

R33. Government Operations, Purchasing and General Services.

R33-5. Other Standard Procurement Processes.

R33-5-101. Request for Information.

(1) In addition to the requirements of Title 63G, Chapter 6a, Part 5, Other Standard Procurement Processes, a request for information should show the procedure for business confidentiality claims and other protections provided by Title 63G, Chapter 2, Utah Government Records and Access Management Act.

R33-5-104. Small Purchases.

- (1) A small purchase shall be conducted in accordance with Section 63G-6a-506 and this administrative rule.
- (2) Unless otherwise required as part of another standard procurement process being used pursuant to the small purchase rule, small purchases conducted under this rule do not require a solicitation or public notice.
- (3) The Individual Procurement Item threshold is \$5,000 unless the procurement official determines a lower amount. When purchasing an individual procurement item costing up to \$5,000, a procurement unit may select the best source by direct award without seeking competitive bids or quotes.
- (4) The Single Procurement Aggregate threshold is \$10,000 for multiple individual procurement items purchased from one source at one time unless the procurement official determines a lower amount; and
- (5) The Annual Cumulative threshold for purchases made from the same source is \$50,000.
- (6) When practicable, the Division and procurement units shall use a rotation system or other system designed to allow for competition when using the small purchases process.

R33-5-105. Small Purchases Threshold for Design Professional Services.

- (1) The small purchase threshold for design professional services is a maximum amount of \$100,000 per project.
- (2) Design professional services of \$100,000 or less may be procured by direct negotiation after reviewing the qualifications of a minimum of three design professional firms.
- (3)(a) To ensure the fair and equitable treatment of each vendor on an approved vendor list, a procurement unit shall when using this rule in conjunction with an approved vendor list, select a minimum of three design professional firms from the approved vendor list using one or more of the following methods:
 - (i) a rotation system, organized alphabetically, numerically, or randomly;
 - (ii) assignment of vendors to a specified geographic area;
 - (iii) assignment of vendors based on each vendor's particular expertise or field; or
 - (iv) another method approved by the procurement official.
- (b) After selecting a minimum of three firms from the approved vendor list using one of the methods specified in Subsection (3)(a), the procurement unit shall rank the firms in order and begin fee negotiations, up to \$100,000, with the highest ranked firm. If an agreement cannot be reached with the highest ranked firm, the procurement unit shall move to the next highest ranked firm and so on until a fee agreement is reached.
- (c) If a fee agreement cannot be reached with any of the firms in the first group of firms selected, the procurement unit may select additional firms from the approved vendor list using the same process set forth in Subsection (3)(a) and (b) or the procurement unit may cancel the procurement.
- (d) Each procurement unit using an approved vendor list under this rule shall document that each vendor on the approved vendor list has a fair and equitable opportunity to obtain a contract.
- (4) A procurement unit shall include minimum specifications when using the small purchases threshold for design professional services.
- (5) Executive Branch procurement units, to the extent they do not have independent procurement authority, shall involve the Division in the qualification process described under Section 63G-6a-410, the approved vendor list process described under Section 63G-6a-507, and the evaluation and fee negotiation process described in Title 63G, Chapter 6a, Part 15, Design Professional Services, in the procurement of design professional services.

R33-5-106. Small Purchases Threshold for Construction Projects.

- (1) The small purchase threshold for an individual construction project is \$100,000 for direct construction costs, including design and allowable furniture or equipment costs;
- (2) A procurement unit shall include minimum specifications when using the small purchases threshold for construction projects.
- (3) Executive Branch procurement units, to the extent they do not have independent procurement authority, shall involve the Division in the qualification process described under Section 63G-6a-410, the approved vendor list process described under Section 63G-6a-507, and the obtaining of quotes, bids or proposals in the procurement of small construction projects.
- (4) The procurement official may procure individual small construction projects up to a maximum of \$25,000 by direct award without seeking competitive bids or quotes after documenting that all building code approvals, licensing requirements, permitting and other construction related requirements are met. The awarded contractor must certify that it is capable of meeting the minimum specifications of the project.
- (5) The procurement official may procure individual small construction projects costing more than \$25,000 up to a maximum of \$100,000 by obtaining a minimum of two competitive quotes that include minimum specifications and shall award

to the contractor with the lowest quote that meets the specifications after documenting that all applicable building code approvals, licensing requirements, permitting and other construction related requirements are met.

R33-5-106.5. Small Purchases Threshold for Construction Projects Using an Approved Vendor List.

