DEPARTMENT OF ADMINISTRATION

Office of State Procurement

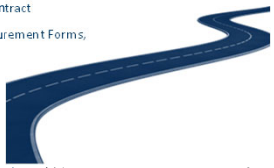
Authority for Local Purchase I

Rev. 4/25/2025

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Road Map

Session	Topics
Prework	Review Purchasing Policy 23 and submit at least one question
Session 1	Housekeeping, Statutes, Contract Release, Purchasing Policy 23
Session 2	Specification Writing and Reviewing Responses
Session 3	Evaluating Responses and Awarding a Contract
Session 4	Contracting Specialties, Exceptions, Procurement Forms, Ethics, Government Data Practices, and Wrap-up



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Statutes and Authority

Purpose: Statutes

State statutes define the parameters of how and what we buy as state agencies.

- Minnesota Statutes Chapter 16A - Dept. of Management & Budget
- Minnesota Statutes Chapter 16B - Dept. of Administration
- Minnesota Statutes Chapter 16C - State Procurement

Why have a Certification Program?

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. The length of your certification is 3 years. The Office of State Procurement has a process to renew your certification.

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Statutes and Authority

Office of State Procurement. We come in peace!

Website: https://mn.gov/admin/osp/

Mission: Facilitate the strategic acquisition of goods and services for the State of Minnesota and other governmental entities. The division aspires to meet its customers' reasonable expectations while upholding the highest legal and ethical standards of responsible business and procurement practices.



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Procurement Options

Purchasing Decision Tree



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Procurement Options
OSP Contract

Example: Contract Release X-123(5)

Office of State Procurement master contracts allow for a simplified purchasing process on future orders because terms, conditions, and pricing have already been established. Benefits of Master Agreements include: Simplified purchasing process – agreements are pre-established with terms, conditions and pricing. Office of State Procurement contracts are split into four sections Commodities, Services, IT related items and Construction.



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Procurement Options
OSP Contracts

Ordering from a State Contract

1. Locate the Contract Release on the OSP website. Review current Contract Release for required usage, exceptions, ordering instructions and contractor contact information
2. Request a quote from the contractor and review for compliance with Contract Release.
3. Choose an Approved Doc Type. Contract Release Order (CRO) or Blanket Purchase from Contract (BPC) in SWIFT. PO must only contain contract items and provide sufficient detail on the PO line description of desired item with applicable item number. Make sure the PO includes the Contract Number.
4. Dispatch purchase order to contractor.

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ALP Authority
Purchasing

All purchasing must comply with all laws, rules, policies, procedures, and the requirements in the Department of Administration Office of State Procurement (OSP) Authority for Local Purchase (ALP) Manual.

- For exceptions to ALP delegated authority, see ALP Manual Section 1.6.
- For exceptions to the solicitation process, see ALP Manual Section 3.

Goods and general services that are on State contracts must be purchased from the Contractor, unless specifically stated otherwise in the contract release or a written exception is granted by OSP.

State agencies must utilize the most current OSP Approved Forms (see Acquisitions/Purchasing Forms).

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ALP Authority
Equity Select

The Equity Select procurement method is an exception to the solicitation process.

Equity Select allows you to award directly to a certified and eligible TG/ED/VO business a contract up to $100,000, including all extension options, for goods, services, professional/technical services, and construction.

- Equity select generally applies to non-contract items only.
- Using Equity Select allows you to forgo a competitive solicitation (direct selection of contractor).
- There is a contract template available on OSP's website for you to use.

Contract doc types: For an AGC (Agency Goods Contract) or ASC (Agency Service Contract), you may use either doc type that is appropriate (DTG or BTG).

PO 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.

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ALP Authority
Purchasing Policy 23

Purchasing Policy 23 is OSP's policy for how to procure goods and general services. The requirements are determined by the estimated value of the procurement. The Policy outlines three tiers:

- Tier 1 is for procurements of $0 to $5,000
- Tier 2 is for procurements of $5,000.01 to $10,000
- Tier 3 is for procurements of $10,000.01 to $50,000
- Procurement greater than $50,000

Note: PP23 does not apply to construction solicitations. The tier thresholds are the same, but for construction solicitations, see Appendix Q Instructions for Construction Solicitations that is available on OSP's website. The RFB templates located in the secure area of OSP's website include construction solicitation terms.

