

STATE OF IDAHO



DIVISION OF PURCHASING

**SMALL
PURCHASING
GUIDE**

C.L. "Butch" Otter, Governor

Department of Administration
Mike Gwartney, Director

Division of Purchasing
Bill Burns, Administrator

P.O. Box 83720
Boise, Idaho 83720-0075
(208) 327-7465
FAX (208) 327-7320

www.adm.idaho.gov/purchasing

JULY 2008

SMALL PURCHASING GUIDE

TABLE OF CONTENTS

		PAGE
1.	DEFINITION OF SMALL PURCHASES.....	3
2.	DELEGATED AUTHORITY.....	3
3.	STATEWIDE CONTRACTS.....	5
4.	PROPERTY OR SERVICES LESS THAN \$5,000.....	5
5.	PROPERTY OR SERVICES \$5,000 OR MORE.....	5
6.	PROFESSIONAL, CONSULTANT AND INFORMATION TECHNOLOGY SERVICES \$50,000 OR LESS.....	6
7.	SMALL, MINORITY OR DISADVANTAGED BUSINESSES.....	6
8.	IDAHO PREFERENCES.....	7
9.	RECIPROCAL PREFERENCE.....	7
10.	PURCHASES FROM FEDERAL GOVERNMENT AND GSA SUPPLY CONTRACTS.....	8
11.	REHABILITATION AGENCIES.....	8
12.	CORRECTIONAL INDUSTRIES.....	8
13.	PHARMACEUTICALS AND MEDICAL SUPPLIES.....	8
14.	TRAINING, SEMINARS AND RELATED COSTS.....	8
15.	ADVERTISING, COPYRIGHTED MATERIALS.....	9
16.	EDUCATIONAL DISCOUNTS.....	9
17.	PRINTING.....	9
18.	EMERGENCY PURCHASES.....	10
19.	SOLE SOURCE.....	10
20.	REPAIRS OF EQUIPMENT.....	11
21.	INFORMATION TECHNOLOGY PURCHASING.....	11
22.	TELEPHONE AND COMMUNICATION SYSTEMS.....	13
23.	PHOTOCOPIERS AND FAXES.....	13
24.	AGENCY CONTRACTS.....	14
25.	PRICE AGREEMENTS.....	14
26.	LEASES.....	15
27.	LEASE WITH PURCHASE OPTION.....	15
28.	TIME PURCHASE CONTRACTS.....	15
29.	SERVICE CONTRACTS.....	16
30.	TRADE-INS.....	16
31.	VEHICLE PURCHASES.....	16
32.	STANDARD TERMS AND CONDITIONS.....	19
33.	PAYMENT TERMS.....	19
34.	SALES AND USE TAX EXEMPTION.....	19
35.	PURCHASING REPORTS.....	21
36.	REPORT FORM.....	23
37.	TRADE-IN AUTHORIZATION REQUEST FORM.....	24

AGENCY SMALL PURCHASING GUIDE

This purchasing guide is designed to give agency purchasing personnel an overall understanding of the State of Idaho statutes and Division of Purchasing rules, policies, and procedures that pertain to small purchasing. Individual agencies may have polices and procedures that are more restrictive than those of the Division of Purchasing and need to be followed.

1. Definition of Small Purchases

One-time purchases of property or the total cost of a contract for services, including renewal or extension periods, costing less than \$75,000 are considered to be “small purchases” and are purchased or procured utilizing informal Request for Quotations. (*IDAPA 38.05.01.044*). The splitting of requirements to avoid bidding procedures is not permitted. Violations carry a civil penalty not to exceed five hundred dollars (\$500) for each offense (*I.C. 59-1026*).

2. Delegated Authority

For purchase of property and services exceeding \$5,000 and not available on statewide contracts, the Administrator of the Division of Purchasing may grant limited delegated purchasing authority in various amounts to agencies that demonstrate a need for such purchases and a competence for accomplishing the purchase according to state statutes and published purchasing rules and regulations (*I.C. 67-5717, IDAPA 38.05.01.021*).

In most cases, delegated authority is limited to small purchases expected to cost seventy five thousand dollars (\$75,000) or less. Costs are determined as one-time purchases of property or the total cost of a contract for services, including renewal or extension periods, costing less than \$75,000. Multiple year contracts for services may be procured with the following exceptions:

- The total cost of the contract for services or property cannot exceed the delegated authority, including renewal or extension periods (*IDAPA 38.05.01.044*).
- Leases or rentals of personal property cannot exceed delegated authority and one (1) year in length. The Division of Purchasing may approve leases or rentals for longer periods of time (*IDAPA 38.05.01.101*).
- Professional, Consultant, and Information Technology Services contracts are limited to \$75,000 and one (1) year in duration (*IDAPA 38.05.01.44*).
- Non-exclusive price agreements may not exceed two (2) years in length and require authorization by the Division of Purchasing (*IDAPA 38.05.01.84*).

- All time purchases that may involve interest payments, regardless of dollar amount or contract length, require approval of the Division of Purchasing and may also require financial approvals (*IDAPA 38.05.01.102*).

