

REGULATION NO. 2018- 01

**A RESOLUTION OF SUMMIT COUNTY SERVICE AREA NO. 3  
TO AUTHORIZE ITS PROCUREMENT OFFICER TO APPROVE PAYROLL CHECKS  
AND ROUTINE EXPENSES**

***PREAMBLE***

WHEREAS, Summit County Service Area #3 (“**Service Area**”) is a local district authorized and organized under the provisions of Utah law to carry out those purposes set forth in Section 2-27-1 of the Summit County Code, and

WHEREAS, pursuant to Utah Code Ann. § 17B-1-618, all purchases or encumbrances by a local district must be made or incurred according to the purchasing procedures established by each service area by resolution; and

WHEREAS, pursuant to Utah Code Ann. § 17B-1-642, the Service Area may authorize its procurement officer to approve the following expenditures without prior approval from the Board of Trustees: (1) payroll checks prepared in accordance with a schedule approved by the Board; and (2) routine expenditures, such as utility bills, payroll-related expenses, supplies, and materials, provided that the Board of Trustees must set a maximum sum over which all purchases may not be made without the Board’s approval; and

WHEREAS, the Service Area desires to amend its purchasing policy to authorize its procurement officer to approve routine expenditures up to \$5,000 without prior Board approval in accordance with the Service Area’s purchasing policy, provided that the Board must review such expenditures on at least a quarterly basis; and

WHEREAS, the Service Area also desires to update its purchasing policy to account for technical changes the Utah Legislature has made in the numbering and language of certain portions of the Utah Code.

**NOW, THEREFORE**, be it **RESOLVED** by the Board of Trustees of the Summit County Service Area #3 revokes and repeals Regulation 2017-06 in its entirety and approves the attached purchasing policy in its place effective immediately.

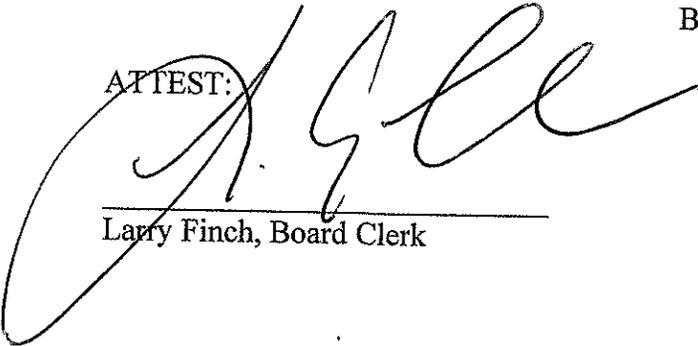
[Execution on following page]

ADOPTED AND APPROVED by majority vote at a duly called meeting of the Board of Trustees on this 19<sup>th</sup> day of March, 2018.

SUMMIT COUNTY SERVICE AREA NO. 3

  
Suzanne Carpenter, Chair  
Board of Trustees

ATTEST:

  
Larry Finch, Board Clerk

VOTING

Trustee Carpenter voting

Yes

Trustee Finch voting

Yes

Trustee Galoostian voting

Yes

Trustee Keblish voting

~~Yes~~ ABSENT

Trustee Montgomery voting

Yes

Trustee Olson voting

Yes

Trustee Pao-Borjigin voting

Yes

# SUMMIT COUNTY SERVICE AREA #3 PURCHASING POLICY

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## PURCHASING POLICY AND PROCEDURES

### I.BACKGROUND

- A. **Policy:** This shall be known as the Summit County Service Area #3 (“SCSA#3”) Purchasing Policy (the “Policy”).
- B. **Purpose:** The purpose of this policy is to identify the procedure for approval and payment for all purchases or encumbrances by the SCSA#3 and to insure that all such payments and encumbrances are fair and reasonable and are not in conflict with applicable law. The Policy is applicable to all Board Members, contractors, and employees.
- C. **Applicability of the Utah Procurement Code:** The SCSA#3 is a subject to the Utah Procurement Code (Utah Code Ann. §§ 63G-6a-101 *et. seq.*) and, as such, purchases by the SCSA#3 shall be made in accordance with applicable sections of the Procurement Code, as now constituted or as it may be amended and modified from time to time. For purposes of the application of the Procurement Code and this Policy, the SCSA#3 is a procurement unit with independent procurement authority.
  1. **Exception - State or Federal Law or Regulations:** Notwithstanding the provisions of Subsection C. above, whenever any purchase or encumbrance is made with state or federal funds and applicable state or federal law or regulations are in conflict with this Policy, to the extent that following the provisions of this Policy might jeopardize the use of those funds or future state or federal funds, such conflicting provisions of this Policy shall not apply and the SCSA#3 shall follow the procedure required by the applicable state or federal law or regulation.
  2. **Exception - Federal Funding/Grants:** When a procurement involves the expenditure of federal assistance or contract funds, the SCSA#3 shall comply with any mandatorily applicable federal law and regulations which are not reflected in this Policy. This Policy shall not prevent the SCSA#3 from complying with the terms and conditions of any grant, gift, or bequest that are otherwise consistent with law.

### II.DEFINITIONS

As used in the Policy, the following definitions shall be applicable.

- A. **Board:** The legislative body of the SCSA#3 is referred to herein as the “Board”. For purposes of the Procurement Code and this Policy, the Board is the Applicable Rulemaking Authority for the SCSA#3.