- (1) The small construction project threshold per individual project using an approved vendor list is a maximum of \$2,500,000 for direct construction costs, including design and allowable furniture or equipment costs;
- (2) To ensure the fair and equitable treatment of all vendors on an approved vendor list, a procurement unit shall:
 - (a) For individual construction projects up to a maximum of \$25,000 contract with a vendor or contractor by direct award using one of the following methods to select the vendor or contractor:
 - (i) A rotation system, organized alphabetically, numerically, or randomly;
 - (ii) Assignment of vendors to a specified geographic area;
 - (iii) Assignment of vendors based on each vendor's particular expertise or field; or
 - (iv) Another method approved by the procurement official;
 - (b) For individual construction projects over \$25,000 up to a maximum of \$100,000 by obtaining a minimum of two competitive quotes from vendors or contractors on the approved vendor list;
 - (i) Procurement units shall use one of the following methods to select vendors from whom quotes are obtained:
 - (A) A rotation system, organized alphabetically, numerically, or randomly;
 - (B) Assignment of vendors to a specified geographic area;
 - (C) Assignment of vendors based on each vendor's particular expertise or field; or
 - (D) Another method approved by the procurement official;
 - (ii) When using one of the methods listed in Subsection (2)(b) to select vendors to provide quotes, a procurement unit may also obtain an additional quote from the vendor that provided the lowest quote on the most recently completed procurement conducted by the procurement unit using the approved vendor list;
 - (iii) When quotes or bids are obtained under Subsection (2)(b), procurement units shall purchase the procurement item from the vendor or contractor on the approved vendor list that provides the lowest quote for the procurement item; or
 - (c) For individual construction projects over \$100,000 up to a maximum of \$2.5 million, by inviting all vendors or contractors on the approved vendor list to submit bids in accordance with the provisions set forth in Title 63G, Chapter 6a, Part 6, Bidding, except public notice requirements in Part 6 are waived.

R33-5-107. Quotes for Small Purchases from \$5,000 to \$50,000.

- (1) For individual procurement items where the cost is greater than \$5,000 but up to a maximum of \$10,000, unless the procurement official determines a lower amount, a procurement unit shall obtain a minimum of two competitive quotes that include minimum specifications and shall purchase the procurement item from the responsible vendor offering the lowest quote that meets the specifications.
- (2) For procurement items where the aggregate cost is greater than \$10,000 up to a maximum of \$50,000, unless the procurement official determines a lower amount, a procurement unit with independent procurement authority or the Division on behalf of an executive branch procurement unit without independent procurement authority, as applicable, shall obtain a minimum of two competitive quotes that include minimum specifications and shall purchase the procurement item from the responsible vendor offering the lowest quote that meets the specifications.
- (3) For procurement items with an aggregate cost over \$50,000, a procurement unit with independent procurement authority or the Division on behalf of an executive branch procurement unit without independent procurement authority, as applicable, shall conduct an invitation for bids or other procurement process outlined in the Utah Procurement Code.
- (4) The Division may delegate limited purchasing authority for small purchases up to a maximum of \$50,000, to an executive branch procurement unit provided that the executive branch procurement unit enters into an agreement with the Division outlining the duties and responsibilities of the unit to comply with applicable laws, rules, policies and other requirements of the Division.
- (5) The names of the vendors offering quotations and bids and the date and amount of each quotation or bid shall be recorded and maintained as a governmental record.
- (6)(a) To ensure the fair and equitable treatment of all vendors on an approved vendor list, a procurement unit shall, when using this rule in conjunction with an approved vendor list, obtain a minimum of two quotes from vendors on the approved vendor list using one or more of the following methods to select vendors from whom to obtain quotes:
 - (i) A rotation system, organized alphabetically, numerically, or randomly;
 - (ii) Assignment of vendors to a specified geographic area;
 - (iii) Assignment of vendors based on each vendor's particular expertise or field; or
 - (iv) Another method approved by the procurement official;
- (b) Each procurement unit using an approved vendor list under this rule shall document that all vendors on the approved vendor list have a fair and equitable opportunity to obtain a contract;
- (c) When using one of the methods listed in Subsection (6)(a) to select vendors to provide quotes, a procurement unit may also obtain an additional quote from the vendor that provided the lowest quote on the most recently completed procurement conducted by the procurement unit using the approved vendor list;
- (d) When practicable, procurement units may obtain quotes from all vendors on an approved vendor list; and

(e) Procurement units shall purchase the procurement item from the vendor on the approved vendor list that provides the lowest quote for the procurement item.

R33-5-108. Small Purchases of Professional Service Providers and Consultants.

(1) The small purchase threshold for professional service providers and consultants is a maximum amount of \$100,000 per project by direct negotiation after reviewing the qualifications of a minimum of three firms or individuals.

(2) The small purchase threshold for medical providers is a maximum of \$100,000 per year, by direct negotiation after reviewing the qualification of medical providers.