State agencies, on an individual basis, may request delegated purchasing authority or increases in their delegated authority. For an agency to receive delegated authority or increased delegated authority, it must comply with the following:

- Demonstrate a need for the dollar limit authority requested.
- Have approval from the agency head.
- Submit a plan of purchasing responsibility that identifies the individual(s) designated as the agency's chief purchasing official(s) and shows adequate staffing possessing capability to handle the delegated authority. The individual chiefly responsible for purchasing must demonstrate sufficient purchasing ability to accommodate the agency's particular needs and be knowledgeable of public procurement's issues and trends.
- Submit an agency purchasing policy and procedure manual showing compliance with State Statutes and Division of Purchasing Rules.
- Require that all personnel involved in the purchasing process participate in training sessions, workshops, or conferences offered by the Division of Purchasing. The agency shall work to promote professionalism by its purchasing staff through continued training.
- Submit monthly purchasing reports as identified by the Division of Purchasing.
- Submit to purchasing reviews conducted by the Division of Purchasing for the purpose of determining effectiveness and performance of the agency's purchasing system and evaluating compliance with State Statutes and Division of Purchasing Rules.
- Consistently comply with *Idaho Code, Section 67-5714 et. seq.*, and Division of Purchasing Rules, *IDAPA 383.05.01*, relative to the conduct of purchasing activities.
- Modification to delegated authority will be contingent on the use of the Division of Purchasing e-procurement system (SICOMM.net).

After reviewing the above requirements, the Division of Purchasing will assess the needs and capabilities of the requesting agency and grant or deny delegated purchasing authority. Once approved, agencies are encouraged to re-delegate purchase authority to division, bureau, section, and program levels consistent with their capability to monitor such activity.

Agencies with delegated authority are subject to Purchasing Reviews by the Division of Purchasing. Purchasing Reviews are conducted to determine the effectiveness and performance of the agency's purchasing policies and

procedures and to evaluate compliance with state statutes and purchasing rules. Results of the review will be the basis for recommending additional training for agency personnel and for granting increased or rescinding of delegated authority. Delegated authority removal or reduction may also occur should an agency's chief purchasing officer position be downgraded or become vacant.

3. Statewide Contracts

Statewide Contracts are items or services that are universally used by the majority of state agencies. They include such items as paper and plastics (hand towels, toilet tissue, plastic trash can liners), car batteries, office supplies, envelopes, business cards, tires, paint, photocopiers, vehicles and information technology (computers, telephones).

All agencies may purchase from a statewide contract without competitively bidding. Most statewide contracts are *mandatory use* meaning that they must be used by agencies purchasing the specific product or service (*I.C. 67-5726*). A complete list of statewide contracts is available on the Internet at the Idaho Purchasing Homepage website.

4. Property or Services Less Than \$5,000

For purchases of goods or services expected to cost less than \$5,000 and not available on contract, no competitive bidding is required. Agencies may make purchases as they see fit, in accordance with good business practice and in the best interests of the state. All agencies have authority to make purchases under \$5,000. Procedures and rules regarding purchases under \$5,000 are determined by each individual agency (*IDAPA 38.05.01.044*).

5. Property or Services \$5,000 or More

With some exceptions (see Professional, Consultant, and Information Technology Services), all purchases costing \$5,000 or more and not available on contracts require a minimum of three (3) competitive solicitations from vendors with a significant Idaho economic presence as defined by Idaho Code and require that the agency have some level of delegated purchasing authority (*I.C. 67-5718, 67-2349, IDAPA 38.05.01.044*).

Informal solicitations or *Request For Quotations* may be obtained by any of the following ways:

- in writing (written RFQ)
- verbally
- electronically (Internet)
- facsimile
- telephone

Verbal quotations should be recorded for future evaluation (who did you talk to, name, business, phone number, price quoted, etc.).

Agencies should keep a file with a detailed record of each purchase, quotations received, awards made, etc. to verify compliance with purchasing statutes and rules.

6. Professional, Consultant and Information Technology Services \$75,000 or Less

Professional, consultant and information technology services, where the services are reasonably expected to cost seventy five thousand dollars (\$75,000) or less through a fixed price/not to exceed price contract for a term not exceeding one (1) year, may be acquired as each agency sees fit, in accordance with good business practice and in the best interest of the state (*IDAPA 38.05.01.044*).

Consultant Services is work, rendered by either independent individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advise in formulating or implementing programs or services or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting, planning and data processing. The consultant's services, opinions, or recommendations will be performed according to the consultant's methods without being subject to the control of the agency except as to the result of the work.

Professional Services is work rendered by an independent contractor whose occupation is the rendering of such services and who has a professional knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, including but not limited to accounting and auditing, legal, medical, nursing, education, engineering, actuarial, architecture, veterinarians, and research. The knowledge is founded upon prolonged and specialized intellectual training, which enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skills.

Information Technology means all present and future forms of computer hardware, computer software and services used or required for automated data processing, computer-related office automation or telecommunications.

7. Small, Minority, or Disadvantaged Businesses

There are no preferences, quotas or goals for purchasing from small, minority, or disadvantaged businesses in Idaho Code. The Division of Purchasing does not collect or track this type of information. However, several state agencies (Transportation, Environmental Quality, Water Resources, etc.) receive federal money that has, as a condition, the use of small, minority, or disadvantaged business enterprises. The Idaho Department of Transportation has a program called the Disadvantaged Business Enterprises Supportive Services Program (DBE) that certifies small businesses for work on federally funded transportation

projects. State agencies that have a need for this type of information may access this list of vendors by contacting the DBE coordinator at 208-334-8567.

8. Idaho Preferences

There are no laws requiring that Idaho businesses receive bidding preferences except for printing (See Section 16). However, there are statutes that promote opportunities to bid for Idaho vendors. *Idaho Code 67-5718 (3)* encourages small and local businesses to bid by requiring that at least three (3) Idaho vendors be solicited for bids. *IDAPA 38.05.01 - Rules of the Division of Purchasing, Rule 44.03* extends this requirement to quotations (over \$5,000 and under \$75,000).

