samples obtained during a solicitation become the property of the College, unless otherwise indicated in the bid. If the samples cannot be used by the department or Purchasing Services, they must be sent to the Surplus department for disposal.
8. Before opening responses, the Director may decide in writing that it would be in the best interest of the College to waive the requirement to withhold cost information from the rating committee.
9. Proposals will be opened in a manner that avoids disclosing the contents to competing vendors during the evaluation period.
10. The purchasing agent will remove the cost proposal section from each submission. Vendors that include pricing information in their technical proposal may be disqualified.
11. The purchasing agent will meet with the RFP committee to provide evaluation training. Each committee member must review the list of vendors and sign the Confidentiality and Conflict of Interest form to participate in the evaluation.
12. After receiving the aforementioned forms, the purchasing agent will distribute the evaluation forms and the proposals to the committee members.

#### **EVALUATION**

1. If a vendor submits alternate proposals, they are considered separate proposals and should be evaluated as such.
2. Proposals are evaluated to determine if they are responsive and responsible.

- a. When a bid guarantee or bond is required and an offeror fails to furnish the guarantee in accordance with the requirements of the request for proposals, the proposal may be rejected.
  - b. A written justification for the determination of not responsive or not responsible must be provided by the purchasing agent and filed with the bid documents.
  - c. An offeror may be disqualified if it is found that they have violated the Utah State Procurement Code, the requirements of the invitation for bids, unlawful or unethical conduct, or a change in circumstance that, had the change been known at the time the proposal was submitted, would have caused the offeror to not be the lowest responsive and responsible offeror who meets the criteria described in the RFP. If a purchasing agent is going to disqualify the offeror, a written justification for the disqualification must be signed by the purchasing agent and the Director. A copy of the written justification must be sent to the disqualified bidder. This document shall be included in the RFP file.
  - d. If only one responsive and responsible proposal is received, an award may be made to the single offeror if the purchasing agent finds that the price submitted is fair and reasonable, the solicitation was posted appropriately to obtain adequate competition, and other prospective offerors had reasonable opportunity to respond, or there is not adequate time for re-solicitation.
3. Conformity to Solicitation Requirements
- a. Any proposal that fails to conform to the mandatory requirements of the solicitation shall be rejected.
  - b. Alternate proposals can be accepted if it is stated in the solicitation. The procurement item(s) offered as alternates must meet the mandatory requirements specified in the solicitation.
  - c. Any proposal that fails to conform to the delivery schedule may be rejected.
  - d. A proposal may be rejected when the offeror imposes conditions or takes exceptions that would modify requirements or terms and conditions of the solicitation or limit the offeror's liability to the procurement, if to allow the offeror to impose such conditions or take exceptions would be prejudicial to other offerors. For example, proposals shall be rejected in which the offeror:
    - i. Protects against future changes in conditions, such as increased costs, if total possible costs to the procurement unit cannot be determined;
    - ii. Fails to state a price and indicates that price shall be "price in effect at time of delivery" or states a price but qualifies it as being subject to "price in effect at time of delivery;"
    - iii. When not authorized by the solicitation, qualifies a proposal by stipulating that it is to be considered only if the offeror receives an award under a separate solicitation; or
    - iv. Limits rights of the State under any contract clause.
  - e. An offeror may be requested to delete objectionable conditions from a proposal provided doing so is not prejudicial to other offerors or the conditions do not go to the



substance, as distinguished from the form, of the proposal. A condition goes to the substance of a proposal where it affects price, quantity, quality, or delivery of the procurement item(s) offered.

4. Technical Evaluation:

- a. Proposals will be evaluated on the criteria listed in the solicitation by the RFP committee members. This is called a technical evaluation.
  - i. Criteria not listed in the solicitation may not be used.
  - ii. The technical evaluation template will be used.
- b. The purchasing agent will be responsible to ensure that committee members:
  - i. Do not have a conflict of interest.
  - ii. Fairly evaluate each proposal.
  - iii. Do not contact any of the vendors.
  - iv. Avoid the appearance of impropriety.
  - v. Do not have access to any information related to the cost until after final technical scores are submitted to Purchasing.
- c. If more than two stages are outlined in the RFP, passing the required criteria for each stage allows the proposal to continue to the next stage culminating in pricing evaluation.
  - i. Stages may include presentations, demonstrations, tests, proofs of concept, and/or other activities.
- d. If the committee decides to meet with vendors, the purchasing agent should do the following:
  - i. Ensure that each vendor receives fair and equal treatment.
  - ii. Establish a schedule for the discussions.
  - iii. Ensure that information in each proposal and information gathered in discussions is not shared with other vendors.
  - iv. Ensure that auction tactics are not used.
  - v. Price should not be discussed.
- e. After all stages of technical evaluation are completed, the rating sheets are sent to the purchasing agent. The technical evaluations for each proposal are combined to form a technical score for each proposal.

5. Pricing Evaluation:

- a. The purchasing agent will perform a pricing evaluation using the formula outlined in the RFP to create a price score. The purchasing agent may utilize the expertise of the committee to evaluate cost proposals.
- b. All proposals are over budget.
  - i. If all proposals are over budget, and the low-cost solution is no more than 5% over budget, a purchasing agent may negotiate an adjustment of price and/or requirements with the low-cost offeror to bring the proposal within budget.
- c. Tie cost proposals.
  - i. In the case of a tie, the award will be determined by using one of the following methods:

1. Award to a provider of State products.
    2. Award to the offeror closest to the place of delivery (proximity).
    3. Award to the offeror who received the prior bid award.
    4. Award to the offeror who will provide the earliest delivery date.
    5. Award by drawing lots.
    6. Award by any other reasonable method.
  - ii. The purchasing agent will provide a written justification statement for selecting the method used. This justification shall be included in the RFP file.
6. Final Evaluation:
- a. The purchasing agent will combine the technical score and the pricing score to create a composite score for each proposal. The purchasing agent will then create a list of all of the proposals and scores in order from highest to lowest.
  - b. The purchasing agent meets with the committee to confirm the potential award of the contract to the offeror with the highest score.
7. Justification Statement:
- a. In determining which proposal provides the best value to the College, the purchasing agent, with the help of the evaluation committee, shall prepare a written justification statement that:
    - i. Explains the score assigned to each evaluation category; and
    - ii. Explains how the proposal with the highest total combined score provides the best value to the procurement unit in comparison to the other proposals.
8. Cost Benefit Analysis:
- a. "Cost Benefit Analysis" means a written document that includes the following:
    - i. An explanation, in general terms, of the advantage to the College of awarding the contract to the offeror specified therein;
    - ii. Except as provided in Subsection (iii) below, the estimated added financial value to the College of each criterion that justifies awarding the contract to the offeror specified therein;
    - iii. To the extent that assigning a financial value to a particular criterion is not practicable, a statement describing why it is not practicable to assign a financial value to the criterion and in nonfinancial terms, the advantage to the College, based on the particular criterion, of awarding the contract to the offeror specified therein;
  - b. "Difference threshold" means the greater of \$10,000 or 5% of the lowest-cost proposal being evaluated
  - c. Starting with the highest ranking proposal, complete the following until an award can be made:
    - i. If the proposal is the lowest-cost proposal, award the contract to the offeror. No cost-benefit analysis is needed.
    - ii. Calculate the difference between the proposal and the lowest-cost proposal.
      1. If the difference is less than the difference threshold, award the contract to the offeror. No cost-benefit analysis is needed.

