November 15, 2018
$25,000 Authority for Local Purchase
SWIFT Resources for Agency Buyers and Contract Coordinators

Help is available for SWIFT financial and procurement processes.

• Help Desk:
  o Contact by email: SWIFTHELPDESK.MMB@STATE.MN.US
  o Contact by phone: 651-201-8100, Option 2
• Reference Guides and User Guides:
  o SWIFT Training and Support Resources
  o https://mn.gov/mmb/accounting/swift/training-support/
• Training Calendar/Weekly Updates:
  o https://mn.gov/mmb/accounting/swift/general-information/swift-updates/
Talk to your supervisor to see if SWIFT procurement training fits the needs of your agency.

- SWIFT training covers topics identified by agency procurement staff.
- Half or full day, hands-on classroom training. No fees.
- To find SWIFT training, open Employee Self-Service and select the Learning folder. Then, search the Catalog using the keyword “SWIFT” to find and enroll in classes currently scheduled.
Professional/Technical Services

“… services that are intellectual in character; including consultation, analysis, evaluation, prediction, planning, programming, or recommendation, and result in the production of a report or the completion of a task. Professional or technical contracts do not include the provision of supplies or materials except by the approval of the commissioner or except as incidental to the provision of professional or technical services.”

- Minn. Stat. § 16C.08
Laws Governing Purchasing

Examples

• Minnesota Statutes Chapter 16A - Dept. of Management & Budget

• Minnesota Statutes Chapter 16B - Dept. of Administration

• Minnesota Statutes Chapter 16C - State Procurement

• Many of the laws and rules applicable to purchasing are referenced in the ALP Manual, Appendix H
Delegation of Authority for Local Purchase

Minn. Stat. Ch. 16C

Commissioner of Administration

Office of State Procurement

Your Individual Certification
(with your Department approval)

*$25,000 initially
$50,000 after probation.
Successful audit and
Agency Head approval.
*Dollar amounts are before taxes

Certified purchaser is authorized to review and approve purchasing by non-certified purchaser up to $5,000.
Why a Certification Program?

**Purpose** - To ensure that agency purchasing staff, to whom delegated authority has been granted, have a solid understanding of current Minnesota procurement law, rules, policies and procedures

- Length of original certification: 3 years
- The Office of State Procurement has developed a continuing certification program
Where do you find the solicitation requirements for each tier of procurement?
Procurement Process

Review and Discuss

POLICY 23
You are ALP certified at the $25,000 level, and your agency asks you to purchase roadway luminaires worth approximately $200,000.

There is a mandatory-use Contract Release for that commodity.

Can you make the purchase?
You are ALP certified up to $25,000, and your agency wants you to purchase goods worth around $30,000 that are not on contract.

What are your options?
Exceptions to the Solicitation Process

The purchase must be within the purchaser’s delegated authority

- Equity Select (New July 1, 2016)
- Single-source purchases
- Using a previous quote (ALP Manual, section 3.5)
- Merchandise for resale
- Surplus Services
Equity Select

• The Equity Select procurement method is a procurement method that allows you to award directly to a TG/ED/VO business a contract up to $25,000, including all extension options, for goods, services, professional/technical services, and construction.

• With Equity Select you may forgo a competitive solicitation.

• This generally applies to non-contract items only.

• Equity Select doc types: DTG (Direct TG/ED/VO) and BTG (Blanket TG/ED/VO). Tying those doc types to Equity Select contracts allows the State to report utilization of the new Equity Select procurement method. For an AGC (Agency Goods Contract) or ASC (Agency Service Contract), you may use either doc type that is appropriate (DTG or BTG).
Your agency needs to purchase roadway luminaires, worth approximately $10,000. There is a mandatory-use Contract Release for that commodity, but you also know there is a Targeted Group business that can sell those for around the same price. Can you use Equity Select for this purchase?
Single Source

An acquisition where, **after a search**, only one supplier is determined to be reasonably available for the required product, service, or construction item and the **price has been fairly and reasonably established** (see Appendix N, Policy 19 and Section 3.1)

Examples include;
- Software license renewals/additions and upgrades when available from only one source
- Documented need for brand compatibility
Single Source

Single Source Justification Form

- A Single Source Justification form is to be used for dollar amounts above $5,000.00
- ALP Certified Buyers can approve up to their ALP Authority, but not to exceed $50,000.00
- Single Source Justification forms over your ALP should be completed, signed as required on the form and sent to the Office of State Procurement (OSP) for approval and processing unless a one time exception is granted to the buyer
- Single Source Justification forms over $50,000.00 must be signed by the Agency Head
Which of the following is a valid reason for approving a single source procurement as an exception to the solicitation process?