In the case of a tie bid an Idaho vendor or an Idaho product may be chosen for award over out-of-state vendor or foreign (non-Idaho) manufactured or supplied product (*I.C. 67-5718, IDAPA 38.05.01.082*).

9. Reciprocal Preference

Some states and countries provide a preference for vendors within their borders and add a percentage to bids received from outside states. Where that happens, the State of Idaho responds in like manner by adding the same percentage to bids received from vendors who are not "domiciled" in Idaho. This applies to the purchases of materials, supplies, equipment, or services (*I.C. 67-2349*).

How to apply In determining the lowest responsible bidder, a percentage increase should be added to each out-of-state bidder's bid price which is equal to the percent of preference given to local bidders in the bidder's home state. That is, if the low bidder is from a state that grants a 10% preference to its own in-state bidders, the Idaho agency must add 10% to that bidder's price when evaluating the bid. It is only applied to bid evaluations when comparing bids from Idaho domiciled vendors with bids from out-of-state vendors with a preference in their state. There is no need to apply any percentage when comparing one out-of-state bid with another out-of-state bid. In no instance will the increase (penalty percentage) actually be paid to a vendor whose bid is accepted.

Current information about preferences in other states is available on the purchasing web site. For information on foreign countries contact the Division of Purchasing.

Idaho vendors are those who are domiciled in Idaho or who have a significant Idaho economic presence (*I.C. 67-2349*).

Domiciled means where a corporation is chartered or incorporated or where a sole proprietor or partnership is located or has its permanent headquarters. Bidders domiciled in states other than Idaho who have had a "significant Idaho economic presence" for at least one year preceding the bid date, may be considered an Idaho domiciled bidder.

Significant Idaho Economic Presence is a phrase that means a vendor is considered “domiciled” if they have maintained a staffed office, sales office, sales outlet, manufacturing facility, or warehouse for at least one (1) year and, if a corporation, be registered and licensed to do business in the state of Idaho with the office of the secretary of state (*I.C. 67-2349*).

10. Purchases from Federal Government and GSA Federal Supply Contracts

Acquisitions from any agency of the United States of America are exempt from competitive bidding (*I.C. 67-5724, IDAPA 38.05.01.042*). Purchases from GSA Federal Supply Contractors are exempt from competitive bidding but must be approved by Division of Purchasing first (*I.C. 67-5724A, IDAPA 38.05.01.042*).

11. Rehabilitation Agencies

Purchases from nonprofit corporations and public agencies operating rehabilitation facilities for the handicapped or disadvantaged are exempt from the competitive solicitation rules (*I.C. 67-2319, IDAPA 38.05.01.042, 046*).

12. Correctional Industries

Purchases of property marketed by Correctional Industries are exempt from competitive solicitation rules (*I.C. 20-245, 20-402, 20-413, IDAPA 38.05.01.042*).

13. Pharmaceuticals and Medical Supplies

The state participates in several cooperative purchasing groups for pharmaceuticals and medical supplies (MMCAP, HPSI, IPS). These contracts are limited to state and public agency medical and health related facilities. Membership in a group program is required to get contract pricing. These contracts are *optional use*, however facilities that do not utilize them are required to follow all regular small purchasing rules when purchasing drugs or supplies. (*IDAPA 38.05.01.044*). Contact the Division of Purchasing for information on participating in these group contracts.

Pharmaceutical purchases from the US Dept. of Health and Human Services, Center for Disease Control contracts are exempted from competitive bidding requirements by *Policy Directive No. 01-2, dated October 1, 2001*.

14. Training, Seminars, and Related Costs

Infrequent purchases of training related travel, lodging, seminar/workshop expenses, meeting room costs, and costs related to firms or individuals who provide on-site education to state employees costing less than \$50,000 are exempted from competitive bidding requirements by *Policy Directive No. 01-1, dated October 1, 2001*.

15. Advertising, Copyrighted Materials

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 are exempted from competitive bidding requirements by *Policy Directive No. 01-3, dated October 1, 2001*.

16. Educational Discounts

Special educational discounts offered by vendors exclusively to schools, colleges, universities, and other qualifying educational institutions where the property is for the express purpose of educating students are exempted from competitive solicitation requirements. This exemption is limited to the agency's delegated purchasing authority and shall in no instance exceed \$50,000 without written approval from the Division of Purchasing. See *Policy Directive No. 03-1, dated July 1, 2003*.

17. Printing

The purchase of printing is subject to all small purchasing rules unless purchased from exempt organizations such as qualified Rehabilitation Agencies, Correctional Industries, or other state agencies (such as Boise State University Print Shop and the Dept. of Administration Quick Copy Center). The Division of Purchasing has available on the Internet a helpful booklet called *Getting It Printed, a Guide to Understanding and Purchasing Printing*.

Required Information *Idaho Code 60-202* requires that cost information such as; date, publication identification number, program code, etc. be placed and printed on each publication. The information is for audit purposes, cost accounting, bidding information, number printed, intended audience, and justification.

Idaho Printing Preference *Idaho Codes 60-101, 103, 104* specifies that printing is to be done within the State of Idaho unless the cost is shown to be 10% higher than printing done outside of the state. For any portion of a printing job that is being produced outside of the State of Idaho, 10% additional cost is added to the out-of-state bid for evaluation purposes only. This Idaho printing preference is applied regardless of dollar amount of the printing job whenever an out-of-state bid is compared with an in-state bid.