2. If the difference is greater than the difference threshold, complete a cost benefit analysis on the proposal.
      - iii. If the cost benefit analysis justifies the award, award the contract.
      - iv. If the cost benefit analysis does not justify award, move to the next highest ranking proposal and repeat steps (i) – (iv) until an award can be made.
      - v. At any time during this process, the purchasing agent may choose not to award a contract and cancel the RFP.
9. Best and Final Proposals:
  - a. After reviewing the list, the committee may decide to request best and final proposals. The purchasing agent must receive approval from the Director to request best and final proposals.
  - b. Best and final proposals can be requested in the following circumstances:
    - i. no single proposal addresses all the specifications stated in the request for proposals;
    - ii. all or a significant number of the proposals are ambiguous on a material point and the evaluation committee requires further clarification in order to conduct a fair evaluation of proposals;
    - iii. the evaluation committee needs additional information from all offerors to complete the evaluation of proposals;
    - iv. the differences between proposals in one or more material aspects are too slight to allow the evaluation committee to distinguish between proposals;
    - v. all cost proposals are too high or over budget; or
    - vi. another justified reason.
  - c. When requesting best and final proposals, the purchasing agent may restrict the list of vendors based on their technical score such as the top five vendors or all vendors with a technical score of 60 or more, etc.
  - d. If a vendor does not submit a best and final proposal, their original proposal is treated as their best and final proposal.
  - e. The pricing evaluation will be performed on the results of the best and final proposals. A final evaluation and cost benefit analysis is performed using the new pricing score.

## **AWARDING**

1. Award announcement.
  - a. The purchasing agent will send a written notification to the offeror with the highest final evaluation score justified with a cost-benefit analysis (if applicable), that the contract will be awarded to them provided that negotiation of contract terms and conditions is successful.
  - b. The purchasing agent will send a written notification to all other participants regarding the potential award, including the name of the potentially awarded offeror.
  - c. Upon request, the following information must be made available for public disclosure:
    - i. The name of the offeror to which the contract is awarded and the total score awarded to that offeror.

- ii. The total score awarded to each offeror to which the contract was not awarded, without identifying which offeror received which score.
  - iii. Justification statement, including any cost-benefit analysis made.
2. The purchasing agent shall engage in negotiations with the potential awardee until an acceptable contract has been signed.

**CANCELATION**

If an RFP or an award is cancelled, a written justification must be provided by the purchasing agent.

**TEMPLATES**

1. RFP Questionnaire.
2. Request for Proposal Template.
3. Pre-Proposal Conference Attendance Roll.
4. Evaluator Agreement.
5. Technical Evaluation Template.

**RECORDS**

All documents related to the RFP, including solicitation documents, addenda, responses, evaluations, and justifications are considered public and may be requested through GRAMA. Proposals that include a claim of business confidentiality submitted by the offeror must be reviewed and only those parts not considered confidential may be released. Financial information, information obtained from references, and the individual score sheets are considered confidential and should not be released.

## REQUEST FOR SUPPLIER QUALIFICATIONS (RFSQ)

### PURPOSE

The purpose of an RFSQ is to prequalify potential vendors to provide a type of procurement item and to limit participation in future solicitations for the specified type of procurement item. RFSQs may be used to form an Approved Vendor list.

### INITIATION

1. The RFSQ process is initiated when Purchasing Services decides to pursue a contract or contracts and one of the following is needed:
  - a. Prequalification of vendors for future solicitations.
  - b. Formation of an Approved Vendor List.
2. RFSQs are not binding and do not include price.

### PREPARATION

1. The RFSQ will include the following:
  - a. Type of items sought.
  - b. Scope of work.
  - c. Instructions and deadlines.
    - i. No pricing information should be submitted.
  - d. Minimum criteria.
    - i. Prequalification requirements unique to the procurement.
      1. Financial viability of the offeror.
      2. Experience, skill level, and qualifications of the offeror.
      3. Examples of similar projects completed by the offeror.
      4. Offeror's track record for completing projects on time and within budget.
      5. Description of process used to select subcontractors.
      6. Description of organization – who has decision-making authority.
      7. Method used to develop a project schedule.
      8. Actions that will be taken to bring a project back on schedule if it falls behind.
      9. Methodology used to ensure accuracy of bids.
    - ii. Performance rating criteria.
  - e. Period of time during which the list will be used.
    - i. Lists may not be used for more than 18 months.
  - f. A provision indicating that future IFBs and/or RFPs for the type of items sought may be restricted to the list of approved vendors or that an approved vendor list will be formed and a rotation system used for small-dollar purchases of the specified commodity.

### POSTING

All RFSQs must be posted online for a minimum of seven (7) days.

**MAINTENANCE**

1. The purchasing agent may indicate a date and time by which questions regarding the RFSQ must be asked.
  - a. Questions and the associated answers should be posted online for all vendors to see.
  - b. RFSQs may be extended if needed to provide vendors with adequate time to respond to the answers.

**OPENING**

If only one response is received, the RFSQ will be canceled.

**EVALUATION**

1. A technical evaluation is done based on the criteria outlined in the RFSQ.
  - a. Evaluations are pass/fail.
2. The purchasing agent may enlist other qualified individuals to help in the evaluation.

**AWARDING**

1. All vendors that meet the minimum criteria will be placed on the prequalified vendor list.
2. After evaluating responses, notification must be sent to all vendors that submitted indicating the approved vendors.
3. Vendors who are not approved must be sent a written justification describing why they did not meet the criteria.

**CANCELATION**

RFSQs may be canceled at the purchasing agent's discretion.

**TEMPLATES**

Request for Supplier Qualifications Template.