- B. **Statutory Definitions:** The definitions of terms set forth in Utah Code Ann. §§ 63G-6a-103, as they may be amended from time-to-time are, to the extent applicable to this Policy and the activities of the SCSA#3, incorporated herein by this reference.
- C. **Procurement Officer:** The SCSA#3 Area Manager shall be the SCSA#3's "Procurement Officer" and other employees of the SCSA#3 may act as Procurement Officers as authorized and delegated by the Board and/or the Procurement Officer. If the above blank is not filled in, the Manager, as defined below, shall serve as the SCSA#3's Procurement Officer. References in this Policy to the Procurement Officer shall include any "designee" or "delegate" designated by the Procurement Officer or the Board.
- D. **Additional Definitions:**
1. **Act or Procurement Code:** means the Utah Procurement Code found in Title 63G, Chapter 6a of the Utah Code.
  2. **Actual Costs:** means direct and indirect costs which have been incurred for services rendered, supplies delivered, or construction built, as distinguished from allowable costs.
  3. **Adequate Price Competition:** requires a minimum of two competitive bids, proposals, or quotes from responsive bidders or offerors.
  4. **Bid Bond:** is either cash or an insurance agreement, accompanied by a monetary commitment, by which a third party (the Surety) accepts liability and guarantees that the bidder will not withdraw the bid. The bidder will furnish bonds in the required amount, and if the contract is awarded to the bonded bidder, the bidder must accept the contract as bid or the cash will be forfeited or the surety will pay the specified bond amount to the SCSA#3.
  5. **Bid Rigging:** is an agreement among potential competitors to manipulate the competitive bidding process, for example, by agreeing not to bid, to bid a specific price, to rotate bidding, or to give kickbacks.
  6. **Bid Security:** means the deposit of cash or a certified check, cashier's check, bank draft, money order, or bid bond submitted with a bid and serving to guarantee to the SCSA#3 that the bidder, if awarded the contract, will execute such contract in accordance with the bidding requirements and the contract documents.
  7. **Brand Name or Equal Specification:** means a specification which uses a brand name specification to describe the standard of quality, performance, and other characteristics being solicited, and which invites the submission of equivalent products.

8. **Brand Name Specification:** means a specification identifying one or more products by manufacturer name, product name, unique product identification number, product description, SKU or catalogue number.
9. **Collusion:** occurs when two or more persons act together to achieve a fraudulent or unlawful act. Collusion inhibits free and open competition in violation of law.
10. **Cost Analysis:** means an evaluation of cost data for the purpose of arriving at estimates of costs to be incurred, prices to be paid, costs to be reimbursed, or costs actually incurred.
11. **Cost Data:** means factual information concerning the cost of labor, materials, overhead, and other cost elements which are expected to be incurred or which have actually been incurred by the contractor in performing the contract.
12. **Cronyism:** is an anticompetitive practice that may violate federal and state antitrust and procurement laws. Cronyism in government contracting is a form of favoritism where contracts are awarded on the basis of friendship, association or political connections instead of fair and open competition.
13. **Favored Vendor:** applies to a situation wherein the Procurement Officer, an evaluation committee member, a contract administrator, or a SCSA#3 employee unfairly, by means of deceit or in violation of law, favors one vendor over another in the process of awarding a contract. Examples of ways in which SCSA#3 contracts may improperly be steered to a “favored vendor” include, but are not limited to:
  - a. Collusion or manipulation of the procurement to steer a contract award to a particular vendor;
  - b. Illegal bribes or kickbacks paid by a vendor in exchange for a contract award;
  - c. Unjustified sole source contract awards to a vendor;
  - d. Bid rigging schemes;
  - e. Writing specifications that are overly restrictive or written in a way that gives an unfair advantage to a particular vendor;
  - f. Improperly splitting purchases to avoid use of a standard competitive procurement process;

- g. Leaking bid or proposal information to a particular vendor to the exclusion of other vendors; or
- h. Not following established policies and procedures when approving change orders.
- 14. **Manager**: as used in this Policy refers to the chief executive officer of the SCSA#3, whether that person's official title is "General Manager", "Executive Director", or any other title, and includes any designee of the Manager.
- 15. **Mandatory Requirement**: means a condition set out in the specifications/statement of work that must be met without exception.
- 16. **Minor Irregularity**: is a variation from the solicitation that does not affect the price of the bid, offer, or contract or does not give a bidder/offeror an advantage or benefit not shared by other bidders/offerors, or does not adversely impact the interests of the SCSA#3.
- 17. **New Technology**: means any invention, discovery, improvement, or innovation that was not available to the SCSA#3 on the effective date of the contract, whether or not patentable, including, but not limited to, new processes, emerging technology, machines, and improvements to or new applications of existing processes, machines, manufactures and software. Also included are new computer programs, and improvements to, or new applications of, existing computer programs, whether or not copyrightable and any new process, machine, including software, and improvements to, or new applications of, existing processes, machines, manufactures and software.
- 18. **Participating Addendum**: means an agreement issued in conjunction with a State Cooperative Contract awarded by the Division of Purchasing and General Services (a "**Cooperative Contract**") that authorizes a public entity such as the SCSA#3 to use the Cooperative Contract.
- 19. **Payment Bond**: is a bond that guarantees payment for labor and materials expended on the contract.
- 20. **Price Analysis**: means the evaluation of price data without analysis of the separate cost components and profit.
- 21. **Price Data**: means factual information concerning prices for procurement items.

22. **Record**: shall have the meaning specified in Utah Code Ann. § 63G-2-103.
23. **Retention Schedule**: refers to the record retention schedule applicable to the SCSA#3 as approved by the State Records Committee, or the model retention schedule maintained by the State Archivist if the SCSA#3 does not have its own approved retention schedule.
24. **Surety Bond**: (performance bond) means a promise to pay the SCSA#3 a certain amount if the principal (contractor) fails to meet some obligation, such as fulfilling the terms of a contract. The surety bond protects the SCSA#3 against losses resulting from the principal's failure to meet the obligation. In the event that any obligation is not met, the SCSA#3 may recover its losses via the bond.

### III. GENERAL PROVISIONS

- A. **Procurement Officer**: Except as otherwise specifically authorized by the Board, no officer or employee of the SCSA#3 shall purchase for and on behalf of the SCSA#3 any material or supplies, goods, wares, merchandise, or services of any kind or character, except through the Procurement Officer or his/her designee, and no voucher, check or other method of payment shall be honored if this procedure is not followed; provided, however, that this Subsection shall not apply to emergency purchases as specifically provided in Subsection X.A.5 of this Policy.
- B. **Approval of Purchases**: Except as otherwise provided in this Policy, the Board must approve all expenditures of the SCSA#3. Notwithstanding the foregoing, however, the Procurement Officer, and/or any other person designated by the Board to act as the "budget officer" and/or the "financial officer" of the SCSA#3 under the provisions of Utah Code Ann. §§ 17B-1-642 may pay the following expenses and make transfers from one fund to another as part of routine bookkeeping procedures without prior approval from the Board: (1) payroll checks that are prepared in accordance with a schedule approved by the Board; and (2) other routine expenditures up to \$5,000, such as utility bills, supplies, materials, postage, and bond payments when due. Notwithstanding anything contained in this Policy to the contrary, however, the Board will review all SCSA#3 expenditures on a quarterly or more frequent basis.
- C. **Availability of Funds**: No purchase shall be made and no encumbrance shall be incurred unless funds sufficient to cover the purchase or encumbrance are available and the purchase is approved by the appropriate SCSA#3 officials as herein provided.
- D. **Delivery of Goods**: No officer or employee of the SCSA#3 shall request any merchant, dealer or other vendor to deliver goods to the SCSA#3 other than in compliance with the requirements of this Policy and pursuant to any required approval from the Board or the

Procurement Officer, except in the case of an emergency purchase as provided in Subsection X.A.5 of this Policy.