a. Your requestor’s preference for a specific product, brand, or vendor.

b. After a search, you and your agency determined that there is only one supplier reasonably available for the required product or general service and the search is documented on a Single Source Justification Form.

c. You do not have time to process a competitive solicitation.

d. A vendor has offered you a one-time special incentive or deal.

e. All of the above.
Procurement Process

Exceptions to the Level of Authority AND the Solicitation Process

- Emergencies (see ALP Manual sections 1.6.1 and 3.4)
- Products and services from State Agencies
- Products and services from DEED Certified Providers; DHS Licensed Providers
- One time written delegations
- OSP contract items including items available from MINNCOR and Mn State Industries (DHS) (see ALP Manual sections 1.6.4 & 1.6.5)
Another State agency is willing to sell an item to your agency. Are you required to competitively bid the item?

Yes or No?
Procurement Process

Ordering from a State Contract - A Three-Step Process

1. Locate the Contract Release on the OSP website
   - Review current Contract Release for required usage, exceptions, ordering instructions and vendor contact information
2. Enter Contract Release Order (CRO) or Blanket Purchase from Contract (BPC) in SWIFT
3. Dispatch purchase order to vendor
Procurement Process

Using GSA, NASPO ValuePoint or other Cooperative Contracts

• Purchasers may not use contracts established by another entity or cooperative unless adopted as a State contract with a State contract number assigned

• Check the OSP website or contact the AMS/Buyer to confirm ability to use another entity’s or cooperative’s contracts
Exceptions to Level of Authority, but Must Be Bid

Prior to the bid process the Buyer can request a one time exception to exceed their ALP Purchasing Authority

- Buyer must request the exception in writing
- Event must be reviewed and approved in writing by OSP AMS prior to posting
- Responses and award recommendation must be reviewed and approved in writing by OSP AMS prior to award

After the bid and prior to the award the Buyer can request a one time exception if the lowest bid is over their ALP Purchasing Authority

- Buyer must request the exception in writing
- Event and award recommendation must be reviewed and approved in writing by OSP AMS prior to award

Document the written request and approval in the purchasing file
State Property Accountability
State agencies are required to comply with Minnesota Statute 16B.04, subd. 2(4) and 16B.24, subd. 4 and track state property for stewardship and financial reporting purposes. Disposal of surplus state property must be approved by Surplus Services.

Surplus Services has developed an effective property management program detailed in the Property Management Policy and User’s Guide. This guide is available as Policy 8 in Appendix N of the ALP Manual.

Surplus Property
The Surplus Services program provides a common forum for state agencies for reusing surplus state property. If you don’t need to purchase new check out the Surplus Exchange or visit the Surplus Property Distribution Center in Arden Hills.

Surplus property may be used in some circumstances as a trade in on new purchases as long as the property disposition procedures are followed and all necessary paperwork has been completed and approved.

Visit the Surplus Services website at: http://mn.gov/admin/government/surplus-property/
Fixed Assets/Surplus Services

How is State Surplus Property Sold?

Live auctions
- Approximately 12 auctions per year at Arden Hills facility and/or outstate Minnesota

On-line auctions
- MinnBid State run auction website

Negotiated Sales
- With other governmental units
- Surplus Exchange

Agencies may visit our facility
- Distribution Center open daily
Technology Purchases

IT Goods and General Services

• ALP buyers are not authorized to process any IT transactions without written confirmation and approval of an exception from MN.IT Services

• See Appendix N – Policy 24, MN.IT Services Authority for IT Purchases and Contracts

• Technology specific insurance may be required depending on the purchase

Additional information on MN.IT can be found at: http://mn.gov/mnit
Technology Purchases

IT Goods and General Services

Statute requires **MN.IT Services** to review and approve information technology (IT) purchases and professional services. **MN.IT processes:**

- Hardware
- Software
- Telecommunications
- Network
- IT Services
- IT Professional / Technical Contracts
- IT Accessibility, Security & Insurance provisions
Technology Purchases

IT Items processed by Agencies

• Mobile Devices, Cell Phones, usage plans
• Online Subscriptions (news, magazines, etc.)
• Multifunction copiers, printers and supplies
• Small, personal use data storage devices
• GPS Units, Cameras, FCC Registered Radios
• Employee ID and building access control systems
Service Contracts

**Typical Examples of General Services (non-P/T)**

- Armored car
- Bus Driver
- Conferences
- Courier
- Elevator maintenance
- Equipment maintenance
- Fertilizer application
- Garment cleaning
- Janitorial service
- Laundry service
- Lawn care