(3)(a) Approved Vendor List: To ensure the fair and equitable treatment of all vendors on an approved vendor list, a procurement unit shall, when using this rule in conjunction with an approved vendor list, select a minimum of three professional service providers or consultants from the approved vendor list using one or more of the following methods:

- (i) A rotation system, organized alphabetically, numerically, or randomly;
- (ii) Assignment of vendors to a specified geographic area;
- (iii) Assignment of vendors based on each vendor's particular expertise or field;
- (iv) Another method approved by the procurement official;

(b) After selecting a minimum of three firms or individuals from the approved vendor list using one of the methods specified in Subsection (4)(a), the procurement unit shall rank the firms or individuals in order and begin fee negotiations, up to \$100,000 with the highest ranked firm or individual. If an agreement cannot be reached with the highest ranked firm or individual, the procurement unit shall move to the next highest ranked firm or individual and so on until a fee agreement is reached.

(5) Executive Branch procurement units, to the extent they do not have independent procurement authority, shall involve the Division of Purchasing at the beginning of the quote or solicitation process, in the procurement of professional services or consulting services.

R33-5-202. Contract Award Based on Established Terms.

(1) In accordance with Section 63G-6a-113 and Subsection 63G-6a-507(6)(b), a procurement unit may award a contract to a vendor on an approved vendor list at an established price based on:

- (a) A price list, rate schedule, or pricing catalog:
 - (i) Submitted by a vendor and accepted by the procurement unit; or
 - (ii) Mandated by the procurement unit or a federal agency; or
- (b) A federal regulation for a health and human services program.

(2) When awarding a contract to an approved vendor based on a price list, rate schedule, or pricing catalog submitted by the vendor, the procurement unit shall, as applicable:

(a) Assign work or purchase from the approved vendor with the lowest price, rate or catalog price;

- (i) In case of a tie for the lowest price, the procurement unit shall follow the process described in Section R33-6-111 to resolve the tie; and

(ii) If the lowest-cost approved vendor cannot provide the procurement item or quantity needed, then work shall be assigned or the purchase made from the next lowest-cost vendor, and so on, until the procurement unit's needs are met;

(b) Establish a cost threshold based on cost analysis as set forth in Section R33-12-603 and 604, and assign work or purchase from an approved vendor meeting the cost threshold using one of the following methods:

- (i) A rotation system, organized alphabetically, numerically, or randomly;
- (ii) Assignment of vendors to a specified geographic area;
- (iii) Assignment of vendors based on each vendor's particular expertise or field; or
- (iv) Another method approved by the procurement official; and

(c) In accordance with Section 63G-6a-1206.5, an approved vendor may lower its price, rate, or catalog price at any time during the time a contract is in effect to be assigned work or receive purchases under Subsections (i) and (ii).

(3) When awarding a contract to an approved vendor based on a price list, rate schedule, or pricing catalog mandated by the procurement unit or a federal agency, the procurement unit shall use one of the following methods to assign work or purchase from a vendor on an approved vendor list:

- (a) A rotation system, organized alphabetically, numerically, or randomly;
- (b) Assignment of vendors to a specified geographic area;
- (c) Assignment of vendors based on each vendor's particular expertise or field; or
- (d) Another method approved by the procurement official;

(4) When awarding a contract to an approved vendor based on a price list, rate schedule, or pricing catalog based on a federal regulation for a health and human services program the procurement unit shall follow the requirements set forth in the applicable federal regulation to assign work or make a purchase.

(5) In accordance with the provisions set forth in Section 63G-6a-2105, the procurement official may award a contracts to vendors on an approved vendor list on a statewide, regional, or combined statewide and regional basis.

R33-5-203. Performance Rating System for Vendors.

(1) A procurement unit may develop a performance rating system to evaluate the performance of vendors, provided the performance rating system is described in the solicitation and includes:

(a) the minimum performance rating threshold that approved vendors must achieve to remain in good standing; and
(b) a statement indicating that vendors whose performance does not meet the minimum performance rating threshold may be subject to a corrective action plan, which may include termination of the contract.

(2) A procurement unit that places a vendor on a corrective action plan shall:

(a) make a written finding that:

- (i) describes the performance rating system;
 - (ii) identifies the minimum performance rating threshold; and
 - (iii) explains the performance rating achieved by the vendor; and
- (b) provide a copy of the written finding to the vendor.

R33-5-204. Approved Vendor Lists -- Using Small Purchase Process.

(1) When awarding a contract to an approved vendor using the small purchasing process, the procurement unit shall follow the small purchase requirements set forth in Section 63G-6a-506 and the following Administrative Rules as applicable:

- (a) Section R33-5-104. Small Purchases;
- (b) Section R33-5-105. Small Purchases Threshold for Design Professional Services;
- (c) Section R33-5-106. Small Purchases Threshold for Construction Projects;
- (d) Section R33-5-107. Quotes for Small Purchases from \$1,001, to \$50,000;
- (e) Section R33-5-108. Small Purchases of Professional Service Providers and Consultants;

(2) Executive branch employees are required to use state contracts for all small purchases for procurement items available on state contracts.

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