



On Behalf of Fiscal Year 2020-2021

I have received and reviewed the Central Wasatch Commission Procurement Policy as approved on December 3, 2017: Resolution 2017-03 and have no indication of changes needing to be made. (copy of Procurement Policy attached).

Name of Commissioner: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*Please complete, scan and return to [kaye.cwc.utah.gov](http://kaye.cwc.utah.gov).  
Thank you.*

## CHAPTER 7 PROCUREMENT POLICY

7.1 DEFINITIONS. Unless the context requires otherwise, the terms used in this policy shall have the following meanings:

- A. **Bidding** - Procedure used to solicit quotations on price and delivery from various prospective suppliers of specified supplies, equipment, and contractual services.
- B. **Change Order** - A signed contract amendment providing for changes in the scope of work being performed or for suspension of the work.
- C. **Competitive Bidding** - The process of soliciting price proposals from at least two responsible suppliers for products or services.
- D. **Consultant Services** - Work, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services.
- E. **Contract** - Agreement document used for the procurement of supplies, services, or construction.
- F. **Request for Proposals (RFPs)** - Invitations for suppliers or contractors to submit a proposal on a specific product or service. The contract for the product or services will be awarded based on criteria set forth in the Request for Proposal.
- G. **Supplies, materials and equipment** - Any tangible article or thing being used in the performance of the duties of the Commission staff.

7.2 ADMINISTRATION. The Executive Director shall administer the purchasing procedures outlined herein. If an Executive Director has not been appointed or otherwise is not available to administer these procedures, the Commission Chair may administer these purchasing procedures. The Executive Director shall perform the following duties and have the following powers concerning purchasing matters:

- A. Administer and maintain the purchasing procedures and other rules and regulations established by the Board of Directors.
- B. Negotiate and execute contracts for the purchase of supplies and the provision of services.
- C. To the extent possible, obtain full and open competition on all purchases consistent with these procedures.

7.3 BID PROCESSES.

#### **A. Competitive Sealed Bidding.**

1. Competitive sealed bidding is a procedure in which vendors or contractors are invited to submit formal bids to provide a designated product or to complete a designated project in accordance with provided specifications.
2. Notice of bids shall be given to all interested bidders and shall include a general description of the articles to be purchased or the work to be performed; the location where information on the bid can be obtained; the information on when bids are to be submitted including the date, time and place; and the date, time and place for opening the bids.
3. The notice inviting bids shall be published either in a newspaper of general circulation, noticed on the internet, or otherwise made public at least ten (10) days before the date of the opening of the bids.
4. The notice inviting bids shall be delivered to all known responsible prospective bidders, including those who have requested that their names be on a bidder's list.
5. Sealed bids (or electronically submitted bids) shall be submitted as designated in the notice with the statement "Bid for (item or project)" on the envelope (or in the electronic transmission).
6. Bids shall be opened (or read, in the case of electronically submitted bids) in public at the time and place stated in the public notice.
7. Bids submitted shall be evaluated on the basis of compliance with specifications and other relevant criteria.

#### **B. Requests for Proposals (RFPs).**

1. RFPs may be used when required by law or when it is determined that competitive bidding is either impractical or not advantageous to the Commission.
2. In making the decision to use an RFP, the Executive Director may consider whether there is a need for price and service negotiation; whether the relative skills or expertise of the offerors will have to be evaluated; whether cost is secondary to the characteristics of the product or service sought; whether the conditions of service, product or delivery are unable to be sufficiently described in the invitation to bid; whether the offeror is expected to propose a method or strategy for completing the project; or whether there may be a need to negotiate completion times related to the project. The RFP shall state the relative importance of price and other evaluating factors.
3. Notice for the Request for Proposal shall be given to all interested offerors and shall include a general description of the work to be performed; the RFP criteria that has



been selected and set forth in the document, the location where information on the RFP can be obtained; the information on when proposals are to be submitted including the date, time and place; and the date, time and place for opening the proposals.

4. The notice inviting proposals shall be published either in a newspaper of general circulation, noticed on the internet, or otherwise made public at least ten (10 days) before the date of the opening of the proposals.
5. The notice inviting proposals shall be delivered to all known responsible prospective offerors, including those who have requested that their names be on a bidder's list.
6. Sealed proposals (or electronically submitted proposals) shall be submitted as designated in the notice with the statement "Proposal for (project)" on the envelope (or in the electronic transmission).
7. Proposals shall be opened (or read, in the case of electronically submitted proposals) in public at the time and place stated in the public notice.
8. Proposals submitted shall be evaluated on the basis of compliance with the criteria set forth in the RFP.
9. Award shall be made to the responsible offeror whose proposal is determined to be the most advantageous to the Commission, taking into consideration price and the evaluation factors set forth in the RFP.

