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INTRODUCTION AND GENERAL OVERVIEW

A. OPC Mission Statement

“The mission of Procurement and Contracts is to promote the use and development of processes which serve the best interests of the State of Kansas and its citizens, along with finding and implementing increased economies and efficiencies in the procurement process, maintaining the highest level of integrity, fostering broad based competition together with fair and equal treatment for all entities involved in the procurement process, and always seeking the best value and highest quality of goods and services being offered to the State of Kansas.”

B. Introduction

The purpose of this Procurement Policies and Procedures Manual (“Manual”) is to provide guidance and detailed procedures concerning organizational structure, planning, solicitations, procurement methods, procurement administration, contract award, and contract management, to supplement the requirements of Kansas procurement statutes, rules and regulations. This Manual applies to the Office of Procurement and Contracts and State Agencies, unless an exception has been granted, when procuring goods or services. The Director of Purchases may delegate limited purchase authority to State Agencies in accordance with K.S.A. 75-3738.

This Manual applies to all procurement transactions of the Office of Procurement and Contracts and State Agencies. All procurement professionals, individuals involved with the procurement process, and procurement officers of the Office of Procurement and Contracts or State Agencies should consult this Manual with respect to all procurements. The procedures detailed in this Manual are intended to apply to the usual circumstances an individual will confront in procuring goods and services. Given the unique nature of procurements, procurement professionals should use their judgement to clarify the guidance contained in this Manual when appropriate.

Every attempt is made to update the information presented in this Manual as policies and procedures change. The most recent versions of this Manual shall take precedence over previous iterations of the document. For additional information, procurement staff should refer to the authorities listed within each section, or contact the appropriate office(s). Subsequent revisions to State and federal statutes, rules, and laws may conflict with the information presented herein. In such situations, the statutes, laws, and rules control. This Manual is a guide and is not an ultimate authority or legal advice. General principles of law are discussed herein, but these are only general principles subject to many exceptions. If this Manual does not address a specific situation, consult with legal counsel or contact the appropriate Procurement Officer.
DISCLAIMER: The OPC Director of Purchases may change, delete, waive, suspend or discontinue parts of, or the entirety of this Manual, at any time without prior notice.

C. General Overview

This Manual includes the entire Procurement process from the conception of an idea/need to contract through termination and a glossary defining terms of art used herein. Separate sections are devoted to each of the process steps and based on the statutory requirements as outlined in Manual Section 3. As all of these processes are inter-related, individuals involved with the procurement process should be familiar with the content of each section. References and links to authorities and sources are provided to assist in locating information omitted from this Manual. A glossary explaining terms used herein and related concepts is included as a reference tool in Section 2, Definitions and Abbreviations, of this Manual.

This Manual is intended to:

- Simplify and clarify State of Kansas law governing procurement
- Establish consistent procurement processes among the various state government entities
- Provide increased public confidence in the procedures followed in public procurement
# 2. DEFINITIONS AND ABBREVIATIONS

## A. Terms and Definitions

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<th>TERM</th>
<th>DEFINITION</th>
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<tr>
<td>Addendum</td>
<td>An addition or supplement to a document, <em>e.g.</em>, items or information added to a procurement document.</td>
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<tr>
<td>Alternate</td>
<td>Goods or services that deviate with respect to features, performance or use from the goods or services specified in the procurement document.</td>
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<tr>
<td>Bid</td>
<td>A written offer to perform a contract to provide goods or services to the State in response to a bid opportunity.</td>
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<td>Bidder</td>
<td>A supplier who submits a bid to the State.</td>
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<td>Brand name equal</td>
<td>A specification that uses one or more manufacturers’ brand names or catalog numbers to describe the standards of quality, performance and other characteristics needed to meet the requirements of a solicitation and provide for the submission of equivalent products.</td>
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<tr>
<td>Contract</td>
<td>Any written instrument or electronic document containing the elements of offer, acceptance, and consideration to which an Agency is a party.</td>
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<td></td>
<td>Statewide Contracts: Contracts for goods and services established and administered by the Division of Purchases on behalf of all Agencies.</td>
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<td>Various Agency Contracts: Contracts for goods and services established and administered by the Division of Purchases on behalf of several Agencies.</td>
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<td>Agency Specific Contracts: Contracts for goods and services established and administered by the Division of Purchases on behalf of a specific Agency.</td>
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<td>Agency Contracts: Contracts for goods and services established and administered by the Agency, itself. Certain purchasing authority limitations apply.</td>
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<tr>
<td>Contractor’s Representative</td>
<td>An individual designated by the Bidder or Contractor to act on their behalf and with the authority to legally bind the Bidder or Contractor concerning the terms and conditions set forth in bid and Contract documents.</td>
</tr>
<tr>
<td>Debarment</td>
<td>The disqualification of a person to receive invitations for bids or requests for proposals, or the award of a contract by a government body, for a specified reason.</td>
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<tr>
<td><strong>Default</strong></td>
<td>Failure by a party to a Contract to comply with contractual requirements.</td>
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<tr>
<td><strong>Delegated Authority</strong></td>
<td>For goods/services not available on State Contracts and costing less than $5,000, Agencies have been granted authority to purchase without competitive bids. Limited delegated authority has been granted to certain agencies above $25,000 on an Agency-by-Agency basis.</td>
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<tr>
<td><strong>Delivery</strong></td>
<td>The formal handing over of property; the transfer of possession, such as by carrier to purchaser.</td>
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<tr>
<td><strong>Emergency Purchase</strong></td>
<td>Those purchases necessary for preservation of life or property or to avoid serious disruption of Agency operations.</td>
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<td><strong>Equal/Equivalent/Approved Equal</strong></td>
<td>Used to indicate that an item may be substituted for a required item if it is equal in quality, performance, and other characteristics.</td>
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<tr>
<td><strong>FOB Destination, Freight Prepaid and Added</strong></td>
<td>Buyer pays freight charges. Seller is responsible for goods in transit.</td>
</tr>
<tr>
<td><strong>FOB Destination, Freight Prepaid and Allowed</strong></td>
<td>Seller pays freight charges. Seller is responsible for goods in transit.</td>
</tr>
<tr>
<td><strong>FOB Origin, Freight Prepaid and Allowed</strong></td>
<td>Seller pays freight charges. Buyer is responsible for goods in transit.</td>
</tr>
<tr>
<td><strong>FOB Origin, Freight Prepaid and Added</strong></td>
<td>Buyer pays freight charges. Buyer is responsible for goods in transit.</td>
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<td><strong>Interagency Purchase (IGP)</strong></td>
<td>A purchase by one governmental unit from another.</td>
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<td><strong>Invitation for bid (IFB)</strong></td>
<td>A solicitation in which the terms, conditions, and specifications are described, and responses are not subject to negotiation. Can be awarded as a Contract or Purchase Order. Can be awarded to multiple Bidders.</td>
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<tr>
<td><strong>Lead Time</strong></td>
<td>The period of time between when the Contractor receives the order, and the Agency receives the goods/services.</td>
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<td><strong>Negotiated Procurement Process</strong></td>
<td>A procurement process based upon the concept of &quot;best value&quot; and enables Agencies to consider factors in the evaluation of bid responses beyond cost, including Vendor qualifications, past performance, and service delivery methodology.</td>
</tr>
<tr>
<td><strong>Non-Negotiated Procurement Process</strong></td>
<td>A procurement process by which sealed bids are received and are awarded to the lowest responsive and responsible Bidder meeting specifications without negotiations.</td>
</tr>
<tr>
<td><strong>Off-Contract Purchase</strong></td>
<td>If a State Agency locates a Vendor that can provide the identical contract item at a lower price, a waiver to &quot;buy off state contract&quot; may be granted by the Department of Procurement and Contracts.</td>
</tr>
<tr>
<td><strong>P-Card</strong></td>
<td>A type of Commercial Card that allows organizations to take advantage of the existing credit card infrastructure to make electronic payments for a variety of business expenses (e.g., goods and services).</td>
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<tr>
<td><strong>Political Subdivision</strong></td>
<td>A Kansas political subdivision is any Kansas municipality, agency or subdivision authorized to levy a tax or certify a levy of tax, on tangible property and other entities enumerated in Kansas law. Political subdivisions in Kansas include, but are not limited to:</td>
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<td>• Airport authorities</td>
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<td>• Cities and municipalities</td>
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<td></td>
<td>• Community-based mental health centers</td>
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<td>• Counties</td>
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<td>• County hospital districts</td>
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<td>• Drainage districts</td>
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<td>• Groundwater management districts</td>
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<td>• Housing authorities</td>
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<td>• Metropolitan transit authorities</td>
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<td>• Port authorities</td>
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<td>• Public building commissions</td>
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<td>• Rural water supply districts</td>
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<td>• School districts</td>
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<td></td>
<td>• Townships</td>
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<tr>
<td><strong>Prior Authorization</strong></td>
<td>Direct procurement of goods/services by the agency, granted by the Director of Purchases and may be conditioned by dollar amounts, terms or time limits and granted or withdrawn by the Director.</td>
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<tr>
<td><strong>Procurement Negotiating Committee (PNC)</strong></td>
<td>Designated individuals within the PNC are responsible for reviewing, evaluating, and clarifying all proposals in response to an RFP, and ultimately recommend the successful Bidder(s) for award.</td>
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<tr>
<td><strong>Proprietary</strong></td>
<td>Trade secrets or proprietary information legally recognized as such and protected by law.</td>
</tr>
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<td><strong>Purchase Order</strong></td>
<td>The signed written acceptance of the offer from the Vendor. A purchase order serves as the legal and binding contract between both parties.</td>
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<td><strong>Purchaser</strong></td>
<td>Also known as Buyer, Procurement Officer, Contract Officer. Includes procurement staff of the Kansas Department of Administration, Department of Procurement and Contracts, as well as state agencies, political subdivisions, and institutions of higher education who purchase under applicable state laws.</td>
</tr>
<tr>
<td><strong>Qualified Products List</strong></td>
<td>A list of products that, because of the length of time required for test and evaluation, are tested in advance of procurement to determine which suppliers comply with the specification requirements. Also referred to as an &quot;approved brands list.&quot;</td>
</tr>
<tr>
<td><strong>Request for Proposal (RFP)</strong></td>
<td>A solicitation in which it is not advantageous to set forth all the actual, detailed requirements at the time of solicitation and responses are subject to negotiation. Price must be a factor in the award but not the sole factor.</td>
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<tr>
<td><strong>Request for Quotation (RFQ)</strong></td>
<td>A bid for one-time, single purchase of goods/services. Non-negotiable. Can only be awarded as a Purchase Order. Can be awarded to multiple Bidders.</td>
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<tr>
<td><strong>Responsive Bidder</strong></td>
<td>A Bidder whose bid does not vary from the specifications and terms set out in the invitation for bids.</td>
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<td><strong>Sole Source</strong></td>
<td>An acquisition where, after a search, only one supplier is determined to be reasonably available for the required product, service, or construction item.</td>
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<td><strong>State Agency</strong></td>
<td>State institutions of higher education, offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government and the offices of all appointive officers of the state.</td>
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<tr>
<td><strong>State Procurement Officer</strong></td>
<td>An individual designated by the State to act on behalf of the State to develop and administer Contracts within the limits established by law.</td>
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<tr>
<td><strong>State Use Program</strong></td>
<td>A program established to govern State Agency and Unified School District purchases of certain goods and services to the products and services manufactured by blind and severely disabled Kansans.</td>
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<tr>
<td><strong>Statewide Contracts</strong></td>
<td>Contracts established by the Office of Procurement and Contracts for goods or services that all statutorily required State Agencies must utilize and that may be used by Political Subdivisions</td>
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<tr>
<td><strong>Tabsheet Bid Tab</strong></td>
<td>A spreadsheet prepared after most bid openings, reflecting all Vendors and pricing. This becomes public record after award (see bid document or Division of Purchases website for instructions to obtain copy).</td>
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<tr>
<td><strong>Tabsheets</strong></td>
<td>Tabsheets are a summary of Bidders names and bid amounts as submitted for an IFB or RFQ event. OPC can provide tabsheets after a bid event has closed. Tabsheets are not available on RFP events</td>
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Termination for Cause