**RECORDS**

1. A list of all approved vendors.
2. Justification for vendors not added to the list of approved vendors.

## APPROVED VENDOR LISTS

### PURPOSE

The purpose of an approved vendor list is to provide a list of pre-qualified vendors with which you can setup a rotation process for small-dollar purchases. Approved vendor lists can be used for a maximum of 18 months.

### INITIATION

1. Approved vendor lists are formed by completing an RFSQ process.

### PREPARATION

1. It must state in the RFSQ that an approved vendor list will be formed, how long the list will be used, and the type of selection process that will be used.
2. Appropriate selection methods include, but are not limited to:
  - A rotation system organized alphabetically, numerically, or randomly.
  - Assigning vendors to a specified geographical area.
  - Classifying each vendor based on particular expertise, qualifications, or field.

### MAINTENANCE

Approved vendor lists can only be used for 18 months.

### AWARDING

1. An approved vendor list can only be used for small-dollar purchases. All purchases over the Large-dollar Purchase Threshold, must go through a solicitation process. The solicitations may be limited to the vendors on the approved vendor list and do not need to be advertised if it is stated in the RFSQ that the list will be used in this manner.
2. Vendors may be selected from the list in the manner outlined in the original RFSQ. Once the vendor has been selected, the purchasing agent should oversee negotiating the cost of the project. If the purchasing agent is unable to successfully negotiate with the selected vendor, another vendor from the list may be selected and negotiations started. If the purchasing agent is unable to successfully negotiate a contract with any of the vendors on the approved vendor list, a solicitation should be used to select a vendor.

### CANCELATION

Vendor Lists may be canceled at the purchasing agent's discretion.

### RECORDS

A list of all approved vendors must be kept.

## ALTERNATIVE PROCUREMENT METHODS

When it is determined to be more practical or advantageous to the College, a purchasing agent, with approval of the Director, may utilize alternative procurement methods to purchase such items as the following:

1. Used equipment.
2. Used vehicles.
3. Professional services.
4. Enterprise software.
5. Livestock.
6. Any other procurement item for which a standard procurement method is not reasonably practical.

The standard procurement methods listed below may be modified when justified by the purchasing agent:

1. Price-based decision process:
  - a. RFQ Process.
  - b. IFB Process.
  - c. MSB Process.
2. Qualification-based decision process:
  - a. RFP Process.
  - b. RFSQ/Approved Vendor List Process.

The purpose of the procurement should be to award a contract to the vendor that provides the greatest value and/or best meets the needs of the College. When making the determination to modify the procurement method, the purchasing agent should take into consideration:

1. Whether the potential cost of preparing, soliciting, and evaluating bids or proposals is expected to exceed the benefits normally associated with such solicitations.
2. If the procurement item cannot be acquired through a standard procurement process.
3. If the price of the procurement item is fair and reasonable.

The solicitation does not need to be awarded to the low bid. It must state in the solicitation that the offered items will be evaluated to determine the best value to the College. The buyer must ensure that no opportunity for bid shopping or auction tactics exist. The process may include informal meetings with vendors to discuss the needs of the College and qualifications/abilities of the vendor.

A written justification statement should be provided by the purchasing agent which includes justification for the selection method used and the award made.



## SOLE SOURCE

### PURPOSE

The purpose of sole source procurement is to award a contract without seeking competition. Sole source procurement may be used when only one vendor can provide the product and/or service needed. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror for that item.

### INITIATION

1. The Sole Source process is initiated when a requisition is entered and approved and a completed Sole Source Justification Form is submitted to Purchasing Services.
2. The Sole Source process may be used without a requisition when Purchasing Services decides to pursue a contract.

### PREPARATION

1. Upon completion and approval of a requisition, the requesting department should complete a Sole Source Justification Form.
2. Justification upon which sole source may be based:
  - a. Required unique features, specifications, or attributes.
  - b. Compatibility.
  - c. Trial or testing (see Contracts).
  - d. Where transitional costs are unreasonable or cost prohibitive.
3. Sole source procurements that do not require a Sole Source Justification Form, nor a Notice of Intent, include the following:
  - a. Items for Resale to the public.
  - b. Public Utilities.
  - c. Speakers and performers.
  - d. Rental space, including hotels and storage facilities.
  - e. Subscriptions.
  - f. Memberships.
  - g. Advertising.
  - h. Independent contractors.
  - i. Software/hardware maintenance agreements not available through resellers.
  - j. Conferences/Seminars.
4. Purchasing Services will evaluate the procurement to determine whether a bid process should be used for the commodities listed above.

### POSTING

1. If the procurement exceeds \$50,000, a Notice of Intent must be posted online for a minimum of seven (7) days to solicit public comment. For procurements under \$50,000, the purchasing agent may choose to post a Notice of Intent, but is not required to do so.
  - a. The amount of time that the notice is posted may be shortened with written approval from the Director.

## **MAINTENANCE**

If disputes are received, the purchasing agent should work with the disputing vendor to resolve the vendor's issues. If a resolution is not obtained, a solicitation must be completed.

## **EVALUATION**

1. Technical Evaluation:
  - a. The purchasing agent will determine the viability of the provided sole source justification.
    - i. If the purchasing agent determines the sole source justification to be valid, acknowledge by signing the justification form, obtaining approval from the Director and proceeding with the procurement.
    - ii. If the purchasing agent determines that the sole source justification is not valid, the purchasing agent will work with the requesting department to prepare an appropriate solicitation or cancel the procurement.
2. Pricing Evaluation:
  - a. The purchasing agent may choose, and is encouraged, to negotiate price and/or terms and conditions with the vendor.

## **AWARDING**

When preparing the purchase order, the purchasing agent will note the sole source determination.

## **TEMPLATES**

1. Sole Source Justification Form.
2. Notice of Intent (NOI).

## **RECORDS**

A record of the written justification, notice of intent, and any disputes received shall be kept in the file and are subject to GRAMA.

## EMERGENCY PROCUREMENTS

### PURPOSE

The purpose of emergency procurement is to provide a mechanism for making purchases when an emergency condition exists. This process shall not be used for urgent purchases.

### INITIATION

1. The process is initiated when an emergency condition exists.
  - a. An emergency condition is a situation where there is a threat to public health, welfare, or safety as the result of floods, epidemics, riots, equipment failures, or other such reason which creates an immediate and serious need for supplies, services, or construction and the lack of which would seriously threaten the functioning of the institution, the preservation or protection of property, or the health or safety of any person.

### PREPARATION

1. The Director may authorize an emergency procurement, in writing, when an emergency condition exists by doing the following:
  - a. Ensure that the procurement is made with as much competition as is reasonably practicable, and
  - b. Avoiding harm, or risk of harm, to the public health, safety, welfare, or property.
  - c. A purchasing agent may make an emergency procurement without the prior approval of the Director, if the Director is not available, as long as the previously listed criteria are met. The purchasing agent should provide a written justification and have it signed by the Director as soon as possible.

