

# 18 EXCEPTIONS TO BIDDING

## 18.1 List of Exceptions

Purchases from the following sources exempt from the requirement for competitive solicitations:

- Sole Sources (as determined by the Division of Purchasing)
- The Federal Government
- Rehabilitation Agencies
- Correctional Industries
- GSA Federal Supply Contractors (must be approved by Division of Purchasing)
- Emergency Purchases
- Purchases less than the bid limits described in this guide
- Statewide or Single Agency Contracts
- Reverse Auctions (conducted by the Division of Purchasing)
- Pharmaceutical Purchases from the US Dept. of Health and Human Services, Center for Disease Control contracts - Policy Directive No. 01-2, dated October 1, 2001
- Training Travel, Lodging, Seminars, and Meeting Rooms less than \$75,000 – Policy Directive No. 08-1, dated October 20, 2008
- Legal advertising, public service announcements, and publication or placement of advertisements by state agency personnel directly with media sources, purchase of mass produced movie or video films, audio recordings, or written publications (books, brochures, pamphlets, etc.) that are distributed or sold primarily by the publisher and considered to be a sole source purchase - Policy Directive No. 01-3, dated October 1, 2001
- Educational discounts offered by vendors exclusively to schools, colleges, universities, and other educational institutions where the property is for the express purpose of educating students – Policy Directive No. 08-1, dated October 20, 2008. This exemption is limited the agency's delegated authority, not to exceed \$75,000.

The Division of Purchasing reserves the authority to determine if an item or services meets the qualifications to be considered as exempt from bidding.

## **18.2 Division of Purchasing Rules Regarding Exceptions to Bidding**

### **IDAPA 38.05.01**

#### **042. EXCEPTIONS TO FORMAL SEALED PROCEDURE.**

Purchases meeting the following criteria need not be purchased by the formal sealed procedure:

**01. Emergency Purchases.** Emergency purchases as authorized by Section 67-5720, Idaho Code, and Section 43.

**02. Small Purchases.** Small purchases, unless the administrator specifically requires a formal sealed procedure, made in accordance with Section 44.

**03. Sole Source Purchases.** Sole source purchases made through direct solicitation with documented source selection, in accordance with Section 67-5720, Idaho Code, and Section 45.

**04. Reverse Auctions.** Purchases through reverse public auctions as authorized by Section 67-5720, Idaho Code.

**05. Federal Government Acquisitions.** Acquisitions from the United States of America or any agency thereof.

**06. Rehabilitation Agency Acquisitions.** Acquisitions of property that is provided by non-profit corporations and public agencies operating rehabilitation facilities serving the handicapped and disadvantaged and that is offered for sale at fair market price as determined by the administrator in accordance with these rules.

**07. Correctional Industries.** Purchases of road or street signs, metal motor license plates, wearing apparel, furniture, articles or containers for state use not for resale on the open market or any other property marketed directly by Correctional Industries in accordance with Section 20-245, Idaho Code.

**08. Purchases From General Services Administration Federal Supply Contractors.** Acquisitions of property may be made from General Services Administration federal supply contractors without the use of competitive bid. The administrator shall determine whether such property meets the purchasing activity's requirements and whether the price of acquisition is advantageous to the state. The administrator shall commemorate the determination in a written statement that shall be incorporated in the applicable file. If the administrator determines that the acquisition of property from General

Services Administration contractors is not advantageous to the state, the acquisition shall be in accordance with competitive bidding procedures and requirements.

**09. Existing State Or Statewide Contracts.** Supplies, services or other property available under these contracts shall be purchased under such contracts in accordance with the provisions or requirements for use thereof.

**10. Exempt Purchases.** By written policy the administrator may exempt from the formal sealed procedure or the requirement for competitive acquisition that property for which bidding is impractical, disadvantageous or unreasonable under the circumstances.

- a. Examples include, but are not limited to:
  - i. Special market conditions;
  - ii. Property requiring special contracting procedures due to uniqueness;
  - iii. Legal advertising, publication or placement of advertisements by state agency personnel directly with media sources; or
  - iv. Services for which competitive solicitation procedures are impractical.
- b. Such policy shall describe the property exempted, the duration of the exemption, and any other requirements or circumstances appropriate to the situation.

### **18.3 Division of Purchasing Policy Directives**

#### **POLICY DIRECTIVE NO. 08-1** **EFFECTIVE OCTOBER 1, 2008**

Policy Directive No. 01-1, dated October 1, 2001, is hereby rescinded and replaced by Policy Directive No. 08-1, dated October 20, 2008.