State Library Depository Program *Idaho Code 33-2505* requires that all state agencies deposit twenty (20) copies of each of their publications with the State Library. For detailed information about what publications are required to be sent to the State Library, call the State Documents Coordinator at 208-334-2150 or 800-458-3271.

18. Emergency Purchases

An emergency condition is a situation that creates a threat to public health, welfare or safety such as may arise by reason of floods, epidemics, riots, equipment failures or other similar circumstances. The existence of such a condition must create an immediate and serious need for property that cannot be met through normal acquisition methods.

To request an emergency purchase, the agency submits a written request to the Division of Purchasing stating the nature of the emergency, the product or service required and the basis for the selection, and the supplier. The Division of Purchasing will review the request, determine if an emergency exists, and make appropriate emergency purchases.

The Division of Purchasing, after determining that an emergency exists, may authorize the purchase of property or services by any reasonable means, with any available specification, without regard to the provisions of these rules (*I.C. 67-5720, IDAPA 38.05.01.042, 043*).

In extreme emergency, agency personnel may take whatever purchasing action necessary to resolve the emergency, to be followed by a written explanation and summary of the action taken to the Division of Purchasing. See Policy Directive No. 02-1 (issued 8-15-02).

19. Sole Source

A sole source item is described as an item with *only a single supplier*. Many times agencies send requests for sole source purchases that describe an item made only by one manufacturer, however the item is distributed and readily available from many different suppliers. When an item is available from more than one source it does not qualify for sole source. As long as there is more than one potential bidder or offeror for the property item, there is no justification for a sole source determination. If there is any doubt whether an item may be a sole source, it should be competitively bid.

Examples of circumstances, which could necessitate a sole source purchase, are:

- Where the compatibility of equipment, components, accessories, computer software, replacement parts or service is the paramount consideration.
- Where a sole supplier's item is needed for trial use or testing.
- Purchase of property for which it is determined there is no functional equivalent.

Sole source items are exempt from the formal bidding process. All requests for sole source must be submitted in writing to the Division of Purchasing with justification for such action. The Division of Purchasing shall determine the

validity of sole source purchase requests. In cases of reasonable doubt, competition is solicited in accordance with normal Division of Purchasing Rules.

- After a sole source determination has been made, notice of the sole source procurement must be published. In most cases the Division of Purchasing will post the notice on the Internet (*I.C. 67-5720, IDAPA 38.05.01.042, 045*).

20. Repairs of Equipment

Repairs of equipment can be either an emergency or a non-emergency. When a true emergency repair to equipment is needed (HVAC systems for example), emergency purchasing rules are to be followed. For non-emergency repairs (vehicles for example) that exceed \$5,000 and where the cost cannot be ascertained until the equipment is disassembled, agencies should follow the provisions of Purchasing Rule 44.03 by documenting in their file that it is "impractical" to solicit 3 vendors for the repair of the equipment. That rule says:

Rule 044. SMALL PURCHASES.

03. Procedure. Unless impractical or impossible and documented in the file, these small purchase procedures require the acquisition to be publicly posted. Except as otherwise provided in this rule, no less than three (3) vendors having a significant Idaho presence as defined by *Section 67-2349, Idaho Code*, shall be solicited to submit quotations. Award shall be made to the responsible and responsive bidder offering the lowest acceptable quotation. The purchasing file will be fully documented for unacceptable quotations. Should it be impractical or impossible to solicit three (3) vendors, the file shall be fully documented and every effort should still be made to obtain the most favorable terms, conditions and price possible.

Agencies are encouraged to attempt to get multiple "estimates" for repairs whenever possible. While these are not quotes and the vendor cannot be held to the estimate, it will at least give a general idea as to the repair cost (no big surprises). If the estimate is close to \$5,000, the agency should work closely with the vendor to monitor the repair costs as they accumulate. Any unscheduled repair exceeding \$5,000 and not competitively bid should be reported to the Division of Purchasing on the regular purchasing activity reports.

21. Information Technology Purchasing

Information Technology Property: includes, but is not limited to, all present and future forms of computer hardware, computer software, or services used or required for automated data processing, computer related office automation or telecommunications (*IDAPA 35.05.01.011*).

Telecommunications: means all present and future forms of hardware, software or services used or required for transmitting voice, data, video or images over a distance (*IDAPA 35.05.01.011*).

Because of the complexity of information technology purchasing, the Division of Purchasing has an Information Technology Purchasing Officer to assist agencies to ensure that the most expedient and cost-effective method of purchasing is deployed. The IT Purchasing Officer is available to help develop specifications, create Request For Proposals, and in conjunction with the Information Technology Resource Management Council (ITRMC) project team, make purchasing recommendations.

Information Technology property (defined as computer hardware, software, computer related office automation, automated data processing and telecommunications) not available on statewide contracts, costing less than \$5,000, and not available on statewide contracts, may be acquired as each agency sees fit, in accordance with good business practice and in the best interests of the state. Property costing more than \$5,000 and up to the agency delegated authority and not available on statewide contracts, requires that normal Request for Quotation procedures outlined above be followed (*IDAPA 35.05.01.044*).

Microcomputer Contracts: Contracts for the purchase of microcomputer and associated peripherals have been established with Dell, Gateway, IBM, and HP/Compaq through the Western States Contracting Alliance (WSCA). Additional contracts for Micron products are also in place. Agency use of these contracts is optional, not mandatory.

