

PURCHASING UPDATE



Utah Division of Purchasing and General Services

Terms and Conditions

By Cat Turner, State Contract Analyst

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Terms and Conditions can be overwhelming to both any interested vendor and the procurement unit running the solicitation. It is important that as a purchasing agent that you are familiar with any standard terms and conditions that your entity uses. It is also important to conduct periodic reviews to ensure everything is up to date.

Both 63G-6a-603(2)(e) requires that a procurement unit utilizing an invitation for bids process and 63G-6a-703(2)(e) requires that a procurement unit utilizing a request for proposals process, post the terms and conditions that a procurement unit intends to include in a contract resulting from the procurement process.

Code and Rule also encourages procurement units to establish standard contract clauses to assist the procurement unit and to help contractors and potential contract to understand applicable requirements (63G-6a-1202).

Q. Why is this important?

We want any interested vendors to know what the contract requirements might be and if there are any additional costs that a vendor might need to factor into their bid (such as insurance or bonds).

Q. When you send a request for quotes out to vendors, should you also include the terms and conditions?

Absolutely - For the same reason listed above!

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JUST THE FAQs

Courtesy Postings

By Nikki Sanchez

Question: Can an entity choose a 1.0 courtesy posting service level and have no review from State Purchasing?

Answer: A 1.0 Courtesy Posting Service Level is only available for Procurement Units not subject to the Utah Procurement Code. If a 1.0 service level is chosen by the entity, the State Purchasing agent assigned will do a quick cursory review for key elements of the specific procurement process and best practices for the end user prior to posting.

Question: If the Procurement Item requested for courtesy posting is currently on a State Cooperative Contract or Approved Vendor List (AVL), will Purchasing assist with a courtesy posting 2.0 or 3.0 service level?

Answer: If the procurement item requested is currently on a Statewide Cooperative contract or AVL list, State Purchasing will notify the entity of the current Statewide Coop contracts and/or AVL's and will not assist the procurement unit if they do not want to purchase from the Statewide Coop contracts or AVL's. The only service level available at this point would be a posting service level, 1.0 with no review from Purchasing.

Q. Should you review the terms and conditions before a solicitation to ensure everything is applicable to the solicitation?

Yes, depending on what you are purchasing, not all terms and conditions may apply. You also may wish to adjust the insurance requirements (with approval from your risk manager) depending on the scope of the contract.

However, if you remove certain terms and conditions (with approval from your legal counsel), make sure you search the rest of the document to ensure those specific terms and conditions are not referenced in other sections.

Q. How should a vendor provide exceptions to terms and conditions published in a RFP (if permitted by the procurement unit)?

A. R33-7-104 states that Offerors requesting exceptions and/or additions to the Standard Terms and Conditions published in a RFP must include the exceptions and/or additions with the proposal response. This rule goes into much more detail about how exceptions should be managed.

For questions, contact Cat Turner, catturner@utah.gov.



Design Professional Services

Systematic Guide to Procurement of Design Professional Services: Part 15 of the Utah Procurement Code

Foremost, 63G-6a-103(25) defines design professionals as individuals licensed as an architect, professional engineer or professional land surveyor. To this extent, design professional services are those within the scope of architectural, engineering, master planning and commercial interior design. Procurements of these services should be governed by part 15 of the Utah procurement Code.

In an invitation for bids (IFB) the driving factor in the procurement is the cost. The request for proposals (RFP) process is appropriate where other factors in addition to cost would be considered in making the selection that is most advantageous to the procurement unit. However, 63G-6a-702(2) still points towards part 15 for procurement of architect-engineer services.

In procuring design professional services, the procurement unit should:

1. Publicly announce all requirements for those services through a request for statement of qualifications.
2. Evaluate the statements of qualification.
3. Determine a fair and reasonable price.

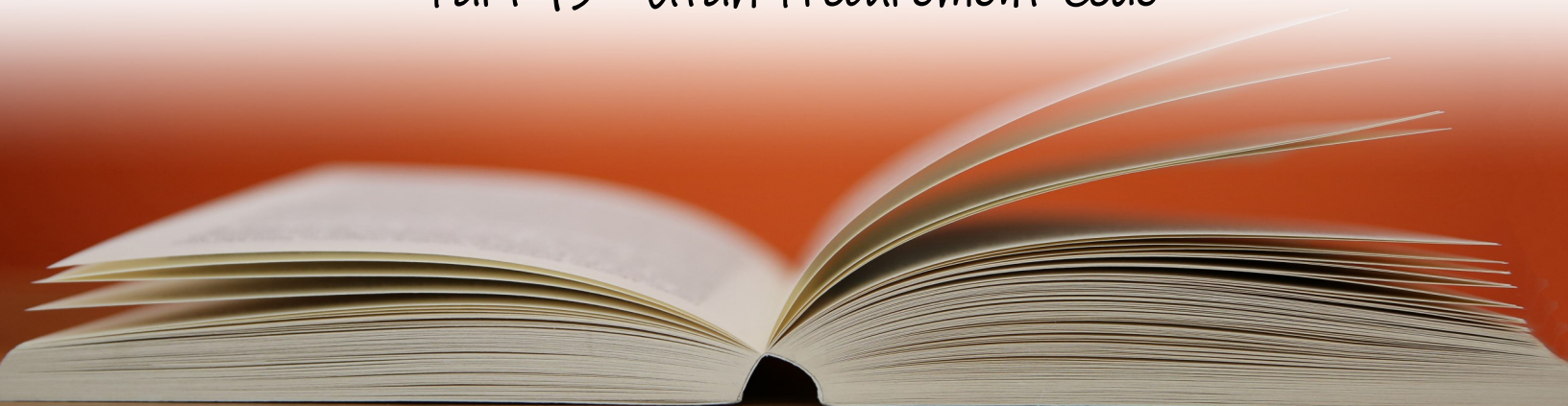
The request for statement of qualifications may not

include a request for a cost component for the design professional services. However, the public announcement of the statement of qualification should include the established criteria by which the qualifications of a design professional will be evaluated.