If the Vendor/Contractor fails to fulfill its obligations under the Contract in a timely or proper manner, or if the Vendor/Contractor violates any terms of the Contract, the State has the right to terminate the Contract.

Termination for Convenience

The State may terminate a Contract without cause. Said termination will not be deemed a breach of Contract by the State. Termination for convenience is utilized for reasons outside of the Vendor/Contractors contractual default.

Vendor Supplier Merchant Contractor

A business that provides or furnished goods, materials, or services. An individual, company, corporation, firm, or combination thereof with whom the State develops a Contract for the procurement of goods or services.

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<th>B. Common Abbreviations</th>
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3. AUTHORITY AND SCOPE

The Department of Administration (DOA) Office of Procurement and Contracts (OPC) is rooted in Kansas State law, specifically in K.S.A. Chapter 75, Article 37. The authority of OPC is also defined in this same article of statute. In short, the Director of Purchases, or their designee within OPC, is responsible for the purchasing, renting, and provision of supplies, materials, equipment, and services for all State Agencies. This includes the power to specify methods of purchasing within statutory requirements and the power to authorize State Agencies to procure the aforementioned goods and services under certain guidelines. State law is clear on this point: the purchasing authority for all State Agencies is concentrated within OPC. Any delegation of that authority, which will be discussed in this section, from OPC, is granted at the discretion of the Director of Purchases.

A. OPC Authority

All purchasing functions conducted by OPC are done either by or on behalf of the Director of Purchases in whom State law has vested ultimate procurement authority for State Agencies. The Director of Purchases may:

- **Set guidelines for purchases under $5,000 that all Agencies must follow.**
  - Agencies that have been granted an exception to OPC’s purview either in the State Constitution or in statute may make purchases in accordance with the exceptions granted to them.

- **Set guidelines in addition to those required by statute for purchases over $5,000 that Agencies must follow.**

- **Grant authority to Agencies to make purchases up to $25,000 within guidelines set by statute (K.S.A. 75-3739 (e) and OPC that Agencies must follow.**

- **Restrict authority previously granted to Agencies to make purchases.**

- **Reject Agency purchase requests if they are not compliant with statutory requirements or the guidelines lawfully set by OPC.**

For purchases within an Agency’s delegated authority (e.g., under the dollar threshold specified by the Director of Purchases within their delegation of purchasing authority to a specific Agency or division), the purchases do not need to be reviewed or approved by OPC. These purchases, however, are still subject to statutory bidding requirements and the purchasing guidelines set by OPC and described in this Manual and any additional information contained at the Department of Administration website.¹

¹ [https://admin.ks.gov/offices/procurement-contracts/procurement-resources/procurement-forms](https://admin.ks.gov/offices/procurement-contracts/procurement-resources/procurement-forms)
**Best Practice:** All Agency purchases must be made in accordance with statutory requirements and, unless the Agency has been granted a specific exception by the State legislature in statute or through specific legislation, or OPC guidelines regardless of the purchasing authority delegated to the Agency or division by the Director of Purchases.

**B. Delegated Authority**

The term “delegated authority” as used in this Manual and elsewhere is a privilege granted to Agencies or divisions by the Director of Purchases to make purchases up to a specific dollar amount without review and approval by OPC. No level of delegated authority is statutorily granted to Agencies or divisions nor is the Director of Purchases statutorily required to grant this authority. By statute, the Director of Purchases may only grant delegated authority for purchases up to $25,000.

Presently, the standard delegation to agencies is $5,000 per Vendor per fiscal year. For example, there is a Store A in Topeka that a State Agency purchases a category of goods from because there is not an established Contract for this category of goods. The State Agency may purchase these goods from Store A in various quantities at their discretion until their spend with Store A over the course of a single fiscal year reaches $5,000. Agencies and divisions may request an increase in this delegation amount up to $25,000 per purchase from the Director of Purchases, who may grant or deny this increase at their sole discretion. Additionally, the Director of Purchases may place restrictions on the increase such as a time limit or scope requirements (e.g., the Director of Purchases may grant an increase in authority that will only last one (1) calendar year or may only be used to procure a specific type of product or service). An Agency or division granted authority above $5,000 per Vendor per fiscal year is still required to make purchases in accordance with statutory requirements and all OPC guidelines.

**Best Practice:** It is important for Agencies and divisions to keep track of their purchases made with Vendors to ensure they will not exceed their delegated authority.

For all Agencies and divisions that are either near exceeding or have exceeded their delegated authority, all purchases must be made with the review and approval of OPC and in accordance with statutory requirements and OPC guidelines. For Agencies and divisions who are near exceeding or have exceeded their delegated authority, please see the “Options to Obtain Authorization for Spend Exceeding Agency Delegated Purchasing Authority” document found on the OPC website and Manual Section 9D, I Prior Authorizations. Any questions related to an Agency’s delegated authority may be directed to OPC through that Agency’s procurement staff.
DELEGATED AUTHORITY RECAP

**Purpose:** To ensure the wise and lawful use of state funds for purchases.

**Granting Authority:** OPC

**Granted Authority:** Agency or Division

**Amount:** $5,000 per Vendor per fiscal year unless otherwise specified by the Director of Purchases.

*If a purchase is within my delegated authority, is my Agency/divisions exempt from statutory purchasing requirements and OPC guidelines? No.*
4. KEY STATE EMPLOYEE ROLES

While the purchasing authority for the executive branch is vested in the Director of Purchases, with the delegation of that authority to State Agencies comes a necessary interaction between multiple State employees and entities. This section seeks to define the responsibilities of all individuals and entities involved in the procurement process. On all matters related to procurement, any disagreement or uncertainty between State employees, Agencies, and divisions will be referred to and resolved by the Director of Purchases.

A. Responsibilities of OPC Positions

As the central procurement authority for all covered State Agencies, the employees within the Office of Procurement and Contracts (OPC) are the subject matter experts for procurement matters and are responsible for ensuring that all purchases that go through OPC adhere to statutory purchasing requirements and OPC guidelines. Additionally, OPC staff support Agencies with any and all purchasing questions and procurement needs. Agency staff should not hesitate to reach out to OPC when a question or uncertainty arises, even if it arises within that Agency’s delegated authority. Oftentimes a serious audit risk may be avoided if OPC is involved sooner rather than later. Please note that the following descriptions of OPC staff responsibilities are not exhaustive:

1. Director of Purchases
   a. The Director of Purchases is the head of OPC and is appointed by the Secretary of Administration.
   b. The Director of Purchases oversees and manages the OPC office and is responsible for setting all purchasing guidelines within the boundaries set by statute.
   c. The Director of Purchases sits on the Prior Authorization Review (PAR) team and has the final approval on all prior authorization requests.
   d. The Director of Purchases or assigned delegate sits on all Procurement Negotiating Committees (PNCs) and may designate another State employee to sit on any PNC.
   e. The Director of Purchases will receive and adjudicate any and all internal/external protests in accordance with the protest policy he or she sets forth.

2. Deputy Director
   a. Deputy Directors are responsible for the direction and guidance of specific teams within the Agency.
   b. They route requestions, evaluate prior authorizations, interface with Agencies, and assist with difficult contracting issues.
   c. These positions are executive management and directly report to the Director of Purchases.

3. Procurement Officer (PO) IV, III, II, and I
a. A Procurement Officer IV may be designated as a manager for certain purchasing categories (e.g., IT/Construction, Good/Services, and P-Card) and will report directly to the Director of Purchases.
b. A PO IV will manage and oversee all Procurement Officers III, II, and I within the OPC and all POs are responsible for ensuring that all statutory purchasing requirements and OPC guidelines are met.
c. A PO IV may sit on the Prior Authorization Review (PAR) team
d. POs may have the final approval on some Prior Authorization requests.
e. POs may be responsible for conducting procurements for State Agencies or for Statewide Contracts.
f. POs may be the only point of contact for Bidders while a procurement is active (e.g., after it has been publicly posted and prior to Contract award).
g. POs are responsible for sharing clarifying questions between Bidders and the PNC.
h. POs will sit on a Procurement Negotiating Committee (PNC) as the designee for the Director of Purchases.
i. POs will be responsible for receiving and opening all bids received by Bidders for a procurement they are conducting on behalf of an Agency or on behalf of all State Agencies.
j. POs are responsible for reviewing the PNC’s evaluation and recommendation.
k. POs will assist in the negotiation of Contract terms with Bidders.

