

Rule 3-100B: Solicitation of Bids, Proposals, Design Professional Services, Approved Vendor Lists, Sole Source Purchases, and the Award of Procurement Contracts Revision #1. Effective date: April 12, 2022

Contents.

I. Purpose and Scope 2

II. Definitions 2

III. Rule..... 2

 A. Competitive Bidding 2

 B. Specifications 3

 C. Formal Bidding Requirements 4

 D. Informal Quote Requirements 5

 E. Request for Proposals 6

 F. Design Professional Service Providers 8

 G. Exceptions: Procurement without Competition (non-standard Procurement) 8

 H. Approved Vendor List 10

 I. Contractual Terms 10

 J. Protest 10

IV—VII Regulations Resource Information 10

IV. Rules, Procedures, Guidelines, Forms and other Related Resources 11

V. References 11

VI. Contacts 11

VII. History..... 11



I. Purpose and Scope

A. Purpose.

To implement Policy 3-100 and outline rules for the solicitation of bids and proposals, and award of University Procurement Contracts, consistent with the provisions of Utah Code Title 63G, Chapter 6a, Utah Procurement Code.

B. Scope.

This rule is binding for all University colleges, departments, and units, including University of Utah Hospitals & Clinics.

II. Definitions

The definitions provided in Policy 3-100 apply for this rule.

III. Rule

A. Competitive Bidding

1. Except as otherwise provided in this rule, Procurement of items in excess of the Formal Purchase Threshold will be awarded only after solicitation of sealed competitive bids or proposals. (see Rule 3-100D for all Procurement thresholds)
2. The Purchasing Department shall conduct Procurement Services for the University except as otherwise provided in University regulations. The Purchasing Department shall conduct solicitations from a reasonable selection of firms, from whom, in the judgment of the Purchasing Department, the University’s Procurement needs of the University can be met.
3. U Facilities shall conduct Procurement for construction and architect and

engineering Services as delegated by the chief financial officer or the chief financial officer's designee and the director of purchasing and the state Division of Facilities Construction and Management. Under this delegation, U Facilities may follow Procurement rules adopted by the state Division of Facilities Construction and Management.

4. UUHC Purchasing shall conduct Procurement for UUHC as delegated by the chief financial officer or the chief financial officer's designee and the director of purchasing.
5. If only one (1) response is received in response to a solicitation for bids or proposals:
 - a. An award may be issued if the requesting department determines pricing is fair and reasonable;
 - b. The solicitation may be canceled or reissued to seek additional competition.

B. Specifications

1. Organizational Units shall draft Specifications to clearly describe requirements and encourage competition. Specifications shall emphasize the functional or performance criteria necessary to meet the needs of the Organizational Unit. The Purchasing Department is Responsible for the approval, issuance, revision, and maintenance and monitoring of Specifications for supplies and Services required by the University except as other provided in University regulations. Organizational Units of the University will prepare Specifications for the supplies or Services they require.
2. U Facilities is Responsible for the approval, issuance, revision, and maintenance and monitoring of construction, architect and engineer Specifications, Procurement solicitations and contracts within their delegation.

3. University of Utah Hospitals & Clinics Purchasing is Responsible for the approval, issuance, revision, maintenance, and monitoring of Specifications, Procurement solicitations, and contracts for University of Utah Hospitals & Clinics.
4. All Specifications shall seek to promote overall economy and best use for the purposes intended and shall encourage competition in satisfying University needs. Specification may not be unduly restrictive.
5. Subject to the nonrestrictive clause described in Section III.B.4, Specifications or requests for bids or proposals may designate a brand name "or equivalency" as a means to identify the performance or other specific requirements of Procurement. When so used, the Specifications shall include the salient features of the brand name that must be met by bidders or offerors.
6. Under limited circumstances, Specifications may require a brand name without an equivalency if the Organizational Unit that wrote the Specifications provides a written justification and the Purchasing Department approves the written justification.
7. Consistent with University Rule 1-006E: Individual Financial Conflict of Interest in Transactions, an individual who has a conflict of interest may not participate in writing a Specification or in the award to a Supplier. Consequently, an individual who has a substantial interest in a business entity (as defined by Rule 1-006E) that intends to participate in or respond to a solicitation may not participate in writing or developing the Specification for that solicitation or in awarding the contract associated with that solicitation. An Organizational Unit may retain the Services of an individual to assist in writing Specifications or other components of writing a solicitation; however, that individual is not eligible to respond to a solicitation or receive a contract award related to the Specifications.