**E. Cooperative Purchasing and Purchasing Preferences:**

1. **Cooperative Purchasing:** Nothing contained in this Part III shall be construed to limit the ability of the SCSA#3 to purchase a procurement item from another procurement unit or join with other units of government in centralized or cooperative purchasing plans or systems, with proper authorization, including participating in state or federal public cooperative procurement contracts, as provided in Part 21 of the Procurement Code, entitled "Interaction Between Procurement Units".
  - a. Cooperative purchasing will be conducted in accordance with the requirements set forth in Section 63G-6a-2105 of the Act.
  - b. In accordance with Section 63G-6a-2105, the SCSA#3 may obtain procurement items from state cooperative contracts.
    - i. The SCSA#3 may request additional volume discount pricing for large volume orders, provided the state cooperative contractor is willing to offer additional discounts for large volume orders, by issuing a "Request for Price Quotations" to a vendor on a state cooperative contract for the procurement item being purchased. The SCSA#3 may not, however, coerce, intimidate or in any way compel a vendor on a state cooperative contract to offer additional discount pricing
    - ii. The Request for Price Quotations shall include:
      - (1) A detailed description of the procurement item;
      - (2) The estimated number or volume of procurement items that will be purchased;
      - (3) The period of time that price quotations will be accepted, including the date and time the price quotations will be opened;
      - (4) The manner in which price quotations will be accepted;
      - (5) The place where price quotations shall be submitted; and
      - (6) The period of time the price quotation must be guaranteed.

- iii. Price quotations shall be kept confidential until the date and time of the opening and may not be disclosed to other vendors on state cooperative contracts until after the date and time of the opening. Email quotations are acceptable.
  - iv. Price quotations will be opened in the presence of a minimum of two witnesses.
  - v. Price quotations will become public at the time of the opening.
- c. A state cooperative contract may not be used for:
- i. An anti-competitive practice such as:
    - (1) Bid rigging;
    - (2) Steering a contract to a preferred state cooperative contractor;
    - (3) Utilizing auction techniques where price quotations are improperly disclosed and contractors bid against each other's price;
    - (4) Disclosing pricing or other confidential information prior to the date and time of the opening; or
    - (5) Any other practice prohibited by the Procurement Code.
  - d. All sales to the SCSA#3 resulting from quotations received under the process conducted in accordance with Subsection E.1.b. will be recorded as usage under the existing state cooperative contract, are subject to the administrative fee associated with the state cooperative contract, and will be reported to the Division of Purchasing and General Services.
2. **Preference for State Products and Resident Contractors:** Section 63G-6a-1002 of the Procurement Code provides for a reciprocal preference for the providers of procurement items produced, manufactured, mined, grown, or performed in Utah and Section 63G-6a-1003 provides a reciprocal preference for resident Utah contractors. In the event more than one equally low preferred bidder or contractor qualifies for the reciprocal preference, the Procurement Officer shall consider the preferred bidders or contractors to be tied and will follow the process specified in Section 63G-6a-608 of the Procurement Code and Subsection VIII.C.14 of this Policy.

**F. Purchase Records:**

1. **Invoices and Receipts:** Invoices prepared by the vendor, cash register receipts and/or other written documentation to substantiate SCSA#3 expenditures will be maintained as part of the SCSA#3's financial records in accordance with customary procedures for public entities such as the SCSA#3. Whenever possible, original invoices will be used as supporting documentation for SCSA#3 purchases.
2. **Penalty for Double Payment:** An intentional effort on the part of a supplier to obtain a double payment may serve as the basis for a "debarment" under which that supplier will be precluded from providing materials, goods and/or services to the SCSA#3 for a prescribed time. Similarly, any intentional effort on the part of a SCSA#3 employee to receive a double reimbursement may result in sanctions, including termination.
3. **Use of Forms:** All departments are required to file with the Procurement Officer detailed requisitions for their requirements of supplies, contractual services, materials and equipment.

**G. Surplus Property and Salvage:**

1. **Disposal of Surplus Property:** Surplus property having a value of **\$2,000.00** or less may be disposed of in a commercially reasonable manner as the Procurement Officer sees fit, with all proceeds of the disposal to be the property of the SCSA#3. Surplus property with a value in excess of **\$2,000.00** may not be disposed of until the Board has declared the property to be surplus, after which it may be disposed of for the benefit of the SCSA#3 in a commercially reasonable manner as directed by the Board. This requirement shall not apply when the surplus property, such as a vehicle or equipment, is being "traded in" on the purchase of substitute property, provided that the acquisition of the substitute property is in conformance with the requirements of this Policy.
2. **Salvage:** Metal and other items of some residual value may be salvaged by employees of the SCSA#3 while working on SCSA#3 facilities and improvements. Such salvaged items continue to be the property of the SCSA#3 and are to be disposed of accordingly. As a consequence, all receipts from salvaging such items shall be the property of the SCSA#3 and shall be safeguarded and accounted for as such.
3. **Donation, Disposal, or Destruction of Surplus Property:** The Procurement Officer may donate to a charitable organization, destroy, or

dispose of as waste any surplus property that is worth less than \$30.00 without involvement of the Board if:

- a. The surplus property fails to sell at auction;
- b. The cost of selling the surplus property is greater or equal to the value of the surplus property;
- c. The surplus property is no longer usable;
- d. The surplus property is damaged and either cannot be repaired or the cost of repair is greater than or equal to the value of the surplus property in a repaired state; or
- e. The surplus property can be replaced for less than the cost of repairing the surplus property.

**H. Inspection:** The Procurement Officer shall cause to be inspected, or supervise the inspection of, all deliveries of supplies, materials and equipment to determine their conformance with the specifications set forth in any applicable contract. The Procurement Officer is to be notified by the responsible department head forthwith of any item not received within 30 days after a reasonable delivery time has elapsed.