4. Prior Authorization Review (PAR) Team
   a. The PAR Team is comprised of the Director of Purchases and their delegates as deemed necessary.
   b. The PAR Team will be responsible for reviewing Prior Authorization (PA) requests that are submitted as determined by the Director of Purchases. The purpose of the PAR team is to approve or deny Prior Authorizations as submitted by Agencies and may include coordination with Agency staff to clarify or modify the request.
   c. The PAR team may accept or deny any request, and the decision of the Director of Purchases is final.

B. Responsibilities of Agency Positions
The structure, roles, and responsibilities in each Agency can vary as widely as the needs of each Agency do. With that in mind, there are specific responsibilities within the procurement process that Agencies will be primarily responsible for and in which OPC either has no role in or only services as the reviewing authority. OPC staff remains, however, a resource available to all State Agencies for any questions or uncertainty during the procurement process. Agency staff should not hesitate to coordinate all questions to OPC through their primary Agency Procurement Officer or, if their Agency does not have dedicated full- or part-time procurement staff, their finance office.

1. Primary Agency Procurement Officer (where applicable)
a. Agency Procurement Officers will serve as the main point of contact between OPC and other Agency staff, handling all questions and matters between the two entities related to purchasing and contracting.

b. Agency Procurement Officers are responsible for being familiar with and following all Kansas procurement statutes, including any statutory exemptions granted to their Agency.

c. Agency Procurement Officers are responsible for being familiar with and following all OPC procurement policies and procedures, including any documented exceptions they have been granted by the Director of Purchases.

d. When a procurement is conducted through OPC, Agency Procurement Officers will be responsible for reviewing and submitting all bid materials to OPC.

e. When a procurement is conducted through OPC, Agency Procurement Officers will be responsible for providing a potential Bidder list to OPC.

f. When a procurement is conducted through OPC, Agency Procurement Officers will be responsible for reviewing all evaluation materials and recommendations of the PNC (if applicable) and sharing these with OPC.

2. Agency Subject Matter Experts (SMEs)

a. Agency subject matter experts will coordinate with their Agency Procurement Officer or finance staff to identify the needs of that Agency and are responsible for drafting clear and unambiguous specifications for all procurements that meet the needs of the Agency and that fosters competition.

b. Agency subject matter experts will support their Agency Procurement Officers or finance staff in preparing a potential Bidder list.

c. Agency subject matter experts may sit on the PNC if appointed as the Agency head designee or the Secretary of Administration’s designee.

C. Procurement Negotiating Committee (PNC)

As established in statute, the Procurement Negotiating Committee (PNC) is composed of three individuals: the Director of Purchases or their designee; the Chief Administrative Officer of the State Agency requesting the procurement or their designee, and the Secretary of Administration or their designee. If the Agency is making an IT requisition, the State Chief Information Officer or their designee will replace the Secretary of Administration. If an Agency is making a Financial Institution requisition that falls under K.S.A. 75-75-3799, the Director of Accounts and Reports replaces the Secretary of Administration. Representatives of different Agencies may sit on this committee and the unique statutory responsibility granted to this committee, the description of the PNC’s role has been separated from OPC and Agency role sections.

A PNC is convened after an Agency submits a requisition to OPC and includes a PNC Request Letter. The Agency will identify the Agency representative who will sit on the committee and OPC will
designate the OPC representative. The third PNC member is a designee for the Secretary of Administration’s representative. Protocol over the years has permitted this representative be from the Agency, however, the Secretary of Administration can appoint any designee of their choosing. The PNC will be responsible for reviewing, evaluating, and clarifying all proposals in response to an RFP. This includes the technical response, pricing proposals, and any suggested standard Contract modifications from the Bidders. While additional State employees may review proposals, it is ultimately the responsibility of the PNC to formally recommend the successful Bidder(s) for award.

Best Practice: Agencies submitting requisitions that will become RFPs for services, Financial institution per K.S.A. 75-75-3799 or IT systems should make sure they submit a PNC Request Letter with their requisition. The Agency also should have the Agency PNC committee members identified at that time.

The PNC, upon receipt of proposals, may coordinate the evaluation as they see fit within the PNC and any other State employee to whom they grant access to the proposals and from whom they have received Non-Disclosure Agreements (NDAs). The PNC, in conjunction with the procuring agency, may draft clarifying questions for Bidders and submit those to OPC, who may then share those with Bidders. The PNC will be responsible for drafting a recommendation to be shared with OPC that designates with which Bidder(s) the PNC wishes to enter into a Contract. This recommendation must include an objective summary of the proposals, including the reasons why the successful Bidder(s) was/were selected over the other Bidders.

The PNC may not communicate with Bidders while the procurement is still active and may not share details of any Bidder’s proposals with other State employees who have not signed and submitted NDAs to OPC.

D. Other Governing Bodies

While OPC is the central procurement authority for the State of Kansas and collaborates with Agency staff to procure goods and services, there are several other bodies within the executive and legislative branches that are involved in specific procurement activities.

1. Kansas Information Technology Office (KITO)
   a. KITO is responsible for supporting Chief Information Technology Officers across the three branches of government.
   b. For IT procurements defined as a project, KITO will assign a risk score through a process known as the Kansas Approval and Reporting System (KARS). If the project is determined to be reportable, the KITO must be involved in the preparation of specifications and procurement documentation prior to submission to OPC.
   c. Information technology (IT) project means an information technology effort by a State Agency of defined and limited duration that implements, effects a change in, or presents a risk to processes, services, security, systems, records, data, human resources or architecture.
d. Project means a planned series of events or activities that is intended to accomplish a specified outcome in a specified time period, under consistent management direction within a State Agency or shared among two or more State agencies, and that has an identifiable budget for anticipated expenses.
e. For more information, see Manual Appendix A.

2. **Joint Committee on Information Technology (JCIT)**
   a. JCIT is comprised of ten Kansas legislators, five from the House of Representative and five from the Senate.
b. JCIT is responsible for providing feedback, if applicable, on IT project related procurements with a significant business risk.
c. For more information, see Manual Appendix A.

3. **Information Technology Executive Council (ITEC)**
   a. ITEC is comprised of representatives from all three branches of government with representatives from large and small Agencies, legislative representatives (two from the House and two from the Senate), representatives from local and county governments and a private sector representative.
b. ITEC is responsible for setting IT policy for the State of Kansas government. Further information about ITEC’s IT policies can be found at their site².

4. **State Building Advisory Committee (SBAC)**
   a. The SBAC is an independent, statutory commission responsible for reviewing and maintaining the list of pre-qualified Vendors for construction related projects.
b. For more information on construction procurements, see Manual Section 9 Procurement Methods and Appendix A.

5. **Financial Services Negotiating Committee (FSNC)**
   a. An FSNC is a version of a PNC convened for the unique procurement of financial services. These procurements are exempt from the competitive procurement processes outlined in statute and in this Manual.
b. In addition to an OPC representative and an Agency representative, a representative from the Office of Accounts & Reports must also sit on the FSNC.
c. For more information on the FSNC, see Manual Appendix A.

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² [https://ebit.ks.gov/itec/resources/policies](https://ebit.ks.gov/itec/resources/policies)
6. Telecommunication Negotiating Committee (TNC)
   a. A TNC is a version of a PNC convened for the unique procurement of telecommunication services. These procurements are exempt from the competitive procurement processes outlined in statute and in this Manual.
   b. In addition to an OPC representative, a representative from the governor’s office and a representative from the Executive Branch Information Technology (EBIT) must also sit on the TNC.
   c. For more information on the TNC, see Manual Appendix A.
5. PROCUREMENT TOOLS

A. PeopleSoft SMART
The Office of Procurement and Contracts and all State Agencies shall utilize the Statewide Management, Accounting, and Reporting Tool (SMART) for processing procurement transactions as provided in this Manual. SMART is used by both Office of Procurement and Contracts (OPC) staff, Agency staff, and Vendors to carry out functions from all phases of the procurement process. Some procurement functions conducted utilizing SMART include, but are not limited to:

- Requisition Submission
- Prior Authorization Request Submission
- Supporting Document Submission
- Electronic Bidding
- Electronic Signatures
- Contract Creation
- Contract Maintenance
- Contract Research
- Vendor Registration

Throughout this Manual, guidance will be provided when procurement functions need to be conducted in SMART.

B. Procurement Templates, Forms, and Resources
A fundamental component to sound procurement practices is standardized solicitation tools and sample Contract language in the form of solicitation templates. For OPC employees, these documents have been developed to assist OPC staff in reducing risk and increasing compliance associated with State procurement. For Agency employees, each Agency is responsible to align with OPC procedures. The following OPC templates are available and can be found as indicated below:

**Templates, Forms, and Resources for Agency Use – Examples**
(Full list of all current forms may be found at the Procurement Forms page on the OPC website\(^3\))

- Prior Authorization (PA) Request Form
- Procurement Negotiating Committee (PNC) Request Letter

\(^3\) [https://admin.ks.gov/offices/procurement-contracts/procurement-resources/procurement-forms](https://admin.ks.gov/offices/procurement-contracts/procurement-resources/procurement-forms)
● Policy Regarding Sexual Harassment Acknowledgement Form
● Boycott of Israel Certification Form
● DA-146a – Contractual Provisions
● Immigration & Reform Control Act (IRCA)
● Non-Disclosure-Conflict of Interest Agreement
● W-9 – Request for Taxpayer Identification Number and Certification
● Complaints to Vendor Form
● Events/Conference Quote Form
● KCI Waiver Request Form
● Quarterly Report Format
● Monthly Report Form – Staff Augmentation
● State Use Waiver Request Form
● Protest Procedure
● State of Kansas Debarred Vendors List
● Glossary of Common Procurement Terms

**Best Practice:** Prior to beginning any work, ensure that you have the most current version of the template or form.
6. ETHICAL STANDARDS AND POLICIES

The Office of Procurement and Contracts recognizes that personnel involved in the procurement process and contract administration act as representatives of the State of Kansas. Employees involved in the procurement process must conduct themselves in such a manner as to ensure the integrity of the process and to ensure all duly qualified and responsible Bidders have equal access to the procurement process. To achieve this end, it is imperative that those involved in procurement and contract administration observe the provisions of the State governmental ethics law, which consists of K.S.A. 46-215 through 46-293 and K.S.A. 46-237a, and amendments thereto. For the full text of the State governmental ethics law, please refer to the Kansas Legislature website. In addition, all procurement rules and policies of the Office of Procurement and Contracts must be followed during all procurement and contract administration decisions and processes, except in the case of statutory exception or by the discretion of the Director of Purchases. If an agency believes they have an exception to the procurement rules and policies of the Office of Procurement and Contracts, they must contact the Director of Purchases to verify.