- Linen
- Mat rental
- Pest control
- Pigeon control
- Rubbish disposal
- Roller towel
- Security
- Sign Language/Interpretive
- Snow removal
- Truck & Equipment rental with operator
- Window washing
- Written translation
Service Contracts

- **Service Certification Form** is required for all service contracts greater than $5,000 cumulative
  
  - Buyer may request blanket Service Certification approval for a specific fiscal year from OSP Acquisitions Manager

- Length limit to up to two years unless prior written approval from OSP Acquisition Manager. Up to level of authority over the life of the contract

- Funds must be encumbered prior to award. If services cross fiscal years funds must be encumbered as soon as available
Insurance

• Insurance is required on all service and construction contracts unless written approval is granted by the OSP or Risk Management or the service is exempted by the ALP Manual (see ALP Manual Section 2.40)

• Agency can work with the OSP Acquisition Manager and/or Risk Management Division to determine if the insurance requirement can be waived

• Written approval must be included in the purchasing file
Insurance

What’s Required:

✓ The State is named as an "additional insured" for General Liability Insurance

✓ Specify the type of coverage according to risk in the General or Special Terms and Conditions. (Attach a copy of General Insurance Requirements)

✓ Obtain copies of the current endorsement and/or certificates of insurance from the contractor or its insurer before services begin or procurement of the product
Insurance

Required Minimum Liability Coverage

For insurance questions, contact the Department of Administration, Risk Management:

- Marlys Williamson  
  ❖ 651.201.2591
- Todd Christenson  
  ❖ 651.201.3005
- Carol Morgan  
  ❖ 651.201.2593

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<tr>
<td>Professional Liability</td>
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</tr>
<tr>
<td>Privacy Liability</td>
<td>$2 Million</td>
<td>$2 Million</td>
</tr>
</tbody>
</table>

Workers’ Compensation Coverage (A) has its own formula (unlimited)

Employers’ Coverage (B)

- $100,000 bodily injury per disease per employee
- $500,000 bodily injury per disease aggregate
- $100,000 bodily injury per accident
Examples Of Construction Trades Are:

- Painting
- Electrical
- Mechanical
- Cement Work
- Carpentry
- Plumbing
- Paving
- Landscaping
- Fencing
- Roofing

Construction quotes and solicitations must be processed according to the ALP manual and Appendix Q.
Construction

- Construction quotes and solicitation are subject to Purchasing Policy 31: ‘Prevailing Wage Payroll Requirements’ (MN Stat. 177.43) and IC-134 ‘Withholding Affidavit for Contractors’ as required by the Dept. of Revenue
- The Agency Buyer must stay within their delegated ALP authority limit
- Contact and involve Real Estate and Construction Services (RECS) and the OSP when necessary
- Insurance is required on all construction projects
Conferences

• Conferences must be purchased according to the ALP manual and Policy 33

• Policy 33 applies to:
  ➢ conferences,
  ➢ meetings,
  ➢ training and similar events

AND

To related purchases including but not limited to
  ➢ facilities,
  ➢ lodging,
  ➢ meeting rooms,
  ➢ food and beverages and audio-visual equipment rental
Conferences

Cost Considerations

• If the conference is scheduled on a recurring basis within a 12-month period at the same location, then the cost of all occurrences of the conferences must be considered as the total cost and solicited as a single purchase.

• Non-state Event Planners are not included in the total costs. Event Planners fall under the policies and procedures for obtaining a professional/technical contract.

• A Service Certification Form is required for all conferences greater than $5,000.
Special Terms & Conditions

Review and Discuss

WEBSITE DEMO
Procurement Process

Questions to ask yourself before you begin:

- Do I need to purchase new?
- Is the item/service on a State contract?
- Is this a MNIT Services purchase. If yes, enter a CPRS
  - CPRS@state.mn.us
- Is it available through Surplus Services, MINNCOR Industries, MN State Industries, DEED Certified Providers, or DHS Licensed Providers?
A good specification should do at least four things:

1. Identify needed requirements including environmental level requirements (e.g., recycled, content level, energy rating, etc.)
2. Be measurable and verifiable
3. Provides for an equitable evaluation
4. Allow for competitive responses (consider your vendor pool)
Procurement Process

Specification Resources

- End users, requesters and/or SME’s (Subject Matter Expert)
- Office of State Procurement
- Other governmental entities
- Internet
- Standards committees
  (Buy-IT-Computers, Copiers, etc.)
Write a Specification
Elements of Purchasing

