

PURCHASING UPDATE



division of
**Purchasing and
General Services**

Just Who Is An Eligible User?

Laurel deLagerheim, State Procurement Manager

INSIDE THIS ISSUE

- Just the FAQs:
- 2 Courtesy Postings - Part 2
- 3 PC: Precarious Public Entity Purchases
- 4 Omnia Partners Online Marketplace
- 5 UCI Closures
- 6 Spotlight—Meran

Our State of Utah Cooperative Contracts are available for use by other States if their applicable Code/Rule allow. Please be aware the contractor also needs to be agreeable to do business with an out of state entity. In the future there will be changes to our solicitation template language and contract Terms and Conditions. Currently the language is as follows:

Language posted with each Statewide solicitation is as follows:

Eligible Users

This State of Utah Cooperative Contract will be for the benefit of all Utah public entities, nonprofit organizations, and agencies of the federal government, i.e. State of Utah departments, agencies, and institutions, political subdivisions (colleges, universities, school districts, special service districts, cities and counties, etc.).

The following Eligible Users are allowed to use the awarded contract: State of Utah’s government departments, institutions, agencies, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), and, as applicable, nonprofit organizations, agencies of the federal government, or any other entity authorized by the laws of the State of Utah to participate in State Cooperative Contracts will be allowed to use this Contract.

Each Eligible User is considered an individual customer. Each Eligible User will be responsible to follow the terms and conditions of this RFP. Eligible Users will be responsible for their own charges, fees, and liabilities. Contractor shall apply the charges to each Eligible User

JUST THE FAQs

Courtesy Postings—Part 2

By: Nikki Sanchez, Purchasing Agent

Question: Can an engineer/architect be the contact person for a courtesy posting representing the entity?

Answer: Yes, we will work for the third party, as long as the entity the courtesy posting is for is included in correspondence from State Purchasing. We would need the contact person and email for these individuals on the Limited agreement or Courtesy Posting request email.

Question: What is the response time in order to have a solicitation posted in U3P once it is received and assigned to a Purchasing Agent?

Answer: The Procurement Unit should plan for a 1-2 day lead-time on a 1.0 service level. A 2.0 and 3.0 service level requires a minimum 5 day lead-time, depending on the complexity of review and response time by the Procurement Unit. These lead-times are subject to change depending on the individual workload of the receiving agent.

Continued from page 1

individually. The State is not responsible for any unpaid invoice.

Current Terms and Conditions language

Eligible User(s) means those authorized to use State Cooperative Contracts and includes the State of Utah's government departments, institutions, agencies, political subdivisions (e.g., colleges, school districts, counties, cities, etc.), and, as applicable, nonprofit organizations, agencies of the federal government, or any other entity authorized by the laws of the State of Utah to participate in State Cooperative Contracts.

Eligible User Participation: Participation under this Contract by Eligible Users is voluntarily determined by each Eligible User. Contractor agrees to supply each Eligible User with Goods based upon the same terms, conditions, and prices of this Contract.

Individual Customers: Each Eligible User that purchases Goods from this Contract will be treated as if they were individual customers. Each Eligible User will be responsible to follow the terms and conditions of this Contract. Contractor agrees that each Eligible User will be responsible for their own charges, fees, and liabilities. Contractor shall apply the charges to each Eligible User individually. The Division is not responsible for any unpaid invoice.

If the Contractor chooses to participate and sell to an out of state entity, they are not required to report the usage in their administrative fees but can if they so choose. If there is a cost difference in contract pricing between in and out of state, the contractor may charge for actual additional costs, since they originally responded to a Utah solicitation, their pricing in another state may differ.

Cooperative Contracts are a great way for government entities to take advantage of lower costs on commonly purchased items, and the State of Utah is happy to accommodate entities outside of Utah who wish to participate and are allowed by their code/rule to do so.

If you have additional questions or concerns, please reach out to Laurel deLagerheim at ldelagerheim@utah.gov

Precarious Public Entity Purchases

Blake Theo Porter, Assistant Director

One of the great exceptions in the Utah Procurement Code are purchases between public entities, which allows one public entity to purchase a “procurement item” (personal property, technology, service or construction) from another public entity without being subject to the requirements of the Utah Procurement Code (see UCA §63G-6a-106.7(1)(a) and §63G-6a-2103(1)). This would mean there is no need to conduct a solicitation process at all when the purchase is between public entities. But with great power comes great responsibility. Let’s review a couple key elements that need to be in place to ensure this powerful exception is not abused.

