

Purchasing Code and Rule

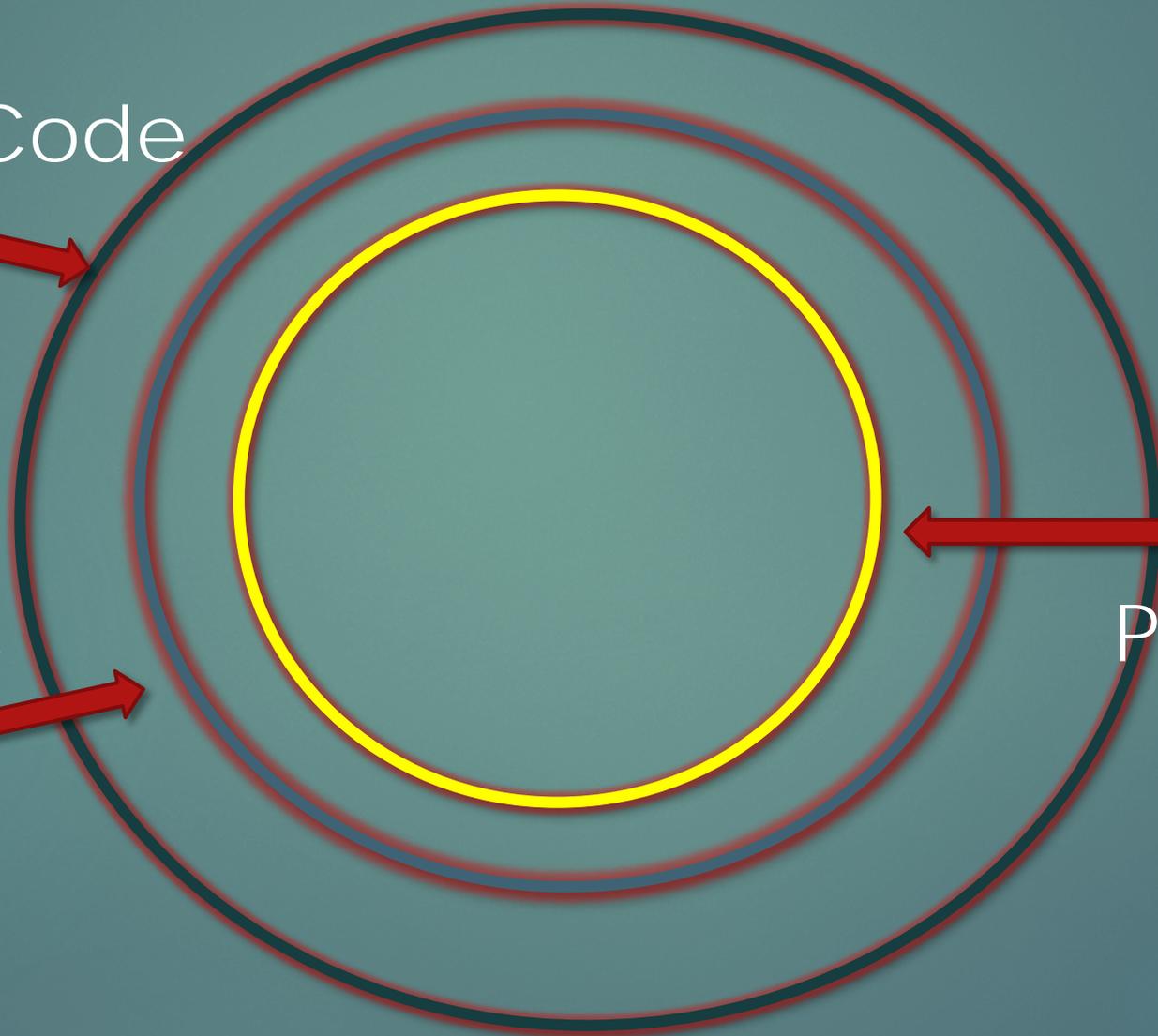
Procurement Code



Administrative
Rule R33



Internal
Policy



Purchasing: Code and Rule

- ▶ 63G-6a-105(1), The Utah Procurement Code applies to every procurement.
- ▶ Purpose of the Utah Procurement Code is to:
 - 1) Ensure transparency in the public procurement process’;
 - 2) Ensure fair and equitable treatment of all persons who participate in the public procurement process;
 - 3) Provide increased economy in state procurement activities;
 - 4) Foster effective broad-based competition within the free enterprise system.

Purchasing: Code and Rule

- ▶ The Utah Procurement Code identifies and outlines the procurement processes available for procurement units to purchase procurement items.
 - Small Purchases
 - Approved Vendor Lists (AVL)
 - Supplemental Procedures (Requests for Information, Request for Statement of Qualifications)
 - Invitations for bids (IFB)
 - Requests for proposals (RFP)
 - Exceptions to Procurement Requirements (Award of contract without engaging in a standard procurement process (ACWESPP or sole source), trial use, contract extensions, purchases of prison industry goods, purchases from community rehabilitation programs
 - ❖ Does not govern a contract between procurement units

Purchasing: Code and Rule

- ▶ The Utah Procurement Code also:
 - Defines who a vendor is
 - Identifies types of contracts permitted
 - Outlines the process for protests and appeals
 - Requires record retention
 - Defines unlawful conduct and penalties;
 - Defines who applicable rule-making authorities are
 - And much, much more.