Considerations

• Best Value - proper price, quality, time, place, specifications and quantity
• Environmentally responsible
• Understand the market
• Addressing risk (insurance)
• Unique considerations
• Freight
Procurement Process

Examples of Solicitation Elements (Things to Consider)

- Ship to (special shipping/delivery instructions)
- Bill to
- Company representative
- Due date, time, return address, and fax number
- Indicate if rebid
- Payment terms (minimum payment terms: Net 30)

- Required delivery date
- Attachments
- Boiler plate terms and conditions
- Type of award (all-or-none; by item, group or total; etc.)
- Quantity, unit description
- Brand name/model numbers acceptable if not limiting competition
- "Or Approved Equal" (If no substitution is allowed, include in solicitation file the fully executed “no substitution” form)

- Installation costs
- Maintenance costs
- Special conditions (trade-in, site visit, etc.)
- Insurance requirements
- Servicing requirements
- Warranty requirements
- Training requirements
- Delivery terms, costs (e.g., FOB Destination Prepaid & Allowed)
Considerations

1. When does merchandise title pass from Seller to Buyer?
   - **FOB Origin**: Buyer assumes title and risk at point of origin when the carrier signs the bill of lading
   - **FOB Destination**: Seller retains title and risk until the goods are delivered to destination

2. Who pays the freight charge?
   - **Freight Prepaid & Added**: Freight paid by seller and added to invoice
   - **Freight Prepaid & Allowed**: Freight paid by seller and included in the cost of the merchandise
Procurement Process

No Substitute Justification
The only item that can perform a function and satisfy a need and is available from more than one vendor (see ALP Manual Section 2.15.10.3)

• A completed and approved No Substitute Justification form is required on dollar amounts over $5,000.00 (see ALP Manual Section 2.15.10.2 And Appendix D, Forms)
• ALP Certified Buyers can sign and approve up to their ALP Authority, but not to exceed $50,000.00
• No Substitute Justification forms over your ALP should be completed, signed buy the requester and the ALP Certified buyer and sent to the OSP for approval and processing instructions
• No Substitute Justification forms over $50,000.00 must be signed by the Agency Head or delegate
Procurement Process

Escalation Language

• Service contracts that are longer than one year

• The following escalation language can be added to the Special Terms and Conditions only after prior written approval from the OSP:

Prices shall be firm for the first year of the Contract. After the first year, escalation may be allowed based upon a demonstrable industry wide or regional increase in the vendor’s cost. Documentary evidence must be submitted prior to any proposed escalation of pricing. The amount of any increase is not to exceed 10 percent for any commodity/service over the life of the Contract.

The exact amount of escalation, if any, will be governed by the validity of the documentary evidence submitted. No price increase will be effective until approved by the State’s authorized agent and set forth in a fully executed amendment to the Contract.
Procurement Process

**SWIFT Default Language**

- General Terms and Conditions. General Terms and Conditions should not be changed without contacting the OSP.
- Bid Factors. Some bid factors default and may be deleted if not applicable. The Buyer may add additional bid factors as desired.

**SWIFT Attachments**

- Special Terms and Conditions
- Price Schedule (if applicable)
- Insurance
- Technical Specifications
Receiving Responses

A Guide

✓ On time
✓ Meet All Laws & Rules
✓ Prompt Pay Discount Terms (e.g. 1% in 30)
✓ Informalities or Minor Deficiencies
✓ Certificate of Insurance

✓ Ensure Responses Meet All Terms, Conditions & Specifications
✓ Tied Responses
✓ Signed (for paper responses)
✓ Freight Evaluation
✓ Apply Preferences
A response containing an alteration or erasure of any price contained in the response that is used in determining the successful response may be rejected, unless the alteration or erasure is crossed out and the correction printed adjacent to the alteration and initialed by the person signing the response. (Contact the OSP Acquisition Manager to determine if it should be rejected.)
Receiving Responses

Reasons to Withdraw Responses

• Vendors may withdraw their response anytime prior to response due date and time

• After the opening, vendors may request in writing to withdraw their response. The request must be made within a reasonable time after the opening and prior to the State’s detrimental reliance on the response

• If you notice an obvious error in price, contact the vendor to verify it. Although the vendor cannot change the price, s/he may honor the price or, in writing, request to withdraw the bid. (Contact the OSP Acquisition Manager for assistance.)
Prior to the solicitation opening date and time a vendor calls and asks you to change its bid price(s). You should:

a) Change the price(s) as the vendor asked.

b) Advise the vendor to submit a new written bid and a request in writing to withdraw the first bid.

