

PURCHASING UPDATE



Utah Division of Purchasing
and General Services

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The Exception and What is Required: Instructions on Contract Formation Between Two Procurement Units

By Nick Hughes, Contract Analyst

The procurement process ensures the transparency between the interactions of the government and the private sector. It ensures there is no favoritism, bias, steering, etc. However, sometimes the process can take some time. Sometimes the situations arises where an agency may have the option to obtain its purchasing needs from another Utah Procurement Unit. The Utah Procurement Code provides an exception to the standard procurement process for these types of interactions.

Section 63G-6a-2103. Purchases between public entities:

A public entity may purchase a procurement item from another public entity. Additionally, a purchase under Subsection (1)(a) is not subject to the procurement requirements of this chapter. An important clarification is that this section does not authorize a public entity to obtain a procurement item under a contract of another public entity. It must be the entity itself that is providing the procurement item.

So if you are an Executive Branch Agency, let’s say for example Health, and they need services related to health and health research, if this information, service, good, etc. can be provided directly by the University of Utah, and not a vendor under contract with the University of Utah, then Health may create a contract/memorandum of understanding with the University of Utah without involving the Division of Purchasing or conducting a standard procurement process.

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To clarify this exception, Finance policy FIACCT 04-02.00 states that contract between one state agency and another state agency or political subdivision within the State of Utah, do not need an RQM and do not need DAS Division of Purchasing approval.

The critical component on how this agreement will be entered into then is the dollar threshold that the goods and/or services will cost. If the total contract value is less than \$5,000 then the agency has three options:

1. No contract;
2. Prepare a contract; or
3. Prepare a contract then submit it to the DAS Division of

Finance for entry into FINET.

If the cost will exceed \$5,000 then it **MUST be approved by the DAS Division of Finance**, *unless specifically exempted*. These contracts must be recorded in FINET.

When looking for goods or services, if you identify another public entity that can fulfill the procurement needs, know that there are options out there to make your life easier and more efficient. But that those streamlined processes still have a few requirements. Go forth and conquer.

What do I need to Know Before Procuring Telecommunications Equipment?

By Solomon Kingston, Contract Analyst

Great question.

While we will not answer this question in its entirety, as that would take volumes, there is a certain Federal Regulation that public entities should be uniquely familiar with. That is regulation [2 CFR 200.216](#) regarding the prohibition on certain telecommunication and video surveillance services or equipment. Pursuant to that regulation, recipients of federal government funds are prohibited from using government funds to enter into contracts with entities that use Covered Telecommunications Equipment or Services. This prohibition also extends to using government funds to extend or renew contracts with such entities.

So what is considered Covered Telecommunications Equipment or Services? Pursuant to [Public Law 115-232](#), section 889, this is equipment or services produced by **Huawei Technologies Company** or **ZTE Corporation** (or any subsidiary or affiliate of such entities).

This regulation became effective August 13, 2020. This means that federal government funds are prohibited from being used to procure any goods (including component parts) or services by Huawei or ZTE. Public entities are encouraged to review the implications of this federal regulation on the procurement of their telecommunications equipment and services, and plan accordingly.



Tires and Tubes – Federal Excise Tax Forms

By Ann Schliep, Purchasing Agent

Some of the end-users of the Tires and Tubes portfolio (MA208, MA210, MA3122, and MA3231) have been asked to fill out a manufacture form regarding excise tax exemption sometimes referred to as an Ultimate Purchaser form. Here is the explanation as to why end-users will need to complete the form when asked:

The Ultimate Purchaser form is needed for FET (Federal Excise Tax) exemption status. The manufacturers are required at the time of an IRS audit to have a signed certificate on file for every FET exempt State agency and political subdivision handled by

their supply points. They also maintain a separate database of these approved certificates for each supply point which only that company can view online and apply to their transactions.

This procedure is in effect for all state, city, county and political subdivisions in the United States. All tire manufacturers are required to have a similar type of exemption certificate.

If an agency is FET exempt, they will need to complete the form along with the servicing dealer. If not FET exempt, agencies do not need the Ultimate purchase form completed.

Quotes

By Cat Turner, Purchasing Agent

Have you ever sent a request for quotes and been flooded with questions from the vendors? Hopefully this article will help you avoid some of those questions in the future.

What should be in your quote request?

- The procurement item you are seeking to purchase.
- A brief description of the procurement item including model numbers and other pertinent details, if necessary.
- The quantity needed.
- The date the item should be delivered by.
- Costs of delivery and/or installation including where delivery will be made.
- Any terms and conditions the vendor would have to abide by.
- A deadline for vendors to provide a quote.
- How the vendors should provide a quote. You want to be able to compare quotes as easily as possible.
- A procurement number that vendors can reference in their quote.