Relevant sections of the State governmental ethics law include:

A. Lobbying - K.S.A. 46-232
   State officers or employees are prohibited from lobbying their own State Agency if they accept compensation for such lobbying.

B. Conflict of Interest - K.S.A. 46-233
   When a State employee discovers any potential conflict of interest, they must disclose this conflict of interest, as soon as it is known, to the Director of Purchases. K.S.A. 46-233 states that State officers or employees shall not be substantially involved in the preparation or creation of, or signatory to contracts with, any business the State employee may be employed by or the employee or employee’s immediate family may have substantial interest in. “Substantial interest” is defined in K.S.A. 46-229. In contracts in which a State officer or employee has been substantially involved, the State employee will not accept employment at the contracted business until two years after the contract is completed or two years after the State employee ends employment at the State, whichever is sooner. Please see K.S.A. 46-233 for the full text and information.

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4 http://www.kslegislature.org/li/
The Non-Disclosure – Conflict of Interest Agreement ("NDA Document") signed by State employees involved in the bid and evaluation of RFPs also includes a restatement of the conflict of interest standards. Per the NDA Document, a conflict of interest “would arise when I or any member of my immediate family, or an organization which employs or is about to employ me or any member of my immediate family, has a financial or other interest in a Bidder submitting a response to the RFP.” The NDA Document also includes the acknowledgement “Further, I acknowledge that Kansas law prohibits me from accepting employment with a contractor for two (2) years after the end of the contract or two (2) years after my employment with the state ends, whichever is sooner, if I participated in the making of a contract with that contractor.” Should a real or apparent conflict of interest become known or inferred, all employees are required to report any such violations of this policy to their immediate supervisor, the Director of Purchases, and the Secretary of the Administration. Specifically, written notice is required to be provided to the Director of Purchases at the address listed in the NDA Document. Please see the NDA Document at the Office of Procurement and Contracts website, under Procurement Forms. 5 for the full text.

In addition, the disclosure of conflicts of interest is included in Appendix B, Terms and Conditions of the Bid Event Details. This appendix contains the acknowledgment: “With the submission of a response for this bidding event, you certify that you do not have any substantial conflict of interest sufficient to influence the bidding process of this event. A conflict of interest of substantial interest is one which a reasonable person would think would compromise the opening bidding process.”

Though procurement officers do not sign the NDA Document for bid events, they are members of the Procurement Negotiating Committee and a designee of the Director of Purchases, and thus are also held to the provisions of K.S.A. 46-233.


State officers and employees may not accept any economic opportunities, gifts, loans, gratuities, special discounts, favors, hospitality or services that totals to an aggregate value of $40 or more in any calendar year, or any recreation that has an aggregate value of $100 or more in one calendar year, from any one person that is known or should be known to have a special interest in influencing the State officer or employee. Accepting any payment of honoraria for a speaking engagement is similarly prohibited, except that a member of the State legislature or part-time officer or employee of the executive branch is allowed to receive an amount fixed by the Commission for a speaking engagement in accordance with a prior agreement made before accepting the speaking engagement.

https://admin.ks.gov/offices/procurement-contracts/procurement-resources/procurement-forms
Similarly, State officers and employees may not solicit any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service from any person known to have a special interest and in which it is known or should be known that the major purpose is to influence the State officer or employee in their official duties.


A representation case is defined, in part, by K.S.A. 46-226 as “the representation of any person, client, principal, or third person, with compensation, in any matter before any State Agency where the action or non-action of the State Agency involves the exercise of substantial discretion.” K.S.A. 46-239 prohibits State officers or employees from accepting employment in any representation case unless a disclosure statement is filled out by the State officer or employee. This disclosure statement is prescribed and provided by the Commission and must be filed with the Secretary of State no later than 10 days after the acceptance of employment for such case or on the first appearance before the State Agency involved (whichever occurs first).

K.S.A. 46-240 states State officers and employees are also prohibited from accepting compensation for employment in a representation case, except workmen’s compensation cases, which is contingent upon the result achieved or attained.

**E. Confidential Information and Whistleblower Protection - K.S.A. 46-241, K.S.A. 75-2973**

K.S.A. 46-241 states that State officers and employees are prohibited from disclosing or using confidential information to further their own economic interests or those of any other person.

All State employees have a duty to report procurement misconduct. The Kansas whistleblower act K.S.A. 75-2973, states “No supervisor or appointing authority of any State Agency shall prohibit any employee of the State Agency from discussing the operations of the State Agency or other matters of public concern, including matters relating to the public health, safety and welfare either specifically or generally, with any member of the legislature or any auditing Agency.” It also states “No supervisor or appointing authority of any State Agency shall:

1. Prohibit any employee of the State Agency from reporting any violation of state or federal law or rules and regulations to any person, agency or organization; or
2. Require any such employee to give notice to the supervisor or appointing authority prior to making any such report.”

Please see K.S.A. 75-2973 for the full text and information.
F. Substantial Interests and Personal Benefit or Gain – K.S.A. 46-247 – 46-252, K.S.A. 75-3739(m)

K.S.A. 46-247 specifies the individuals required to file written statements of substantial interests. A “substantial interest” is defined by K.S.A. 46-229 and includes the circumstances in which the individual or individual’s spouse is considered to have a “substantial interest” in a business or businesses. The specific timing of filing statements of interest, failure to file, content of the statement, and other information can be found in K.S.A. 46-247 – K.S.A. 46-252.

In addition, K.S.A. 75-3739(m) states that “the director of purchases shall require all Bidders on state contracts to disclose all substantial interests held by the Bidder in the state.”


Any individual may file with the Governmental Ethics Commission, known as “the Commission,” a verified complaint in the event an individual has allegedly violated the provisions of the State governmental ethics law. The Commission will determine if the verified complaint requires further investigation or may be dismissed. All State employees are protected by K.S.A. 75-2973, or the whistleblower act.

K.S.A. 46-260 further states that “The commission may investigate, or cause to be investigated, any matter required to be reported upon by any person under the provisions of the State governmental ethics law, or any matter to which the State governmental ethics law applies, irrespective of whether a complaint has been filed in relation thereto.”

If after a hearing of an alleged violation, the Commission finds the respondent has violated any provisions, then the findings of the Commission will be submitted to the appropriate body or individual, as well as the Attorney General and to the County or District Attorney of the appropriate county, except any act which is a violation of K.S.A. 46-245. Please see K.S.A. 46-263 for information on the disciplinary action that may follow depending on the body or individual the findings of the Commission are submitted to.

H. Retention of Records

7. LIFECYCLE PROCESS OVERVIEW

The State of Kansas’ procurement lifecycle process consists of seven steps: Need and Funding Identification, Procurement Method Selection, Solicitation Preparation, Solicitation Process, Evaluation and Negotiation Process, Award and Protest Process, and Contract Management. Depending on the procurement method selected, all seven stages may not be necessary. This Procurement Manual outlines requirements and steps for each of the seven stages and identifies the necessary steps for each available procurement method selection.

General Overview of Procurement Lifecycle Steps:

1. **Need and Funding Identification:** Identify and understand the need, estimate potential costs, and verify the funding source.

2. **Procurement Method Selection:** Based on the requirements and specifications of the need and the estimated costs, determine which available method best suits the need: informal quote, RFQ, IFB, RFP or PA.

3. **Solicitation Preparation:** Develop solicitation documents such as specifications, cost models, potential Bidder lists, and contract provisions, and submit a SMART requisition to OPC.
4. **Solicitation Process**: Publish a solicitation and post publicly, conduct pre-bid conferences and QA periods, and accept responses.

5. **Evaluation and Negotiation Process**: Review, clarify, and evaluate proposals, negotiate with Vendors, and select Vendor(s) for award.

6. **Award and Protest Process**: Award a contract or Procurement Officer (PO), collect signatures, observe a protest period, and post publicly if applicable.

7. **Contract Management**: Manage the contract inclusive of amendments and renewals, monitor Vendor performance.

⚠️ **IMPORTANT**: The above represents the typical stages of the procurement process. Each stage has different approval and documentation requirements, such as the Kansas Information Technology Offices’ (KITO), Kansas Approval and Reporting System (KARS) requirements. All necessary approvals and requirements will be outlined in the following sections.
8. NEED AND FUNDING IDENTIFICATION

Before any purchasing or procurement decisions can be made, a prospective buyer must identify a need, which entity (the Agency or Office of Procurement and Contracts (OPC)) has the authority to purchase the good or service and identify the source of funding that would allow the buyer to purchase the good or service addressing the need. This section of the Manual seeks to clearly define this process for all State employees.

A. Identifying a Need for a Good, Service, or System

State employees of all levels should be familiar with the purchasing functions of their employing Agencies and of the role of OPC (See Manual Section 3 Authority and Scope and Manual Section 4 Key State Employee Roles for more information). Agency staff providing important services to other State Agencies or to constituents may, from time to time, encounter a lack of a physical, technical, or human resource that hampers their ability to fully provide their service. When this occurs, Agency staff should collaborate with their colleagues, managers, and division directors to determine the best course of action. If it is determined that the best course of action is to procure or purchase a product, system, or service, then this begins the procurement process.