Pursuant to Idaho Division of Purchasing Rule 42.10 (IDAPA 38.05.01.42.10), a determination has been made that competitive solicitation procedures are impractical, disadvantageous, and unreasonable when applied to:

1. The infrequent purchase of less than \$75,000 for State employee education or training related travel (bus, car, plane, etc.) to include associated costs for lodging (hotel/motel, rooms, food, etc.), meeting rooms, and seminar/workshop expenses.
2. The infrequent purchases of less than \$75,000 for services from firms or individuals providing on-site education and/or training to State employees.

The requirement for soliciting quotes pursuant to statute and rules for these requirements for purchases of less than \$75,000 is waived. Purchasers are cautioned to use prudent business judgment and/or informal price quotation procedures when possible or practical. The goal is to maximize the value of the benefit commensurate with the degree of effort, time available, and price reasonableness.

This exemption shall be effective until this policy directive is rescinded or replaced.

**POLICY DIRECTIVE NO. 01-2**  
**EFFECTIVE OCTOBER 1, 2001**

Policy Directive No. 98-1, dated April 1, 1998, is hereby rescinded and replaced by Policy Directive No. 01-2, dated October 1, 2001.

Pursuant to Idaho Division of Purchasing Rule 42.10 (IDAPA 38.05.01.42.10), a determination has been made that competitive solicitation procedures are impractical, disadvantageous, and unreasonable when applied to:

1. The purchases of pharmaceutical products through the consolidated contracts established by the United States Government, Department of Health and Human Services, Center for Disease Control and Prevention, Procurement and Grants Office. Such products shall be limited to those provided through the CDC consolidated contracts, as may be updated from time to time, and are listed by the CDC web site at [http://www.cdc.gov/nip/vfc/cdc\\_vaccine\\_price\\_list.htm](http://www.cdc.gov/nip/vfc/cdc_vaccine_price_list.htm), and incorporated into this policy directive.

The requirement for competitive solicitations pursuant to statute and rules for these purchases is waived. Purchasers are cautioned to use prudent business judgment. The goal is to maximize the value of the benefit commensurate with the degree of effort, time available, and price reasonableness.

CDC consolidated contracts are established for use by qualified public health entities. The public health entity utilizing these contracts are bound by the terms

and conditions of the contract as issued by the Center for Disease Control and Prevention.

This exemption shall be effective until this policy directive is rescinded or replaced.

**POLICY DIRECTIVE NO. 01-3**  
**EFFECTIVE OCTOBER 1, 2001**

Pursuant to Idaho Division of Purchasing Rule 42.10 (IDAPA 38.05.01.42.10), a determination has been made that competitive solicitation procedures are impractical, disadvantageous, and unreasonable when applied to:

1. Legal advertising, public service announcements, and publication or placement of advertisements by state agency personnel directly with media sources,
2. Purchase of mass produced movie or video films, audio recordings, or written publications (books, brochures, pamphlets, etc.) that are distributed or sold primarily by the publisher and considered to be a sole source purchase.

The requirement for competitive solicitations pursuant to statute and rules for these purchases is waived. Purchasers are cautioned to use prudent business judgment. The goal is to maximize the value of the benefit commensurate with the degree of effort, time available, and price reasonableness.

This exemption shall be effective until this policy directive is rescinded or replaced.

**POLICY DIRECTIVE NO. 03-1**  
**EFFECTIVE JULY 1, 2003**

Pursuant to Idaho Division of Purchasing Rule 42.10 (IDAPA 38.05.01.42.10), a determination has been made that competitive solicitation procedures are impractical, disadvantageous, and unreasonable when applied to:

1. Special educational discounts offered by vendors exclusively to schools, colleges, universities, and other educational institutions where the property is for the express purpose of educating students. Property includes, but is not limited to such things as computer software and hardware, audio, video, or printed publications, testing and instructional equipment and related supplies, or other specialized training equipment and supplies.

2. This exemption from competitive solicitation is limited to the delegated purchasing authority of the educational institution and shall in no instance exceed \$50,000 without written approval from the Division of Purchasing.

The requirement for competitive solicitations pursuant to statute and rules for these purchases is waived. Purchasers are cautioned to use prudent business judgment. The goal is to maximize the value of the benefit commensurate with the degree of effort, time available, and price reasonableness.

This exemption shall be effective until this policy directive is rescinded or replaced.