### POSTING

1. The sourcing method used shall be selected with an end view of assuring that the required supplies, services, or construction items are procured in time to meet the emergency. Given this constraint, competition that is practicable shall be obtained.
2. If emergency conditions exist after, or are brought about by an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

# OTHER RULES

## ANNUAL CUMULATIVE THRESHOLD

The annual cumulative threshold is set at \$100,000.

Purchasing Services will do an analysis on the annual spend by vendor to determine whether a contract shall be put in place for certain commodities and to determine whether there is vendor favoritism or the appearance of favoritism. The following procurements will not be considered:

1. All procurements made under a recognized contract.
2. All procurements made following a solicitation process.
3. All procurements made using a Sole Source.
4. All procurements made as emergency procurements.
5. All procurements for utilities or travel.
6. All procurements paid to other government entities.

After removing the procurements listed above, all vendors with a spend over the annual cumulative threshold will be analyzed. The analysis will include the number of transactions made with the vendor and the average transaction amount.

## ARCHITECTS/ENGINEERS

The State of Utah Division of Purchasing and General Services conducted a Request for Statement of Qualifications that resulted in the state's list of prequalified Architectural and Engineering (A/E) service firms that are preapproved for A/E projects less than \$100,000.

SLCC may use the state A/E list for SLCC's small projects costing less than \$100,000. To use the state A/E list, selection must be qualifications-based, per the following **instructions**:

- 1) For A/E services estimated to cost less than \$100,000, Facilities must select a minimum of three (3) service firms to be evaluated from the current state prequalification list:  
<http://purchasing.utah.gov/ae/documents/archexpertise.pdf>
- 2) Facilities will conduct an evaluation of selected firms' technical qualifications, and decide which firm is best qualified relative to the project. Price is NOT a deciding factor and must not be part of the evaluation.
- 3) Facilities must document the following requirements in writing, and submit the written documentation for review to Purchasing Services:
  - a. Names of the firms from the state Prequalified List that Facilities evaluated;
  - b. name of the firm Facilities selected;
  - c. Why Facilities believes the selected firm is the best qualified for the project;
  - d. Facilities' cost estimate for the A/E service; and,
  - e. A request for approval to negotiate price with the selected firm.
- 4) Purchasing Services will notify Facilities of the approval outcome. If approved, Facilities will conduct price negotiations with the selected firm. If the price is successfully finalized, Facilities will enter a requisition for the A/E services at the agreed price, and Purchasing Services will issue a purchase order.

If the cost negotiation is unsuccessful, Facilities must submit written documentation to Purchasing Services requesting written approval to negotiate with the firm determined to be the next most qualified for the project.

### **A/E Large Projects OVER \$100,000**

The "A/E Prequalified List of Firms for Small Projects" cannot be used for Large A/E projects exceeding the \$100,000 limit; there is no provision for exceptions.

Please enter a purchase requisition for Large A/E projects over \$100,000, and Purchasing Services will conduct a formal RFSQ from A/E service firms.

## BONDS

### Bid Securities

1. Invitations for Bids and Requests for Proposals for construction contracts estimated to exceed the Large-Dollar Purchase Threshold shall require the submission of bid security in an amount equal to at least 5% of the bid, at the time the bid is submitted. If a contractor fails to include the required bid security with its bid, the bid shall be deemed non-responsive and ineligible for consideration of award.
2. Acceptable bid security shall be limited to:
  - (a) A bid bond in a form satisfactory to the College underwritten by a company licensed to issue bid bonds in this State;
  - (b) A cashier's, certified, or official check drawn by a federally insured financial institution; or
  - (c) Cash.
3. If acceptable bid security is not furnished, the bid shall be rejected as non-responsive, unless the failure to comply is determined by the purchasing agent to be non-substantial. Failure to submit an acceptable bid security may be deemed non-substantial if:
  - (a) The bid security is submitted on a form other than the required bid bond form and the bid security meets all other requirements including being issued by a surety meeting the requirements; and
  - (b) The contractor provides acceptable bid security by the close of business of the next succeeding business day after Purchasing Services notified the contractor of the defective bid security; or
  - (c) Only one bid is received, and there is not sufficient time to re-solicit; or
  - (d) The amount of the bid security submitted, though less than the amount required by the Invitation for Bids, is equal to or greater than the difference in the price stated in the next higher acceptable bid; or
  - (e) The bid guarantee becomes inadequate as a result of the correction of a mistake in the bid or bid modification if the bidder increases the amount of guarantee to required limits within 48 hours after the bid opening.
4. If the successful bidder fails or refuses to enter into the contract or furnish the additional bonds required, then the bidder's bid security is forfeited.

### Performance Bonds

1. A performance bond is required for all construction contracts in excess of \$50,000, in the amount of 100% of the contract price. The performance bond shall be delivered by the contractor to Purchasing Services within fourteen days of the contractor receiving notice of their award of the construction contract. If a contractor fails to deliver the required performance bond, the contractor's bid shall be rejected, its bid security shall be enforced, and award of the contract shall be made to the next lowest responsive and responsible bidder.
2. A performance bond may be required on any non-construction contract the purchasing agent deems necessary to guarantee the satisfactory completion of a contract provided:
  - (a) The Invitation for Bids or Request for Proposals contains a statement that a performance bond is required in an amount:
    - (i) Equal to the amount of the bid; or

- (ii) Equal to the project budget or estimated project cost, if the budget or estimated project cost is published in the solicitation documents; or
    - (iii) Equal to the previous contract cost, if the previous contract cost is published in the solicitation documents.
  - (b) The Invitation for Bids or Request for Proposals contains a statement that a performance bond, in an amount less than the amounts contained in (a), is required.
  - (c) The Invitation for Bids or Request for Proposals contains a detailed description of the work to be performed for which the performance bond is required.
3. Performance Bonds should not be used to eliminate competition or be of such unreasonable value as to eliminate competition.

**Payment Bonds**

1. A payment bond is required for all construction contracts in excess of \$50,000, in the amount of 100% of the contract price. The payment bond shall be delivered by the contractor to Purchasing Services within fourteen days of the contractor receiving notice of their award of the construction contract. If a contractor fails to deliver the required payment bond, the contractor's bid shall be rejected, its bid security shall be enforced, and award of the contract shall be made to the next lowest responsive and responsible bidder.