c) Advise the vendor that s/he may not make any changes and must either withdraw their bid or stay with the price(s) submitted.
Receiving Responses

Some reasons to reject a response

- Response does not meet delivery requirements
- Exception to solicitation terms and conditions
- Payment terms do not meet solicitation requirements
- Response received after required due date and time
- Response does not meet the terms and conditions detailed in the solicitation
- Response does not meet specifications detailed in the solicitation

Written Rejection notification must be sent to Vendor in writing (i.e. e-mail, SWIFT notification, etc.)
Prompt Payment Discount Terms
STATE STATUTE REQUIRES PAYMENT WITHIN 30 DAYS FOLLOWING RECEIPT OF AN UNDISPUTED INVOICE.

<table>
<thead>
<tr>
<th>Discount</th>
<th>Payment Terms</th>
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<tr>
<td>1% 30, Net 31</td>
<td>Discount of 1% may be deducted from the invoice if paid on or before 30 days from the invoice date. Net due on day 31. (Must be considered when evaluating bids.)</td>
</tr>
<tr>
<td>2% 30, Net 31</td>
<td>Discount of 2% may be deducted from the invoice if paid on or before 30 days from the invoice date. Net due on day 31. (Must be considered when evaluating bids.)</td>
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DO NOT INCLUDE THE DISCOUNT IN THE EVALUATION IF THE DISCOUNT OFFERED IS LESS THAN 30 DAYS. THE STATE WILL APPLY THE DISCOUNT TO THE INVOICE AT THE TIME OF PAYMENT.

<table>
<thead>
<tr>
<th>Discount</th>
<th>Payment Terms</th>
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<td>Discount of 1% may be deducted from the invoice if paid on or before 10 days of invoice date. Net due on day 30. (Must not be considered when evaluating bids.)</td>
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<td>2% 15, Net 30</td>
<td>Discount of 2% may be deducted from the invoice if paid on or before 15 days of invoice date. Net due by day 30. (Must not be considered when evaluating bids.)</td>
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Evaluation

Certified TG/ED/VO Vendors

1. Targeted Groups (TG)
   (A) Asian American
   (B) African American
   (H) Hispanic American
   (I) American Indian
   (D) Disabled
   (W) Caucasian Women

2. Economically Disadvantaged (ED)
   (L) Labor Surplus Area
   (M) Low Median Income County
   (R) Rehabilitation Facility/Work Activity

3. Veteran-Owned (VO)

Refer to the OSP website for additional information and directory
A Preference - Apply only ONE preference
(No stacking preferences. Ref.: Section 2.24)

Targeted Group (TG) / Economically Disadvantage (ED):

- Targeted Group (TG) = 6%
- Economically Disadvantaged (ED) = 6%
  - This Includes Construction at 6%, Eff. July 1, 2016
- Veteran-Owned (VO) = 6%
- DEED/DHS Providers = 6%
- Recycled content up to 10%
  - Ref.: Section 1.10.3
- Reciprocal (In-State) preference
  - Ref.: App G
Evaluation

Steps for Applying One Preference

1. A discount for payment terms that begins at 30 days or more is subtracted from the total amount of the response before a preference is applied. (Ref.: Appendix J)
2. Only one preference can be applied
3. Apply only the highest value preference
4. Determine the percent value
5. Multiply the percent value to each non TG/ED/VO subtotal
6. Add that sum to the non TG/ED/VO sub total for a Bid Tab Total.
### Vendor Information

<table>
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<tr>
<th>Company Name/Contact Person</th>
<th>Telephone Number</th>
<th>Terms of Payment</th>
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<th>Delivery Offered</th>
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<tr>
<td>A (ED) Akin Company / Joe</td>
<td>612-555-4939</td>
<td>Net 30</td>
<td>6/14/16</td>
<td>10 Days ARO</td>
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<tr>
<td>B (ED) Harolds Supply / Harold</td>
<td>612-555-8536</td>
<td>2%-30, Net 31</td>
<td>6/20/16</td>
<td>45 Days ARO</td>
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<tr>
<td>C (ED) Tricity / Karen</td>
<td>612-555-7363</td>
<td>Net 30</td>
<td>6/26/16</td>
<td>2 Weeks</td>
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### Bid Comparison

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<td>6220.00</td>
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### Payment Terms

- Subtotal: 6220.00
- Total Price: 6206.30

### Preference

- **T**G
- **X** ED
- __V__et
- __E__nvironmental

### Documentation

- Vendor to be awarded bid: C – Tricity
- Bidder A – ED Vendor
- Bidder B – Rejected/Late Delivery
- Bidder C – 6% Preference added to low non-TG/ED/VO Vendor

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*Rev: July 2016*
Evaluation

Bid Tab Walk-through
Using the Version in your Packet

After the walk-through, there are three bid tab exercises, each with a different challenge.
Tied Responses

1. Information about tied responses over $2,500 must be submitted to the Attorney General’s Office for possible collusion.

