

Purchasing Update

July 2019



Utah Division of Purchasing and General Services

Greetings, Division of Purchasing Customers and Friends

INSIDE THIS ISSUE

- End User Agreements
- 72 Hour Emergency Kits
- Price Adjustments in Your Agency Contract
- Utah Correctional Industries
- Spotlight —Miranda

By Chris Hughes, Chief Procurement Officer

As the Chief Procurement Officer for the State of Utah, I have seen first-hand the passion of us collaboratively working to help those we serve to realize their full potential. Across this great state, procurement units are developing inventive way to improve the procurement of goods and services and at the center of our collective work is a commitment to ensure that the purpose of the Utah Procurement Code is being met. Thank you for being an integral part of these accomplishments. It is an honor and humbling to work alongside leaders and professionals who are deeply committed to advancing public procurement initiatives that drive better outcomes for our procurement units and for our citizens.

As FY2019 ends, and we reflect on the year's achievements, I am reminded just how much I have learned from each of you this year. State Purchasing is motivated more than ever to continue the journey with you and advance our shared desire to bring about positive change to the State of Utah.

Over the past year, State Purchasing has worked directly with cities, counties, school districts, institutions of higher education, executive branch agencies, and other procurement units to develop best practices and guidelines on the future of public procurements in the State of Utah and created guiding principles to use the collective strength and knowledge to promote procurement changes at all levels of government.

Continued on page 2

Continued from page 1

These are the best examples of peer-to-peer engagement and how we, the public procurement professionals' community, can work together to change the lives of the people we serve.

Throughout this annual report, we have captured stories and learnings of our customers and partners that confirm it is only with and through you—our customers—that our shared vision for better, stronger procurements can become a reality. We are in a time of unprecedented change and opportunity, and as procurement leads, I want to thank you for continuing this journey with State Purchasing.

As we move forward into FY2020, let us remember that how we speak about our work matters. We should speak strategically and artfully, creating a degree of cognitive dissonance that encourages people to think differently about something that they have believed in for a long time.

State Purchasing continues to interject framing science into our work, helping to create positive associations with procurement units.

We look forward to influencing, building, and connecting with you in FY2020 and beyond.

Achievements in Public Procurement

State Purchasing would like to recognize achievements in procurement at our quarterly PEP trainings. So, if you or someone you know has helped to improve public procurement in the State of Utah please let Christopher Hughes know of the achievement so that we can share your successes.

For questions, please reach out to Chris Hughes, christopherhughes@utah.gov

End-User Agreements

By Cat Turner, State Contract Analyst

Some of you may have noticed that when you use a vendor from a statewide cooperative contract, the vendor requires your entity to sign a secondary, service, or an end-user license agreement. It is important to complete a thorough review of these agreements before your entity signs. Occasionally, early termination fee language or other terms and conditions may have been added to the State's terms and conditions; conditions to which you would be agreeing if you sign. Don't sign those changes. You should also review any secondary, service, or end-user license agreement end-date and make sure it corresponds to the expiration of the cooperative contract.

Recently, language was added in the State's terms and conditions that is now standard for all new statewide cooperative contracts. As old agreements expire and new

agreements are executed, this new language will hopefully make end-user agreements more transparent. The language includes: 1) the term of the agreement may not exceed the term of the overall contract, and 2) the terms and conditions may not be amended or changed without approval from the Division of Purchasing. With this added protection, end-users will not be responsible or obligated for any early termination fees if the agreement terminates as a result of completion or termination of the overall contract.

As always, know your contract and the terms before signing any secondary, service, or end-user agreement.

For questions, please reach out to Cat Turner, caturner@utah.gov, 801-538-3172.

Price Adjustments in Your Agency Contract

By Solomon Kingston, State Contract Analyst

Does the Procurement Code allow for price adjustments in your contract? Does a price adjustment require an amendment to your contract?

Utah Code 63G-6a-1206.5 recognizes a Contractor may increase contract pricing **only** in accordance with the terms of the contract, but may lower the contract price at any time. The key for a price increase is therefore whether your contract specifically allows for the increase.