**Bond Forms.**

1. Bid Bonds, Payment Bonds, and Performance Bonds must be from sureties meeting the requirements below and must be on the exact bond forms most recently adopted by the State Building Board and on file with Purchasing Services.
2. Surety firm requirements. All surety firms must be authorized to do business in the State of Utah and be listed in the U.S. Department of the Treasury Circular 570, Companies Holding Certificates of Authority as Acceptable Securities on Federal Bonds and as Acceptable Reinsuring Companies for an amount not less than the amount of the bond to be issued. A co-surety may be utilized to satisfy this requirement.
3. The purchasing agent may accept bid bonds on forms provided by appropriately licensed sureties.

**Waiver of Bonding Requirements.**

1. The purchasing agent, with approval from the Director, may waive the bonding requirements on any project if it is determined, in writing, that bonds cannot reasonably be obtained for the work involved.
2. The purchasing agent may elect not to require a Bid, Performance, or Payment Bond if the estimated total procurement does not exceed the Large-Dollar Procurement Threshold.



## CHANGE ORDERS

All change order requests shall be evaluated by the purchasing agent and authorized by the requisitioning department. Change orders shall only be made if they are found to be reasonable and acceptable by the purchasing agent. All change order requests must be in writing. When evaluating a change order request, the purchasing agent should consider the following:

1. Is there a contract in place for the procurement?
  - a. If so, what are the terms of the contract regarding change orders and have those terms been adhered to?
2. Does the change order increase the Purchase Order over a purchasing threshold?
3. Is the change order caused by scope creep?
4. Is the change order a separate order?
5. Has procurement policy been violated?
  - a. Example: If the PO is a regular PO and you are being asked to increase the quantity of items ordered because the department ordered additional items, procurement policy has been violated.

All change orders must be completed and approved in writing prior to being fulfilled by the vendor. (Standing POs may be exempt from this requirement at the discretion of the purchasing agent.)

## CONSTRUCTION

Construction is the process of building, renovating, altering, improving, repairing, or demolishing any College structure or building, major developmental work, or landscaping of College real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

1. Construction purchases under the Small-Dollar Purchase Threshold may be placed at the discretion of Facilities.
2. Construction purchases under the Large-Dollar Purchase Threshold and over the Small-Dollar Purchase threshold shall follow the RFQ procedures outlined herein.
  - a. An approved vendor list may be used for procurements under the Large-Dollar Purchase Threshold.
3. All construction purchases over the large-dollar purchase threshold will be made in accordance with the Utah Procurement Code Parts 11 and 13 and the rules and guidelines of the Department of Facilities and Construction Management (DFCM). This includes requiring bid, payment, and performance bonds and including all applicable terms and conditions for all solicitations and contracts for construction.
4. Architect and Engineering services will be procured in accordance with the Utah Procurement Code Part 15 and all applicable State Procurement rules.

## CONTRACTS

### Contract Types

The following contracts may be used:

1. **Firm fixed price contract:** Contract that provides a price for each procurement item obtained under the contract and is not subject to adjustment.
2. **Fixed price contract with price adjustment:** Contract that provides for an upward or downward revision of price, precisely described in the contract, that:
  - a. Is based on the consumer price index or another commercially acceptable index, source, or formula; and
  - b. Is not based on a percentage of the cost to the contractor.
3. **Fixed-price-incentive contract:** Contract that provides for the adjustment of the final price through the use of a formula. The contract may include the following:
  - a. If performance doesn't meet minimum standards, the contractor will be charged a penalty.
  - b. If performance exceeds the minimum standards, the contractor will be paid an incentive.
  - c. If the project is completed after the scheduled completion date, the contractor will be charged a penalty.
  - d. If the project is completed before the scheduled completion date, the contractor will be paid an incentive.
4. **Fixed price with re-determination:** Contract used when a realistic price can be determined for initial periods but not for subsequent periods, such as for the development of a prototype.

The following contracts require a written justification and approval from the Director for procurements over the Large-Dollar Purchase Threshold:

1. **Cost-plus-a-percentage-of-cost contract:** A contract where the contractor is paid a percentage over and above the contractor's actual expenses or costs.
  - a. Use of a cost-plus-percentage-of-cost contract must include a justification that includes the following:
    - i. A statement indicating that it is standard practice in the industry to obtain the procurement item through a cost-plus-percentage-of-cost contract; and
    - ii. The percentage and the method of calculating costs in the contract are in accordance with industry standards.
  - b. Types of cost-plus-a-percentage of cost contracts include:
    - i. Cost-plus-fixed-fee contract: A contract where the contractor is reimbursed for all reasonable, allocable, and allowable costs and receives a fixed fee (profit) negotiated at the time of award.
    - ii. Cost-plus-incentive fee contracts: A contract where the contractor receives reimbursement for costs as in a cost-plus-fixed-fee contract, but the fee is determined after the contract is completed according to a formula comparing actual to targeted costs as in fixed-price-incentive contracts.
      1. Administration concerns include assessing how much of the possible incentive has been earned, and determining how contract modifications and changes in the requirements impact the incentive features.
2. **Cost-reimbursement contract:** A contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the Utah Procurement Code, and a fee, if any.

- a. Use of a cost-reimbursement contract must include a justification that contains the following:
  - i. An explanation of how a cost-reimbursement contract would cost less than any other type of permitted contract; or
  - ii. A statement indicating that it is impracticable to obtain the procurement item under any other type of permitted contract; and
  - iii. A statement that demonstrates that the proposed contractor's accounting system will timely develop the cost data in the form necessary for the purchasing agent to timely and accurately make payments under the contract; and that it will allocate costs in accordance with generally accepted accounting principles.
- b. Types of cost-reimbursement contracts include:
  - i. Time and materials contract: A contract where the contractor is paid:
    1. The actual cost of direct labor at specified hourly rates;
    2. The actual cost of materials and equipment usage; and
    3. An additional amount, expressly described in the contract, to cover overhead and profit that is not based on a percentage of the cost to the contractor.
  - ii. Labor hour contract: A contract where:
    1. The supplies and materials are not provided by, or through, the contractor; and
    2. The contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of hours or days.
  - iii. Cost sharing: A contract used when it is impossible to estimate costs firmly, and there is a high probability that the contractor will receive a substantial present or future commercial benefit.