**I. Technology Modification:** Any contract may be subject to a modification for technological upgrades if a provision to that effect was included in the solicitation or the contract. Any modification to a contract for upgraded technology should be substantially within the scope of the original procurement or contract. Then, if both parties agree to the modification, the contract may be modified for a technological upgrade without going through a new procurement process. A technological upgrade or modification may extend the contract term beyond the original term of the contract only as provided in the Procurement Code and this Policy.

#### IV. CONTRACTUAL TERMS

**A. Multi-Year Contracts:** The SCSA#3 may enter into multi-year contracts in accordance with Section 63G-6a-1204 of the Act. In particular, a contract for supplies or services may be entered into for any period of time, up to five years, deemed to be in the best interest of the SCSA#3; provided that the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Prior to the utilization of a multi-year contract, it should be determined in writing that estimated requirements cover the period of the contract and are reasonably firm and continuing and that a multi-year contract will serve the best interest of

the SCSA#3 by encouraging effective competition or otherwise promoting economies in SCSA#3 procurement.

1. **In Excess of Five Years:** Notwithstanding the foregoing, or anything to the contrary in this Policy, a contract may be entered into for a period in excess of five years, or for an indeterminate period that is terminable at-will by the SCSA#3, with or without cause, based upon a written determination by the Procurement Officer, as provided in Section 63G-6a-1204, that:
  - a. A longer period is necessary in order to obtain the procurement unit,
  - b. A longer period is customary for industry standards, or
  - c. A longer period is in the best interest of the SCSA#3.

The Procurement Officer's written determination shall be included in the file for the subject procurement.

2. **Availability of Funds:** As allowed by law or the underlying contract, when funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, a multi-year contract may be canceled and the contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the contract. The cost of cancellation may be paid from any appropriation available for that purpose.
3. **Indefinite Term:** Based upon a written determination by the Procurement Officer as provided in paragraph 1 above, with the concurrence of the contracting parties, a contract may be entered into as, or may be modified to become, an indefinite term contract terminable at will by the SCSA#3.

**B. Type of Contract:**

1. **Generally:** Subject to the limitations of this Section B., any type of contract which will promote the best interest of the SCSA#3 may be used; provided that, if a contract other than a firm fixed price contract will be used, the Procurement Officer must make a written determination as required by Section 63G-6a-1205(3) of the Act that the proposed contractor's accounting system will permit the timely development of all necessary cost data in the form required by the specific contemplated contract type; the proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted accounting principles; and the use of a specified type of contract, other than a firm fixed price contract, is in the best interest of the SCSA#3 taking into consideration the criteria specified

in Section 63G-6a-1205(3)(c). The various contract types that may be used are identified in Section 63G-6a-1205(4).

2. **Cost-Plus-a-Percentage-of-Cost:** As provided in Section 63G-6a-1205(5) of the Act, the SCSA#3 may not enter into a cost-plus-a-percentage-of-cost contract unless the contract form is approved by the Procurement Officer; it is standard practice in the industry to obtain the subject procurement item through a cost plus contract; and any percentage and the method of calculating costs stated in the contract are in accordance with industry standards.
3. **Cost Reimbursement:** As provided in Section 63G-6a-1205(6) of the Act, a cost reimbursement contract may be used only when a determination is made in writing by the Procurement Officer that such contract is likely to be less costly to the SCSA#3 than any other type of permitted contract or that it is impracticable to obtain the supplies, services, or construction required except under such a contract, and the proposed contractor has an adequate accounting system to timely develop cost data and to allocate costs in accordance with generally accepted accounting principles.

C. **Installment Payments:** The SCSA#3 may make installment payments in accordance with Section 63G-6a-1208 of the Act.

## V.SMALL PURCHASES

- A. **General:** Small purchases shall be conducted in accordance with the requirements set forth in Section 63G-6a-506 of the Act. This Part V provides additional requirements and procedures and is to be used in conjunction with the Procurement Code.
1. **Definition:** A "Small Purchase" is a procurement conducted by the SCSA#3 without using a standard procurement process.
  2. **Thresholds:** Small Purchase thresholds are as follows:
    - a. The "Individual Procurement Threshold" is a maximum amount of **\$2,000** for a procurement item;
    - i. For individual procurement item(s) costing up to **\$2,000**, the SCSA#3 may select the best source by direct award and without seeking competitive bids or quotes.
    - b. The "Single Procurement Aggregate Threshold" is a maximum amount of **\$2,000** for multiple procurement item(s) purchased from one source at one time; and

- c. The "Annual Cumulative Threshold" from the same source is a maximum amount of **\$10,000**.
3. **Vendor Prequalification**: Should the SCSA#3 elect to pre-qualify vendors for a small purchase, the SCSA#3 will follow the process described in Section 63G-6a-410 of the Act to prequalify potential vendors and Section 63G-6a-507 to develop an Approved Vendor List.
4. **Rotation System**: Whenever practicable, the SCSA#3 will use a rotation system or other system designed to allow for competition when using the small purchases process.

**B. Small Purchases Threshold for Design Professional Services:**

1. **Threshold**: The small purchase threshold for Design Professional services is a maximum amount of **\$5,000** per budget year.
2. **Procedure**: Design Professional services may be procured, up to a maximum of **\$5,000**, by direct negotiation after reviewing the qualifications of a minimum of three architectural or engineering firms.
3. **Specifications**: The SCSA#3 will include minimum specifications when using the small purchase threshold for Design Professional services.

**C. Small Purchases Threshold for Construction Projects:**

1. **Threshold**: The small construction project threshold is a maximum of **\$5,000** for direct construction costs, including design and allowable furniture or equipment costs;
2. **Procedure**: The SCSA#3 will follow the process described in Section 63G-6a-410 of the Act to prequalify potential vendors and Section 63G-6a-507 to develop an Approved Vendor List, or other applicable selection methods described in the Procurement Code for construction services.
3. **Specifications**: Minimum specifications will apply when using the small purchases threshold for construction projects.
4. **Up to \$5,000**: The SCSA#3 may procure small construction projects up to a maximum of **\$5,000** by direct award without seeking competitive bids or quotes after documenting that all building code approvals, licensing requirements, permitting and other construction related requirements will

be met. The awarded contractor must certify that the contractor is capable of meeting the minimum specifications of the project.

