

# **UTAH COUNTIES INDEMNITY POOL PURCHASING POLICY**

## **SECTION A EFFECTIVE DATE AND FREQUENCY OF REVIEW**

1. The Board originally adopted the Purchasing Policy on August 18, 2016.
2. This policy should be reviewed annually, but not less than every three years by the Board. This policy will also be reviewed any time that changes to laws or rules governing the purchasing practices of interlocal agencies are amended in a manner which would require review and update to this policy.
3. Failure to review this policy in the frequency stated shall not nullify, void, limit or waive this policy or any action taken under this policy.
4. This policy is considered to be amended at the time any new federal or state law becomes effective which conflicts with this policy, but only to the extent necessary to come into compliance with new law.

## **SECTION B PURPOSE**

1. This policy outlines the policy of the Board related to purchases made using UCIP funds.
2. The underlying purposes of this policy are to:
  - a. Ensure fair and equitable treatment of all persons who wish to or do conduct business with UCIP.
  - b. Provide for the greatest possible economy in UCIP's procurement activities.
  - c. Foster effective, broad-based competition within the free enterprise system to ensure that UCIP will receive the best possible services or products at the lowest possible prices.

## **SECTION C AUTHORITY**

1. The Board has the authority to adopt and amend this policy under the UCIP Interlocal Agreement.

## **SECTION D APPLICABILITY AND SCOPE**

1. This policy applies to all purchases made using UCIP funds.
2. This policy shall not prevent UCIP from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

3. When procurement involves the expenditure of federal assistance funds, UCIP shall comply with applicable federal law and regulations.

## **SECTION E DEFINITIONS**

1. Board: the UCIP Board of Directors.
2. Business: any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
3. CEO: the UCIP Chief Executive Officer.
4. CFO: the UCIP Chief Financial Officer.
5. Contract: any agreement entered into by UCIP for the procurement or disposal of supplies, services, or construction, but shall not mean any policy of insurance, excess insurance or reinsurance, bond, surety or other risk financing instrument.
6. Invitation for Bids: all documents, whether attached or incorporated by reference, used for soliciting bids.
7. Person: any business, individual, union, committee, club, other organization, or group of individuals.
8. Professional Services: labor, effort or work that requires an elevated degree of specialized knowledge and discretion, including accounting, architecture, construction and design management, engineering, financial services, information technology, insurance brokerage, legal, medical, or underwriting.
9. Procurement: buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction.
10. Purchasing Agent: the CEO or other person duly authorized by the Board to enter into and administer contracts and make written determinations with respect thereto.
11. Purchase Description: the words used in a solicitation to describe the supplies, services, or construction to be purchased, and includes specifications attached to or made a part of the solicitation.
12. Request for Proposals or RFP: all documents, whether attached or incorporated by reference, used for soliciting proposals.

13. Request for Qualifications or RFQ: a document used to solicit information about the qualifications of a person interested in providing services including all other documents attached to that document or incorporated in that document by reference.

## **SECTION F POLICY STATEMENTS**

1. All purchases and procurements shall be conducted under the procedures outlined in this policy in a fair and equitable manner.
2. All purchases and procurements shall be made in a manner providing UCIP the most advantageous terms, conditions, cost and quality of products or services.

## **SECTION G PROCEDURES AND RESPONSIBILITIES**

1. The CEO shall act in the capacity of Purchasing Agent. The Purchasing Agent shall be responsible to make procurements, solicit bids and proposals, enter into and administer contracts, and make written determinations under this policy. The Purchasing Agent may delegate purchasing authority to the CFO at their discretion.
2. The following purchases shall not require use of a bidding process:
  - a. Purchases costing less than \$5,000 in total shall not require bids of any type;
  - b. Purchases costing more than \$5,000 but less than \$10,000 in total, shall require at least three telephone bids, but shall not require any other type of bid;
  - c. Purchases under paragraphs 1 and 2 shall not be artificially divided so as to constitute a small purchase;
  - d. Purchases made through the cooperative purchasing contracts administered by the State Division of Purchasing;
  - e. Purchases made from a single-source provider as determined by the Purchasing Agent;
  - f. Purchase of professional services;
  - g. Purchase of services if the Purchasing Agent opines in writing to the Board that the services are of such a nature, or require being provided in such a nature, as to be best provided by a specific source; or
  - h. Purchases required during an emergency, i.e., an eminent threat to the public's health, welfare or safety. However, as much competition as practical should be obtained and such purchases should be limited to amounts necessary to the resolution of the emergency.