### **Trial Use Contract**

1. A trial use contract shall:
  - a. State that the purpose of the contract is strictly for the purpose of the trial use or testing of a procurement item;
  - b. State that the contract terminates upon completion of the trial use or testing period;
  - c. State that, after the trial use or testing period, the procurement unit is not obligated to purchase or enter into a contract for the procurement item, regardless of the trial use or testing result;
  - d. State that any purchase of the procurement item beyond the terms of the trial use contract will be made in accordance with the Utah Procurement Code; and
  - e. Include, as applicable:
    - i. Test schedules;
    - ii. Deadlines and a termination date;
    - iii. Measures that will be used to evaluate the performance of the procurement item;
    - iv. Any fees and associated expenses or an explanation of the circumstances warranting a waiver of those fees and expenses;
    - v. The obligations of the procurement unit and vendor;
    - vi. Provisions regarding the ownership of the procurement item during and after the trial use or testing period;
    - vii. An explanation of the grounds upon which the contract may be terminated;
    - viii. A limitation of liability;
    - ix. A consequential damage waiver provision;

- x. A statement regarding the confidentiality or nondisclosure of information;
  - xi. A provision relating to any required bond or security deposit; and
  - xii. Other requirements unique to the procurement item for trial use or testing.
2. Publication of notice is not required for a procurement pursuant to a trial use contract.

### **Multi-Year Contracts/Agreements**

1. Multi-year contracts/agreements may be awarded following a solicitation process if all of the following provisions are included in the solicitation:
- k. Statement that indicates that the solicitation may result in a multi-year contract/agreement.
  - l. All possible renewals.
  - m. Conditions for renewal.
  - n. A provision that states that contracts may not be renewed after the first year if funds are not available.
  - o. A provision that states that a contract cannot be renewed after the end of the term, including renewals, described in the contract. Exceptions include:
    - i. The award of a new contract is delayed.
    - ii. To prevent the loss of Federal funds.
2. Multi-year contracts, including renewals, may not exceed five years unless determined in writing that a longer period is necessary in order to obtain the item, that a longer period is customary for industry standards, or that a longer period is in the best interest of the College. The justification for a contract to exceed five years must be approved by the Director.
- a. This requirement does not apply to:
    - i. Contracts for software licenses.
    - ii. Maintenance contracts/agreements not available through resellers.
    - iii. Advertising.
3. All multi-year contracts/agreements shall be a fixed price contract. Exceptions may be made by the Director. All exceptions must be accompanied by a justification as outlined in the Utah Procurement Code.
- a. See Contract List for definitions of the various types of contracts and the required approvals.

### **Multi-Award Contracts**

1. A multiple award is an award of an indefinite quantity contract for one or more similar procurement items to more than one bidder or offeror, and the College is obligated to order all of its actual, normal requirements for the specified procurement items from those contractors. A multiple award may be in the College's best interest when award to two or more bidders or offerors for similar procurement items is needed for adequate delivery, service, or availability, or for product compatibility. In making a multiple award, care shall be exercised to protect and promote the principles of competition.
2. Contracts may be awarded to multiple vendors as a result of a solicitation, if it states in the solicitation that it may result in an award to multiple vendors. The solicitation must also list the following:
- a. The maximum number of awards anticipated; or
  - b. The methodology used to determine the number of contract awards.

3. If contracts are awarded to multiple vendors to provide supplies/services, the supplies/services listed in the contract cannot be purchased from a non-contract vendor. An exception may be made in writing by the purchasing agent and approved by the Associate Director. The written exception shall include a justification statement that demonstrates that the items needed cannot be effectively or efficiently obtained under the contract to meet the non-recurring special need.
  - a. The College shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds an amount specified in the contract.
  - b. The College shall reserve the right to take bids separately if the purchasing agent approves a finding that the procurement item available under the contract will not meet a nonrecurring special need of the College.
4. The purchasing agent should establish procedures to ensure that each awarded contractor has a fair opportunity to be considered for each order of a procurement item listed in the contract. The following methodologies can be used:
  - a. Obtain a minimum of two quotes for the procurement item(s) sought from the multiple award contractors; or
  - b. Use a rotational system of selecting the multiple awarded contractor for the procurement item(s) needed; or
  - c. Geographical area of assignment; or
  - d. Area of expertise.
5. Primary and Secondary Contracts.
  - a. Designations of multiple award contracts as primary and secondary may be made provided a statement to that effect is contained in the solicitation documents.
  - b. When the purchasing agent determines that the need for procurement items will exceed the capacity of any single primary contractor, secondary contracts may be awarded to additional contractors.
  - c. Purchases under primary and secondary contracts shall be made, initially to the primary contractor offering the lowest contract price until the primary contractor's capacity has been reached or the items are not available from the primary contractor, then to secondary contractors in progressive order from lowest price or availability to the next lowest price or availability, and so on.

## COOPERATIVE PURCHASING

The College may participate in a cooperative purchasing process with other entities if the procurement is performed in accordance with the Utah Procurement Code. A purchasing agent must have the approval of the Director before participating in a cooperative purchasing process.

If the College will act as the lead, the following procedures should be followed:

1. The purchasing agent must draft an agreement outlining the role that each entity will play in the purchasing process. The Cooperative Purchasing Agreement template may be used.
2. Each participating entity must sign the cooperative purchasing agreement.
3. During the procurement process, the purchasing agent must ensure that each entity is participating as outlined in the cooperative purchasing agreement.
4. The purchasing agent must state in the solicitation document that the procurement is a cooperative procurement and provide all required information in the solicitation about all participating entities. Each participating entity must be named in the solicitation.
5. The purchasing agent must select one of the following contracting processes:
  - a. A master agreement is formed by the College and each participating entity must sign a participating addendum directly with the awarded vendor.
  - b. Each participating entity must negotiate and sign a contract directly with the awarded vendor.
6. The solicitation must state which contracting process will be used.
7. The purchasing agent should keep all other entities informed of the status of the solicitation and contracting process.

If the College is not the lead, the following procedures should be followed:

1. The purchasing agent should work with the lead to sign a cooperative purchasing agreement stating the College's level of involvement.
2. The purchasing agent should review the solicitation document that is prepared by the Lead to ensure that the College is named in the solicitation and that all requirements of the College are included.
3. The purchasing agent should ensure that the College is participating in accordance with the cooperative purchasing agreement.
4. Upon award, the purchasing agent should negotiate with the awarded vendor to sign a participating addendum or contract.

## DISCLOSURE

- Records will be disclosed in accordance with GRAMA.
- Bid/RFSQ pricing information may be provided without a GRAMA request.
- RFP justification statements and the cumulative score of each proposal without disclosing the identity of the vendor may be disclosed without a GRAMA request.