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ALP Authority
Purchasing Policy 23 – Tier 1

WHO: A purchase may be made by an ALP certified buyer OR a State agency non-certified buyer (if monitored by an ALP certified buyer or via an agency's OSP approved purchasing card policy).

HOW: A minimum of one firm price is required. OSP encourages you to get more than one firm price whenever practical so the State benefits from competitive pricing. A TG/ED/VO vendor must be utilized if one is reasonably available.

A firm price may be obtained via telephone, facsimile, in writing, email, website, or as a transaction in a retail store. The buyer or end user must obtain a firm price prior to issuing an order. Document the firm price(s) and other pertinent information in the procurement file.

OTHER CONSIDERATIONS:
- For a service, a valid Certificate of Insurance from the awarded contractor must be obtained prior to any work being performed (unless an exception has been granted pursuant to section 2.40.3).
- For IT, any software licensing or maintenance agreements must be reviewed the Office of the Attorney General or by OSP before the State agency may issue the award (see Purchasing Policy 17). The fully agreement must be retained in the procurement file. MNIT consolidated agencies should review Purchasing Policy 24.

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ALP Authority
Purchasing Policy 23 – Tier 2

WHO: Buyers must be ALP certified and stay within their delegated ALP authority limit within this Tier.

HOW: Send a solicitation to or receive a firm price from a minimum of two vendors. You must include at least one TG/ED/VO vendor if one is reasonably available. Firm price(s) may be accepted via telephone, facsimile, email, website, or in writing. Document the received date and time of each response and all firm prices and other pertinent information in the procurement file.

The low bid firm price must be confirmed in writing by the contractor. Confirmation must be signed or emailed by the contractor. Use the "Request for Bid (up to $10,000)" document for confirmation.

OTHER CONSIDERATIONS:
- For a service:
  - A Service Certification Form must be completed, signed by the appropriate individuals, and retained in the purchasing file.
  - A valid Certificate of Insurance from the awarded contractor must be obtained prior to any work being performed (unless an exception has been granted pursuant to section 2.40.3).
- For IT, same as Tier 1 instructions.

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ALP Authority
Purchasing Policy 23 – Tier 3

WHO: Buyers must be ALP certified and stay within their delegated ALP authority limit within this Tier.

HOW: The solicitation must be processed in SWIFT using the Strategic Sourcing Module and must be advertised on the OSP website for a minimum of seven calendar days, unless otherwise provided by law or approved in writing by the OSP Acquisitions Manager.

Send the SWIFT solicitation "invite" to a minimum of three bidders, at least one of which must be a TG/ED/VO vendor if one is available. Document all responses and other pertinent information in the procurement file.

OTHER CONSIDERATIONS:
- For a service, same as Tier 2 instructions.
- For IT, same as Tier 1 instructions.

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ALP Authority
Purchasing Policy 23 – Tier 3

What is a Request for Bid? A request for bid asks responders to submit their price(s) that meets all of the terms, conditions, and specifications the agency has posted. Low cost wins so long as there are no exceptions to terms, conditions, or specifications.

What are some things you need to know about posting a Request for Bid? Let's review the requirements of Purchasing Policy 23…

Where do you post the solicitation?

The solicitation must be posted in SWIFT and advertised on the OSP website. Remember to make sure that the "Public Event" box is checked.

How long does the solicitation need to be posted for?

A minimum of 7 calendar days.

How many bidders do you need to invite?

A minimum of 3 bidders, at least one of which must be a TG/ED/VO vendor if one is available.

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ALP Authority
Solicitation

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 by 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

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ALP Authority
Solicitation

Approved Equal Specifications

Using this specification allows for responses from other brands that comply with the required quality and performance standards set by the original brand identified.

"Approved Equal" language means the supplies or services offered are functionally equal in terms of quality, design, and performance.

