



POLICIES AND PROCEDURES

Policy # 004

Subject: Waiver from Purchasing from Utah Correctional Industries
Effective: July 1, 2009
References: UCA 63G-6a-804

Purpose:

To explain the process to be followed when a Department or Agency requests approval to use a vendor other than UCI for goods and/or services produced or provided by UCI.

Policy:

- A. The Division does not have an official form for agencies to fill out stating why they want to use another vendor other than UCI. Instead, a simple request that agencies send a letter or e-mail to the Division denoting which of the justifications outlined in statute they have for not choosing to use UCI for a specific procurement, i.e. "(i) the good or service offered by the division does not meet the reasonable requirements of the purchasing agency; (ii) the good or service cannot be supplied within a reasonable time by the division; or (iii) the cost of the good or service, including basic price, transportation costs, and other expenses of acquisition, is not competitive with the cost of procuring the item from another source" should be requested. Since there are no official forms for this process, departments and agencies are encouraged to maintain documentation supporting their decision for not choosing to use UCI.
- B. The Director of State Purchasing is the state procurement officer for purposes of this policy.
- C. The test of what is "reasonable" is based on the user agency's definition as it pertains to the type of good/service needed, the quality of good/service needed, specifications for the good/service needed and the delivery deadline as to when the good/service is needed. In other words, the Division has elected to leave it up to the user agency to define what is "reasonable" in terms of their needs. If UCI disagrees with the agency's assertion that UCI cannot meet the agency's requirements, delivery deadline or that they are not price competitive, UCI may challenge the agency's the decision as noted in UCA 63G-6a-804. In cases of disagreement, the decision may be appealed to a board consisting of the director of the Department of Corrections, the director of Administrative Services, and a neutral third party agreed upon by the other two members or, in the case of institutions of higher education, the president of the involved institution shall make the final decision.

Procedure:

When a Purchasing Agent within the Division receives a request from a Department or Agency to waive the requirement to utilize UCI and obtain the goods and/or services required from a private supplier the Purchasing Agent should instruct the requesting Department or Agency to submit in writing the explanation based upon one or more of the justifications contained in section A of this policy directly to the Director of the Division.

The Director of the Division will forward the request to the Director of UCI for either approval or denial as outlined in section C of this policy. The Purchasing Agent will receive a copy of the request as it is sent to UCI and will subsequently be informed of the decision. If the request is affirmed as acceptable, i.e. not denied but approved, the Purchasing Agent may proceed to conduct a procurement or take whatever customary procurement action is need to support the requesting Department or Agency.