2. Whenever a tie involves a Minnesota firm and an out-of-state firm, the award shall always be given to the Minnesota firm.

3. Tied responses from Minnesota firms shall be resolved by an appropriate tie-breaking technique:
   - Less than $2,500.00 – draw lots or flip a coin
   - Greater than $2,500.00 – request a new price in writing from both vendors that will be used to break the tie.
A Minnesota company and a non-Minnesota company submit the same delivered price for a commodity -- $2,486.00. How do you break the tie?

a. Flip a coin and document the outcome.
b. Award to the Minnesota company.
c. Re-issue the solicitation.
d. Award to the company you prefer.
Evaluation

Some Reasons To Rebid

✓ All bids received were over the estimated dollar amount
✓ None of the bids met specifications
✓ No bids received
✓ Information was provided to one vendor, but not all
✓ Alternate bid was received that is much lower in price, doesn’t meet specs, but would be acceptable — rebid & save $
Which of the following is NOT a valid reason for rebidding?

a. The requirements need to be changed.

b. All of the bids received were over the estimated dollar amount.

c. The low bid is not the desired vendor.

d. None of the bids meet the specifications.
To split an award between vendors, you must have stated such in the award statement of the solicitation.

Split awards only if a single or combination of line items saves more than $150.00.

There may be other appropriate reasons to split the award.

Seek advice from the OSP if you need assistance.
State Funds Must be Encumbered

- Agencies are required to encumber State funds prior to issuing a contract award or purchase order
  - Follow all 16A & 16C encumbrance requirements

- Some services may cross Fiscal Years (FYs) so funds must be encumbered as soon as they are available

- Follow SWIFT procedures (DPO, CRO, POR)

- Contract Award, duly executed, and then CRO
Award

Obtain a Certificate of Insurance

✓ A certificate of insurance (if applicable) in the amounts called for in the solicitation is required now

✓ State of Minnesota must be listed as Additional Insured

✓ See Appendix C
The purchasing card is an alternate means of payment. You must not circumvent the use of State contracts, purchasing laws, rules, policies, or procedures.

Use of the purchasing card must comply with Purchasing Card Use Policy 1b and your agency’s policy.

Purchases are restricted to a $20,000 monthly and $5,000 transaction limit, although agencies may set lower limits.

Transactions with some types of vendors are blocked through the use of Merchant Category Codes.
Your agency’s Purchasing Card Coordinator can assist you with completing legitimate transactions that get blocked by Merchant Category Codes or with seeking policy exceptions.

All reporting and documentation required by Policy 1b must be filed in the purchasing file for that purchase.

Transactions are subject to review and audits.
• Award documents can be a PO or contract

• Contracts are used for multi fiscal year services

• POs are used for one time buys
Preparing A Purchase Order

- The description of the item(s) purchased on a purchase order (DPO, CRO, POR, BPA, BPC) should be sufficiently detailed.

- Using multiple small quantity DPOs or blankets to avoid competitive bidding or ALP authority dollar limits is a violation.

- See ALP Manual 2.35.
Canceling A Purchase Order/Contract

A purchase order or contract may be canceled under any one of the following conditions, including but not limited to:

• Contact the OSP Acquisitions Manager prior to canceling any purchase order/contract
• The vendor and State agree to the cancellation
• The contractor has obtained the contract by fraud, collusion, conspiracy, or in conflict with any statutory or constitutional provision
• Failure to deliver goods
• Funding is canceled (use funding out clause in terms)
Award Documents

Paper Copy Contract for Multi FY Period

1. Enter a Contract into SWIFT
2. Using the SWIFT contract number complete the Award Letter available on the OSP website and request the Insurance Certificate (if applicable)
3. Enter a CRO document in SWIFT to encumber the money, but don’t send it to the vendor
4. Route Award Letter to the Vendor for signature after funds are encumbered
5. Send CRO document to Vendor after the Award Letter is signed by all parties
Contract Execution

The contract must be signed by:

- First; Vendor’s authorized representative
- Second; Head of the agency or a delegate who is a party to the contract
- Third; Commissioner of Administration or delegate (certified buyer up to level of authority)
Documentation

Bid documents are public information unless otherwise protected by law (e.g. MN Data Practices Act), once an award has been made.