- computers - desktop and notebooks/laptops
- printers
- monitors/adapters
- mass storage devices
- computer faxes/modems
- video cards
- sound boards/multi-media accessories
- scanners
- network hardware
- add-on memory
- operating system software
- accessories

Master License Agreements - The Division of Purchasing currently has Master Licensing Agreements (MLA's) in place for Corel Software, AutoDesk Software, Microsoft Select Software, Associates Anti-Virus Software, Novell Software, Symantec Anti-Virus Software products. These MLA's allow agencies to purchase operating system software licenses, application software licenses, and maintenance (upgrade insurance).

Some MLA's products are purchased direct from the software manufacturers; others are purchased from authorized resellers. For more information on where to purchase licenses, see the statewide contract listing on the Idaho Purchasing Homepage web site or contact the Division of Purchasing.

ITRMC review and approval is required for large projects consisting of software and/or hardware solutions and small purchases that are an integral part of larger projects or significantly affect the operations of the requesting agency and it's interaction with other state agencies must be reviewed by ITRMC for conformance to established guidelines and policies of the State. Basic purchase or replacement of desktop hardware and operating software, not part of large projects, do not need to have ITRMC approval

If in any doubt, contact ITRMC or the Division of Purchasing for guidance.

ITRMC Project Team
Greg Zickau, Chief Technology Officer
208-332-1875
greg.zickau@adm.idaho.gov

Division of Purchasing
Gregory Lindström, IT Purchasing Officer
208-332-1609
gregory.lindstrom@adm.idaho.gov

To understand the role and functions of ITRMC see their internet web site at: <http://adm.idaho.gov/infotech/> (Statutes pertaining to ITRMC are found in *I.C. 67-5745 thru 67-5748*).

22. Telephone and Communication Systems

All telephone and communication systems equipment requirements must be routed through the Dept. of Administration, Division of Information Technology and Communication Services (DITCS) for review and approval (*I.C. 67-5747, IDAPA 38.05.01.033*).

The Division of Information Technology and Communication Services (DITCS) installs/configures telephone lines, systems, and services, They administer all service contracts, statewide long distance calling, calling cards, 800 inWATS, audio conferencing, payphones, and cellular. Call 332-1845 for more information.

23. Photocopiers and Faxes

The Division of Purchasing has *mandatory* statewide contracts for the purchase and lease of photocopiers and facsimile machines that fit most of the needs of state agencies. See the purchasing web site for ordering information on photocopiers and faxes.

In cases where an agency has a need for a photocopier or fax that is not available on statewide contracts (such as a small inexpensive portable copier or multipurpose printer/copier/fax), they may purchase or lease machines following all regular small purchasing rules (*IDAPA 38.05.01.044*). All office equipment leases may not exceed the agency delegated authority and one (1) year in

duration (*IDAPA 38.05.01.101*). The Division of Purchasing must approve any lease or rental exceeding one (1) year in length.

24. Agency Contracts

These types of contracts are generally for the exclusive use of an individual agency, although they may also have a public agency clause. Specifications for single agency blanket contracts for commodities are developed by the agency and reviewed and bid by the Division of Purchasing. Agencies may enter into single or multiple year service contracts provided they do not exceed delegated authority limits, including contract renewals and/or extensions (*IDAPA 38.05.01.044*). Agencies are cautioned to include the Standard Idaho Terms and Conditions and, where applicable, the Idaho Standard Computer Hardware and Software Special Terms and Conditions as part of their quotation and contract documents.

25. Price Agreements

Price agreements are non-exclusive (not mandatory use) written agreements between a vendor and an individual agency or group of agencies specifying a product or list of products or services offered at an agreed upon price or discount. They are not competitively bid. Such agreements are appropriate when:

- The dollar amount of items or transactions are relatively small;
- The property may not be conducive to standard competitive bidding procedures;
- There exists a need to establish multiple agreements with vendors supplying property that is similar in nature or function, but is represented by different manufacturers and/or needed in multiple locations; and
- Non-exclusive agreements for periods not exceeding two (2) years are deemed necessary to establish consistent general business terms such as price, use of catalogs, delivery terms, credit terms, etc.

Examples of price agreements are auto parts for the Department of Transportation, aircraft rental for the Department of Fish and Game and personal clothing and small household items for Department of Health and Welfare state hospital clients.

Agencies may negotiate their own price agreements not to exceed two (2) years in duration. The agreements must provide for termination for any reason upon not more than thirty (30) days written notice. All price agreements must be sent to the Division of Purchasing for review and final approval (*IDAPA 38.05.01.084*). The Division of Purchasing has Standard Terms and Conditions for Price Agreements available for agency use. The Division of Purchasing establishes statewide price agreements for use by all agencies such as auto rentals and court reporters.

26. Leases

A lease is a contract for the use of property under which title to the property does not pass to the state agency. Individual agencies may enter into leases provided that the lease cost is within their delegated authority and for a period less than one (1) year, subject to the same requirements of competition that govern the purchase of property. All leases exceeding one year are required to be processed by the Division of Purchasing (*I.C. 67-5717(10), IDAPA 38.05.01.101*).

27. Lease with Purchase Option

A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded using the competitive bidding process. Before exercising such an option, the agency must:

- investigate alternative means of acquiring comparable property; and
- compare estimated costs and benefits associated with the alternative means and the exercise of the option; for example, the benefit of buying new state of the art data processing equipment compared to the estimated, initial savings associated with exercise of a purchase option; and
- provide notice and advertisement of the exercise of option in accordance with these rules pertaining to sole source or competitively bid the property by soliciting bids for new or used property.

