

Davis Technical College

Solicitation of Bids, Proposals and Emergency Procurement

Effective Date: 05 December 2024

1. Purpose

To establish policy and procedures for the solicitation of bids and proposals consistent with provisions of the Utah Procurement Code, handling procurement requirements in emergency conditions and policy and procedures in relation to procurement of supplies or services from a business firm in which a College officer or employee has an interest.

2. References

- 2.1. Utah Public Officers' and Employees' Act, 1953 Utah Code Annotated, SS67-16-1 et. Seq.
- 2.2. USHE Board Policy R571 Purchasing
- 2.3. Utah Procurement Code, 1953 Utah Code annotated, SS6G3-6-101 et. Seq.
- 2.4. Davis Technical College Procurement/General Policies
- 2.5. Davis Technical College Purchase Requisitions Including Capital Equipment Preparations and Processing
- 2.6. Davis Technical College Purchasing Cards
- 2.7. Davis Technical College Purchases From Auxiliary Services

3. Solicitation of Bids, Proposals and the Award of Contracts

3.1. Competitive Bidding

3.1.1. Except as otherwise provided in this policy, procurement of items, the amount of which exceeds the publicly advertised dollar limit, will be awarded only after advertised solicitation of sealed competitive bids or proposals.

3.1.2. Bids and proposals shall be invited from the widest practical selection of firms with proven performance, from whom, in the judgment of the Fiscal Services Department, the procurement needs of the College can be satisfied.

3.2. Specifications

3.2.1. The Fiscal Services Department is responsible for preparation, issuance, revision, maintenance and monitoring of specifications for supplies and services required by the College that are \$3,000 or more. In the preparation of specifications, the purchasing agent may obtain the advice and assistance of requisitioning departments as needed.

3.2.2. All specifications shall seek to promote overall economy and best use of the purposes intended, shall encourage competition when applicable in satisfying College's needs and shall not be unduly restrictive.

3.2.3. Subject to the non-restrictive policy stated in paragraph 3.2.2, specifications and/or requests for bids or proposals may designate a brand name "or equal" as a means to identify the performance or other specific requirements of a procurement. When so used, the salient features of the named brand that must be met by bidders/offers shall be clearly specified.

3.2.4. An individual who has participated in the preparation of a specification shall not be eligible to participate in or receive a contract award for any College procurement using such specification. Exceptions to this rule may be granted by the Vice President and Chief Financial Officer or their designee upon recommendation of the purchasing agent if (a) an exception is justified by the existence of emergency conditions (see Section 3.5.2 below), (b) there is only one practicable source of supply for the contract requirements (see Section 3.5.1 below) or (c) it is not practicable or advantageous to the College to deny an award to the individual or to a bidder/supplier with which that individual is associated. Such exception shall be in writing and shall be attached to the bidding documents.

3.3. Bidding Procedures

3.3.1. The Fiscal Services Department is responsible for assuring that all bidding procedures are in compliance with the requirements of the Utah Procurement Code and College policies.

3.3.2. Public notice of invitations to bid shall be given a reasonable time prior to the date for opening of bids. Such notice may include publication in a newspaper of general circulation.

3.3.3. Bids shall be opened at the time and date designated in the invitation for bids. All bidding documents shall be available for public inspection in accordance with state law.

3.3.4. Correction or withdrawal of inadvertently erroneous bids prior to the date for opening of bids shall be allowed provided requests for correction or withdrawal shall be received at the Fiscal Services Department prior to the date and time for opening of bids and provided such requests are in writing and clearly labeled.

3.3.5. Correction or withdrawal of inadvertently erroneous bids after the opening of the bids, based on such bid mistakes, cannot be made except by authorization of the Vice President and Chief Financial Officer or their designee. Requests for such action must be made in writing accompanied by full documentation of the facts leading to the presentation of the erroneous bid. The decision to permit the correction or withdrawal of a bid or to cancel an award or contract based on an alleged bid mistake shall be in writing, with a statement of reasons.

3.3.6. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the College or fair competition will be permitted.

3.3.7. When due to lack of information it is considered impractical to prepare a purchase description or specification to support an award based on price, an invitation for bids may be issued requesting the submission of un-priced offers. This is to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

3.3.8. An invitation for bids, a request for proposals or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, under the following conditions:

3.3.8.1. When the need for items as requested on the bid, proposal or other solicitation no longer exists.

3.3.8.2. When a bid or bids are received after the specified due date and/or time.

3.3.8.3. When it is in the best interests of the College whether for budgetary reasons or other good and sufficient reasons to terminate the entire transaction.

3.3.8.4. When a bid is not responsive to the requirements of the specification.

3.3.8.5. When a bid proposes an unacceptable alternate item.

3.4. Requests for Proposals

3.4.1. The use of competitive sealed proposals for a particular procurement contract or for particular types of recurring procurement contracts shall be entered into when advantageous to the College.

3.4.2. The purchasing agent is responsible for the preparation, issuance, giving of notice, opening, registering, evaluating, and negotiating of contracts pursuant to requests for proposals. This is providing that all such proceedings shall be in conformity with the Utah Procurement Code and, in order to assure maximum practicable competition, shall be subject to the applicable time limitations and other procedures specified in Section 3.1 above relating to competitive bidding.

3.4.3. Award shall be made to the responsible offer or whose proposal is determined in writing to be the most advantageous to the College, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation.

3.5. Request for Information

3.5.1. The purpose of an RFI is to obtain information, comments, or suggestions from potential bidders or offerors before issuing an Invitation for Bid (IFB) or Request for Proposal (RFP). An RFI is not a procurement process and may not be used to:

- (a) solicit cost, pricing, or rate information;
- (b) negotiate fees;
- (c) make a purchase; or
- (d) enter into a contract.