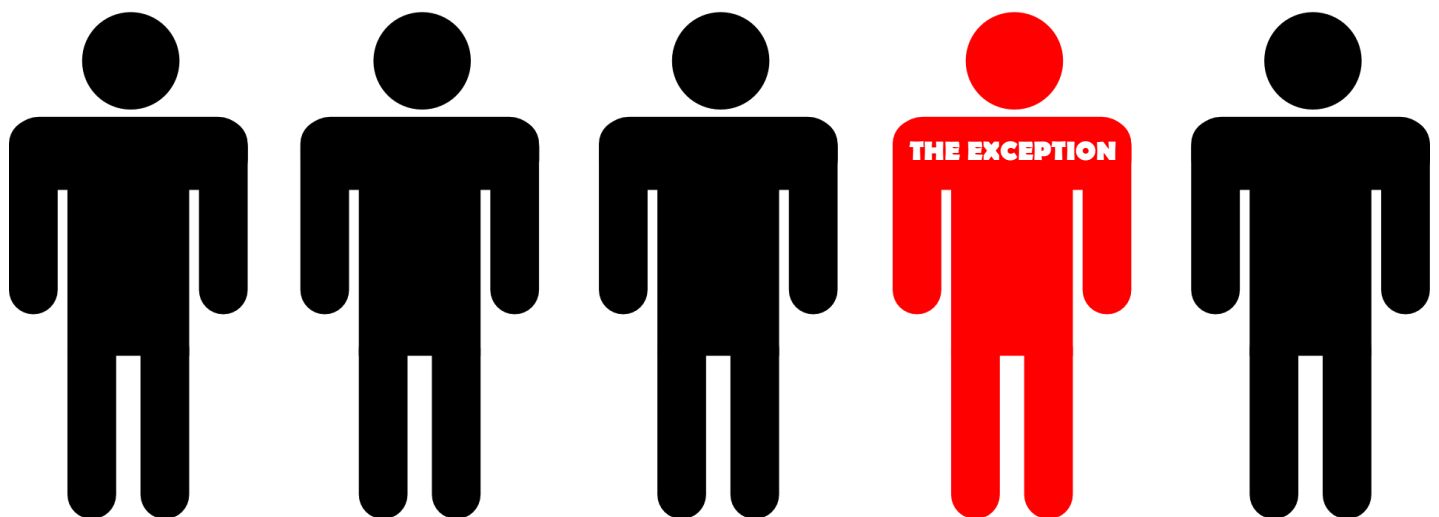
First, both parties need to be a “public entity”. A public entity is defined in the Utah Procurement Code as a state or other governmental entity within the state that expends public funds. As emphasized, this would not allow a public entity within our state to buy from a government entity outside of our State of Utah without following the requirements in the Utah Procurement Code or a private entity within the state.

Second, the public entity providing the procurement item needs to be the one providing the procurement item. No that wasn’t some weird repetitive typo. Nothing within this exception allows a procurement unit to use another public

entity’s contract with a vendor (i.e. PIGGYBACKING on another agency’s contract is generally NOT ALLOWED under the Procurement Code). The public entity needs to be the one providing the procurement item being purchased, not their third-party contractor that another public entity really likes and wants to use.

A couple other things that should be kept in mind is that nothing in §63G-6a-2103 should be read to force a public entity to sell their procurement item to another public entity. Also, any agreements entered into using this exception should explicitly reference UCA §63G-6a-2103 to make it clear the agreement is utilizing the exception appropriately. Kind of like when cops interrogate you don’t just remain silent you want to affirmatively state you are exercising your right to remain silent. Make it clear your agreement was entered into utilizing this exception to avoid any confusion or doubt.

Lastly, State agencies should send any agreement entered into using this exception to State Finance (not Purchasing) to be entered into Finet. This will allow the agency to pay invoices as they become due the correct way in Finet referencing the agreement number, and not simply paying using a GAX. This will help avoid audit findings (unless audit findings are your thing, then you can ignore this last step!).



Omnia Partners Online Marketplace

Michael Glenn, Assistant Director

The State of Utah recently ran a solicitation for Online Marketplace services as the lead state for Omnia Partners. Omnia Partners is a cooperative organization that has many contracts to help provide goods and services to public entities throughout the United States. This portfolio was created to provide online marketplaces for a wide range of goods and services.