Every purchase must have documentation to support the process that led to the award.
This is a partial list of what must be included in your purchasing file (see ALP manual 2.15 for additional information)

- Copy of the original bid documents including addenda, required forms and all attachments
- Advertisement/solicitation announcement printed off the OSP website (as required)
- List of company names and contact information of who was sent a solicitation
- Documentation of written and verbal quotes received including “no bids”

- Tabulation of all responses including payment terms and preferences that apply to each vendor
- Signed purchase order or proof of encumbrance prior to contract signatures
- All correspondence and other critical documentation including any special authority granted by the OSP
ALP Audits

ALP Certified Buyers may be audited any time by the OSP. Audits will be performed using information from SWIFT and the buyers purchasing files.

This is a partial list of what the auditor looks for:

- Documentation requirements as stated in the ALP Manual 2.15
- Adherence to ALP dollar limits, policies and procedures
- Bid, encumbrance, order and invoice in proper date order
- Proper use of General Terms and Conditions
- Proper use of Special Terms and Conditions
- Use of TG/ED/VO vendors
- Non contract items purchased on contract orders (CRO)
- Required forms completed
- Purchase order matches bid information/specs
- Correct insurance certificate if required
- All purchasing requirements and procedures have been followed when using the purchasing card or field purchase order (FPO). OSP Policies 1b and 2
- Property disposition form if required to trade in state property

DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT
Vendor Performance

Expectations and Requirements

- ✔ Delivery Instructions
- ✔ Delivery Conformance
- ✔ Damaged Shipments
- ✔ Nonconformance
- ✔ Inspection Prior to Shipment
- ✔ Removal of Rejected Merchandise
- ✔ Replacement of Rejected Merchandise
- ✔ Testing
Vendor Performance

Failure to Perform

A Vendor can be held in default for failure to conform to the solicitation specifications or to standard commercial practices.

Examples:

- Failure to deliver on time
- Deliveries do not conform to required samples or specifications
- Deliveries that are repeatedly rejected
- Misbranding or materially misrepresenting goods
- Delivering other than new products

See Appendix E for default clause.
Vendor Performance

1. Your Role as a Buyer is to ensure the State receives the products and/or services per the contract terms.
2. Communicate directly with the vendor
3. Document and file everything
4. USE the Vendor Performance Report (even if the problem is solved by agency)
5. If you’re unsuccessful in resolving the issue with the Vendor, contact the Office of State Procurement
Vendor Performance

Why is a Vendor Performance Report so important?

- Written record to support suspension or debarment
- Agencies can document problems
- Facilitates communications
- Opportunity to recognize excellent performance by vendors
Contract Feedback Form

Agency Feedback and input on . . .

✓ New contracts
✓ Old contracts
✓ Contracts that can be extended
✓ Problem contracts
✓ Other reasons (this is an agency’s way of letting the OSP know the changes you would like to see)
OSP Helpline - 651.296.2600

- Quick Access
- General Information
- Small Business Program Information

- Bid Request/Result Line
- Requisition Status
- OSP Switchboard

Website Demo: http://www.mmd.admin.state.mn.us
Your agency intends to enter into a general service agreement for a two-year term. There is no state contract for this. The annual value of the agreement does not exceed your ALP delegated authority, but the value of the two-year agreement does. Are you authorized to proceed with issuing the agreement?

Yes or No?
Ethics
Your Role as a Buyer

In your role as a buyer, you are an agent, acting on behalf of state government.

Differences:

• Private Sector Purchasing
  buyers can do what is not prohibited by law

• Public Sector Purchasing
  buyers can do only what is provided by law

EVERYTHING THE STATE BUYS MUST BE PURCHASED ACCORDING TO THE ALP MANUAL.
Minn. Stat. § 609.43
Misconduct of public officer or employee

- A public officer or employee who does any of the following for which no other sentence is specifically provided by law, may be sentenced to imprisonment of not more than one year or to payment of a fine of not more than $3,000, or both:

- In the capacity of such officer or employee, does an act knowing it is in excess of lawful authority or knowing it is forbidden by law to be done in that capacity.

REF: ALP Manual Section 1.11
2.1 Overview of Policy for Purchases

2.1.1 Purchases must be made in accordance with all state of Minnesota (State) laws, including but not limited to Minnesota Statutes Chapters 16A, 16B, and 16C, and all rules, policies and procedures adopted by the commissioner of Administration. See Appendix H, Laws & Rules Governing State Purchasing and Contracting. Agency ALP certified buyers and purchasing card coordinators are responsible for ensuring agency purchasing is in compliance with all procurement laws, rules, policies, and procedures.