Example:

The purpose of this Request for Bid (RFB) Solicitation is to contract with a vendor to provide one (1) newly manufactured 2019 or 2020 Chevrolet Suburban 4x4 (CK15906) or approved equal as determined by the State.

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ALP Authority
Solicitation



Good specifications should:

- Identify needed requirements including environmental level requirements (e.g., recycled, content level, energy rating, etc.)
- Be measurable and verifiable
- Provide for an equitable evaluation
- Allow for competitive responses (consider your vendor pool)

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ALP Authority
Solicitation

Research and Gather Information

Resources:
- Other State employees (Subject Matter Experts "SMEs")
- Other governmental entities (counties, cities, other states, federal)
- Market Resources (NASPO, IBIS, cooperative purchasing)
- Standards Committees (ASTM, Department of Commerce)
- OSP classes
- OSP buyers

When all else fails….. The Internet !



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Specification Activity

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ALP Authority
SWIFT Documents

SWIFT Attachments
- Solicitation Content
- Solicitation Attachments
- Sample Contract



What is the best way for responders to communicate their pricing?
- Lines in SWIFT vs. Price Schedule
- Industry Standard
- Service or commodity

SWIFT Training and Support Resources: https://mn.gov/mmb/accounting/swift/training-support/

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ALP Authority
Funding Sources

What is your funding source?

If federal funds are used, check for any restrictions or conditions for using those funds. A common restriction when federal funds are used is that Minnesota's TG/ED/VO Small Business Procurement Program cannot be used to give a preference to a responder.

When a funding source prohibits the use of a local preference certain paragraphs of the SWIFT Attachments template documents will need to be deleted.

Request for Bid Solicitation, Section 5	Request for Bid Sample Contract and Exhibits, Exhibit A
Paragraph 13, Targeted Group, Economically Disadvantaged Business, Veteran-Owned and Individual Preference	Paragraph 30, Federal Funds
Paragraph 14, Reciprocity	
Paragraph 15, DEED and DHS Preference	

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ALP Authority
Shipping Terms

Considerations

1. When does merchandise title and risk 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 & Allowed**: Freight paid by seller and included in the cost of the merchandise
   - **Freight Prepaid & Added**: Freight paid by seller and added to invoice

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ALP Authority
Sales and Use Tax

Minnesota Sales and Use Tax

Direct Pay Authorization
- A copy of the Direct Pay Authorization is available online at: http://www.mmd.admin.state.mn.us/pdf/directpaypermit.pdf
- If you have questions about the Direct Pay Authorization, contact the Department of Revenue at (651) 296-6181, https://www.revenue.state.mn.us/direct-pay-authorization

Sales and Use Tax
- Sales Tax Fact Sheets and Industry Guides: https://www.revenue.state.mn.us/sales-tax-fact-sheets-and-industry-guides
- If you have questions about Sales and Use Tax, contact the Department of Revenue at (651) 296-6181, SalesUse.Tech@state.mn.us

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ALP Authority
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



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ALP Authority
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 Exhibit B to the Sample Contract
- 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



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ALP Authority
Insurance

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

- Jackie Ferguson, 651.201.2593
- Kelly Mayerle, 651.201.2787

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

	Combine Single Limit	Aggregate Single Limit
Type of Insurance Aggregate	Per Occurrence	Annual
General Liability	$2 Million	$2 Million
Auto Liability	$2 Million	
Aircraft Liability	$2 Million	
Professional Liability	$2 Million	$2 Million
Privacy Liability	$2 Million	$2 Million

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ALP Authority
Questions during the Solicitation

Questions during the Solicitation

What if a potential responder has a question?

To get the best responses you can, you should review and respond to all questions. All questions MUST be communicated in writing and responded to through a written addendum to the solicitation. If a potential responder calls with a question, request they submit the question in writing.

Do you need a Question and Answer period?

No, but if you do, be sure to include the cutoff date in your solicitation information.

Why do we use an Addendum to respond to questions instead of answering a bidder's questions directly?

An addendum provides the same information to all potential responders at the same time. It helps ensure the process is fair and equitable.

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ALP Authority
Reviewing Responses

Review responses to make sure the responder is a "Responsive Responder."