The same individuals or group of individuals who identified the need should also begin considering what product, system, or service would best address the need. This could range from a specific type of screwdriver to a complex, cloud-hosted information system. In some cases, the solution for the need is clear and unambiguous (as in the case of the screwdriver). In other cases, such as the complex information system, the need is clear and the solution has unambiguous minimum specifications, but there are still remaining questions as to what the market is capable of providing that would best address the State’s need. As subject matter experts, State Agency staff must identify what they are seeking to purchase before they can begin the procurement process.

B. Identifying the Purchasing Entity

After a need is identified and the type of solution to address that need is contemplated by Agency staff, Agency staff should investigate whether the State currently has a Contract for that solution or a functional equivalent. If the State has an existing contract, Agency staff should confirm that the Contract will address their identified need and reach out to the Contract Manager if it does or if the Agency staff has any questions. If there is not an existing Contract, the Agency’s need and contemplated solution must be brought to Agency Procurement Officers or, in the case of Agencies without full- or part-time procurement staff, to the financial department of the Agency. Agency subject matter experts, in collaboration with procurement or finance staff, should begin estimating how much the solution will cost and whether a Contract will be necessary for that item.
Best Practice: Agency staff should always investigate whether there is an existing state Contract that would address their need.

The cost of the solution and whether a Contract is needed will ultimately determine the extent to which OPC is involved. If the solution to the identified need falls above the Agency’s delegated authority or would be a repetitive purchase that would warrant a term Contract, the Agency should prepare specifications and procurement materials to share with OPC to begin the formal procurement process described in Manual Section 9 Procurement Methods. If the solution falls within the Agency’s delegated authority and would be a one-time or low-frequency purchase that would not warrant a Contract, the Agency may begin the formal procurement process discussed in Manual Section 9 Procurement Methods.

C. Identifying the Funding Source for a Good, Service, or System

Once Agency staff identify a need for a good, service, or system, create specifications, and identify the entity who will be responsible for conducting the procurement or purchasing event, Agency staff should work with their Procurement Officer or finance department to identify the source of funds with which to buy the product, service, or system. Sources of funding include: federal, grant, and State funding, each with their own unique considerations. Agencies must ensure that the procurement complies with any laws, special regulations, restrictions or limitations applicable to the source of funding. Special consideration should also be given to the timing of the procurement and the fiscal year-end, especially for Agencies that encumber funds.

Agencies, particularly those working with human services and the environment, should be aware of grant funding that may be used to pay for the to-be procured commodity, service, or system. Additionally, procurements planning to use grant funds must also comply with any applicable grant requirements or special conditions imposed by the underlying grant award that will fund the procurement.

In the event that an Agency does not have funding available to fulfill the needs, Agency staff should collaborate internally to identify alternative ways to address the identified need or to request additional funding in the next budgetary cycle.
9. PROCUREMENT METHOD SELECTION

The selection of the procurement method is critical to the success of the procurement process and the resulting Contract. It is the policy of the State to obtain goods and services from the private sector for public purposes to achieve value for the taxpayer through a fair, open and objective competitive process. This section will discuss the common procurement methods, their applicable use, and the hierarchical manner in which they should be utilized: Established Agreements > Competitive Procurements > Non-Competitive Procurements. These are:

- **Established Agreements**
  - State Use Program
  - Kansas Correctional Industries (KCI)
  - Statewide Contracts
  - Agency Specific Contracts

- **Competitive Procurements**
  - Request for Quotation (RFQ)
  - Invitation for Bid (IFB)
  - Request for Proposals (RFP)

- **Non-Competitive Procurements**
  - Prior Authorizations (PAs)

In addition to the above-listed methods, there are several product categories that have unique procurement requirements and will be discussed in Appendix A. These categories are:

- Construction Purchases and Capital Improvement Projects
- Boiler/Cooling Tower Treatment Chemicals
- Financial Services
- Telecommunications Services
- IT Services

A. Established Agreements

The first step in determining the procurement method selection is confirming that the goods or services required are not currently available through an established agreement. The following resources, arranged in order of precedence, should be reviewed in every instance before proceeding with a new procurement process:

1. **State Use Program**

   The Kansas State Use Program is governed by statutes (K.S.A. 75-3317 through 75-3322) and states, “Any person or officer authorized to purchase materials and supplies for a State Agency or Unified School District operating in Kansas shall purchase, from the State Use Catalog, which includes ‘Products and Services Manufactured and Offered by Blind and Severely Disabled Kansans,’ at any
time when the listings in that catalog will meet the needs of the Agency or school district.” Available items can be found through the Procurement and Contracts website: State Use Program | Kansas Department of Administration (ks.gov)6

2. Kansas Correction Industries
Statute K.S.A. 75-5276 requires that State Agencies purchase goods and services, including office furniture, from Kansas Correctional Industries (KCI). In applying this statute and administering this waiver process, the term office furniture shall mean: “Furniture, at the time product requirement is indicated, is intended primarily for use in an office environment (including faculty offices, meeting rooms and conference rooms). KCI’s web site and catalogs do not contain all products offered.” Kansas Correctional Industries (kansasci.com)7

3. Statewide Contracts
The Office of Procurement and Contracts, on behalf of all State Agencies and Political Subdivisions, has established Contracts for goods or services that all statutorily required State Agencies must utilize and that may be used by political subdivisions. Statewide Contract usage is mandatory. These Contracts can be found by conducting a Contract Search for Contract type “Statewide” through the eSupplier portal: Homepage (ks.gov)8

4. Agency Contracts
The Office of Procurement and Contracts, in conjunction with a State Agency, may establish Contracts for goods and services to be utilized by the requesting Agency. Upon request these Contracts could be open for utilization by additional agencies.

5. Delegated Authority Purchase
In the event a Contract does not exist for a good or service required by an Agency, which is valued at less than $5,000 per Vendor per fiscal year, an Agency can elect to conduct their own informal competitive solicitation process. If a subsequent purchase from this same Vendor will exceed an Agency’s delegated authority, of $5,000 per Vendor per fiscal year, agencies are required to submit a Prior Authorization inclusive of the entire amount purchased from the Vendor during the fiscal year. See Manual Section 9C below for additional guidance regarding Prior Authorizations.

Order of Precedence for Established Agreements:

6 https://admin.ks.gov/offices/procurement-contracts/bidding--contracts/state-use-program
7 https://kansasci.com/shop/listcats.aspx
8 https://supplier.sok.ks.gov/psc/sokfsprdsup/SUPPLIER/ERP/c/NUI_FRAMEWORK_PT_LANDINGPAGE.GBL?
B. Methods of Competitive Procurements

In the event that a needed item or service cannot be purchased through the options outlined in Section A: Established Agreements above, one of the available competitive bid processes should be utilized. Competitive procurements are the primary solicitation type used to procure goods and services valued above $5,000, including for State Agencies with a delegated authority above $5,000. Competitive procurements can be conducted through both Informal and Formal processes.

1. Non-Negotiated Procurement Process
   a. Request for Quotation (RFQ)

   The RFQ process is a sealed bid process utilized for one-time purchases, typically goods, above the delegated purchase authority limits. Sealed bids received are not negotiable and bid events are awarded to the lowest responsive and responsible Bidder meeting specifications. Bidders who are not responsive (e.g., do not bid comparable items or impose different conditions within the bid) may be disqualified. While typically applicable for goods, the RFQ process may also be used for specific types of services such as construction work that meet certain criteria.

   i. Construction Projects

   For all construction-related, installation, or repair services (that do not concern life, safety or vertical construction) valued above an Agency’s delegated authority, the specifications should be reviewed by OPC prior to posting on OPC’s website. All other construction and design-related services, including components subject to International Building Code (IBC), Industry Foundation Classes (IFC), International Fuel Gas Code (IFGC), International Plumbing Code (IPC), International Mechanical Code (IMC), New Engineering Contract (NEC) or 2010 Americans with Disabilities Act (ADA) Standards should be coordinated and bid through the Office of Facilities & Property Management (OFPM) Design, Construction, and Compliance (DCC). All RFQs and IFBs conducted through OFPM must be routed through OPC for Contract creation and finalization (See Section 14 for additional information.) Additional bidding requirements for
construction projects can be found in Appendix A of this Manual and the DCC Building Design and Construction Manual.⁹

**Best Practice:** Be sure that specifications include all necessary requirements (e.g., a precise and articulate description of the physical or functional characteristic of a product including performance, quality, operational characteristics, special terms and conditions, timeline requirements, etc.).

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**RFQ RECAP**

**Main Use:** One-time Purchases

**Required Approvals:** OPC, Agency

**Required Forms:**
- Specifications/Scope of Work
- Cost Estimate
- Bidder List
- Cost Evaluation Template
- Technical Questions
- Sexual Harassment Form
- Boycott of Israel Form (value >100K)
- Immigration Reform & Control Act Form (IRCA)
- Tax Clearance form
- Contract Provisions
- Requisition

**Award Type:** Awarded as a Purchase Order

**Estimated Timeframe:** 4-6 weeks

**Alert:** Bids over $50,000 require a minimum of 10-day public advertising

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b. **Invitation for Bid (IFB)**

An IFB is used to establish a Contract(s) for multiple, recurring needs or goods, services, or a combination of goods and services for a given period of time. IFBs are often used for non-life or safety construction projects. Like the RFQ, this is a sealed bid, awarded as a Contract or purchase order to the lowest, responsive and responsible Bidder or Bidders.

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meeting bid specifications. These bids may not be negotiated. Bidders who are not responsive, i.e., do not bid comparable items, or impose different conditions within the bid, may be disqualified. Similar to RFQs, **the IFB process may also be used for specific types of services such as construction work that meet certain criteria.**

i. Construction Projects

For all construction-related, installation, or repair services (that do not concern life or safety) valued above an Agency’s delegated authority, the specifications should be reviewed by OPC prior to posting on OPC’s website. All other construction and design-related services, including components subject to IBC, IFC, IFGC, IPC, IMC, NEC or 2010 ADA Standards should be coordinated and bid through the Office of Facilities & Property Management (OFPM) Design, Construction, and Compliance (DCC). All RFQs and IFBs conducted through OFPM may be routed through OPC for Contract creation and finalization (See Section 14 for additional information.) Additional bidding requirements for construction projects can be found in the Appendix of this Manual and the [DCC Building Design and Construction Manual](https://admin.ks.gov/offices/facilities-property-management/design-construction--compliance/building-design-and-construction-manual-bdcm).