All requests to exercise lease purchase options must be approved by the Division of Purchasing (*I.C. 67-5721, IDAPA 38.05.01.101*).

28. Time Purchase Contracts

The Division of Purchasing bids and enters into all Time Purchase or Installment Payments Contracts (*I.C. 67-5721, IDAPA 38.05.01.102*) with the following conditions:

- Such contract is in the best interest of the agency. Installment payments should be used judiciously in order to achieve economy and not to avoid budgetary restraints.
- Using agencies shall be responsible for ensuring that all statutory or other applicable requirements are met and that all budgetary or other required approvals are obtained.
- Documentation of any required approval shall be submitted to the Division of Purchasing with the requisition.
- Provision for installment payments must be included in the solicitation.
- An installment or time purchase contract shall include appropriate language stating that the agency is not obligated to make payments beyond the term of any particular appropriation of state or federal funds that may exist from time to time and that the contract may be terminated upon such without any penalty or future liability.

29. Service Contracts

With the exception of Information Technology, Professional, and Consultant Services, procurement of service contracts fall under the same purchasing rules and dollar threshold bidding requirements as purchases of property (*IDAPA 38.05.010.044*). Agencies may enter into service contracts provided that the total cost does not exceed the agencies delegated authority. Agencies are cautioned to include the Standard Idaho Terms and Conditions and, where applicable, the Idaho Standard Computer Hardware and Software Special Terms and Conditions as part of their quotation and contract documents.

30. Trade-Ins

Idaho Code allows sale, trade-in, or exchange of state personal property by exchanging the same in part payment for new property only when it is determined by the Division of Purchasing that all other methods of disposal of the property sought to be exchanged will yield a lesser monetary return to the state (*I.C. 67-5722*).

Property to be exchanged (traded) in part payment for new property is not surplus property and thus is not subject to the Board of Examiners guidelines for surplus property disposal.

A *written justification* for the agency's determination that trade-in is the best method of disposal is required. A *State Property Trade-In Authorization Request* form is available for your use. Send the form and your written determination stating why other methods of disposal will yield a lesser monetary return to the state to the Division of Purchasing for review and approval. If approved, your trade-in can either be used against purchases of like product property from contracts or be included as part of your specifications for purchase of new property.

31. Vehicle Purchases

Idaho Code 49-123 defines "vehicle" in general as every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon a stationary rails or tracks. There are also separate definitions for authorized emergency vehicle, commercial vehicle, farm vehicle, foreign vehicle, glider kit vehicle, motor vehicle, multipurpose passenger vehicle, noncommercial vehicle, passenger car, reconstructed or repaired vehicle, salvage vehicle, and total loss vehicle.

The Division of Purchasing creates statewide contracts for the purchase of new automobiles and pickup trucks. These contracts are mandatory use unless the agency has a need that cannot be met by utilizing these contracts (immediate delivery, used, specialty vehicle, etc.). Vehicles are bid in the fall of each year and are usually in place in November/December. Agencies must submit their requisition to the Division of Purchasing who will place the order with the contractor (a local dealer). Vehicles are built by the factory according to agency

specifications and are delivered thru the contracted dealer in approximately 90 days.

Other vehicles (heavy-duty trucks, heavy equipment, buses, snow machines, all-terrain vehicles, etc.) are bid separately on an as needed basis.

Leases All leases for vehicles are processed by the Division of Purchasing.

Agency Purchasing Authority Agencies requiring vehicles not available on statewide contracts and costing less than their delegated authority may purchase vehicles using Request for Quotations methods (*IDAPA 38.05.01.044*). The Division of Purchasing has a standard specification form for vehicles that agencies may use for obtaining quotations. All purchases exceeding the agency's delegated authority must be sent to the Division of Purchasing for processing. Agencies are cautioned against splitting requirements to avoid the formal bidding process in accordance with *Idaho Code 59-1026*.

Alternate Fuel Vehicle Requirements The Energy Policy Act of 1992 (EPAct) requires fleets operated by state governments to acquire alternative fuel vehicles. This requirement was designed to promote the use of nonpetroleum fuels, such as ethanol, methanol, natural gas, propane, hydrogen, and electricity, to reduce U.S. dependence on foreign oil. The regulations focused on building an inventory of vehicles that can use alternative fuels in large light-duty vehicle fleets in metropolitan areas. Beginning in 1997 a "phase-in" schedule was established to allow fleets to comply gradually. In 2001 and beyond, states are required to have 75% of their fleet be alternative fuel vehicles and a certain portion of them must be located in a Metropolitan Statistical Area (such as Ada and Canyon Counties). More information can be found at: www.ott.doe.gov/epact/state_fleets.html

To meet this requirement, the Division of Purchasing bids for alternative fuel vehicles on the statewide contracts.

Reporting Requirements

- Fleets must report their alternative fuel vehicle acquisitions annually to the U.S. Department of Energy. The Division of Purchasing collects this information and makes the report.
- If an agency purchases a vehicle within their delegated authority, not on contract, they are encouraged to seek quotes for alternative fuel vehicles.
- All vehicles purchases by agencies must be reported to the Division of Purchasing, indicating whether or not they are alternative fuel capable and identifying the area (city, county, region, etc.) of state in which they will be primarily operated.