The evaluation committee shall consist of at least three (3) members without a conflict of interest with any of the design professionals and can fairly evaluate each statement of qualifications. The evaluation committee should consider no fewer than three design professionals statements of qualifications. The committee should rank the top three highest scoring design professionals, in order of their scores, for entering into fee negotiations.

The cost formula for design professional services is the fair and reasonable compensation. In determining the fair and reasonable cost, the procurement unit should take into account the estimated values, scope and professional nature of the services, as well as the complexity of the project. The contract should be awarded to the qualified design professional whose statement of qualification earned the highest score and reached an agreeable fair and reasonable price. If for any reason, the parties cannot agree on a fair price, the procurement unit should formally terminate the discussion with that design professional; and undertake discussions with the next highest scoring qualified design professional.

Part 15—Utah Procurement Code



Notice Regarding



Utah Department of Government Operations

Effective July 1, 2021, the Utah Department of Administrative Services will become part of the Utah Department of Government Operations. This change is a result of the State of Utah Legislature passing S.B. 181, legislation combining the Department of Administrative Services with the Department of Technology Services, and the Department of Human Resource Management. As such, the Division of Purchasing will be a division within the Department of Government Operations.

Future communications and solicitations issued by the Division of Purchasing may reference the Department of Government Operations. For your information, Jenney Rees will be the Executive Director of the Department of Government Operations, with John Barrand as the Director of the Division of Human Resource Management and Alan Fuller as the Director of the Division of Technology Services and Chief Information Officer.

At this time, there is no action for you to take. This notification is to inform you of the change with S.B. 181. The physical addresses and mailing addresses for the new department will remain the same.

If you have any questions regarding this notice, please reach out to Chris Hughes at (801) 957- 7130 or christopherhughes@utah.gov.

Procurement U Gives Back Promotion

FREE online Foundational Procurement courses thru Dec 31!

Over the past year, procurement professionals have led the way in procuring critical PPE and essential needs for state and local governments across the country. As a small token of profound appreciation for everything you do, the National Association of State Procurement Officials ([NASPO](https://www.naspo.org)) is making ALL *Foundational Procurement* courses FREE through December 31st, 2021. This "Procurement U Gives Back" Program is also a celebration of a major milestone for NASPO's Procurement U: courses are now [IACET](https://www.iacet.org) Accredited! Watch the video to learn more about what this prestigious honor means for NASPO, and for you.

You can [create a free Procurement U account](#) and sign up for these courses here. Note that most [Procurement U courses](#) are self-paced, so you can start them at any time.

Questions? Email procurementu@naspo.org.



Update on Light Duty Auto Parts

By Tiffany Rydalch , State Contract Analyst

Naspo ValuePoint (NVP) is in the process of resoliciting for the **Light Duty Auto Parts** portfolio. The State of Utah will evaluate the master agreements executed by NVP at the end of the solicitation process, and will determine what vendor participating agreements will be pursued. The current State Cooperative Contracts that will be impacted are MA2872 NAPA and MA2873 O'Reilly Auto Parts, which are due to expire 10/19/21. The Division of Purchasing recently solicited and awarded eight new contracts under the portfolio **Automotive Fleet Supplies**. Those contracts expire 05/31/2026. Please note MA2317 with Factory Motor Parts expired 07/19/21 and agencies can now utilize their newly awarded contract MA3687.

Automotive Fleet Supplies

MA3687 FACTORY MOTOR PARTS
MA3688 BATTERY SYSTEMS, INC
MA3689 PILOT THOMAS LOGISTICS LLC
MA3690 CUMMINS SALES AND SERVICE
MA3691 PARTS AUTHORITY, LLC
MA3692 KENWORTH SALES CO.
MA3693 VEHICLE MAINTENANCE PROGRAM, INC
PD2978 CRUS OIL INC

Light Duty Auto Parts

MA2317 FACTORY MOTOR PARTS
MA2872 NAPA
MA2873 O'REILLY AUTO PARTS



Spotlight Article



Grant Herdrich, Contract Analyst

Grant recently joined the Division of Purchasing. He came from a background in Project Management from the recreational sports realm and his education from the University of Maryland Law School. He is always looking for solutions and enjoys helping people get things done. Grant, like so many in Utah, spends most of his free time outdoors. His number one hobby is cycling. When he is not working, he can be found road biking or mountain biking with wife, Maria, and dog, Atticus.

Q and A

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

A: My last meal would be something simple like a good pizza.

Q: Is a hot dog a sandwich? Please justify your answer.

A: Absolutely not, a hot dog is far superior to any sandwich.

Q: What is always a waste of money?

A: Fancy watches are a waste of money, I don't get fancy watches.

TOPIC: Purchasing 101 | The Importance of Teamwork

PRESENTERS: Ann Schliep | Cherilyn Hess

DATE: 8/19/2021 | **TIME:** 12:00 PM—1:00 PM

Future Utah Chapter NIGP meetings

9/16/2021 | TBD

11/18/2021 | TBD



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.

Utah Division of Purchasing & General Services

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Taylorsville, Utah 84129

801-957-7160

Purchasing.utah.gov

Hours: 8:00 am—5:00 pm M-F