## DIVIDING A PURCHASE

The Utah Procurement Code declares that it is unlawful for a person to intentionally or knowingly divide a procurement into smaller procurements with the intent to make the procurement qualify as a small purchase if, before dividing the procurement, it would not have qualified as a small purchase. Dividing a procurement to avoid the following thresholds is considered unlawful:

1. Small-Dollar Purchase Threshold.
2. Large-Dollar Purchase Threshold.

Dividing a procurement to avoid the following limits is considered against Procurement Policy and Procedures, but not unlawful:

1. P-Card per-transaction limit.
2. LCD limit.

Examples of dividing a procurement include:

1. Making two or more separate purchases.
2. Dividing an invoice or purchase order into two or more invoices or purchase orders.
3. Making smaller purchases over a period of time.
4. Using multiple payment methods.

## LEASES

The College may only lease a procurement item if the Director determines that it is in the best interest of the College after investigating alternative means of obtaining the procurement item and considering the costs and benefits of the alternative means of obtaining the procurement item.

1. All conditions for renewal and cost must be included in the lease agreement.
2. Leasing shall not be used as a way to circumvent the standard procurement process.
3. All leases must be approved by the appropriate vice president as they require commitment of funds for more than one fiscal year.

### **Operating Leases**

An operating lease is a contract that allows for the use of an item, but does not convey rights of ownership of the item. Operating leases are similar to rental agreements for capital assets. The entire cost of the lease should be considered when deciding whether to pursue competition. If competition is sought, it must state in the solicitation that the College is considering lease options.

### **Capital Leases**

A capital lease is similar to a loan agreement for purchase of a capital asset on installments. The College will own the item at the end of the lease. When seeking competition, the entire cost of the lease should be considered. If a capital lease is approved, the purchasing agent should follow one of the methods listed below:

1. Bidder provided lease. If the College wants the bidder to provide the lease, it must be stated in any solicitation for the item.
2. Third-Party provided lease. If the College will seek a vendor to provide the lease, the purchasing agent should work with the Director to determine the appropriate source of the lease.
  - a. The Director should compare at least two sources of the lease to determine the best rate.

## PRE-PAYMENTS

A pre-payment is any payment that is made prior to supplies being received or services being rendered. Pre-payments include deposits and installment payments. All pre-payments made using a Purchasing Card are allowed, regardless of commodity type. All purchasing card guidelines must be followed. Pre-payments, other than those made with a P-Card, are not allowed except as outlined below:

### Installment Payments

Installment payments may be allowed if the purchasing agent determines, in writing, that the use of installment payments are in the best interest of the College, are not being used as a method of avoiding budgetary constraints, and the department has received all required budgetary approvals.

The use of installment payments should be spelled out in a contract with the vendor, including the amount to be paid, the frequency of payments, and how the delivery of supplies and/or services will be monitored.

At a minimum, 10% of the total contract amount should be withheld until the project has been completed and approved.

### Deposits

Deposits may be allowed up to 50% of the total contract amount. A higher deposit may be authorized by the Director. The purchasing agent should use their judgment in determining whether a deposit is necessary. The purchasing agent may negotiate the deposit amount or the need for a deposit with the vendor. Deposits are appropriate for rentals or reservations. Departments must obtain the appropriate budgetary approvals for the entire contract amount, including the deposit. It is preferred that departments enter a requisition for the entire contract with the deposit as a separate line.

### Check Holding

Printing a check prior to supplies being delivered or services rendered to allow a department to hand it to the vendor upon completion is not appropriate. Exceptions may be made by the Director.

### Vendor-required Pre-Payments

If a vendor is requiring a pre-payment, the purchasing agent should work with the vendor to see if a deposit would be accepted. If a deposit is rejected, the purchasing agent should seek other sources to procure the needed commodity. If no other source is available, or if the College will receive an identifiable benefit by prepaying (such as reduced costs, additional items, early delivery, better service, or better contract terms) and the requisitioning department agrees in writing to the liability of prepaying, the purchasing agent may authorize a pre-payment. Pre-payment should be made using a purchasing card whenever possible.

### Receipt Required

- All purchase orders have receipt required by default. The purchasing agent should use caution when determining whether to remove receipt required from a purchase order. Removing receipt required means that receiving will not need to be entered before a check is cut. Receipt Required may be removed in instances where nothing will be received. Below is a list of example commodity types that may have Receipt Required removed. This list is not a blanket authorization to remove receipt required.
  - Conferences

- Memberships
- Subscriptions
- Maintenance agreements (including hardware and software).
- Software licenses for which SLCC has a license agreement, including license renewals.

**Performance Bond**

The purchasing agent may choose to require a performance bond in an amount up to 100% of the prepayment amount. The performance bond must be delivered to Purchasing Services prior to the time the contract is executed or a purchase order is issued. Performance bonds must be from sureties meeting the requirements listed in the Bonds section. If a contractor or vendor fails to deliver a required performance bond, the order may be canceled.

## **PROCURING GOVERNMENTAL PRODUCED SUPPLIES OR SERVICES**

In accordance with Section 63G-6a-2103, College requirements may be fulfilled by obtaining procurement items that are produced or provided by other public entities. The purchasing agent shall determine whether the supplies or services meet the College's requirements and whether the price represents a fair market value for the supplies or services. If it is determined that the requirements cannot be met or the price is not fair and reasonable, the procurement may be made from the private sector. When procurements are made from other governmental agencies, the private sector need not be solicited to compete against them.

This process cannot be used to procure items from another public entity's contract or to procure items previously procured by the public entity in an attempt to avoid the bid process.

## PROTESTS

All protest shall be handled by the Director in accordance with the Utah Procurement Code. If a purchasing agent receives a dispute regarding a procurement, they should immediately work with the vendor to resolve the dispute. A dispute is not a protest and will not be treated as such. The vendor must indicate that they are filing an official protest in order for their complaint to be considered a protest. A protest must be filed by the aggrieved person within seven days after the person knew or should have known the facts giving rise to the protest. The protest must be in writing and include:

1. The person's address and email address.
2. A concise statement of the grounds upon which the protest is made.

If a protest is filed, the contract should not be awarded. If it has been awarded, the purchasing agent should halt the progress of the contract immediately until the protest is resolved. The Director will investigate the protest and make a determination as outlined in the Procurement Code. Once the Director has made a written determination, a copy will be sent to the protestor and the purchasing agent. The purchasing agent should keep a copy of the written determination in the bid file. The purchasing agent, under the direction of the Director, will make any necessary reparations outlined in the written determination.

The purchasing agent may not award a contract until seven days after the written determination was sent or until the protestor confirms that they will not file an appeal, whichever comes first. If the protestor files an appeal, the contract cannot commence until the appeal is resolved. An appeals panel cannot require that Purchasing Services take any action. The appeals panel is only allowed to determine whether the decision made by the Director in regards to the protest was arbitrary, capricious, or clearly erroneous.