- Submitted before the due date and time
- Meets all laws and rules
- Agrees to all terms and conditions
- Meets all specifications
- Signed (if paper)
- Informalities or minor deficiencies
- No exceptions and no alternative proposals
- Suspended/Debarred Contractors
  - https://www.mmd.admin.state.mn.us/debarredreport.asp



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ALP Authority
Reviewing Responses

Government Data

Request for Bid. At the time of bid opening, the names of the responders and the bid price are public data. After the completion of the selection process, RFB documents are public information unless otherwise protected by law (e.g. MN Data Practices Act).

Request for Proposal. At the time of bid opening, only the names of the responders are public data. After the completion of the evaluation process, RFP documents are public information unless otherwise protected by law (e.g. MN Data Practices Act).

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ALP Authority
Reviewing Responses

Rejecting a Response

Some reasons to reject a response include:

- Response received after required due date and time,
- Response does not meet the solicitation terms and conditions,
- Response does not meet the specifications,
- Responder took exception to solicitation terms and conditions,
- Response took exception to the specifications,
- Response does not meet delivery requirements, and
- Payment terms do not meet the solicitation requirements.

Contact OSP before rejecting a response.

Written notice of rejection must be sent to the responder (email or SWIFT notification).

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ALP Authority
Reviewing Responses

Cancelling and Rebidding a Solicitation

Some reasons to cancel and rebid a solicitation include:

- No responses were received,
- All responses received were over the estimated dollar amount,
- None of the responses meet the specifications,
- Information was provided to one responder, but not all potential responders, and
- Received an alternate response that is much lower in price, and even though it doesn't meet specifications, it would be acceptable (rewrite specifications and rebid).

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ALP Authority
Reviewing Responses

When can a Responder Withdraw a Response?

1. Prior to the due date and time: A responder may withdraw their response at anytime for any reason (or no reason).

2. After the bid opening: The State may grant a responder's written request to withdraw their response. This request must be made within a reasonable time after the bid opening and prior to the State's detrimental reliance on the response.

What if you notice an obvious error in price?

Contact the responder to verify the price. The responder cannot change the price, but the responder may honor the price or make a request in writing to withdraw the bid. Contact the OSP Acquisition Manager for assistance.

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ALP Authority
Over Your ALP Authority

This purchase is over my authority…… now what?



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ALP Authority
Over Your ALP Authority

What if the Procurement is over Your ALP Purchasing Authority?

- Ask someone with $50,000 authority within your agency to do the purchase instead,
- Make a written request to OSP for an exception that allows you to do the RFB yourself, or
- Submit a RIF to OSP for OSP to do the procurement.

How to Request an Exception to Your ALP Purchasing Authority

- **Prior to the solicitation process**, the buyer may request a one-time exception
  - Buyer must request the exception in writing, and
  - Event must be reviewed and approved in writing by OSP prior to posting, and
  - Responses and award recommendation must be reviewed and approved in writing by OSP prior to award
- **After the opening bids**, prior to the award the Buyer may request a one-time exception
  - Buyer must request the exception in writing, and
  - Event and award recommendation must be reviewed and approved in writing by OSP prior to award

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ALP Authority
Evaluation

Tied Responses

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

Whenever a tie involves a Minnesota firm and an out-of-state firm, the awa be given to the Minnesota firm.

Tied responses from Minnesota firms are resolved by an appropriate tie-bre 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 res the new price will be used to break the tie



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ALP Authority
Evaluation

Prompt Payment Discount Terms
State statute requires payment within 30 days following the receipt of an undisputed invoice.

Include the discount offered in your evaluation IF the discount offered is 30 days or more.

Example: A responder offers 1% 30, Net 31. A 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 for bid evaluation.)

Do not include the discount offered in the evaluation if the discount offered is less than 30 days.

Example: A responder offers 1% 10, Net 30. A 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 for bid evaluation.)

The State will apply the discount to the invoice at the time of payment.