C. Formal Bidding Requirements

1. The director of purchasing is Responsible for assuring that all bidding procedures, including the invitation to bid, giving of notice, establishment of criteria for bid evaluation, opening and evaluation of bids received, acceptance of bids, and awarding of contracts are in compliance with the requirements of Utah Code Title 63G, Chapter 6a, Utah Procurement Code and University regulations.
2. Public notice of invitations for bids shall be given a reasonable time, not less than seven (7) consecutive days prior to the date for the opening of bids. The director of purchasing may determine in writing that a shorter time is necessary for a particular Procurement.
3. The Purchasing Department shall record the amount of each bid, together with the name of each bidder, in writing or electronically at the time and place of bid opening.
4. Correction or withdrawal of inadvertently erroneous bids before or after award, and the cancellation of awards or contracts based on such bid mistakes, may be authorized by the director of purchasing or his/her designee, when requested in writing and accompanied by full documentation of the facts leading to presentation of the erroneous bid. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the University or fair competition will be permitted.
5. The University shall award a bid to the lowest Responsive and Responsible bidder who meets the objective criteria described in the Invitation for Bids.
6. If used, a multiple stage bidding process shall request the submission of unpriced offers to be followed by pricing bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation stage.

D. Informal Quote Requirements

1. An informal quote process may be conducted for a purchase between the Single Procurement Threshold and the Formal Purchase Threshold. Organizational Units must submit a Requisition to the Purchasing Department for these purchases. The Purchasing Department shall determine the solicitation method for an informal quote process.
2. The Purchasing Department may solicit informal purchases by electronic means including email, electronic bids, telephone, or a request for written quotes.
3. Informal purchases should be documented with three (3) written quotes or proposals, whenever possible.
4. The University shall provide the award to the Supplier offering the lowest Responsive and Responsible quotation based on objective criteria described in the solicitation.
5. The Purchasing Department shall record the amount of each quote, together with the name of each bidder, in writing.

E. Request for Proposals

1. A Request for Proposals process may be used instead of bidding if determined by the Purchasing Department the process will provide the best value to the Organizational Unit, and if criteria in addition to cost should be considered.
2. The director of purchasing or designee is Responsible for ensuring the integrity of the Request for Proposal process in conformance with Utah Code Title 63G, Chapter 6a, Utah Procurement Code.
3. Public notice of Request for Proposals shall be given a reasonable time, not less than seven (7) calendar days prior to the date for the opening of proposals. A longer time period may be required.
4. The Request for Proposals process shall include:

- a. a description of the Procurement items sought;
 - b. a description of the subjective and objective criteria that will be used to evaluate the proposal;
 - c. the standard contractual terms and conditions;
 - d. the relative weight that will be given to each criterion, including cost;
 - e. the formula that will be used to determine the score for cost;
 - f. a description of each stage and the criteria and scoring that will be used to screen offerors at each stage for multi-stage Request for Proposals;
 - g. all other requirements of Utah Code Title 63G, Chapter 6a, Utah Procurement Code.
5. An evaluation committee shall be appointed consisting of at least three (3) individuals who:
- a. do not have a conflict of interest;
 - b. can fairly evaluate each proposal;
 - c. during the time of the Procurement, do not contact or communicate with an offeror for any reason other than conducting the Procurement process or University business not related to the Procurement;
 - d. unless an exception is made in writing by the director of purchasing, do not know or have access to any information relating to the cost proposals from offerors until after the evaluation committee submits its final technical scores on all other criteria to the Purchasing Department;
 - e. meets all other requirements in Utah Code Title 63G, Chapter 6a, Utah Procurement Code.
6. The Purchasing Department shall grant the award to the Responsive and Responsible offeror whose proposal receives the highest score from the evaluation committee. If the highest scored offeror is disqualified, the

Purchasing Department shall grant the award to the next highest scored Responsive and Responsible offeror, or the Request for Proposal may be cancelled. The Procurement file shall contain the basis on which the Purchasing Department makes an award, including why the awarded offeror is the best value to the University.

F. Design Professional Service Providers

1. Design Professional Services associated with remodeling and construction as defined in Policy 3-205 are subject to Policy 3-205.
2. The Procurement of Design Professional Services not pertaining to Policy 3-205 and in excess of the Design Professional Services threshold shall comply with Utah Code Title 63G, Chapter 6a, Part 15, Design Professional Services and this rule.
3. The Purchasing Department shall publish a request for statement of qualifications which is written by the requesting department. An evaluation committee of at least three (3) members shall rank each responding design professional service provider's qualifications based on the project scope of work and evaluation criteria other than cost.
4. The requesting department shall negotiate a contract with guidance from the Office of General Counsel (as needed) with the highest ranked or scored design professional service provider for the required Services at fair and reasonable compensation. If compensation determined to be fair and reasonable cannot be negotiated with the highest ranked or scored design professional service provider, then negotiations may begin with the next highest ranked or scored design professional service provider.
5. Notice of award shall be made available to the public.