Purchasing: Code and Rule

▶ Procurement Rules:

- Title R33 applies to all procurement units for which the Utah State Procurement Policy Board is identified as the applicable rulemaking authority under 63G-6a-103, or those independent procurement units that have adopted Title R33 or, to the extent, a portion of Title R33, by rule, ordinance, policy, or other authorized means.
- ▶ The applicable rulemaking authority for charter schools is the Procurement Policy Board [63G-6a-103(1)(e)]
 - Except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter

Purchasing: Code and Rule

- ▶ The main differences between the Utah Procurement Code and procurement rules is the Utah Procurement Code is statute, enacted by the legislature and applicable to almost all procurement units.
- ▶ Governmental entities carry out statute (as permitted under statute) through the development and enforcement of regulations called rules.
- ▶ Rules are developed and enacted through a rule-making process, which includes public input through open meetings and public hearings.
- ▶ Rules provide greater clarity and specificity to the Code.

Procurement Code and Rule

The Procurement Code and Administrative Rules work well together. A procurement law in “Part” 4 of the Code can be located in “Section” 4 of the Administrative Rules.

For example,

Utah Procurement Code	Administrative Rule R33
63G-6a Part 6 Bidding	R33-6 Bidding
63G-6a Part 7 Request for Proposals	R33-7 Request for Proposals

Purchasing: Code and Rule

- ▶ Another example:
- ▶ 63G-6a-506 permits the use of small purchases and requires applicable rule-making authorities to create an annual cumulative threshold, individual procurement thresholds, and single procurement aggregate thresholds.
- ▶ R33-5-104 sets the following:
 - Individual procurement threshold: \$1,000
 - Single procurement aggregate threshold: \$5,000
 - Annual cumulative threshold from the same source: \$50,000

Purchasing: Small Purchases

▶ 63G-6a-506 Small purchases.

- (8) (a) It is unlawful for a person to intentionally or knowingly divide a procurement into one or more smaller procurements with the intent to make a procurement:
 - (i) qualify as a small purchase, if, before dividing the procurement, it would not have qualified as a small purchase; or
 - (ii) meet a threshold established by rule made by the applicable rulemaking authority, if, before dividing the procurement, it would not have met the threshold



Purchasing: Code and Rule



Each item \$1,000 or **LESS**
Spending **LESS** than \$5,000



**NO Quote
required**

Purchasing: Small Purchases

Quotes for Small Purchases

Item(s) \$1,000.01 or **MORE**
Spending **LESS** than \$5,000



Quotes
required



Purchasing: Quotes

▶ R33-5-107 Quotes for Small Purchases

- (1) For procurement item(s) where the cost is greater than \$1,000 but up to a maximum of \$50,000, a procurement unit shall obtain a minimum of two competitive quotes that include minimum specifications and shall purchase the procurement item from the responsible vendor offering the lowest quote that meets the specifications.
- (2) For procurement item(s) where cost is greater than \$5,000 up to a maximum of \$50,000 shall obtain two competitive quotes that include minimum specifications and shall purchase the procurement item from the responsible vendor offering the lowest quote that meets the specifications.
- (3) For procurement items over \$50,000 you must use a standard procurement process such as professional service purchase, approved vendor list, invitation for bid, or request for proposal.

Purchasing: Quotes

- ▶ For a competitive quote to be responsive and responsible, the vendor must meet the minimum specifications for all items that were required in the Request for Quotation (RFQ).
- ▶ A “no-quote” is not a competitive quote. To be a competitive quote there must be a dollar amount that the vendor is charging for the item(s) or service(s) being sold. A minimum of two competitive quotes is required.
- ▶ The Quotes for Small Purchases/RFQ process requires that the procurement item(s) be purchased from the lowest total quote that meets all the specifications

Purchasing: Quotes

▶ R33-5-110

(4) A procurement unit may use electronic, telephone, or written quotes to obtain pricing and other information for a procurement item within the small purchase or approved vendor threshold limits established by rule provided:

(a) Quotations are for the same procurement item, including terms of sale, description, and quantity of goods or services;

Purchasing: Quotes

▶ R33-5-110

▶ (4) A procurement unit may use electronic, telephone, or written quotes to obtain pricing and other information for a procurement item within the small purchase or approved vendor threshold limits established by rule provided:

(c) The procurement unit maintains a public record that includes:

- ▶ (i) The name of each vendor supplying a quotation; and
- ▶ (ii) The amount of each vendor's quotation.

Purchasing: Code and Rule

- ▶ R33-5-107(5)
- ▶ The names of the vendors offering quotations and bids and the date and amount of each quotation or bid shall be recorded and maintained as a governmental record.

Other Standard Procurement processes

- ▶ For procurements over \$50,000 you must do more formal procurement processes:
- ▶ Request for Proposals;
- ▶ Invitation for Bids;
- ▶ Approved Vendor Lists.

State Purchasing Assistance

- ▶ The Division of Purchasing will provide any help or assistance needed including a courtesy posting. In a courtesy posting the charter school will prepare the solicitation and submit it to the Division of Purchasing for public posting.
- ▶ The Division of Purchasing can also be more involved up to the point of writing your solicitation with you.
- ▶ This ensures that the Procurement Code is followed and protects you from audit risks

Division of Purchasing Contact Information:

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