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ALP Authority
Evaluation

Certified TG/ED/VO Vendors

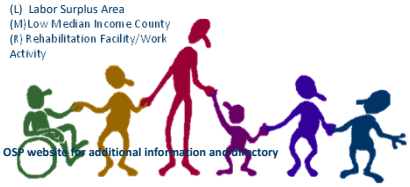
1. Targeted Groups (TG)

(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

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ALP Authority
Evaluation

Applying a Preference
Apply only ONE preference (no stacking preferences, see ALP Manual Section 2.24)

- Targeted Group (TG) = **12%**
- Economically Disadvantaged (ED) = **12%**
- Veteran-Owned (VO) = **12%**
- DEED/DHS Providers = **6%**
- Recycled content **up to 10%** (see ALP Manual Section 1.10.3)
- Reciprocal (In-State) preference (see ALP Manual Appendix G)

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ALP Authority
Evaluation

Steps for Applying a Preference

1. First apply any discount for payment terms that begins at 30 days or more (see ALP Manual, Appendix J).
2. Only one preference can be applied, determine the percent value of the preference, and apply the highest value preference.
3. Multiply that percent value to each **non** TG/ED/VO responder's subtotal, and add that sum to the **non** TG/ED/VO subtotal for the total on your bid tabulation.

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STATE OF MINNESOTA – BID TABULATION SHEET

Date Bid: 8/01/2023 Bid Due Date: 8/26/2023 Required Delivery Date: No later than 9/30/2023

Only 1 preference allowed: TG/ED/VO – 12% DEED/DHS – 6% Environmental: 1% - 10%	% RECYCLED CONTENT	COMPANY NAME/ CONTACT PERSON	TELEPHONE NUMBER	PAYMENT TERMS	DATE BID RECEIVED	DELIVERY OFFERED
A (ED)		Akin Company (Joe)	612-555-4939	Net 30	8/14/2023	10 days ARO
B		Harold's Supply (Harold)	612-555-8536	2% 30, Net 31	8/20/2023	45 days ARO
C		TriCity (Karen)	612-555-7363	Net 30	8/26/2023	2 weeks

ITEM	DESCRIPTION OF ITEM	QTY	UNIT	BIDDER A UNIT PRICE	BIDDER A TOTAL PRICE	BIDDER B UNIT PRICE	BIDDER B TOTAL PRICE	BIDDER C UNIT PRICE	BIDDER C TOTAL PRICE
1	Solar Panel	1	EA	$6170.00	$6170.00	$5900.00	$	$5855.00	$5855.00
2									
	Shipping and Handling/Freight				$50.00	Included	$ n/a	Included	$ n/a
	Subtotal				$ 6220.00		Rejected for Late Delivery		$5855.00
	Payment Terms			%	$	%	$	%	$
	Subtotal				$6220.00		$		$5855.00
	Preference: Designate which one, if applicable: _X_ TG/ED/VO ____ DEED/DHS ____ Environmental			%	$	%	$	12%	$702.60
	Evaluation Total				$6220.00		$		$6557.60

Responder to be Awarded Bid: A – Akin Company
Signature: _____
Date: _____

DOCUMENTATION:
Bidder A: ED Vendor
Bidder B: Rejected for Late Delivery
Bidder C: 12% preference added to non-TG/ED/VO Vendor

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Bid Tabulation Activity

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Encumbrance

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 so funds must be encumbered as soon as they are available

Follow SWIFT procedures (DPO, CRO, POR)

Encumber funds (set up PO, dispatch to yourself), sign the Contract, then issue the PO

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Split Award

What does it mean to split an award?

Splitting award means that you award part of the solicitation to one responder, and the other part to another responder.

When can you split an award?

Split the award only if a single or combination of line items saves the State more than $150.

There may be other appropriate reasons to split the award.

Reach out to OSP if you need advice or assistance.

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Insurance
Obtain a Certificate of Insurance

If insurance is required, a certificate of insurance (COI) in the amounts called for in the contract is required before you sign the contract or issue the PO.

Review the COI from the Contractor to make sure it meets the requirements, including that the State of Minnesota is listed as an Additional Insured.

See ALP Manual Appendix C for additional information.