5. **From \$5,000 to \$10,000:** The SCSA#3 may procure small construction projects costing more than **\$5,000** up to a maximum of **\$10,000** by obtaining a minimum of two competitive quotes that include minimum specifications, and will award the work to the contractor with the lowest quote that meets the specifications after documenting that all applicable building code approvals, licensing requirements, permitting and other construction related requirements will be met.
6. **Over \$10,000:** Between \$10,000 and \$25,000, the SCSA#3 may invite at least three contractors from the approved vendor list to submit quotes or bids that include minimum specifications, and may award the work to the contractor with lowest quote or bid that meets the specifications after documenting that all applicable building code approvals, licensing requirements, permitting and other construction related requirements will be met. If an approved vendor list is not established under Sections 63G-6a-507 of the Act, the SCSA#3 will procure construction projects costing more than **\$10,000** using an invitation to bid or other approved source selection method outlined in the Procurement Code any may do the same for construction projects that cost less than **\$10,000**, in the SCSA#3's discretion.

**D. Quotes for Small Purchases between \$2,001 and \$50,000:**

1. **From \$2,001 to \$5,000:** For procurement item(s) other than Design Professional services, other professional or consulting services, or construction, where the cost is greater than **\$2,000** up to a maximum of **\$5,000**, the SCSA#3 will obtain at least two price quotations based on minimum specifications and may purchase the procurement item from the responsible vendor offering the lowest quote or best value that meets the specifications.
2. **Above \$5,000 to \$50,000:** For such procurement item(s) costing more than **\$5,000**, up to a maximum of **\$50,000**, the SCSA#3 will obtain at least two competitive quotes that include minimum specifications and may purchase the procurement item from the responsible vendor offering the lowest quote that meets the specifications.
3. **Above \$50,000:** For procurement item(s) costing more than **\$50,000**, the SCSA#3 will conduct an invitation for bids or other procurement process outlined in the Procurement Code.

4. **Public Record:** The names of the vendors offering quotations or bids and the date and amount of each quotation or bid will be recorded and maintained as a governmental record.

**E. Small Purchases of Services of Professionals, Providers, and Consultants:**

1. **Up to \$50,000:** The small purchase threshold for professional service providers and consultants is a maximum amount of **\$50,000** per budget year.
2. **Procedure:** After reviewing the qualifications of a minimum of two professional service providers or consultants, the SCSA#3 may obtain professional services or consulting services:
  - a. Up to a maximum cost of **\$5,000** by direct negotiation; or
  - b. Over **\$5,000** up to a maximum of **\$50,000** by obtaining a minimum of two quotes.
3. **Cost Not Primary:** The SCSA#3 need not select the professional service provider presenting the lowest cost quotation, but may instead base the selection on other documented factors such as experience, knowledge and reputation.

**F. Optional Competitive Bidding:** Notwithstanding the foregoing, the SCSA#3 may require any acquisition of supplies, materials or equipment to be competitively bid if, in the determination of the Board or the Procurement Officer, such action would be in the best interest of the SCSA#3.

**G. Petty Cash:** A limited amount of "petty cash" may be maintained at the SCSA#3 office to be used for small purchases that are needed before regular purchasing procedures can be implemented. All petty cash slips or other proof of the amount of the petty cash expenditure must be signed by the employee responsible for the purchase and approved by either the Procurement Officer or the person responsible for accounts payable of the SCSA#3. Whenever feasible, the items purchased are to be listed on the petty cash reimbursement check.

**H. Open Charge Accounts:** The SCSA#3, for convenience, may maintain one or more open charge accounts with vendors who regularly provide supplies and materials. Purchases on the account must be approved by the Procurement Officer or an authorized designee prior to the purchase. Receipts are to be maintained for all credit card purchases and vendor statements are to be reconciled against those receipts prior to making credit card payments. Unless there is a dispute arising from the reconciliation or otherwise, or sufficient funds are not immediately available, all credit card charges are to be timely paid so as to avoid

finance charges. No open charge account is to be utilized to circumvent the competitive requirements of this Policy.

## VI.VENDOR PREQUALIFICATION

A. **Prequalification of Potential Vendors.** General procurement provisions, including prequalification of potential vendors, approved vendor lists, and small purchases, will be conducted in accordance with the requirements set forth in Sections 63G-6a-110 through -112, -410, and -506 through -507 of the Act. This Part VI provides additional procedures and is to be used in conjunction with the Procurement Code.

### B. **Approved Vendor Lists.**

1. **Thresholds:** The SCSA#3 may establish approved vendor lists in accordance with the requirements of Section 63G-6a-507 of the Act.
  - a. Contracts or purchases from an approved vendor list may not exceed the following thresholds:
    - i. Construction Projects: **\$25,000** per contract, for direct construction costs, including design and allowable furniture or equipment costs, awarded using an invitation for bids or a request for proposals;
    - ii. Professional and General Services, including Design Professional services: **\$50,000**; and
    - iii. Information Technology: **\$5,000**.
  - b. Thresholds for other approved vendor lists may be established by the Procurement Officer.

## VII.SPECIFICATIONS

- A. **Content:** The SCSA#3 will include in solicitation documents specifications for the procurement item(s) being sought.
  1. **Economy and Competition:** Specifications will be drafted with the objective of clearly describing the SCSA#3's requirements and encouraging competition.
    - a. Specifications will emphasize the functional or performance criteria necessary to meet the needs of the SCSA#3.
    - b. All specifications prepared for the solicitation of bids or proposals will seek to promote over-all economy and best uses for the purposes

intended and encourage competition in satisfying the SCSA#3's needs, and not be unduly restrictive.

- c. The requirements of this Section A regarding the purposes and non-restrictiveness of specifications shall apply to all specifications including, but not limited to, those prepared for the SCSA#3 by architects, engineers, designers, and draftsmen.

2. **Conflicts Generally Prohibited:** Except as specifically provided in this Subsection 2, persons with a conflict of interest, or who anticipate responding to the proposal for which the specifications are written, may not participate in writing specifications. A person may be retained to assist in writing specifications, scopes of work, requirements, qualifications, or other components of a solicitation. A person assisting in writing specifications shall not, at any time during the procurement process, be employed in any capacity by, nor have an ownership interest in, an individual, public or private corporation, governmental entity, partnership, or unincorporated association bidding on or submitting a proposal in response to the solicitation provided, however, that this restriction shall not apply to a design build construction project or other procurements as determined in writing by the Procurement Officer.