The State of Utah's solicitation resulted in 5 contractors being awarded Master Agreements with Omnia:

- MA3457 – Amazon.com
- MA3458 – CDW
- MA3459 – Office Depot
- MA3460 – Chariot Group
- MA3461 – Grainger

These contracts, although they look like standard State of Utah Cooperative Contracts, are agreements between the contractor and Omnia Partners. As a result, prior to an Executive Branch Agency using any of these agreements, per 63G-6a-2105 there must be an executed Participating Addendum in place between the State of Utah and the contractor, not just the Master Agreements listed above.

Similar to individual contracts, this portfolio has been uploaded to our Statewide Cooperative Contract website, however, it has been uploaded as the full portfolio since the contracts are listed are Master Agreements with Omnia and the contractors. The portfolio's landing page is number LS100 and titled Online Marketplace Master Agreements. Both of these are searchable in order to bring up the portfolio. Since this is not an individual contract landing page, none of the contractor names are searchable terms within the Statewide Cooperative Contract search page.

More information can be found on the portfolio landing page (LS100 – Online Marketplace Master Agreements) on our State Cooperative Contract portion of our website. All the Master Agreements, as well as the solicitation document can be found there.

We have established Participating Agreements for the following contracts in this portfolio:

- Amazon: Master Agreement MA3457, Participating Addendum MA3787
- Chariot Group: Master Agreement MA3460, Participating Addendum MA3672

Reach out to Michael Glenn at the Division of Purchasing with any questions you may have: michaelglenn@utah.gov or 801-957-7137



Utah Correctional Industries Closures

Michael Glenn, Assistant Director

The Utah State Prison is moving to the new facility in Salt Lake City. While most UCI shops will remain open during the move, other UCI shops temporarily be closed to accommodate the move. The closing dates are subject to change, so procurement units should not assume a shop is closed based on the chart below. State Agencies must request written exemption to purchase from another

source, even if the shop appears to be closed. (see 63G-6a-804(4)).

UCI will update closing and opening dates as the dates are finalized. As most UCI shops will remain open during the move, reach out to customer service with any questions about order status.

PRODUCTS	CURRENT STATUS	NOTES
Furniture	Closed to new orders if delivery is required by close of FY	Accepting orders for production beginning July 2022
Office Chairs/Seating	Closed to new orders if delivery is required by close of FY	Accepting orders for production beginning July 2022
Printing Services	Accepting orders until 3/31	Final Delivery 4/15
Signs	Open	
Clothing/Embroidery	Open	
Screen Printing	Open	
Sewn Items	Open	

Spotlight Article



Meran Kay

Hey, I'm Meran Kay. I live in Emery County (very rural) with my husband and 5 kids ages 13, 7, 5, 3 and a 4 month old, the last 4 are girls so it gets a little dramatic at the Kay household. I graduated with my bachelor's degree from Southern Utah University in 2012 and then graduated from University of North Dakota with my law degree in 2016. After graduating law school, we moved back to Utah and I decided I would be a stay at home mom and do real estate on the side. I have been doing real estate ever since. I am the type

of person that likes to be certified and educated in everything. I love reading news articles and always like to know what's going on. I have a love/hate relationship with working out and I have to have my daily Diet Dr Pepper to get me through the day! I love to bake, cook and I love a clean house. After having my last baby, I figured it was time to get a real job. I'm super excited to be working for the state!

Q and A

Question: What's the best vacation you have ever been on?

Answer: I haven't been to any exotic places, it's hard to get my husband to leave Emery County. One of my favorite vacations was with my kids. We took them to California and did the whole sea world San Diego thing! Before I was married my twin sister and I traveled to Boston and watched a Yankees and Red Sox game and the atmosphere there was so fun! Go Red Sox!

Question: What is your biggest fear?

Answer: Spiders!

Question: If you could have dinner with any famous person, who would it be?

Answer: Reese Witherspoon! I love all the movies she is in, especially legally blonde, it's one of my favorites!

TRAINING

PEP SEMINAR

DATE: July 21, 2022

TIME: 8:00 AM —4:00 PM

TOPIC: Supply Chain Management

PLACE: TSOB Meeting Room

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 Jessika Huhnke, jessikahuhnke@utah.gov

Utah Division of Purchasing & General Services

4315 S. 2700 W. FL. 3

Taylorsville, Utah 84129

801-957-7160

Purchasing.utah.gov

Hours: 8:00 am—5:00 pm M-F

