

IDAHO PUBLIC PURCHASING

Purchasing Statutes and Rules

- Title 67, State Government & State Affairs, Chapter 57, Department of Administration, Idaho Code
- IDAPA 38.05.01 Administrative Rules
- Elected officials are exempt

How Public Purchasing is Different

- We are spending the taxpayers' money
- Everything must be done for the good of the public
- Open Records Law applies to all bid documents, as well as all of the state's e-mails, evaluations, drafts, notes, etc.
- All actions are subject to inspection and audit
- Our underlying concern, based on Idaho Code and IDAPA, is fair and open competition – a level playing field encouraging participation and competition; as well as transparency in our process as we work to obtain the best value for the state

****INTEGRITY OF THE PROCESS IS ESSENTIAL****

The Purchasing Process

- Agency identifies the need (*and available funding*)
- Agency develops specifications/scope of work
- Competitive bid or alternative (*existing contract, exemption such as SSA*)
- Evaluate and award
- Issue purchase order or contract
- Agency receives product or service (*agency inspects for compliance/monitors performance*)
- Acceptance/payment by agency (*tied to deliverables/no payment without acceptance/BOE rules on prepayment*)
- Disposal of item according to guidelines established by the Board of Examiners

DOP “value-add”

- Centralized Purchasing aggregates volume for better pricing and service and results in soft cost savings
- DOP’s standard templates provide for consistent procurements throughout the state, provide documentation of exemption and exception processes, and represent our “lessons learned” over decades of combined experience
- DOP operates in a collaborative manner; and uses its experience to help agencies identify and mitigate risk in the bid process and in administering the resulting contract, focusing on critical areas of the solicitation including:
 - specifications, delivery requirements, warranty needs, insurance, performance metrics, required reporting, remedies for non-performance, termination and contract close-out

Types of Purchasing

Small Purchase – below competitive threshold (\$10,000) and informal quotes (RFQ)

Large Purchase – sealed “formal” bids (ITB/RFP)

“Open” Contract – mandatory use Statewide Contracts

Emergency Purchase (exemption) – health, safety, welfare

Sole Source Purchase (exemption) – unique, compatibility

Policy Directive (exemption) – not conducive to bidding

Small Purchase – No Competition

- **Less than \$10,000* and not on contract** - no competitive bidding required – agency may purchase as it sees fit
 - *NOTE: If the item/service is available on a Statewide “Open” Contract (mandatory use) – it must be purchased off of that statewide “Open” Contract unless an exemption is obtained from the Administrator of DOP (even if the item cost is under \$10,000; e.g. office supplies, tools, computers, office furniture, cell phones, tires, etc.)*
- All agencies have this authority (IDAPA)
- Many agencies have a policy in place establishing a lower dollar threshold internal to their agency end users, e.g. \$2500 or \$5000
- Requirements may not be artificially divided into multiple “purchases” to lower the dollar value and avoid competition

Examples – Small Purchase

Copy Paper, Legal Pads, Pens

- Available on the statewide “Open” office supply contract with Office Max/Office Depot; place orders online, over the phone or in the store; Contractor provides inside delivery (and pick up of return items)

Promotional Bookmarks/Bags for ICFL

- Agency may purchase directly from a select vendor (under \$10,000/one-time purchase), without competition

Office Chairs

- Available on multiple statewide “Open” furniture contracts; place orders online, over the phone or in the store (local resellers will bring several chairs to an agency for trial use prior to placing an order)

Small Purchase – Requests for Quotes (RFQ)

- **\$10,000 or more and less than \$100,000** – obtain a minimum of 3 quotes from vendors with a “Significant Idaho Economic Presence” (*i.e. fully staffed office, warehouse, etc. in Idaho for one year/registration with SOS*)
- When calculating the “value” of the procurement to determine the correct solicitation method, you **MUST** include the value of all optional renewals
- Purchases of \$10,000 or more (not made from “Open” Contracts) requires written delegated authority from the Administrator of DOP

Examples (RFQ)

Culvert Pipes

Snow Groomer Tracks

Paint Truck Compressors

Gooseneck Lowboy Trailer

Firefighting Equipment

Printing of IPTV *Channels* Magazine

Cameras for the Ports of Entry

Specialty Envelopes (e.g. fee envelopes)

Vehicle Leases

Market Kiosks

Landscaping Services

Shredding

Large Purchase – Sealed “Formal” Bids

Invitations to Bid (ITB) and Requests for Proposal (RFP)

- **Value exceeds \$100,000** – If the TOTAL VALUE (over the potential life of the resulting contract) will exceed \$100,000, this is a formal procurement, requiring solicitation of a minimum of 3 sealed bids/proposals from vendors with a *“significant Idaho economic presence.”*
- ITBs are primarily cost driven (establish minimum requirements and award to lowest responsive bidder)
- RFPs are much more complex, factoring in experience, qualifications, references, project plans, etc. which are scored by an evaluation committee (cost is not the predominant factor)
- All ITBs and RFPs are posted on the e-procurement system “IPRO” for all interested vendors to view. Agencies with delegated authority must utilize DOPs templates which are available on the DOP website.