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Purchasing Card

A purchasing card is an alternate means of payment. You must not use a purchasing card to circumvent the use of State contracts, purchasing laws, rules, policies, or procedures. Verify if a purchasing card can be used when purchasing off a master contract.

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

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

Transactions with some types of contractors are blocked through the use of Merchant Category Codes.

- Your agency's Purchasing Card Coordinator can assist you with completing legitimate transactions 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.



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Award a Contract

Award documents can be a PO or written contract.

Generally:

- POs are used for one-time buys
- Written contracts are used for multi-fiscal year services

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).

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One-Time Buy to Purchase Order

1. Award event to PO.
2. Make sure line description is accurate and detailed.
3. If applicable, request the Certificate of Insurance from the Contractor. Confirm the COI meets the requirements.
4. After funds are encumbered, dispatch the PO to the Contractor.



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If You Need a Written Contract
(i.e., multiple fiscal years)

1. Create a SWIFT contract from the solicitation event.
2. Finalize the "Sample Contract" document. This includes:
   a. Enter the SWIFT contract number and the Contractor's name and business address,
   b. Confirm the correct contract dates,
   c. Remove the "Sample" watermark, and
   d. Include all attachments.
3. Request a Certificate of Insurance from the Contractor (if applicable).
4. Enter a PO in SWIFT to encumber the money, **but don't send the PO to the Contractor yet**.
5. After funds are encumbered, send the Contract to Contractor for signature.
6. After the Contractor signs the Contract and you confirm the COI meets the requirements (if applicable), sign the Contract and then send the PO to the Contractor.

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Contract Execution

The contract must be signed by, in order:

First: the Contractor or their delegate.

Second: the head of the agency or their delegate, who is a party to the contract.

Third: the Commissioner of Administration or their delegate (certified buyer up to their level of authority).



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Documentation

Every purchase must have documentation to support the process that led to the award. Here is a partial list of what must be included in your purchasing file:

- Copy of the original bid documents, including all attachments, addenda, and required forms,
- Advertisement or 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 responder,
- Signed purchase order or proof of encumbrance prior to contract signatures, and
- All correspondence and other critical documentation including any special authority granted by the OSP.

How long do you need to keep the documentation? Review your agency's retention policy and schedule.

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Canceling a Purchase Order or Contract

A purchase order or contract may be canceled under certain circumstances, which include, but are not limited to the following:

- The contractor 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,
- The contractor failed to deliver goods or services, or
- Funding is canceled (use the Termination for Insufficient Funding clause).

Contact the OSP Acquisitions Manager prior to canceling any purchase order or contract.

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Vendor Performance

Your role as a Buyer is to ensure the State receives the products and services per the contract terms.

1. Communicate directly with the contractor.
2. Document and file everything.
3. Use the Vendor Performance Report (even if the problem is solved by the agency).

Why is a Vendor Performance Report so important?

- Creates a written record to support suspension or debarment
- Agencies can document problems with a contract or contractor
- Facilitates communication
- Opportunity to recognize excellent performance by a contractor

4. If you're unsuccessful in resolving the issue with the contractor, contact OSP.

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Contractor Performance
Expectations and Requirements

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

A contractor can be held in default for failure to conform to the contract specifications or to standard commercial practices. Examples of failure to conform include:

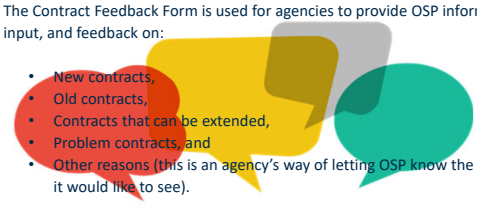
- Failure to deliver on time,
- Deliveries do not conform to required samples or specifications,
- Deliveries that are repeatedly rejected,
- Misbranding or materially misrepresenting goods, or
- Delivering other than new products.

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ALP Authority
Contract Management

Contract Feedback Form

The Contract Feedback Form is used for agencies to provide OSP information, input, and feedback on:



- New contracts,
- Old contracts,
- Contracts that can be extended,
- Problem contracts, and
- Other reasons (this is an agency's way of letting OSP know the changes it would like to see).