G. Exceptions: Procurement without Competition (non-standard Procurement)

1. Small purchases up to the Single Procurement Threshold or the Professional Provider or Consultant Services Threshold shall be processed

- in accordance with University regulations. (See Rules R3-100D, E)
2. The Purchasing Department may utilize contracts authorized by Title 63G, Chapter 6a, Utah Procurement Code without additional competitive processes.
 3. Sole Source contracts. A contract exceeding the Formal Purchase Threshold may be awarded for a supply, service, or construction item without competitive bidding when the director of purchasing determines in writing only one source exists for the Requisitioned item. This may include, but not be limited to, any of the following considerations: (See Rule R3-100D):
 - a. there is only one source for the Procurement item.
 - b. The type of transaction includes compatibility/transitional costs from existing equipment, technology, software, accessories, replacement parts, or service, including professional Services that are unreasonable or cost prohibitive.
 - c. A Procurement item is needed for trial use or testing to determine whether the Procurement item will benefit the Organizational Unit.
 - d. A Procurement item meets an exception to standard Procurement process requirements under procedure P3-100C or Utah Board of Higher Education Rule R-571.
 4. Publication of notice of Sole Source
 - a. Public notice of a Sole Source shall be made for a Procurement that exceeds the Formal Purchase Threshold and that will not be subject to a competitive process. The notice shall be given a reasonable time, not less than seven (7) consecutive days.
 - b. The director of purchasing, chief facilities officer, or supply chain administrative director for UUHC may make a written determination to approve a shorter time period.

5. Extension of a contract without engaging in a standard Procurement process may be approved by the director of purchasing, chief facilities officer, or supply chain administrative director for University of Utah Hospitals & Clinics in accordance with Utah Code Title 63G, Chapter 6a, Utah Procurement Code.

H. Approved Vendor List

1. When determined to be necessary or appropriate by the Purchasing Department, the Purchasing Department may prequalify prospective Suppliers for particular types of supplies, Services and construction. Award of a contract from an approved vendor list shall require a competitive process.

I. Contractual Terms

1. The Office of General Counsel and the Purchasing Department shall develop, modify, and maintain standard contract clauses to be used in University Procurement Contracts. U Facilities shall use standard contract clauses for contracts for construction and architect and engineering Services as required by state law and adopted by the state Division of Facilities Construction and Management.

J. Protest

1. Protests filed by aggrieved bidders, offerors, or potential bidders or offerors, shall be handled by the Purchasing Department in consultation with legal counsel and in accordance with state law. U Facilities or University of Utah Hospitals & Clinics Purchasing, in consultation with legal counsel and in accordance with state law, shall handle protests on their delegated purchases and shall notify the director of purchasing of all protests.

IV—VII Regulations Resource Information.

User Note: Parts IV-VII of this Regulation (and all other University Regulations) are Regulations Resource Information – the contents of which are not approved by the Academic Senate or Board of Trustees, and are to be updated from time to time as determined appropriate by the cognizant Policy Officer and the Institutional Policy Committee, as per Policy 1-001 and Rule 1-001.

IV. Policies, Rules, Procedures, Guidelines, Forms and other Related Resources

A. Polices/Rules

1. Policy 3-100 University Procurement
2. Rule R3-100C, Requisition Use
3. Rule R3-100D, Delegated Small Purchase Authority
4. Rule R3-100E, Restricted Purchases and Special Procurement

B. Procedures, Guidelines, and Forms. [*reserved*]

C. Other Related Resources. [*reserved*]

V. References

- A. Utah Code Title 63G, Chapter 6a, Utah Procurement Code

VI. Contacts

The designated contact officials for this Regulation are

- A. Policy Owner (primary contact person for questions and advice): Director of Procurement
- B. Policy Officers: Chief Financial Officer
 1. See University Rule 1-001 for information about the roles and authority of policy owners and policy officers.

VII. History

Renumbering: Not applicable

Revision History.

A. Current version. Revision 1.

1. Approved by -- Academic Senate April 4, 2022 and Board of Trustees April 12, 2022, with effective date of April 12, 2022.
2. Legislative History for current version
3. Editorial Revisions: *[reserved]*

B. Past versions.

1. Revision 0.
2. Legislative History for Revision 0.