Examples (ITB/RFP)

ITB

Wheel Loaders
Live Fish Transport Trucks
Snow Groomers
Hazardous Waste Removal
Treated Wood Posts
Herbicides/Pesticides
Tractor/Roadside Mower
IT Security Software
Janitorial Supplies
Elevator Maintenance

RFP

Therapy Services (DHW/IDVS)
Security Services
Capitol Mall Janitorial
Software Development
P-Card/Banking Services
Offender Healthcare
Marketing/Media Services
Database Migration
Financial Examiners
Museum Exhibit Design Services

“Open” Contracts

Open Contracts are defined in IDAPA as:

“A contract awarded by the state of Idaho through the division of purchasing to one (1) or more vendors who have agreed to allow all agencies to procure or purchase specified property under the terms and conditions set forth in the contract.”

- Open Contracts are commonly referred to as “**statewide contracts**,” issued through a DOP-led procurement as Statewide Blanket Purchase Orders (SBPO) or through participation in a NASPO ValuePoint cooperative contract (led by another state) as a Participating Addendum (PADD).
- There are approximately 130 “statewide contracts:”
http://purchasing.idaho.gov/statewide_contracts.html.
- Open Contracts are MANDATORY use for State Agencies, unless a written exemption is obtained from the Administrator.
 - *I.C. 67-5717 contains a very limited exemption, providing that “Unless an acquiring agency can show a substantial difference between the required capabilities and the capabilities provided by such property available on open contract, all agencies must utilize such property available on such contracts and failure to comply with this provision will subject the officers responsible for the acquisition to the penalties set forth in this chapter.”*
- Other public agencies such as cities, counties, school districts, etc. may use these contracts at their discretion (Contractors must allow any Idaho public agency to use the contract).

Emergency Purchase

- **Definition:** “ a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, or such similar circumstances...”

There are very few “true” emergencies (*where it is impossible to at least obtain a few quotes via phone or e-mail*):

Examples: frozen water pipe at remote rest area (no potable water); failure of public safety communication system/software; etc.

Sole Source Purchase

- For goods or services available only from a “single supplier” the purchase may be made without competitive bidding as authorized by the Administrator based on factors such as:
 - Equipment compatibility, components, accessories
 - Maintenance (e.g. equipment/software)
 - Copyrighted publications, videos, etc. available only from the publisher
 - Items with no functional equivalent

(Note: it's often difficult to negotiate favorable terms and conditions; as opposed to utilizing the solicitation process where the Contractor MUST agree to the State's terms, conditions and requirements in order to be awarded a contract)

Additional Exceptions to Bidding

Professional Services Agreements (PSAs)

- All agencies may enter into Professional Services Agreements (PSAs), without competition, if the value of the agreement is **\$100,000 or less** and it **DOES NOT exceed one (1) year** in duration. PSAs may not be extended or renewed and this exemption is defined for short-term one-time projects, to allow agencies flexibility in obtaining professional services. If there is an “open” contract for the professional service, agencies must look to the “open” contract(s) first, e.g. IT Services

Rehabilitation Agencies (Ability Idaho) IC §67-2319

- Agencies may utilize the services of a Rehabilitation Agency without competition for services such as janitorial, packaging and temporary staffing (e.g. The Arc, Goodwill, New Day, WITCO, DePaul, etc.).

Correctional Industries

- Agencies routinely purchase furniture and other CI products for state use.

Policy Directive Exceptions

- The Administrator may establish “Policy Directives” which exempt types of goods or services from competition, e.g. CDC Contracts (immunizations), Copyrighted Materials, Specialized Scientific Research Equipment, Pharmacists for IDVS, Expert Witnesses, etc.

CONTRACT MANAGEMENT and ADMINISTRATION

DOP “[administers](#)” the contracts it issues on behalf of agencies:

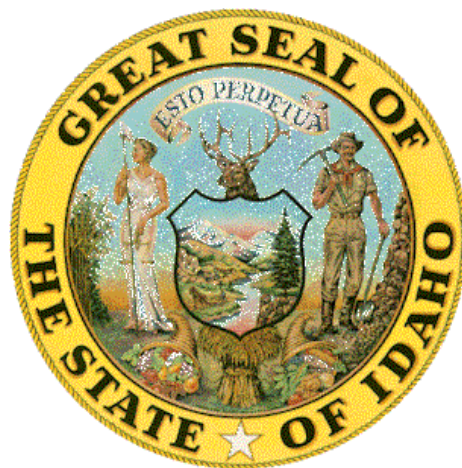
- Contract amendments (scope, etc.), issue resolution, notices, breach/cure, termination, renewal, etc.

Agencies are responsible for the day-to-day “[monitoring and management](#):”

- Receipt of deliverables, acceptance, invoice review and payment, routine monitoring, minor issue resolution, etc.

Purchasing Ethics

- Understand the parameters of individual authority (to issue solicitations/sign contracts/bind the State/commit funds)
- Avoid activities that compromise the best interests of your agency (and the state/taxpayers by extension)
- Obtain maximum benefit for funds spent (*not necessarily just “low cost”*)
- Maintain and practice business ethics, professional courtesy, and competence
- Do not show favoritism or be influenced by suppliers through acceptance of gifts or favors
- Ensure the integrity of the procurement process, as well as a fair and level playing field for the vendor community
- Avoid even the appearance of favoring one supplier over another
- Protect the supplier’s business and legal rights to confidentiality, trade secrets and proprietary information



Takeaways: When in doubt, call DOP

Work through your agency/department purchasing agent or buyer
Get DOP involved early (for new procurements, amendments and issues)

We want to help your agency get the products/services you need; through available, legal means; while maintaining the integrity of the process, in the best interest of the State.

Any Questions?