#### **C. Errors or Mistakes in the Bid Process.**

The Executive Director may waive minor irregularities in bid procedures if he determines, in his sole discretion, that the minor irregularities do not have a material effect on the outcome of the bid process and that the process remains fundamentally fair to the Commission and all participants. In cases where the error has a material effect on the outcome of the bid process, the Executive Director may (1) reject all bids, (2) award the bid to the lowest responsive responsible bidder (if it is determined that bidders who do not strictly comply with the bid specifications are disqualified), or (3) correct mistakes in accordance with Commission policies or in accordance with procurement rules in the State Administrative Code.

### **7.4 PURCHASING.**

- A. Purchases under \$1000 will be reviewed by the Executive Director.
- B. Purchases from \$1000 and up to \$4,999 will be reviewed by the Commission Chair and shall be based on at least three (3) verbal bids or price quotations and a recommendation from the Executive Director.

C. Purchases from \$5,000 and up to \$39,999 shall be reviewed by the Commission Chair and shall be based on at least three (3) written bids or price quotations and a recommendation from the Executive Director.

D. Purchases over \$40,000 shall go through a competitive sealed bid process, with review, selection and approval by the Commission Chair prior to the purchase.

## 7.5 EXCEPTIONS TO BIDDING REQUIREMENTS.

### A. Professional Service Contracts.

Contracts services of financial and legal advisors, architects, engineers, accountants and construction managers as defined by the laws of the state of Utah, and similar professional services, may be awarded at the discretion of the Executive Director and after approval of the Commission, based on the provider's demonstrated competence, professional qualifications, willingness and ability to meet the Commission's specific service requirements, cost of services, and other criteria deemed important.

### B. Annual Audit.

A professional service contract for the annual fiscal year audit shall be awarded upon recommendation of the Executive Director and approval of the Commission Board based on the criteria outlined in Section 5(A); provided that an auditor shall not be re-appointed for more than two or three consecutive annual fiscal year audits.

### C. Sole Source Procurements.

Sole source procurement may be used only if the Executive Director determines that a service, product, or requirement is reasonably available only from a single supplier or contractor. To use sole source procurement, the Executive Director shall place a written determination in the procurement file after conducting a good faith review of available sources, stating why no other sources are reasonably available, or why competition would not be likely to produce other acceptable offers. Sole source procurement shall not be used only to accommodate a desire for a particular proprietary item unless the Commission has a very specific need for such item which can be justified in writing. The Executive Director shall negotiate and use appropriate means to obtain the best price available for any item procured under this section.

### D. State Bid List.

The Commission may purchase supplies from the vendor who has submitted the lowest bid price for such items to the State of Utah Purchasing Office at the quoted price, without any solicitation or price quotation or invitation to bid.

### E. Exchanges.

Exchanges of supplies between the Commission and any other public agency which are not by sale or auction shall be by mutual agreement of the respective public agencies.

**F. Used Supplies.**

The Commission may acquire used supplies without following formal purchasing procedures if the Executive Director determines that there is an established market price for the used supplies and that it is beneficial for the Commission to acquire the used supplies.

**G. Purchases by Other Governmental Agencies.**

If another governmental entity has, after a competitive process, awarded a bid to purchase supplies from a particular vendor within the preceding 180 days, the quoted price may be deemed to be the lowest price available for such items and the Commission need not follow formal purchasing procedures in order to make the purchase. Similarly, the Commission need not follow formal purchasing procedures in order to make purchases through purchasing alliances or cooperatives created by governmental entities.

**H. Federal or State Money.**

In cases where federal or state money is being used, or in cases where federal or state procurement laws or procedures govern the types of goods or services being procured, the Commission shall follow the applicable federal or state procurement laws or procedures in lieu of the procedures set forth herein.

**I. Donated Funds.**

In cases where a donor or grantor has contributed funds to the Commission, the Commission may expend the funds in the manner designated by the donor or grantor in lieu of the procedures set forth herein.

**7.6 BID AWARDS.**

**A. Rejection of Bids.**

The Executive Director may reject any and all bids presented, and may re-advertise for bids as set forth herein.

**B. Tie Bids.**

If two (2) or more of the bids received are for the same total amount in quality, service, and cost, the Executive Director may negotiate with the bidders and obtain the best bid possible.



**C. Single Bids.**

The Executive Director may require a price or cost analysis if only one bid is received. The bidder may be required to furnish a detailed cost proposal, and the bid award shall be subject to subsequent negotiation.

**D. Bonds.**

Before entering into a contract, the Executive Director shall have authority to require performance, payment and other bonds deemed necessary in such amounts as deemed necessary to protect the interests of the Commission. The types and amounts of the bonds to be required shall be described in the notice inviting bids.

**E. Contracts.**

Contracts and Change Orders to Contracts for services and supplies shall be presented to the Commission Board for approval and authorization for the Commission Chair to sign the contract or change order to the contract.

**7.7 INCORPORATION OF PART 24, UTAH PROCUREMENT CODE.**

Part 24 of the Utah Procurement Code, codified as UTAH CODE ANN. 63G-6a-2401 through -2407, is hereby incorporated into this Chapter 7 by reference.