- a. A non-employee of the SCSA#3 (such as a consulting engineer) who has prepared specifications for use by the SCSA#3 may participate in a SCSA#3 procurement using those specifications only if the person declares, in a writing delivered to the Manager, an intent to do so and the Manager makes a written determination, which is placed in the bid or contract file, indicating that it is in the best interest of the SCSA#3 to allow the identified non-employee to participate in the procurement, including an identification of specific benefits that are expected to be received by the SCSA#3 and a determination that participation by the non-employee will not be prejudicial to the fair and equal conduct of the procurement process.

b. Violations may result in:

- i. The bidder or offeror being declared ineligible to be awarded the contract;
- ii. The solicitation being canceled;
- iii. Termination of an awarded contract; or
- iv. Any other action determined to be appropriate by the Board.

3. **Brand Name or Equal Specifications:**

- a. Brand name or equal specifications may be used when:
  - i. An "or equivalent" reference is included in the specification; and,
  - ii. As many other brand names as practicable are also included in the specification.
- b. Brand name or equal specifications should include a description of the particular design and functional or performance characteristics which are required. Specifications unique to the brands shall be described in sufficient detail to enable a vendor to respond with an equivalent product.
- c. When a manufacturer's specification is used in a solicitation, the solicitation will state the minimum acceptable requirements of an equivalent. When practicable, the SCSA#3 will name at least two manufacturer's specifications.

4. **Brand Name Sole Source Requirements:**

- a. If only one brand can meet the requirement, the SCSA#3 will conduct the procurement in accordance with Section 63G-6a-802 of the Act and solicit from as many providers of the brand as is practicable; and
- b. If there is only one provider that can meet the requirement, the SCSA#3 will conduct the procurement in accordance with Section 63G-6a-802.
- c. Notwithstanding the foregoing, or anything to the contrary in this Policy, when the equipment or other procurement items designated by brand name for a construction project are projected to cost no more than ten percent (10%) of the total cost of the construction project, a designated brand may be identified in the specifications and the SCSA#3 will not be required to consider arguably equivalent products.

**VIII. COMPETITIVE PROCUREMENT**

- A. **Request for Information:** Before issuing an invitation for bids or a request for proposals, the SCSA#3 may issue a request for information to determine whether to issue an invitation

for bids or request for proposals and generate interest in a potential procurement by the SCSA#3 as provided in Section 63G-6a-409 of the Act.

1. **Use:** A request for information may not be used to make a purchase or enter into a contract, but may be used to seek a wide range of information including:
  - a. The availability of a procurement item;
  - b. Delivery schedule;
  - c. Industry standards and practices;
  - d. Product specification;
  - e. Training;
  - f. New Technology;
  - g. Capabilities of potential providers of a procurement item; and
  - h. Alternate solutions.
2. **Confidentiality:** A request for information should indicate the procedure for business confidentiality claims and other protection provided by the Government Records Access and Management Act, Title 63G, Chapter 2 of the Utah Code.

**B. Competitive Bids and Proposals - Over \$25,000:** Except as otherwise allowed by law and this Policy, contracts for services, supplies, materials, or equipment where the amount to be paid annually by the SCSA#3 is more than **\$25,000** shall be awarded only after competitive sealed bids or proposals have been requested and received. Sealed written bids or proposals are to be obtained for all such purchases in excess of **\$25,000** from at least three suppliers (provided that there are at least three available suppliers willing to submit a bid or proposal). Documentation regarding the sealed written bids or proposals is to be maintained by the SCSA#3 and the purchase is to be documented as required by the SCSA#3's applicable rules and regulations.

**C. Bidding Procedure:** Competitive Sealed Bidding shall be conducted in accordance with the requirements set forth in Sections 63G-6a-601 through 63G-6a-612 of the Act and as provided in this Policy.

1. **Invitation for Bids:** Except as otherwise provided in this Policy, contracts will generally be awarded by competitive sealed bidding. When a contract

is to be awarded by competitive sealed bidding, an invitation for bids will be issued.

- a. The invitation for bids shall include the information required by Section 63G-6a-603 of the Act and may include a "Bid Form" or forms which provide lines for bidder information such as the following:
  - i. The bidder's bid price;
  - ii. The bidder's acknowledged receipt of addenda issued by the SCSA#3;
  - iii. Identification by the bidder of other applicable submissions; and
  - iv. The bidder's signature
- b. Bidders may be required to submit descriptive literature and/or product samples to assist in the evaluation of whether a procurement item meets the specifications and other requirements set forth in the invitation for bids.
  - i. Product samples must be furnished free of charge unless otherwise stated in the invitation for bids and, if not destroyed by testing, will upon written request within any deadline stated in the invitation for bids be returned at the bidder's expense. Samples must be labeled or otherwise identified as specified in the invitation for bids.
- c. Bid, payment and performance bonds or other security may be required for procurement items as set forth in the invitation for bids. Bid, payment and performance bond amounts shall be as prescribed by applicable law or be based upon the estimated level of risk associated with the procurement item and may not be increased above the estimated level of risk with the intent to reduce the number of qualified bidders.
- d. Bids must be based upon a definite calculated price
  - i. "Indefinite quantity contract" means a fixed price contract for an indefinite amount of procurement items to be supplied as ordered by the SCSA#3 and does not require a minimum purchase amount, or provide a maximum purchase limit;
  - ii. "Definite quantity contract" means a fixed price contract that provides for the supply of a specified amount of goods over

- a specified period, with deliveries scheduled according to a specified schedule; and
    - iii. Bids may not be based on using or referencing another bidder's price, including a percentage discount, a formula, any other amount related to another bidder's price, or conditions related to another bid.
- 2. **Addenda to Invitation for Bids:** Prior to the submission of bids, The SCSA#3 may issue addenda which may modify any aspect of the invitation for bids.
  - a. Addenda will be distributed within a reasonable time to allow prospective bidders to consider the addenda in preparing bids.
  - b. After the due date and time for submitting bids, at the discretion of the Procurement Officer, addenda to the invitation for bids may be limited to bidders that have submitted bids, provided the addenda do not make a substantial change to the invitation for bids that, in the opinion of the Procurement Officer, likely would have impacted the number of bidders responding to the invitation for bids.
- 3. **Pre-Bid Conferences/Site Visits:**
  - a. Pre-bid conferences and/or site visits may be conducted to explain the procurement requirements. If there is to be a pre-bid conference or a site visit, the time and place of the pre-bid conference/site visit should be stated in the invitation for bids.
  - b. A pre-bid conference or a site visit may be mandatory, but only if the invitation for bids states that the conference/site visit is mandatory and provides the location, date and time of the conference/site visit and also states that failure to attend a mandatory conference/site visit shall result in the disqualification of any bidder that does not attend.
  - c. Attendance at a pre-bid conference may be conducted via any of the following as determined by the Procurement Officer:
    - i. Attendance in person;
    - ii. Teleconference participation;
    - iii. Webinar participation; or
    - iv. Other approved electronic media.