Guidelines for Purchasing Vehicles When a solicitation (bid or quote) is issued by a state buyer, as part of the specifications or terms and conditions, potential vendors must be notified that they are required to be licensed by the Idaho Transportation Department to sell vehicles. The buyer should require that the potential vendor list their Idaho dealer/representatives license numbers as part of the response.

Purchasing agents or their staff may call the Idaho Transportation Department, Dealer Licensing Team at (208) 334-8681 to verify the license status of a potential vendor.

Dealer Licensing Requirements *Idaho Motor Vehicle Code section 49-1632* states that **any person** who has “purposeful contacts” within Idaho in connection with the offering or advertising for sale, or has business dealings with respect to **new** (meaning previously untitled) vehicles sales shall be subject to the provisions of the *Idaho Dealer and Salesman Licensing Act, Title 49, Chapter 16*.

The definition of a “dealer” is found in *section 49-105 D (1)* and includes every person in the business of buying, selling or exchanging 5 or more new or used vehicles in one calendar year. This term includes vendors of *motor vehicles, trailers with an empty or unladen weight of more than 2,000 lbs, motorcycles (excluding mopeds), off-road all terrain vehicles, snow machines, motor homes and vessels.*

Idaho code 49-502 prohibits the sale of vehicles without having a title (or manufacturer’s certificate of origin) in the name of the seller. Idaho dealers with a current Idaho vehicle dealer’s license are exempted from this provision.

Vendors who sell 5 or more new/used vehicles, of the type under the jurisdiction of the department, in the state of Idaho in a calendar year must be licensed as an Idaho vehicle dealer and have a complying licensed location in the state of Idaho at all times that the license is valid (*I.C. 49-1601*). The basic requirements for an Idaho Vehicle Dealers License are:

- A surety bond for \$20,000 on the form provided by the Idaho Transportation Department and;
- A physical enclosed building in an area that has been approved by local zoning officials for the sale of the vehicles of the type that vendor wishes to sell. There must be sufficient room for display of 5 or more vehicles at the dealership location.
- A hard-wired telephone at the licensed location that is listed and answered in the name of vendor. Cellular or other mobile telephones do not meet this requirement.

- A retail dealer or his licensed salesman must be available at the licensed location for a minimum of 20 hours or more per week. Wholesale dealers only have to be in their office one hour per week.
- Any person who makes sales or solicitations of sales of vehicles under the jurisdiction of the department on behalf of a licensed dealer must be licensed under the sponsorship as a vehicle salesman. (*I.C. 49-123-4*)
- A dealer of new vehicles is also required to file copies of any sales agreements or franchises for any new vehicles that the dealer has been enfranchised to sell.

There are other minor dealer license requirements. Please call the Dealer Licensing Team at (208) 334-8681 for a detailed Dealer License Application fact sheet and dealer license application.

Vendors who sell less than 5 new vehicles in the state of Idaho in a calendar year may comply with the licensing requirements of *49-1632* by applying for an Idaho distributor's license (*I.C. 49-1606-5*). The annual cost of this license is \$100. The license term is from January 1 and expires on December 31 of each calendar year. There are no bonding requirements and a physical office location is not required in the state of Idaho. A sales agreement or franchise agreement for the new vehicles that the vendor is selling is required. The sales agreement or franchise must list a sales territory in the state of Idaho to be acceptable.

Each representative who makes sales calls or solicitations to Idaho customers on behalf of a licensed distributor also is required to license on annual basis for a \$25.00 license fee.

Vendors who license with the Idaho Transportation Department (ITD) to qualify to submit bids for new vehicles or other equipment that comes under the jurisdiction of the department may call the ITD Dealer Licensing Team at (208) 334-8681 for licensing assistance or explanation of the current Idaho licensing requirements.

For questions or a more detailed explanation of the licensing requirements required by the Idaho Dealer & Salesman Licensing Act, please call the ITD Operations and Investigations Program Supervisor at 208-334-8687 or 208-334-8675. Licensing information can also be found at the ITD Division of Motor Vehicles web site at <http://itd.idaho.gov/dmv/VehicleServices/vs.htm>

32. Standard Terms and Conditions

The Division of Purchasing has developed Idaho Standard Contract Terms and Conditions and Computer Hardware and Software Special Terms and Conditions

that apply to all purchases and contracts. They are posted on the purchasing web site and should be referenced in all solicitations. Additional special terms and conditions for janitorial contracts, lease or time purchase contracts, vehicle leases, statewide contracts, blanket purchase orders and price agreements, and other miscellaneous terms are available from the Division of Purchasing.

Supplemental or alternate terms and conditions may be added to a solicitation by individual agencies but should be approved by the agency's Deputy Attorney General and the Division of Purchasing prior to use.

33. Payment Terms

Payment terms can vary with each individual solicitation, purchase order, or contract. An agency may specify specific payment terms in their quotations documents. Thirty (30) days after receipt of product or service is a common payment term. However, if no terms are specified in the solicitation, then the term is twenty (20) days as per *Idaho Code 67-5735* which states, in part, that "Within ten (10) days after the property is acquired...the acquiring agency shall complete all processing...to permit the contractor to be reimbursed. Within ten (10) days of receipt of the document...the State Auditor shall cause a warrant to be issued..."

34. Sales and Use Tax Exemption

The State, its departments, agencies and all of its political subdivisions are exempt from Idaho sales and use tax (*I.C. 63-3622, IDAPA 35.01.02.094*).