Per Utah Administrative Rule R33-12-601, contracts that expressly allow for price increases require cost or pricing data to support the increase. Exceptions are found where the contract terms provide established market indices, catalog prices, other benchmarks as the basis for the contract price adjustments, or when rule or law sets the price. Regardless, the Contractor holds the burden of proof for demonstrating its price increase is justified. The Contractor must demonstrate that its price increase reflects what is occurring within the industry. Increases that exceed established market indices and benchmarks inherently require additional scrutiny by the public entity, after the Contractor makes its initial demonstration.

When approached by a Contractor requesting a price adjustment it is important that an agency refrain from using verbal or written language (i.e., email) that may lead the Contractor to believe their new pricing is approved, when such approval was not given. The determination for whether a price adjustment is approved is reserved to the CPO, Christopher Hughes, or the head of a procurement unit with independent procurement authority. Furthermore, price adjustments will most commonly require a formal written amendment to your contract as pricing is an essential element to the contract.

In summary, a Contractor may only increase pricing in accordance with the terms of your agency contract, but may lower prices at any time. Price adjustments generally require an amendment to your agency contract, of which must be approved by the CPO or the head of a procurement unit with independent procurement authority.

For questions, please reach out to Solomon Kingston, skingston@utah.gov, 801-538-3228.



UTAH CORRECTIONAL INDUSTRIES



UCI MISSION

Utah Correctional Industries is dedicated to public safety through innovative career building, community partnerships, and quality production to develop successful people.

DID YOU KNOW...

UCI IS A SPONSOR OF US DEPARTMENT OF LABOR APPRENTICESHIP PROGRAMS FOR THE FOLLOWING OCCUPATIONS:

- Cabinet Maker
- Horticulturist
- Housekeeper

BENEFITS OF UCI PARTICIPATION:

- Interview experience
- Work experience
- Learn a trade
- Apprenticeship programs
- Makin' It Work class
- Re-entry services
- Continued resource after release

MAKIN' IT WORK

The Makin' It Work program was developed by Dr. Steve Parese and focuses on three key areas for offenders re-entering the community and the workforce.

- Understanding how their attitudes and perceptions justified their illegal actions in the past.
- Gaining new insights into employer expectations in the workplace and mentally shifting their outlooks to be more successful on the job.
- Improving interpersonal skills needed to manage difficult workplace situations.

The program includes 10 sessions that are 2 hours each. Class sizes range from 8-16 students. Classes are taught by staff instructors who receive their certification after completing a 3-day Instructor Certification Course taught by Dr. Parese.

OUR BUSINESS OPERATIONS

View the State Use Law (63G-6a-804)

PRINTING | EMBROIDERY/SILK SCREENING | SEWING | FURNITURE
SEATING/UPHOLSTERY | CONSTRUCTION | DOCUMENT SCANNING | SIGNAGE

QUESTIONS? CONTACT US AT 801-576-7700



Miranda Rogers

Miranda Rogers is a summer intern. She is very excited to be working in the Division of Purchasing. She was born and raised in Utah and is a sophomore at Utah State University where she will be majoring in Statistics and minoring in Math. Miranda is involved in undergraduate research at USU where she's been able to work on a project studying water reuse in Utah. Miranda is currently on a project researching network meta-analysis and the use of statistics to predict relationships within the networks. Her hobbies include camping, hiking, cooking, and playing the piano and cello.

mirandarogers@utah.gov

Future PEP Seminar Dates:

September 19, 2019

December 5, 2019

What do you seek?

Maybe you know what you want but cannot find it. Or maybe you did not know it was available. Below are some handy hyperlinks to explore.

[Agency Point of Contact in State Purchasing](#) or [here](#)

[Track Agency Contract Thru State Purchasing](#)

[View Publicly Posted Solicitations](#)

[State Cooperative Contract Search Engine](#)

[Purchasing Forms](#)

[Utah Procurement Code & Administrative Rule](#)

[Agency Training \(including previous PEP Seminars\)](#)

[CPPB/CPPO Exam Scholarship Applications](#)

How to Receive the Purchasing Update Newsletter

Did you receive this newsletter from a co-worker? Do you want to receive the Purchasing Update directly? Please send an email to Tara Eutsler, teutsler@utah.gov.