**Best Practice:** Be sure that specifications include all necessary requirements (e.g., a precise and articulate description of the physical or functional characteristic of a product including performance, quality, operational characteristics, special terms and conditions, etc.).
2. Negotiated Procurement Process
The Negotiated Procurement process is based upon the concept of “Best Value” and enables agencies to consider many factors in the evaluation of bid responses beyond cost, including Vendor qualifications, past performance, and service delivery methodology. This procurement process is typically used for service-related Contract needs.

a. Request for Proposals (RFP)
   The RFP is the most flexible and interactive procurement method and utilized when factors other than price will also be evaluated, or when comprehensive and objective “pass/fail” criteria cannot be written. RFP’s allow discussions conducted under the authority of OPC with Vendors prior to award for the purpose of clarification and/or to obtain best-and-final-offers (BAFOs).

With this flexibility comes the responsibility to document the actions throughout the bid process; thus, ensuring the process is fair and equitable for all Bidders and the needs of the Agency are met. RFP documentation includes:
- Detailed specification documents
• Vendor response templates: cost sheet, technical questions
• Prospective Bidder list
• *Procurement Negotiating Committee (PNC) Request Letter*
• Signed Non-Disclosure and Conflict of Interest Agreements for all persons accessing submitted proposals (this may include individuals not employed by the State)

The evaluation of proposals is led by a (3) three-person PNC in collaboration with Agency subject matter experts. These parties make up the evaluation team. All evaluators are responsible for evaluating proposals and providing feedback to the PNC. After all contributing factors of the bid event are examined, the PNC will prepare a written justification for actions taken and make an award recommendation. Detailed procedures for conducting an RFP can be found in Manual Sections 11 and 12.

  i. Information Technology (IT) Procurements

  For procurements concerning IT systems and solutions, there may be several unique elements that diverge from the standard RFP process detailed in Manual Sections 10 and 11. Please see Appendix A for additional information.

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**RFP RECAP**

**Main Use:** One-time or Repetitive Purchases

**Required Approvals:** PNC, OPC, Agency

**Required Forms:**
- Specifications/Scope of Work
- Cost Estimate
- Bidder List
- *PNC Request Letter*
- Non-Disclosure Agreement (NDA)
- Cost Evaluation Template
- Technical Questions
- *Sexual Harassment Form*
- *Boycott of Israel Form* (value >100K)
- *Contract Provisions*
- *Immigration Reform & Control Act Form (IRCA)*
- *Tax Clearance Form*
- Requisition

**Award Type:** Awarded as a Contract or Purchase Order

**Estimated Timeframe:** 3-6 Months
C. Methods of Non-Competitive Procurements

Prior Authorizations

The Prior Authorization (PA) procurement process is a non-competitive process by which an Agency seeks prior approval from OPC Director of Purchases to engage in a sole source bid process and award to a specific Vendor, or when special circumstances exist such as an intergovernmental purchase or for a conference/event exceeding an Agency’s delegated purchase authority.

The PA process should only be utilized if an established agreement is not in place and a competitive procurement process is not a viable option. PA requests must be supported with clear evidence that competition for requested goods and services does not exist in the marketplace. PA requests based solely on Agency preferences are not allowed and will be denied. Kansas statute (K.S.A. 75-3739(a)) provides that goods and services should be sought through competitive processes. Prior Authorization procurements are an exception to statutory guidelines with approval authority granted to OPC Director of Purchases and should be requested only when necessary. All non-competitive transactions are required to be reported to the Kansas Legislature. Additionally, Kansas statute (K.S.A. 75-3739(a)(7)) requires that all non-competitive purchases or Contracts exceeding $100,000 must be posted publicly for at least 7 days prior to award. The following PA categories are statutorily exempt from the posting requirements of K.S.A. 75-37-39(a)(7): Emergency (EMR), Statutorily Exempt (STX), Used Equipment (USE), and Interagency (IGP).

To assist with the processing and reporting of PA requests, categories (outlined in Table 9.1 below) have been created across many service categories, each with their own process and review requirements. To ensure timely processing and approval of the PA request, it is imperative that the appropriate category is selected and all requirements are met.

Approval from the OPC Director of Purchases must be gained PRIOR to entering into a Contract with a Vendor.

General Prior Authorization Process:

Identify Need & Requirements

Research Marketplace Offerings

Determine PA Category

Complete PA Request Form

Create and Submit Requisition (with all required)

Required documentation:

- Prior Authorization Request Form
- Kansas Information Technology Office (KITO) approval documentation provided through the Kansas Approval and Reporting System (KARS), when applicable
- Sole source letter from selected Vendor, when applicable
● Vendor quote
● Signed Sexual Harassment Policy
● Signed Boycott of Israel Form (for procurements valued at $100,000 or greater)
● Marketplace research including specifications, time frame, implementation needs, ongoing needs, pricing
● SMART requisition (with all required documentation attached)

Prior Authorization Categories
The OPC has established the following PA categories to assist with the request and approval process. Specific requirements and process details for each category can be found in the Appendix B.

<table>
<thead>
<tr>
<th>Table 9.1 Purchase Authority Categories</th>
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</thead>
<tbody>
<tr>
<td><strong>SMART Code</strong></td>
</tr>
<tr>
<td>---------------</td>
</tr>
<tr>
<td>CHE</td>
</tr>
<tr>
<td>COM</td>
</tr>
<tr>
<td>DOP</td>
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<tr>
<td>EMR</td>
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<td>GSR</td>
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<td>IGP</td>
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<td>LRE</td>
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<td>OKP</td>
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<td>PSP</td>
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<td>SCW</td>
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<tr>
<td>STX</td>
</tr>
<tr>
<td>USE</td>
</tr>
<tr>
<td>USR</td>
</tr>
</tbody>
</table>
PA RECAP
Main Use: Sole Source Purchases
Responsible Entity: Agency
Required Approvals: OPC, KITO as needed
Required Forms:
  • Specifications/Scope of Work
  • Cost Estimate
  • Sexual Harassment Form
  • Boycott of Israel Form (value >100K)
  • Contract Provisions
  • PA Request Form
  • Requisition
Award Type: Awarded as a Purchase Order or Contract
Estimated Timeframe: 2-3 weeks
Alert: Bids over $50,000 require a minimum of 10 day public advertising
10. PREPARATION OF SOLICITATIONS, SPECIFICATIONS, AND REQUISITIONS

Once a need has been identified and researched and the proper procurement method has been selected, as outlined in Manual Section 9, the next step is to begin drafting the solicitation. In this stage of the procurement lifecycle the requesting Agency, or in cases of Statewide Contracts the OPC, will be primarily responsible for the preparation of the required supporting documents for a solicitation.

A. General Steps for Preparation of Solicitations, Specifications, and Requisitions

The following flowchart highlights the key steps to preparing solicitations, specifications and requisitions after a need has been identified, the proper procurement responsibility determined, and the funding source established:

Process Flowchart - Preparation of Solicitations, Specifications, and Requisitions:

B. Lead Time and Timeline Considerations

An important step in the solicitation preparation process is to consider the procurement lead time. Procurement lead time is the interval between a decision to purchase a product or service and the point when the Contract is finalized and active. The suggested lead time will vary depending on the specific requirements, type, and complexity of the procurement, as these factors will affect how much time is needed to draft a solicitation. The lead time should also account for any required reviews and approvals (inclusive of any federal review cycles). Calculating lead time should also take into account the time needed to draft solicitation files, as well as internal Agency review and review by OPC.

The time needed for the drafting stage will depend significantly on the subject matter and complexity of the scope of work, requirements, and cost information development. This can be mitigated by the
availability of previously used materials, external example files, and subject matter experts to assist in the process. The subsequent review and approval cycle(s) by internal and external parties (including from federal partners or other involved groups) should also be factored in.

Another consideration in estimating the lead time is how long a solicitation must be publicly posted before proposals/bids/quotes are received and opened by the State. Kansas statute requires different public posting requirements based on various solicitation factors. Please see Manual Section 11 Solicitation Process for detailed requirements. A minimum 30-day solicitation period is recommended for RFPs, though many remain posted for two or three times this long. Posting times should be considered on a case-by-case basis and may be influenced by federal requirements. A particularly complex or unusual scope of work may result in many Vendor questions, in which case, an extended solicitation period would be recommended.

Lead time also must factor how long it takes the State to evaluate responses. Bids may be evaluated quickly, but proposals are more complex. Evaluation of the proposals may take more or less time, depending on the size of the team reviewing proposals and the complexity of the procurement. Likewise, the likely or expected number of proposals to be evaluated impacts the evaluation time frame. The evaluation period could also be extended if there are presentations, discussions, or best and final offer rounds.

Finally, after an award decision is made the lead time must factor the length of time required to form a Contract with the Vendor and for the statutorily required public award posting. This should include any negotiations expected with the Vendor. Kansas statute requires awards to be publicly posted for at least seven (7) days if the resulting Contract and/or the underlying products or services is valued greater than $100,000.

As every solicitation has unique considerations, the experience of the OPC Team should be heavily leveraged to most accurately estimate the lead time. The below table, “Estimated Minimum Timelines” is provided as a guideline for solicitation planning.

<table>
<thead>
<tr>
<th>Table 10.1 Estimated Minimum Timelines</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Purchase from Established Agreements</strong></td>
</tr>
<tr>
<td>Solicitation Preparation</td>
</tr>
<tr>
<td>Public Posting Period</td>
</tr>
<tr>
<td>Evaluation &amp; Negotiations</td>
</tr>
<tr>
<td>Award Posting Period</td>
</tr>
</tbody>
</table>
Contract Creation & Approval | 1-2 weeks | 2-3 weeks | 2-3 weeks | 3-4 weeks | 1 week

**Best Practice:** Since procurement timelines can vary significantly, it is important to schedule out additional time for projects to act as a buffer against potential delays. The timelines in the above table should be treated as minimum estimates, and not a universal expectation.