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ALP Authority
Specialties

Procurement's Categories with Unique Considerations:

- **IT Purchases**
- **Service Contracts**
- **Construction**
- **Conferences/Special Events**

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ALP Authority
Specialties - IT

Information Technology: 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

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ALP Authority
Specialties - IT

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

IT Items Processed by MN.IT:

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

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

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ALP Authority
Specialties – Service Contracts

- Service Certification Form. Required for all service contracts greater than $5,000 cumulative
- Length limit. Up to two years (unless prior written approval from OSP Acquisition Manager.)
- Total amount. Up to level of authority over the life of the contract
- Encumbrances. Must be encumbered prior to award. (Services crossing fiscal years funds must be encumbered as soon as available)

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ALP Authority
Specialties – 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

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ALP Authority
Specialties – Construction

Construction projects include:

- Building additions or modifications
- Modifications to a buildings mechanical or electrical system
- Earthwork or exterior improvements

Main Components of Construction Procurement

- Prevailing Wage
- Contractor Affidavit – IC134 (withholding tax)
- Building Construction Contractor Registration



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ALP Authority
Specialties – Construction

- The maximum dollar value for construction purchases is $49,999.99 (including all possible change order costs and must be with the level of delegated authority)
- Limited to repair and/or replacement work only; types of work not requiring construction documents prepared and signed by design professionals (e.g. Architects and Engineers).
- Contact Real Estate and Construction Services (RECS) when necessary. https://mn.gov/admin/government/construction-projects/ (MnDOT, DNR and Military Affairs agencies with special delegations shall follow their internal process.)

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ALP Authority
Specialties – Conferences

Procurement of Events (Policy 33) applies to:

- conferences,
- meetings,
- trainings and similar events

Which may include, but not limited to:

- facilities,
- lodging,
- meeting rooms,
- food and beverages and audio-visual equipment rental

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ALP Authority
Specialties – Conferences

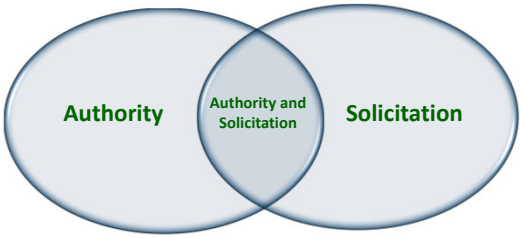
Cost Considerations

- 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
- Event Planners (not State employees) 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.

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Exceptions

Types of exceptions to the procurement process



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Exceptions

Authority Only
- Seeking written exception or a one-time delegation

Solicitation Only
- Single source
- Using a previous quote (see ALP Manual, section 3.5)
- Merchandise for resale

Authority and Solicitation
- Equity Select (see ALP Manual section 3.16)
- Emergency (see ALP Manual sections 1.6.1 and 3.4)
- Surplus Services https://www.minnbid.org/Mobile/Auction
- MINNCOR https://minncor.com/
- DEED Certified Providers https://mn.gov/deed/job-seekers/disabilities/partners/index.jsp
- DHS Licensed Providers http://www.mmd.admin.state.mn.us/xls/DHSLicensedProviders.xlsx
- Joint Powers Agreement/Inter Agency Agreement
- State Contract utilizing a Cooperative Contract (GSA, NASPO etc..)

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Exceptions
Surplus Services

State Property Accountability

State agencies are required to comply with Statute 16B.04, subd. 2(4) and 16B.24, subd. 4 and track state property for inventory and financial reporting purposes. Disposal of surplus state property must be approved by Surplus Services. The Property Management Policy and User's Guide is available as Policy 8 in Appendix N of the ALP Manual.

Surplus Property

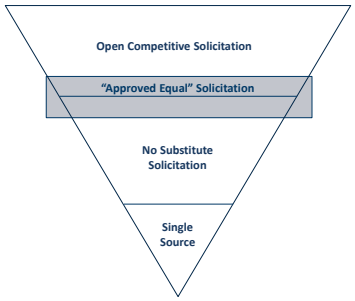
The Surplus Services program provides an opportunity for state agencies to purchase and reuse state property. Check out the Surplus Services website at http://mn.gov/admin/government/surplus-property/ or visit the Surplus Property Distribution Center in Arden Hills.