3. All purchases not exempted from the bidding process under paragraphs 2, 4, or 5 shall be subject to bidding procedures as follows:
  - a. Contracts shall be awarded by competitive sealed bidding except as otherwise provided by this policy.
  - b. An invitation for bids shall be issued when a contract is to be awarded by competitive sealed bidding. The invitation shall include a purchase description and all contractual terms and conditions applicable to the procurement. Public notice of the invitation for bids shall be given at least 30 days prior to the date set forth therein for the opening of bids. The notice may include publication in a newspaper of general circulation.
  - c. Any procurement by sealed bid in excess of \$10,000 shall require a legal notice in a local newspaper of general circulation.
  - d. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and any other relevant information, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.
  - e. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the invitation for bids.
  - f. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of UCIP or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the Purchasing Agent.
  - g. The contract shall be awarded with reasonable promptness, by written notice, to the lowest bidder whose bid meets the requirements and criteria set forth in the invitation for bids as determined and approved by the Board.
4. When the Purchasing Agent determines in writing that the use of competitive bidding is either not practicable or not advantageous to UCIP, a contract may be entered into using a competitive proposal process described herein. The competitive proposal process is most appropriately used for professional service type contracts. The following procedures shall be used in the competitive proposal process:
  - a. Proposals shall be solicited through a Request for Proposals (RFP). Public notice of the RFP shall be given at least 30 days prior to the advertised date of the opening of the proposals.

- b. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of evaluation and negotiation. A register of proposals shall be prepared and shall be open for public inspection after contract award.
  - c. The RFP shall state the relative importance of price and other evaluating factors.
  - d. Evaluation of proposals shall be conducted by a committee of at least two persons, one of whom shall be the Purchasing Agent, as appointed by the Board.
  - e. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors, except to the extent required by law.
  - f. Award shall be made to the person whose proposal is determined, in writing, to be most advantageous to UCIP, taking into consideration price and the evaluation factors set forth in the RFP. The contract file shall contain the basis on which the award is made.
5. When the Purchasing Agent determines in writing that the services to be contracted for are a qualification-based procurement, a contract may be entered into using a Request for Qualifications process described herein. The qualification-based process is most appropriately used for professional services of Brokers or Architect-Engineering services. The following procedures shall be used in the qualification-based process:
- a. Qualification-based services should be solicited through a Request for Qualifications (RFQ).
  - b. RFQ's should be publicly announced.
  - c. Contracts should be negotiated by UCIP based on demonstrated competence at fair and reasonable prices.
6. When the Purchasing Agent determines it is in the best interest of UCIP to use the competitive RFP process under paragraph D, or the competitive RFQ process under paragraph E, the Purchasing Agent shall notify the Board of such determination before initiating the process. The Board may create an ad-hoc committee to assist the Purchasing Agent in the process of developing, analyzing and making recommendation to the Board regarding such RFP or RFQ.
7. Determination of non-responsiveness of a bidder or offeror shall be made in writing. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsiveness may be grounds for a determination of non-responsiveness with respect to the bidder or offeror.

8. An invitation for bids, a request for proposals, a request for qualification, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interests of UCIP. The reasons shall be made a part of the contract file.
9. Any type of contract which will promote the best interests of UCIP may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to UCIP than any other type or that it is impracticable to obtain the supplies, services or construction required except under such a contract.
10. The following contractual clauses shall be included in all contracts unless an engagement letter is used for professional services, or exception is made by the Board:
  - a. The unilateral right of UCIP to order, in writing, changes in the work within the scope of the contract and changes in the time of performance of the contract that do not alter the scope of the contract work.
  - b. Variations occurring between estimated quantities of work in a contract and actual quantities
  - c. Suspension of work ordered by UCIP.
11. All specifications or descriptions of services shall seek to promote overall economy and best use for the purposes intended, and encourage competition in satisfying UCIP's needs, and shall not be unduly restrictive. Where practical and reasonable, and within the scope of Utah law, Utah products shall be given preference.
12. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may appeal their grievance in the following manner:
  - a. An aggrieved bidder, offeror or contractor shall submit an appeal with the Purchasing Agent in writing within 5 working days after the aggrieved person knows or should have known of the facts.
  - b. The Purchasing Agent shall promptly issue a written decision regarding any grievance, if it is not settled by mutual agreement. The decision shall state that reasons for the action taken and inform the appellant of the right to appeal to the Board.
  - c. The appellant shall submit a request for appeal of the Purchasing Agent's decision in writing to the Purchasing Agent within 5 working days of the date of the Purchasing Agent's decision.

- d. The Purchasing Agent shall promptly provide the Board with the request for appeal, along with all relevant information, including the Purchasing Agent's written decision.
  - e. The Board shall consider the appeal and shall provide the appellant with a written decision.
  - f. The Board shall be the final appeal.
- 13. No person involved in making a procurement decision on behalf of UCIP may have personal investments in any business entity which will create a substantial conflict between their private interests and their public duties.
  - 14. Any person involved in making procurement decisions on behalf of UCIP is subject to discipline up to and including termination if the person asks, receives, or offers to receive any emolument, gratuity, contribution, loan, or reward, or any promise thereof, either for the person's own use or the use or benefit of any other person or organization from any person or organization interested in selling to UCIP.
  - 15. When an invitation for bids, a request for proposals or request for qualification process is utilized, the invitation for bid and all bids received in response, request for proposal and proposals received in response or request for qualifications and all responses to the request for qualifications will be retained in accordance with the UCIP Records Retention Schedule.

#### **SECTION H Revision History.**

- 1. Original Policy Adoption: August 18, 2016
- 2. Revised: April 19, 2018
- 3. Revised: June 21, 2019
- 4. Revised: December 17, 2020

#### **SECTION I Appendices.**

- 1. There are no appendices to this policy.