- d. A site visit may generally only be attended in person provided, however, at the discretion of the Procurement Officer, an audio or video recording of a site visit may be used.
- e. Attendance and participation at all pre-bid conferences and site visits must be by an authorized representative of the vendor submitting a bid and as may be further specified in the invitation for bids.
- f. The SCSA#3 will maintain an attendance log including the name of each attendee, the firm the attendee is representing, the attendee's contact information, and any documents distributed to the attendees; and the SCSA#3 may maintain minutes of the pre-bid conference/site visit.
- g. The SCSA#3 may, as appropriate, publish as an addendum to the solicitation:
  - i. The attendance log;
  - ii. Minutes of the pre-bid conference and any documents distributed to the attendees at the pre-bid conference or site visit; or
  - iii. Any oral modification made to any of the solicitation documents, which shall be reduced to writing.

4. **Public Notice:** Public notice of the invitation for bids is to be given a reasonable time prior to the date set forth therein for the opening of bids, in accordance with this Section C. The notice may include publication in a newspaper of general circulation a reasonable time prior to the bid opening.

5. **Bids and Modifications to a Bid Received After the Due Date and Time:**

- a. Bids and modifications to a bid submitted electronically or by physical delivery, after the established due date and time, will not be accepted for any reason, except as determined under d. below.
- b. When submitting a bid or modification electronically, bidders must allow sufficient time to complete the online forms and upload documents. The solicitation will end at the closing time posted in the electronic system, if applicable. If a bidder is in the process of uploading a bid when the closing time arrives, the bid or modification of the bid will not be accepted.

- c. When submitting a bid or modification to a bid by physical delivery (U.S. mail, courier service, hand-delivery, or other physical means) bidders are solely responsible for meeting the deadline. Delays caused by a delivery service or other physical means will not be considered as an acceptable reason for a bid or modification to a bid being late.
  - i. All bids or modifications to bids received by physical delivery will be date and time stamped
  - d. To the extent that an error on the part of the SCSA#3 or an employee of the SCSA#3 results in a bid or modification to a bid not being received by the established due date and time, the bid or modification to a bid will be accepted as being on time.
6. **Opening and Recording of Bids:** Bids will be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and any other relevant information specified by this Section C, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.
7. **Errors in Bids:** The following shall apply to the correction or withdrawal of an inadvertently erroneous bid, or the cancelation of an award or contract that is based on an unintentionally erroneous bid. A decision to permit the correction or withdrawal of a bid or the cancellation of any award or contract shall be supported in a written document signed by the Procurement Officer.
- a. Errors attributed to a bidder's error in judgment may not be corrected.
  - b. Provided that there is no change in bid pricing or the cost evaluation formula, errors not attributed to a bidder's error in judgment may be corrected if it is in the best interest of the SCSA#3 and correcting the mistake maintains the fair treatment of other bidders.
    - i. Examples include:
      - (1) Missing signatures,
      - (2) Missing acknowledgment of receipt of an addendum;
      - (3) Missing copies of professional licenses, bonds, or insurance certificates, provided that copies are

submitted by the deadline to correct this mistake established by the Procurement Officer;

- (4) Typographical errors;
- (5) Mathematical errors not affecting the total bid price; or
- (6) Other errors deemed by the Procurement Officer to be immaterial or inconsequential in nature.

- c. The Procurement Officer shall approve or deny, in writing, a bidder's request to correct or withdraw a bid.
- d. Corrections or withdrawal of bids shall be conducted in accordance with Section 63G-6a-605 of the Act.

8. **Errors Discovered After the Award of Contract:**

- a. Errors discovered after the award of a contract may only be corrected if, after consultation with the Procurement Officer and the SCSA#3's legal counsel, it is determined that the correction of the mistake does not violate the requirements of the Procurement Code or this Policy.
- b. Any such correction must be supported by a written determination signed by the Procurement Officer.

9. **Re-solicitation of a Bid:**

- a. Re-solicitation of a bid may occur if the Procurement Officer determines that:
  - i. A material change in the scope of work or specifications has occurred;
  - ii. Procedures outlined in the Procurement Code were not followed;
  - iii. Additional public notice is desired;
  - iv. There was a lack of adequate competition; or
  - v. Any other reason exists that causes re-solicitation to be in the best interest of the SCSA#3.
- b. Re-solicitation may not be used to avoid awarding a contract to a qualified vendor in an attempt to steer the award of a contract to a favored vendor.

10. **Bid Award:** Unless the SCSA#3 elects to cancel the procurement or re-solicit bids, contracts are to be awarded with reasonable promptness by written notice to the lowest responsive and responsible bidder whose bid meets the requirements and objective criteria described in the invitation for bids.

a. Bids shall be based on the lowest bid for the entire term of the contract, excluding renewal periods and, unless an exception is authorized in writing by the Procurement Officer, cost may not be divided or evaluated on any other basis than the entire term of the contract, excluding renewal periods.

b. In the event all bids for a construction project exceed available funds as certified by the appropriate fiscal officer, and the low responsive and responsible bid does not exceed such funds by more than 5%, the Procurement Officer or Board is authorized, in situations where time or economic considerations preclude re-solicitation of work of a reduced scope, to negotiate an adjustment of the scope or bid price, including changes in the bid requirements, with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds.

11. **Only One Bid Received:**

a. If only one responsive and responsible bid is received in response to an invitation for bids, including multiple stage bidding, an award may be made to the single bidder if the Procurement Officer determines that the price submitted is fair and reasonable and other prospective bidders had a reasonable opportunity to respond, or there is not adequate time for re-solicitation. Otherwise, the bid may be rejected and:

- i. A new invitation for bids solicited;
- ii. The procurement canceled; or
- iii. The procurement may be conducted as a sole source under Section 63G-6a-802 of the Act.