### C. Required Documentation

Each solicitation type, as outlined in Manual Section 9 Procurement Method Selection, has different required documentation. This documentation is typically included with a solicitation to inform prospective Bidders of the conditions the State expects to be reflected in an ultimate contract. The following table highlights the documentation requirements for each of the main procurement methods.

<table>
<thead>
<tr>
<th>Table 10.2 Required Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required Document</strong></td>
</tr>
<tr>
<td>Specifications/Scope of Work</td>
</tr>
<tr>
<td>Cost Estimate</td>
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<tr>
<td>Bidder List</td>
</tr>
<tr>
<td>PNC Request Letter</td>
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<tr>
<td>Non-Disclosure Agreement (NDA)</td>
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<tr>
<td>Cost Evaluation Template</td>
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<tr>
<td>Technical Questions</td>
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<tr>
<td>Sexual Harassment Form</td>
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<tr>
<td>Immigration Reform &amp; Control Act Form (IRCA)</td>
</tr>
<tr>
<td>Tax Clearance Form</td>
</tr>
<tr>
<td>Boycott of Israel Form (value &gt;$100K)</td>
</tr>
<tr>
<td>Contract Provisions (including DA 146a)</td>
</tr>
<tr>
<td>PA Request Form</td>
</tr>
<tr>
<td>SMART Requisition</td>
</tr>
</tbody>
</table>

If a requesting Agency fails to include any of these files as part of their solicitation request, the requisition may not be approved and will be routed back to the requesting Agency or denied, causing the requesting Agency to begin a new requisition in the system. This may lead to a delay in the project timeline. The following sections outline the steps and best practices for creating all required documentation.
D. Benchmarking and Market Research

As Agencies develop the specifications and details of their solicitation, there are two research exercises that are recommended to help make a procurement the best it can be: Benchmarking and Market Research.

Benchmarking is the process of researching past and current solicitations and contracts from Kansas and other states to help inform the creation of a new procurement. Benchmarking is an important step in the development of a solicitation, as it can provide ideas for developing pricing structures and Scopes of Work, reveal what is being practiced in neighboring states, help identify potential Bidders, and more.

It is recommended that Agencies preparing a solicitation conduct benchmarking as part of their preparation to deliver a strong set of specifications. If a requesting Agency chooses to conduct benchmarking research, it is best practice to find at least three (3) different recent Contracts or solicitations for comparison and inspiration. These files can be found by searching through the Contract databases on the websites of other states’ Departments of Administration (or equivalent Agency).

Market research is the process of researching market trends relating to the goods and services targeted for procurement. This includes researching the availability of products and services in the marketplace, researching comparable items, researching the trends in costs, and researching notable Vendors in the industry. This research is recommended to assist with the development of a solicitation’s pricing structure, as well as to inform the identification of Vendors to invite to bid.

E. Scope of Work Development

The development of a Scope of Work is a required, and crucial, step in the procurement process. A Scope of Work lays out what is expected from Bidders, such as the specifications of goods, the supporting services and functions needed to operate the Contract, and the standards the Bidder is expected to meet. The Scope of Work acts as a roadmap for both the requesting Agency and the awarded Bidder, and it can set the stage for the success of a Contract over its term. It is important that the Scope of Work is clearly defined, contractually sound, and unbiased towards potential respondents.

To ensure that a solicitation results in a strong Contract, it is recommended that the solicitation drafters consult with subject matter experts and employees who have used and/or will be using the Contract in the development of the Scope of Work. These perspectives can provide key insight into how a Contract can best meet the needs of the employees using it, or how a re-procured Contract can improve in its new term. A robust Scope of Work is built on the perspectives of subject matter experts and the findings from benchmarking research.

As the subject matter experts, it is the responsibility of the requesting Agency to provide clear and concise Scope of Work, specification, and terms and conditions documents. OPC will review submitted
documents to ensure they support open and fair procurements. Any procurements that do not foster open and fair competition will be rejected and may be returned to the requesting Agency for further review.

It is important to understand that once the bids are opened, changes to the Scope of Work generally cannot be made. As a result, it is expected that the Scope of Work and Contract specifications are thorough and complete ahead of bid opening. If new information that would alter the solicitation arrives before bid opening, then amendments to the specifications can be made at the discretion of OPC. This would require an extension to the project timeline, and it is not guaranteed that OPC will provide an extension in all cases.

A Scope of Work typically includes:

- Contractor Responsibilities (deliverables, milestones, personnel, licenses, certifications, standards)
- Agency Responsibilities (systems, requirements)
- Constraints on the Contractor (security, locations, hours)
- Service Level Agreements (Vendor performance metrics, inspection, testing)
- Communication Protocol (customer service, escalation and resolution procedures)
- Specifications: These are a detailed description of a product or service and what the Bidder must offer to be considered for Contract award. These are either included in the body of the SOW or as an attachment to the solicitation.

When developing a procurement, it is important to not write specifications with:

- The intention of attracting a specific Vendor,
- Utilizing a specific Vendor’s detailed specifications for products or services and/or
- A specific Vendor’s consultation

Crafting a solicitation around a specific Vendor damages its integrity and limits fair competition among Bidders. Developing a solicitation in this manner could lead to the cancellation of the solicitation and/or a protest from a Bidder.

⚠️ IMPORTANT: Before submission to OPC, all information technology (IT) projects must undergo a review of Business Risk Assessment to determine if it is reportable to the Kansas Legislature. This process is managed by the Kansas Information Technology Office (KITO). More information on this process is available at the KITO site.¹¹

¹¹ [https://ebit.ks.gov/kito/home](https://ebit.ks.gov/kito/home)
F. Identifying Prospective Bidders

As part of the solicitation creation process, requesting Agencies must include a list of prospective Bidders to invite to bid on the solicitation. It is at the requesting Agency’s discretion as to how they compile this invite list, however it is recommended by OPC to consider Vendors identified from the following groups:

- Vendors who are currently contracted with the State or who were contracted in the past
- Vendors who have bid in the past on a similar solicitation
- Registered Vendors under UNSPSC codes related to the solicitation in SMART
- Vendors identified through research, such as benchmarking of peer state contracts

G. Convening of a Procurement Negotiating Committee (PNC)

When a negotiated procurement process is selected, the requesting Agency must include a completed Procurement Negotiating Committee (PNC) Request Letter with their solicitation documents. The PNC is an important team within the procurement process, as they are responsible for evaluating technical responses and cost proposals from Bidders, leading contract negotiations, and making a final award recommendation. The PNC shall include the following individuals, as required by K.S.A. 75-37, 102:

- Director of Purchases, or a designee who is responsible for ensuring the process, follows statutory requirements.
  - This individual is the primary contact and will shepherd the project through the procurement process.
- Secretary of Administration, or designee.
- Agency Head, or designee. This person acts as the representative for the statewide Agencies who will utilize the contract.

All members of the PNC are designees that are assigned and appointed to represent their entities. All PNC members must sign and complete a Non-Disclosure and Conflict of Interest Agreement before they can begin their duties on the committee. For further details on convening a Procurement Negotiating Committee please review the PNC Request Letter Template found on the OPC Procurement Resources webpage.  

H. Bidder Qualifications and Evaluation Criteria

Requesting Agencies may set their qualifications for Bidder responsiveness in a negotiated procurement as a part of their specifications. These qualifications could range from requiring a certain amount of

12  https://admin.ks.gov/offices/procurement-contracts/procurement-resources/procurement-forms
experience on similar contracts, to requiring a certain company size, to requiring attendance at a pre-bid conference.

During the solicitation creation phase, requesting Agencies should prepare the solicitation materials with the evaluation needs in mind. If the procurement method selected is an RFP, the requesting Agency must develop evaluation criteria for their solicitation. As RFPs consider both cost and technical specifications in the evaluation process, it is important to develop a technical evaluation for Bidders that will give the best possible understanding of what they are offering in a manner that will reveal how their offering can best suit the State’s needs. The technical evaluation should include asking context-specific questions about how the Bidder would handle the contract if they were awarded, and what would set their goods and/or services apart from competitors. This may also include asking for product samples, product demonstrations, and/or presentations from the Bidders. Benchmarking can help inform this question development process, as researching RFPs that similar Agencies in peer states conducted can provide inspiration for technical questions to ask Bidders.

As requesting Agencies are developing a technical evaluation, this evaluation should include and/or comment on, at a minimum, the following:

1. Response format as required by the RFP
2. Adequacy and completeness of proposal
3. Bidder’s understanding of the project
4. Compliance with the specifications, terms and conditions of the RFP
5. Consideration of any Bidder exceptions to the terms and conditions or to the Contract in general
6. Experience in providing like services
7. Qualified staff
8. Methodology to accomplish tasks
9. Pros / Cons
10. Strengths / Weaknesses
11. Additional considerations may be included as the Agency sees fit

⚠️ IMPORTANT: It is of utmost importance that this fact-finding process is fair and equitable. Thus, all questions must be submitted in writing to OPC in advance, including those to be asked during demonstrations, and OPC must be the Agency communicating questions to Vendors.

I. Contract Term

The term of the Contract is a definite period of time that the Contract will remain in effect as set by OPC. Agencies must work with the Contracting Officer to agree on Contract dates and subsequent renewals. All Contracts must have a commencement date and a specific expiration date. As a general policy, it is recommended by OPC that the maximum duration of a Contract without reissuing a competitive solicitation is five years. This includes any renewal or extension periods. Individual needs may dictate different time frames and the requesting Agency should consult with OPC.
J. Cost Sheets

It is common practice for solicitations to include price sheets or a cost proposal template that includes
the products and services to be procured and the unit(s) of measure that will be the basis for payment.
These sheets/templates provide Bidders with a place to propose pricing for the State’s evaluation in a
manner that is uniform across all competitors.

K. Requisitions

Solicitation requests, ranging from Prior Authorizations to RFPs, are sent to OPC via requisitions in the
SMART system. Agencies must create and submit a requisition in SMART for State Contract purchases
valued at $5,000 or more on State Contracts, PA requests, and negotiated procurements. Requisitions
must include all required documentation as outlined in Table 10.1 above.