3.6. Exceptions/Procurement Without Competition

3.6.1. Sole Source Contracts - A contract may be awarded for a supply, service or construction item without competitive bidding with the approval of the Vice President and Chief Financial Officer or their designee, when determined in writing that there is only one practicable source for the requisitioned item.

3.6.2. Emergency Procurement - When emergency conditions exist that create a threat to public health, welfare or safety, procurement without full competition may be authorized as outlined in this policy.

3.6.3. Transitional Costs - Where transitional costs are a significant consideration in selecting a procurement item and the results of a cost benefit analysis demonstrate that transitional costs are unreasonable or cost-prohibitive and that the awarding of a contract without engaging in a standard procurement process is in the best interest of the institution.

3.7. Pre-Qualification - When determined to be necessary or appropriate by the Fiscal Services Office, prospective suppliers may be prequalified for particular types of supplies, services and construction. Solicitation mailing lists of potential contractors shall include but shall not be limited to prequalified suppliers.

3.8. Contractual Terms

3.8.1. Any contractual terms permitted by law may be used for College procurement purposes, as the best interests of the College may require, except that the use of a cost-plus-a-percentage of cost contract is prohibited.

3.8.2. The Fiscal Services Department is responsible for assuring compliance with procedural requirements of the Utah Procurement Code applicable to the terms and provisions of procurement contracts including requirements that specified determinations be made as a condition precedent to the inclusion or modification of specified contractual provisions (see Utah Code Annotated SS63G-6-601) or the use of change orders (see Utah Code Annotated SS63G-6-602).

3.8.3. When the best interests of the College so require, the purchasing agent may include in College

procurement contracts any or all contract clauses, so far as relevant, that are authorized by the Utah Procurement Code (Utah Code Annotated SS63G-6-601 to 63G-6-604) with respect to adjustments in price, time of performance, scope of contract work, variations between estimated and actual quantities, site conditions, remedies and other contract provisions.

3.8.4. The Fiscal Services Department shall develop, modify and maintain a file of standard contract clauses to be used in College procurement contracts pursuant to paragraph 3.7.3 above and such clauses shall be deemed incorporated herein by reference. The Fiscal Services Department may modify any such clause for inclusion in any particular contract upon written determination that such variation will promote the interest of the College or encourage fair and open competition provided that notice of any such material variation must be given in invitation to bid or request for proposals.

4. Emergency Purchases

4.1. An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, or such other reasons as may be determined by the Vice President and Chief Financial Officer or their designee. The existence of such condition creates an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods.

4.2. Emergency procurement shall be limited to only those supplies, services or construction items necessary to meet the emergency.

4.3. The source selection method used shall be selected to help identify potential sources of supply that can be solicited in time to meet the emergency. Given this constraint, such competition as is practical shall be obtained.

4.4. The employee responsible for making an emergency procurement shall make a written determination stating the basis for an emergency procurement and for the selection of the particular supplier.

4.5. Procedures

4.5.1. Requestor - Determine that an emergency condition exists and identify those goods and/or services that will be necessary to meet the emergency. Contact the Vice President and Chief Financial Officer with the request.

4.5.2. Vice President and Chief Financial Officer- Evaluate the request for an emergency purchase order. If the request is not appropriate, the requestor will be asked to submit a purchase requisition through normal means. If the request is appropriate, the Vice President and Chief Financial Officer will then issue the requestor an approval to authorize the vendor to supply the requested goods and/or services.

4.5.3. Requestor - Authorize the vendor to supply the needed item(s). Complete a purchase requisition with the background information for the emergency, referencing also the Vice President and Chief Financial Officer's approval and date.

5. Conflict of Interest

5.1. This policy does not intend to deny any College employee the opportunities available to all other citizens of the state to acquire private economic or other interests so long as this does not interfere with full and faithful discharge of the employee's College duties.

5.2. This policy also recognizes the need to prohibit a conflict of interest which may arise if any employee of the College has a management position or a substantial monetary interest in any organization with whom the College may enter into a contract for equipment, supplies or services.

5.3. The College will not enter into a contract for supplies, equipment or services with any organization in which an employee has a management position or substantial monetary interest if there is a possibility of a conflict of interest existing or developing in the future. If cases develop in which vital supplies, equipment or services can be obtained only from an organization which falls within this prohibition, the exception to the policy may be granted by the Board of Trustees upon the recommendation of the College President.

5.4. Disclosure of Interest - If an arrangement that might result in a conflict of interest is contemplated, the

employee must make full disclosure of the arrangements to their Vice President or analogous supervisors and receive their approval before participating in the arrangement.

5.5. Remedies - If any transaction is entered into in violation of the policies and procedures set forth herein:

5.5.1. The officer or employee who violated the prohibitions specified in section 5, or who knowingly executed and submitted a false affidavit when requested under section 5.4, shall be subject to appropriate disciplinary action including possible dismissal from College employment as provided in the Utah Public Officers' and Employees' Ethics Act.

5.5.2. The College shall have the right to rescind or nullify any contract or subcontract entered into in respect to such transaction without returning any part of the consideration that may have been received by the College pursuant thereto.

5.6. Protest - Protests filed by aggrieved bidders, offerors, or potential bidders or offerors, shall be handled by the Purchasing Department in consultation with legal counsel and in accordance with state law.

6. Approval and Notes

Revised Board Approval: 05 December 2024

Revised Expanded President's Council Approval: 11 November 2024

Board Approval: 26 January 2012

President's Council Approval: 09 January 2012