12. **Multiple or Alternate Bids:**

a. Multiple or alternate bids will not be accepted, unless otherwise specifically required or allowed in the invitation for bids.

b. If a bidder submits multiple or alternate bids that are not requested in the invitation for bids, the Procurement Officer will only accept

the bidder's primary bid and will not accept any other bids constituting multiple or alternate bids.

**13. Methods to Resolve Tie Bids:**

- a. In accordance with Section 63G-6a-608 of the Act, in the event of tie bids, the contract shall be awarded to the bidder that qualifies as a Utah resident bidder, provided the bidder indicated on the invitation to bid form that it is a Utah resident bidder.
- b. If a Utah resident bidder is not identified, the preferred method for resolving tie bids is for the Procurement Officer to toss a coin in the presence of a minimum of three witnesses, with the firm first in alphabetical order being heads.
- c. Other methods to resolve a tie bid described in Section 63G-6a-608 of the Act may be used as deemed appropriate by the Procurement Officer.

**14. Notice of Award:**

- a. The SCSA#3 shall, on the day on which the award of a contract is announced, make available to each bidder and to the public a notice that includes:
  - i. The name of the bidder to which the contract is awarded and the price(s) of the procurement item(s); and
  - ii. The names and the prices of each bidder to which the contract is not awarded.

**15. Multiple Stage Bidding Process: Multiple stage bidding shall be conducted in accordance with the requirements set forth in Section 63G-6a-609 of the Procurement Code.**

- a. The Procurement Officer may hold a pre-bid conference as described in Subsection C.3 above to discuss the multiple stage bidding process or for any other permissible purpose.

**D. Unpriced Offers: When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued under Section C above requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.**

3. **Exceptions to Terms and Conditions Published in the RFP:**

- a. Offerors requesting exceptions and/or additions to the standard terms and conditions published in the RFP must include the exceptions and/or additions with the proposal response.
- b. Exceptions and/or additions submitted after the date and time for receipt of proposals will not be considered unless there is only one offeror that responds to the RFP, the exceptions and/or additions have been approved by the SCSA#3's legal counsel, and it is determined by the Procurement Officer that it is not beneficial to the SCSA#3 to republish the solicitation.
- c. Offerors may not submit requests for exceptions and/or additions by reference to a vendor's website or URL.
- d. The SCSA#3 may refuse to negotiate exceptions and/or additions:
  - i. That are determined to be excessive;
  - ii. That are inconsistent with similar contracts of the SCSA#3;
  - iii. To warranties, insurance or indemnification provisions that are deemed, after consultation with the SCSA#3's attorney, to be necessary to protect the SCSA#3;
  - iv. Where the solicitation specifically prohibits exceptions and/or additions; or
  - v. That are not in the best interest of the SCSA#3.
- e. If negotiations are permitted, the SCSA#3 may negotiate exceptions and/or additions with offerors, beginning in order with the offeror submitting the fewest exceptions and/or additions to the offeror submitting the greatest number of exceptions and/or additions. Contracts may become effective as negotiations are completed.
- f. If, in the negotiation of exceptions and/or additions with a particular offeror, an agreement is not reached, after a reasonable amount of time, as determined by the Procurement Officer, the negotiations may be terminated, a contract will not be awarded to that offeror, and the SCSA#3 may move to the next eligible offeror.

4. **Protected Records:**

- a. The following are protected records, and may be redacted by the vendor subject to the procedures described below in accordance

with the Governmental Records Access and Management Act (GRAMA) Title 63G, Chapter 2 of the Utah Code.

- i. Trade Secrets, as defined in Section 13-24-2 of the Utah Code.
  - ii. Commercial information or non-individual financial information subject to the provisions of Section 63G-2-305(2) of the Act.
  - iii. Other Protected Records under GRAMA.
- b. Any person requesting that a record be protected shall include with the proposal or submitted document:
  - i. A written indication of which provisions of the proposal or submitted document are claimed to be considered for business confidentiality or to be protected (including trade secrets or other reasons for non-disclosure under GRAMA); and
  - ii. A concise statement of the reasons supporting each claimed provision of business confidentiality or other basis for protection.

**5. Notification:**

- a. A person who complies with Subsection 4 immediately above will be notified by the SCSA#3 prior to the public release of any information for which a claim of confidentiality has been asserted.
- b. Except as provided by court order, the SCSA#3 may not be compelled to disclose a record claimed to be protected under Subsection 4 immediately above but which the SCSA#3 or State Records Committee determines should be disclosed until the period in which to bring an appeal expires or the end of the appeal process, including judicial appeal, is reached. This Subsection 5 does not apply where the claimant, after notice, has waived the claim by not appealing or intervening before the State Records Committee. To the extent allowed by law, the parties to a dispute regarding the release of a record may agree in writing to an alternative dispute resolution process.
- c. Any allowed disclosure of public records submitted in the request for proposals process will be made only after the selection of the successful offeror(s) has been made public in compliance with Section 63G-6a-709.5 of the Act.

6. **Process for Submitting Proposals with Protected Business Confidential Information:**

- a. If an offeror submits a proposal that contains information claimed to be business confidential or protected information, the offeror must submit two separate proposals:
  - i. One redacted version for public release, with all protected business confidential information either blacked-out or removed, clearly marked as "Redacted Version"; and
  - ii. One non-redacted version for evaluation purposes clearly marked as "Protected Business Confidential".
- b. Pricing may not be classified as business confidential and will be considered to be public information.
- c. An entire proposal may not be designated as "PROTECTED", "CONFIDENTIAL" or "PROPRIETARY" and shall be considered to be non-responsive unless the offeror removes the designation.

7. **Pre-proposal Conferences/Site Visits:**

- a. Pre-proposal conferences/site visits may be conducted to explain the procurement requirements. If there is to be a pre-proposal conference or site visit, the time and place of the pre-proposal conference/site visit shall be stated in the RFP.
- b. Pre-proposal conference/site visits may be mandatory, but only if the RFP states that the pre-proposal conference/site visit is mandatory and provides the location, date and time of the site visit and also states that failure to attend a mandatory pre-proposal conference/site visit shall result in the disqualification of any offeror that does not attend.
- c. Attendance at a pre-proposal conference may be conducted via any of the following as determined by the Procurement Officer:
  - i. Attendance in person;
  - ii. Teleconference participation;
  - iii. Webinar participation; or
  - iv. Other approved electronic media