If the appeals panel determines that the decision of the Director was arbitrary, capricious, or clearly erroneous, the Director will be required to make a new written determination. The purchasing agent may not award a contract until seven days after the new written determination was sent or until the protestor confirms that they will not file another appeal, whichever comes first.

If the appeals panel determines that the decision of the Director was not arbitrary, capricious, or clearly erroneous, the purchasing agent must wait seven days after the decision was sent to the protestor or until the protestor confirms that they will not file an appeal in court, whichever comes first, before awarding the contract.

## **RECIPROCAL PREFERENCE**

Reciprocal preference may be given in accordance with the Procurement Code.

## RECORDS RETENTION

1. The College shall keep all records related to all procurements where the expenditure is \$50 or more.
  - a. Purchasing Services is responsible for keeping all procurement records with the exception of P-Card records.
2. All procurement records for the current fiscal year plus the previous six fiscal years shall be kept.
3. Procurement records related to a multi-year contract will be kept for the duration of the contract and seven years beyond the expiration.
4. Records may be kept in physical or electronic format.



## REQUEST FOR INFORMATION (RFI)

### PURPOSE

The purpose of an RFI is to obtain information, comments, or suggestions from potential bidders before issuing a solicitation. It can also be used to determine whether a solicitation should be issued or to generate interest in a future solicitation. RFIs are not considered a procurement process, but an information gathering process.

### INITIATION

1. The RFI process is initiated when a department has a need but is unsure how to fulfill the need.
  - a. An RFI may be used to gather information for an IFB or RFP for an unfamiliar or complex procurement, to determine market availability, industry standards, or specifications, or to generate interest in a potential IFB or RFP.
2. RFIs are not binding and do not include bid prices. Estimates or ball-park figures may be requested.
3. RFIs cannot be used for prequalification or to form a pre-approved vendor list. (see RFSQ)

### PREPARATION

1. Vendors should be informed that un-priced technical proposals are requested.
2. The RFI may seek for the following:
  - a. Availability of a procurement item.
  - b. Delivery schedules.
  - c. Industry standards and practices.
  - d. Product specifications.
  - e. Training.
  - f. New technologies.
  - g. Capabilities of potential providers of a procurement item.
  - h. Alternate solutions.

### POSTING

RFIs may be conducted online.

### MAINTENANCE

This is an informal process, so discussion with vendors is allowed and encouraged. During discussions, the purchasing agent and the department representatives should ensure that no vendor is given special treatment and that fair and open competition is promoted.

### OPENING

1. There is no formal opening.
2. All information received should be given to the requesting department.

### TEMPLATES

Request for Information Template.

**RECORDS**

1. Records may be kept for reference purposes.
2. Information obtained through this process is protected and will not be made public.

## RE-SOLICITATION

Re-solicitation may occur only if the Director has determined that:

1. A material change in the scope of work or specifications has occurred;
2. Procedures outlined in the procurement code were not followed;
3. Additional public notice is desired;
4. There was a lack of adequate competition; or
5. Other reasons exist that are in the best interest of the College.

Re-solicitation may not be used to avoid awarding a contract to a qualified vendor or in an attempt to steer the award of a contract to a favored vendor.

## SPECIFICATIONS

The following guidelines regarding specifications apply to IFBs, MSBs, and RFPs. For information about preparing specifications and/or scopes of work, see the Preparing Specifications and Scopes of Work document.

1. Specifications shall be drafted with the objective of clearly describing the College's requirements and encouraging competition.
  - (a) Specifications shall emphasize the functional or performance criteria necessary to meet the needs of the College.
  - (b) Restrictive specifications shall be avoided. The purchasing agent should ensure that no restrictive specifications are used.
2. Persons with a conflict of interest or who anticipate responding to the solicitation for which the specifications are written, may not participate in writing specifications. The College may retain the services of a person to assist in writing specifications, scopes of work, requirements, qualifications, or other components of a solicitation. However, the person assisting in writing specifications shall not be employed by, in any capacity, nor have an ownership interest in, at any time during the procurement process, an individual, public or private corporation, governmental entity, partnership, or unincorporated association bidding on or submitting a proposal in response to the solicitation.
  - (a) Violations of this Rule may result in:
    - (i) The bidder or offeror being declared ineligible for award of the contract;
    - (ii) The solicitation being canceled;
    - (iii) Termination of an awarded contract; or
    - (iv) Any other action determined appropriate by the Associate Director or Director.
3. Brand Name or Equal Specifications.
  - (a) Brand name or equal specifications may be used when:
    - (i) "Or equivalent" reference is included in the specification; and,
    - (ii) As many other brand names as practicable are also included in the specification.
  - (b) Brand name or equal specifications shall include a description of the particular design and functional or performance characteristics which are required. Specifications unique to the brands shall be described in sufficient detail that another person can respond with an equivalent brand.
  - (c) When a manufacturer's specification is used in a solicitation, the solicitation shall state the minimum acceptable requirements of an equivalent. When practicable, the procurement unit shall name at least three manufacturer's specifications.
  - (d) This section is applicable only to IFBs, MSBs, and RFPs.
4. Brand Name Sole Source Requirements.
  - (a) If only one brand can meet the requirement, the purchasing agent shall provide a written justification and solicit from as many providers of the brand as practicable; and
  - (b) If there is only one provider that can meet the requirement, the procurement unit shall conduct the procurement in accordance with Sole Source guidelines.

## TRADE-INS

If a procurement will include a trade-in, the following procedures should be followed:

1. If the procurement will be made as a result of a solicitation, it must state in the solicitation that a trade-in is being offered.
2. The items to be traded-in should be evaluated to determine the value. The purchasing agent should work with Surplus to determine the value of the trade-in.
3. The trade-in value offered by the vendor should be compared to the value determined by the College.

If the trade-in offer is accepted, the following procedures should be followed:

1. If the value of the procurement item, before subtracting the trade-in value, is over the capital threshold, the capital asset accountant should be notified.
2. If the item being traded-in is a capital asset, the department must notify Surplus of the deletion of the asset.

## VIOLATIONS

There are two types of violations, unauthorized purchases and after-the-fact purchases.

An unauthorized purchase is a purchase made without following the authorized procurement processes.

An after-the-fact purchase occurs when a College employee places an order without first completing a requisition and receiving a purchase order.

If a violation occurs, a written explanation of what policy was not followed, why policy was not followed, and future corrective action, signed by the department head and applicable VP, must be sent to Purchasing Services. The applicable invoice and any agreements/contracts must be attached.

All violations/direct pays must be approved by the Director. Once they are approved, the documents will be sent to Accounts Payable for payment.