If a vendor asks a question, make sure to send the question and

answer to the other vendors so that all vendors have access to the same information.

Other things to keep in mind during the quote process:

R33-4-110(2) states that a quotation is nonbinding and does not obligate a procurement unit to make a purchase or a vendor to make a sale.

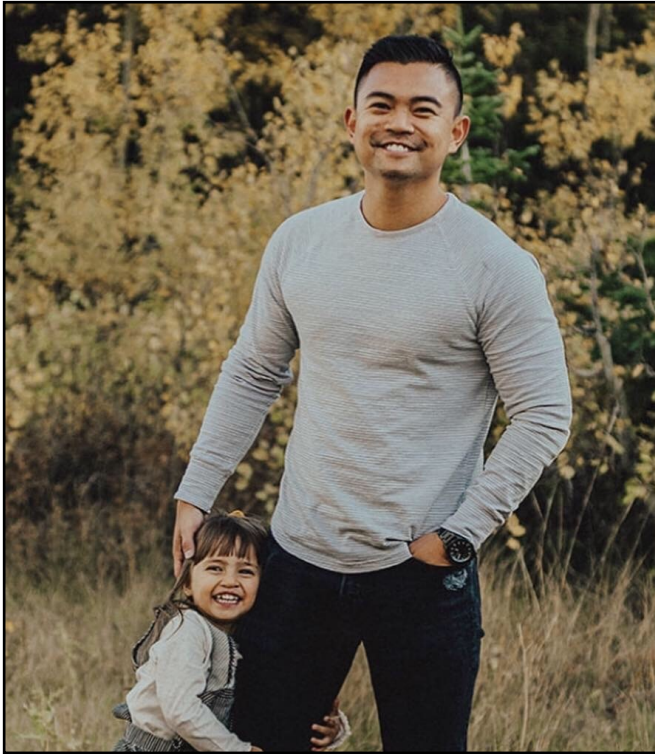
R33-4-110(4)(b) states that the procurement unit maintains a public record that includes:

- (i) The name of each vendor supplying a quotation
- (ii) The amount of each vendor's quotation

If you find yourself repeatedly requesting quotes for similar procurement items, please reach out to the Division of Purchasing to see if the procurement item(s) would be a good fit for a statewide cooperative contract.

On the other hand, if the procurement item is already on Statewide Cooperative Contract, check out the "Get a Quote feature". This is a great tool to reach out to the vendors on Statewide Cooperative Contract. Once you send out a quote, the system will send you a copy of each email, helping document that you reached out to vendors for your procurement file.

Spotlight Article



Thinh Doan

Thinh has been with State Purchasing for almost 3 years. After graduating law school in 2014 and passing the bar, Thinh pursued a career in corporate legal counsel but gravitated more toward government work. Thinh clerked at the Utah Attorney General's Office all throughout law school and enjoyed the lifestyle as well as the comradery with the people he worked with. He has liked the type of work he is exposed to at the Division of Purchasing and feels that he learns something new

every day. He enjoys the people he works with and the challenges from every new procurement.

Thinh has traveled and backpacked through Europe and Southeast Asia and plans to do many more trips in the future. He has visited most national parks in the Western United States and also is a proficient rock climber. He still has extended family throughout Southeast Asia that he enjoys visiting with his parents. In the past several years, Thinh has bought 6 homes in Sugar House and Park City, ranging from condos to large duplexes – in various states of disrepair. He enjoys designing and remodeling these homes with contractors that he employs.

On Thinh's downtime, he likes to spend time with his daughter, travel, and buy/remodel houses. He likes to experience the outdoors and go on hikes with Nora. Nora also loves rock-hounding, so Thinh helps her find and polish up rocks and gemstones.

Q & A

Q: What is the average price you would expect to pay for a club sandwich and french fries?

A: \$10

Q: If you were going to be executed, what would your last meal be?

A: A bowl of pho.

Q: What is the best type of cheese?

A: Pepperjack

TOPIC: Statewide Cooperative Contracts | **PRESENTER:** Cherilyn Hess | **DATE:** 10/15/2020 | **TIME:** 12—1 PM

SUMMARY:

- how vendors get a statewide cooperative contract
- who can use them
- how to search for them
- how to read the contract and ordering instructions
- what the differences are between statewide

REGISTRATION: A link will be emailed out.



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.

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