If an agency ALP certified buyer or purchasing card coordinator is in a situation where he/she has been asked to make a purchase in violation of procurement laws, rules, policies, and procedures, the individual must contact the OSP Acquisitions Manager for advice on how to proceed prior to making the purchase.

See ALP Manual Section 1.11, Conflict of Interest/ Ethics in Purchasing and Section 1.12, Misconduct of Public Officer or Employee and Reporting.
Who is Subject to OSP Purchasing Policy 4?

Any activity, influence or input related directly or indirectly to any part of the acquisition process is covered by these standards and requirements, including but not limited to:

- Developing specifications or making recommendations
- Evaluating bids or proposals
- Selecting a final vendor
- Drafting the contract language
- Awarding or recommending an award for a contract
- Evaluating performance under the contract
- Authorizing payments
Conflict of Interest

• A conflict of interest is any situation in which a State employee’s judgment, actions or non-action may, might or could be interpreted to be influenced by something that would benefit the State employee

• The conflict exists either directly when the employee gains something, or indirectly when a friend, relative or acquaintance of the employee receives something

• Review OSP Policy #4 Code of Ethics for additional requirements and examples of conflicts of interest
Code of Ethics Policy

Conflict of Interest

Actual Conflict of Interest...
occurs when a decision or action would be compromised without taking action to eliminate the conflict

Potential Conflict of Interest...
is a situation in which an employee has outside, private influence and/or interests that could influence public decisions, actions or responsibilities

Appearance of Conflict of Interest...
is any situation in which a reasonable person would conclude that an employee has an outside influence and/or interest that conflicts with their public duties

Reference Appendix N – Policy
Acceptance of Gifts & Favors

State Employees, in the course of or in relation to their official duties shall not directly or indirectly receive or agree to receive any payment of expense, compensation, gift, reward, gratuity, favor, service or promise of future employment or benefit from any source, except the State, for any activity related to the duties of the employee unless otherwise provided by law.
Policy and Statutory Guidance

☑ Additional information on ethics in purchasing can be found in the ALP manual sections 1.11, 1.12, and Appendix N -Purchasing Policy 4 Code of Ethics

☑ Agency purchasing staff must comply with all statutes that cover Ethical Practices and Conflict of Interest, including but not limited to Minn. Stat. §§ 15.43, 16C.04, 43A.38

☑ Contact the OSP Acquisitions Manager with any questions
Minnesota Government
Data Practices Act

• Minnesota Statutes, Chapter 13
  ➢ Balances personal privacy, government transparency, and the need for government to do its job
  ➢ Presumes government data are public
  ➢ Specifically classifies/protects data that are not public

• All recorded information created or maintained by the government are “government data” regardless of format:
  ➢ Job-related emails
  ➢ Contracts with vendors
  ➢ Spreadsheets
  ➢ CD-roms
  ➢ Invoices
  ➢ Voicemail recordings
## Classification of Government Data

<table>
<thead>
<tr>
<th>Classification</th>
<th>Meaning of Classification</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public</td>
<td>Available to anyone for any reason</td>
<td>- Government employee names</td>
</tr>
<tr>
<td>Private/Nonpublic</td>
<td>Available only to:</td>
<td>- Trade Secret Information</td>
</tr>
<tr>
<td></td>
<td>• the data subject;</td>
<td>- Security information</td>
</tr>
<tr>
<td></td>
<td>• employees who need the data to do their jobs;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• individuals authorized by law.</td>
<td></td>
</tr>
<tr>
<td>Confidential/Protected nonpublic</td>
<td>Available only to:</td>
<td>- Data collected as part of a legal investigation</td>
</tr>
<tr>
<td></td>
<td>• employees who need the data to do their jobs;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• individuals authorized by law.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Not available to data subject</strong></td>
<td></td>
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</tbody>
</table>
If you receive a request for Government Data

- Remember that, by law, some government data are **not** public and should not be disclosed
  - If you have questions, ask your supervisor, or
  - Refer the request to your agency’s Data Practices Compliance Official (DPCO)

- For data practices technical assistance, contact the Data Practices Office at:
  
  [mn.gov/admin/data-practices/data/](http://mn.gov/admin/data-practices/data/)
  
  (651) 296-6733
Additional Training Available

The OSP offers the following classes

✓ Service Contracts
✓ Conferences
✓ Construction

For Managers/Supervisors
  ✓ Purchasing Overview
  ✓ Purchasing Authorization Overview

Go To:  http://www.mmd.admin.state.mn.us/training.htm
QUESTION TIME