

DAS/GSE



Procurement Policy within the Public Sector

Obtaining products and services for a government agency differs from procurement for a private sector business in two significant respects: vendors' rights to reasonable notice and due process, and public scrutiny.

Vendors' Rights

Vendors expect a fair opportunity to compete for government business. Vendors have the right of reasonable notice of procurement opportunities. It is rare that a needed product or service cannot be reasonably obtained from more than one vendor. Fair and open competition with an objective manner is an employee's or agencies best argument that an unbiased product or service specifications and with vendor selection accomplished in questioned procurement was handled in a reasonable manner.

Unlike the private sector, a vendor in the public sector has due process rights to question your procurement decision. Administrative remedies include informal or formal appeals by aggrieved vendors to higher level officials, legislators, boards or commissions. Legal remedies include review of your decision by an Administrative Law Judge and the Courts.

A government agency's or public employee's best protection against critical, adverse reaction to a procurement decision or delay in receiving a needed product or service is to provide all vendors a fair opportunity to compete for government business with reasonable notice of the procurement opportunity, unbiased specifications, and an objective evaluation process.

Public Scrutiny

Government employees who make procurement decisions should expect to have their decisions reviewed and questioned. All citizens have the right to view purchasing documentation. State auditors may review a purchase with respect to legality, budget compliance, suitability of purpose, and cost effectiveness. Employees should be prepared for their decisions to be the focus of a front-page newspaper story or on the TV news. Make sure your procurement decision can withstand critical scrutiny from the media, public officials, and taxpayers.

Ethical Standards

State officials and employees are responsible for protecting the safety and welfare of the public's monies. All state officials and employees should endeavor to pursue a course of conduct that does not raise suspicion among the public.

Therefore, they shall avoid acts which are improper or give the appearance of impropriety. This conduct is particularly important for state purchasing personnel and contract management personnel who are charged with the disposition of state funds. Any erosion of public trust or any shadow of impropriety is detrimental to the integrity of the purchasing process. The credibility of a purchasing program requires that a clear set of guidelines and rules be established. These guidelines are designed to prevent actual or potential vendors from influencing state employees in discharging their official duties.

State Ethics' Policy – Go to Iowa Code - 68B for the entire Ethics Policy

- **IAC 351-6.9(68B) Use of confidential information.** No official or employee shall disclose or use confidential information, including the contents of a sealed bid acquired during the course of the official's or employee's state duties, for the personal gain or benefit of any person. This rule does not apply to the release of information that is mandated by law, rule, or court order.
- **Iowa Code - 68B.22 Gifts accepted or received.**
Notwithstanding subsections 1 and 2, the following gifts may be received by public officials, public employees, candidates, or members of the immediate family of public officials, public employees, or candidates:
 - h. Plaques or items of negligible resale value which are given as recognition for the public services of the recipient.
 - i. Nonmonetary items with a value of three dollars or less that are received from any one donor during one calendar day.

Competitive procurement

IAC 11—105.3(8A) It is the policy of the state to obtain goods and services from the private sector for public purposes to achieve value for the taxpayer through a competitive selection process that is fair, open, and objective. Where feasible, common use items will be purchased cooperatively with state agencies having independent procurement authority to leverage economies of scale, add convenience, standardize common items, and increase efficiencies.

105.3(1) Informal competition. The department may use informal competition or formal competition for the purchase of any good or service or group of goods or services of general use costing less than \$50,000. The informal request for bids or proposals may be completed electronically, by telephone or fax.

105.3(2) Formal competition. The department shall use formal competition for the procurement of any good or service or group of goods or services of general use costing \$50,000 or more. Bids submitted shall be sealed until the date and time of opening. All bids received prior to the date and time set forth on the solicitation will be publicly opened and announced at the designated time and place. All responses shall be documented, evaluated, tabulated and available for public inspection.

Procurement of Services

IAC 11—106

Iowa Rules for services differ from goods in a few areas, but generally follow similar policies. All agencies are allowed to conduct their own solicitation and contracting for services, and must follow competitive bidding processes. DAS Procurement Services will assist with service contracting needs, or you can choose to conduct the solicitation on your own.

Competitive Procurement for Service Contracts

IAC 11—106

State agencies must use competitive selection to acquire services from private entities when the estimated annual value of the service contract is equal to or greater than \$5,000 or when the estimated value of the multiyear service contract in the aggregate, including renewals, is equal to or greater than \$15,000.

When the estimated annual value of the service contract is equal to or greater than \$5,000 but less than \$50,000 and the estimated value of the multiyear service contract in the aggregate, including renewals, does not exceed \$150,000, a state agency may use either a formal or informal competitive selection process.

When the estimated annual value of the service contract is equal to or greater than \$50,000 or the estimate value of the multiyear service contract in the aggregate, including renewals, exceeds \$150,000, a state agency must use a formal competitive selection process to procure the service.

IAC 11—106.11(8A) Duration of Service Contracts.

106.11(1) Each service contract signed by a state agency shall have a specific starting and ending date.

106.11(2) State agencies shall not sign self-renewing service contracts that do not have a specific ending date.

106.11(3) A service contract should be competitively selected on a regular basis so that a state agency obtains the best value for the funds spent, avoids inefficiencies, waste or duplication and may take advantage of new innovations, ideas and technology. A service contract, including all optional renewals, shall not exceed a term of six years unless the state agency obtains a waiver of this provision pursuant to rule **106.16(8A)**.

Additional information is available at the following sites:

Iowa Administrative Rules, Chapters 105, 106 and 107:

<http://das.gse.iowa.gov/procurement/adminrules/chap105.html>

<http://das.gse.iowa.gov/procurement/adminrules/chap106.html>

<http://das.gse.iowa.gov/procurement/adminrules/chap107.html>

Iowa Code, Chapter 8A

<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=billinfo&service=iowaCode&ga=82>

DAS GSE Purchasing Website: <http://das.gse.iowa.gov/procurement/index.html>

Bid Opportunities: <http://bidopportunities.iowa.gov/>

Service Contracting Guide:
<http://das.gse.iowa.gov/procurement/scg2.html>

IT Standards: <http://www.das.ite.iowa.gov/standards/index.html>

Technology Governance Board: <http://tgb.iowa.gov/>

Info on TSB Program: <https://dia.iowa.gov/tsb>

TSB 48 Hour Notice Web Site:
<http://www.iowalifechanging.com/business/tsb/tsb.htm>
To Search for a TSB: <https://dia.iowa.gov/tsb/index.php/search>

To view TSB Postings:
<http://www.iowalifechanging.com/business/tsb/tsbsearch.asp>

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