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Single Source Justification

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

Open Competitive Solicitation
- Janitorial services
- Boats

"Approved Equal" Solicitation
- Specific certification, or approved equal
- Lund boat, or approved equal

No Substitute Solicitation
- Specific certification
- Replacement parts for Lund boat

Single Source Procurement
- Membership or registration for conference

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Exceptions
Single Source Justification

Procurement

A Single Source Justification form must be used for purchases with dollar amounts over $5,000 but not exceeding your delegated ALP Authority.

Single Source Justification forms for purchases over your ALP authority should be completed, signed as required on the form, and sent to OSP for approval and processing unless a one time exception is granted to the buyer.

Contracting

Draft contract using the State's terms and conditions or review the Contractor's terms and conditions with your agency's legal department or the Attorney General's Office.

If the value of the contract is within your ALP authority you may sign the contract. If the value exceeds your authority, submit the documents to OSP for approval and processing.

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Practical Forms Activity

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Resources

Additional important procurement factors to note:

- Audits
- Ethics
- Data Practices



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Resources: Other Laws and Rules
ALP Audits

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

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 Solicitation documents
- Proper use of the Sample Contract
- Use of TG/ED/VO contractors
- 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

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Resources: Ethics
Your Role as a Buyer

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

Difference between private purchasing and state agency purchasing:

Private Sector Purchasing	Public Sector Purchasing
Buyers can do what is not prohibited by law	Buyers can only do what is allowed by law



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Resources: Ethics
Minnesota Statute

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*



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Resources: Ethics
Purchasing

Overview of Policy for Purchases

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 2.1 and 2.1.1 for additional information.

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Resources: Ethics
Purchasing Policy 21-02 – Code of Ethics

Who is Subject to OSP Purchasing Policy 21-02? Any person with 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
- Drafting the contract language
- Defining project scope
- Evaluating bids or proposals
- Selecting a final contractor
- Awarding or recommending an award for a contract
- Evaluating performance under the contract
- Authorizing payments

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Resources: Ethics
Conflict of Interest

Actual Conflict of Interest…

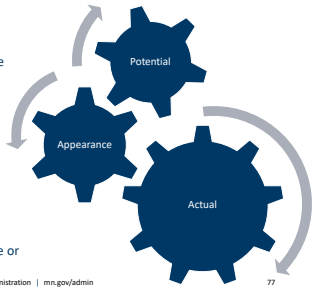
occurs when a decision or action would be compromised without taking action to eliminate the conflict.

Potential Conflict of Interest…

is a situation in which an employee has outside, private influence 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 or interest that conflicts with their public duties.



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Resources: Ethics
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.



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Resources: Ethics
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 21-02 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.

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Resources: Government Data

Minnesota Statutes, Chapter 13, Government Data Practices

- 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 contractors
- Spreadsheets
- Invoices
- Data Storage Devices
- Voicemails

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Government Data
Classification

Classification	Meaning of Classification	Examples
Public	Available to anyone for any reason	• Government employee names
Private/Nonpublic	Available only to: • The data subject; • Employees who need the data to do their jobs; • Individuals authorized by law	• Trade Secret information • Security information
Confidential/Protected nonpublic	Available only to: • Employees who need the data to do their jobs; • Individuals authorized by law (not available to data subject)	• Data collected as part of a legal investigation

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Resources: Government Data
Responding to a Data Request

If you receive a request for Government Data:

Remember that, by law, some government data is 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/

(651) 296-6733

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Before you leave . . .

1. Don't forget to complete your procurement training evaluation. The evaluation will be sent by email directly to you.
2. If you have any questions for the trainers, their contact information is located in the calendar invite.
3. Your test and instructions will come by email after the class. Questions about the test should be addressed to the OSP Training Coordinator at OSP.Training.Coordinator@state.mn.us

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Thank you!

Minnesota Department of Administration
Office of State Procurement
mmd.admin.state.mn.us

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