ST 101 Form There is no "tax exemption number". Agencies must provide merchants with a completed Sales Tax Resale or Exemption Certificate (ST-101). Merchants are required to keep a copy of this form in their records to verify the tax exempt status of the government entity. Once this form is on file with the merchant, it covers all a customer's future exempt purchases. In addition to filling out the buyer and seller information in the boxes on the top of this form, the buyer must check mark the "Idaho Government Entity" box in Paragraph 3, Exempt Buyers. Finally, the buyer must sign, indicate a title and date the form at the bottom.

Purchases from companies outside of the State where product is delivered to Idaho (e.g., phone, catalog, and Internet sales)

Purchases made by a government entity from a vendor outside of the state, but where the product is delivered by the vendor or common carrier (e.g., postal service, UPS) to a point within the state is tax exempt. If the out-of-state vendor is registered to collect Idaho state sales tax, the government entity buyer must provide a valid, completed ST-101 to the vendor. Under no circumstances should any buyer pay the sales tax of another state when the product is delivered to a point within Idaho by the out-of-state vendor, or common carrier.

Purchases made outside of the State where delivery is taken out of the state

If items are purchased in another state and possession is taken in that

state, the tax laws of that state determine what tax, if any, is owed. For example, Oregon and Montana have no sales tax, but Washington State allows no tax exemption for any state's agencies, including their own.

Items used outside of the State Items taken out of Idaho by government agencies or its contractors and used in other states are subject to the laws of those states and may be taxable.

Items bought by contractors for work to be performed for government agencies A prime or sub-contractor has no right to an immunity from taxes simply because it is performing a service for a government agency and the product of that service, such as the building or repair of real estate, will become the property of the State. The contractor must pay a sales tax to the vendor upon purchase of items or a use tax to the state thereafter if it purchases items ex-tax.

Items provided by State agencies to contractors for use in real property improvements Since a prime or sub-contractor has no right to an immunity from taxes simply because it is performing a service for a government agency, the use of untaxed materials received from the government and incorporated into real property by the contractor is subject to a use tax by the contractor, payable directly to the state.

Special Circumstances---Cash Purchases by Government Agencies

Each time a tax-exempt cash purchase is made by a state government agency buyer, a form ST-104G must be filled out for the vendor. The instructions as well as the limitations for the form's use are printed on the form. Note that the purchasing agent as well as the buyer must sign the form.

Special Circumstances---Sales Tax Exemption on Certain Lodging

Accommodations Only those lodging accommodations for government employees on official government business, where the government will directly pay the credit card used, qualify for the tax exemption. Cash payments, payments with personal credit cards, and payments with agency-issued credit cards paid by the traveler and later reimbursed by the government do not qualify for the tax exemption.

Federal Taxes The state is generally exempt from the payment of federal excise tax under a permanent authority from the District Director of the Internal Revenue Service (*Chapter 32 Internal Revenue Service – Exempt No. 82-73-0019K*).

35. Purchasing Reports

Each agency with delegated purchasing authority must report all purchases \$5,000 and more, up to their delegated authority, and such other special reporting requirements that may be required by the Division of Purchasing. Do NOT include agency purchases from State contracts or Division of Purchasing

issued Purchase Orders, Sole Source Authorizations, or Emergency Purchase Authorizations.

The report shall be in electronic format using the Excel spreadsheet model provided by the Division of Purchasing. Columns are provided to describe the PO Number and/or Contract Number, Item Description, Number of Quotes sent/received, Dollar Amount, In-state/Out of State, Vendor Name, and Reason if noncompetitive.

At a minimum, the following items must be included in the monthly report:

- All commodity/service purchases from \$5,000 and the agency delegated authority purchasing limit.
- All Professional, Consulting, and Information Technology Services of \$75,000 and less. This includes competitive or non-competitively bid services and services for computer and/or software maintenance services, training, software programming, etc.
- All other commodity/service purchases that were not competitively bid such as: purchases of \$5,000 or more from Correctional Industries, the Federal Government or any agency thereof, rehabilitation agencies certified by the Idaho Association of Community Rehabilitation Programs.
- Other “exempt” purchases meeting the requirements of Rule *IDAPA 38.05.01.042* or Division of Purchasing issued Policy Directives.
- Property or services purchased in a true emergency situation to protect public health, welfare or safety. Attach a written explanation of the emergency and action taken.

STATE PROPERTY TRADE-IN AUTHORIZATION REQUEST

Original-Division of Purchasing
Copy-Originating Agency

TO: Administrator, Division of Purchasing
DISPOSAL NO. _____

Page ____ of ____

Permission is hereby requested to trade-in the following personal property. In accordance with Idaho Code 67-5722 the agency must submit a written justification determination that the trade-in is the best method of disposal along with this form. The justification must state why other methods of disposal will yield a lesser monetary return to the state, and provide comparative financial information.

Agency Code	Agency Use Field	Tag Number	Qty.	Description of Item	Cond. Code	Estimated Value
1					123	
2						
3						
4						
5						
6						
7						
8						
9						
10						

CONDITION CODES

E-Excellent R-Repairable
G-Good U-Unusable
F-Fair

Agency: _____
Contact Person: _____
Email: _____
Phone: _____

_____ Approved
_____ Disapproved

Requesting Person's Signature	Administrator's Signature	Date
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NOTE: DO NOT PROCEED WITH TRADE-IN UNTIL YOUR AGENCY IS IN RECEIPT OF THIS SIGNED AUTHORIZATION.