L. Approvals

When OPC receives requisitions from Agencies, they are reviewed for completion of required forms,
any discrepancies with input data, conflicts with statute and policy, and adherence to delegated
authority. If OPC finds no issues with the requisition, they will be approved for Contract creation or
solicitation event creation. If OPC finds that revisions need to be made to the requisition, the reviewing
Procurement Officer will reach out to the requesting Agency and notify them as to what needs to be
rectified. Procurements for certain commodities and services require additional approval processes.
Often these approvals must be sought and documented prior to submitting requisition requests to OPC.
They are as follows:

Kansas Information Technology Office (KITO) Approvals

The approvals process for IT projects is outlined in K.S.A 75-7209. IT projects are defined by the State
as “an information technology effort by a State Agency of defined and limited duration that implements,
affects a change in or presents a risk to processes, services, security, systems, records, data, human
resources, or architecture.

Once a State Agency identifies a need for an IT initiative, they must complete a demand intake form on
the OITS Service Portal. Next, the Agency completes a Kansas IT Business Risk Assessment in the
KITO Approval and Reporting System (KARS). This assessment is screened at a high-level, quantitative
view and then evaluated at a detailed level to determine whether the proposed “demand” should be

13 https://ksgov.servicenowservices.com/oits/
subject to the KITO Approval & Reporting Process. If the demand is deemed high risk and necessary for KITO Approval & Reporting, then KARS will generate an email with project details and send it to the Joint Committee on Information Technology (JCIT) for review. Within 7 business days of receiving this email, JCIT can provide feedback, ask questions, and/or request a meeting via reply to this email. If a response is received, JCIT comments are recorded and KITO will dictate if further action is needed before advancing in the approval process. If no response is received, then the demand will proceed to the Chief Information Technology Officer (CITO) for approval. The CITO will review the demand, along with any applicable JCIT feedback, and deliver a decision. If the CITO approves the demand, it officially becomes a “project” and is authorized to begin procurement. If the CITO rejects, then the KITO will coordinate next steps with the requesting Agency.
11. SOLICITATION PROCESS

After preparing procurement specifications and receiving approval from Office of Procurements and Contracts (OPC), a solicitation is ready to be made public. Conducting a solicitation is a multi-step process that begins with the public posting and advertisement of the solicitation and spans through the receipt of Bidder responses. During this phase, a solicitation can be refined further as Bidders ask formal questions in writing about the solicitation and Agencies have the opportunity to amend their specifications as a response to questions submitted by Bidders during the solicitation process. This section covers critical elements and best practices such as restrictions on communications with Bidders, pre-proposal conferences, and question and answer periods.

**IMPORTANT: Once the bid event is publicly posted, all communications regarding the procurement must go through the Procurement Officer (PO).**

### General Process Flow for the Solicitation Process:

- **Agency Submits Requisition**
- **OPC Reviews and Approves Documents and Specifications**
- **OPC Posts Solicitation**
- **OPC & Agency Hold Pre-Proposal Conference**
- **OPC Receives Questions from Vendors & Shares with Agency**
- **OPC Reviews and Approves Evaluation Team**
- **OPC Posts Amendments and Modifications**
- **OPC Submits Responses to Vendors**
- **Agency Submits Responses to Questions to OPC**
- **Agency Develops Responses to Vendor Questions**
- **OPC Receives Proposals from Vendors**
- **Host Bid Opening Event**
- **Begin Evaluation of Bids**

### A. Solicitation Posting

*Once the prepared solicitation package is ready, it will be disseminated to prospective Bidders by OPC and, if required, publicly posted. The same method for distributing the request should be used for all parties solicited. To give every prospective Bidder an equal opportunity to respond to the solicitation, solicitations are posted to the following electronic platforms as applicable:*

- Kansas Register
- Department of Administration Website
The most common method of distribution to Bidders comes through invites from OPC sent out to Vendors identified by the bidding Agency as a viable prospective Bidder. These identified Vendors will receive notification from OPC that they have been invited to submit a bid. This invitation includes a package of solicitation documents. Vendors may also be notified through their State of Kansas Vendor registration status, as they will be notified via SMART if a solicitation listed with one of their registered UNSPSC codes has been issued.

⚠️ **IMPORTANT:** In order for a bid submission to be considered, Vendors must be registered with the State of Kansas in the SMART system prior to bid opening. Please see Manual Section 17 for additional information regarding Vendor registration.

### Posting Timeframe Requirements

OPC is statutorily required to provide a specified number of days between the public posting of a solicitation and the bid closing event.

- All purchases with an estimated value between $5,000 and $50,000 shall be made after receipt of sealed bids following at least three (3) days’ notice posted on a public bulletin board.
- Competitive solicitations (IFB, RFQ, RFP) with an estimated value of $50,000 or more must be published in the Kansas Register at least ten (10) days before the bid opening event, as required by K.S.A. 75-3739 (b)(1).
- Prior Authorizations with an estimated value of $100,000 or more must be posted on the Department of Administration website for at least seven (7) days before they may be finalized by the State.

⚠️ **IMPORTANT:** If posting a competitive solicitation to the Kansas Register, Procurement Officers must get all bid details (ex. event number, closing date, description) to the appropriate staff by 1:00 PM on Thursday to ensure it is posted in the Register the following Thursday. If posting a Prior Authorization to the Department of Administration website, Procurement Officers must get all PA details to the appropriate staff for advertisement by 2:00 PM for it to be posted on the following day. Otherwise, the approval and posting PA may be delayed.

When creating solicitation timelines, time shall be allotted to allow for pre-bid conferences, pre-bid amendments, and Bidder submission preparation. Please review the Table 10.1 “Estimated Minimum Timelines” in Manual Section 10 Preparation of Solicitations, Specifications, and Requisitions for further guidance on developing solicitation timelines.

### B. Vendor Communications

Once a solicitation has been released and/or publicly posted, the procurement process has officially started and the bidding Agency must not have any contact with prospective Bidders. OPC is the only authorized party allowed to make direct contact with Bidders during the procurement process. Direct contact with Bidders may result in cancellation of the solicitation and may result in a protest. Agencies...
should contact OPC with any questions or communication needs. Any contact made to an Agency from an outside source, including a Vendor’s representative (i.e. a lobbyist) regarding the solicitation should be referred to OPC for clarification. **In no way** should the Agency provide any information regarding the solicitation.

## C. Pre-Proposal Conference

The bidding Agency can elect to host a Pre-Proposal Conference ahead of the solicitation opening event. A Pre-Proposal Conference provides the bidding Agency with the opportunity to introduce the details of their solicitation, from the terms of the competitive procurement to the specifications being sought by the bidding Agency. This Conference can also provide an opportunity to field questions from potential Bidders about the solicitation. Agencies may also choose to make attendance at a Pre-Proposal Conference mandatory for Bidders. In this case, any Bidder that did not attend the mandatory conference shall not be allowed to submit a response for evaluation.

If a Pre-Proposal Conference is held, it is crucial that the solicitation timeline accounts for this event and allows time for the reception and response of any questions from this event.

## D. Vendor Questions

OPC recommends that solicitation timelines include a Question and Answer period between potential Bidders and the bidding Agency. Question and Answer events shall be approved at the discretion of OPC, and Agencies must communicate their desire to hold such events in their initial submission to OPC. In this period, potential Bidders will submit questions to OPC. OPC will summarize these questions and send them to the bidding Agency. The bidding Agency will provide answers in written form with OPC and no contact with the Bidders from the Agency is allowed. OPC will post the responses from the Agency to the bid event. All responses to all Bidders will be posted and no individual responses are permitted. While drafting responses to Bidders, OPC and the bidding Agency will also collaborate on developing any necessary modifications and amendments to the solicitation specifications depending on the Bidder questions. OPC will send out and receive all communications during this phase, as the Agency must not make any procurement-related contact with the Vendors.

Solicitation timelines shall allow for Bidder questions to be due at least seventeen (17) days before the bid opening event, and for responses from the State to be submitted at least ten (10) days before the bid opening event.

⚠️ **IMPORTANT:** While all competitive solicitations may have the option of a written question and answer period, if a bidding Agency would like more input from Bidders ahead of the recommendation for award – such as a product demonstration or product samples – then the RFP procurement method must be selected.
E. Identifying an Evaluation Team
An evaluation team is only required when the RFP procurement method is selected. RFPs are evaluated, negotiated and awarded by the Procurement Negotiating Committee (PNC). The PNC may be supported by an informal evaluation team selected by the Agency. This team may include individuals such as Agency subject matter experts and Contract end users. This informal evaluation team may review Bidder questions and responses and provide their feedback to the PNC. There are no requirements around the size of an evaluation team, although this team shall be approved at the discretion of the OPC.

NDA / Conflict of Interest
All members of the PNC, all evaluators, and any other individual that access bid responses will be required to complete a Non-Disclosure and Conflict of Interest Agreement prior to being granted access. This agreement specifies that the signee will keep bid responses confidential, will safeguard the information to ensure it is not inappropriately made available, and shall acknowledge that they have no conflict of interest regarding the solicitation.

The OPC Procurement Officer assigned to the solicitation is responsible for obtaining all signed agreements prior to releasing bid responses to the bidding Agency. Agencies may submit the completed forms to the Procurement Officer either via hard copy or scanned documents. If the PNC member is not employed by the bidding Agency, the Procurement Officer will be responsible for obtaining a signed form from that member. OPC will maintain all signed agreements within the bid file.

F. Solicitation Opening Requirements
The solicitation opening deadline must be at least ten (10) days after posting of a notice in the Kansas Register (if applicable) and at least ten (10) days after the last solicitation amendment has been approved.

Once the deadline for responses has been reached, OPC will not allow any late responses to be considered for evaluation. Likewise, any responses from unregistered Vendors or any responses without completed required materials may be removed from consideration.

At the solicitation opening event for an RFP, only the names of the responsive bidding Vendors shall be announced. At the solicitation opening event for an IFB or an RFQ, both the names of the Bidders and the proposed costs are announced. This opening event effectively begins the solicitation evaluation process.
12. EVALUATION PROCESS

The evaluation of Request for Proposals (RFPs) is performed by a (3) three-person Procurement Negotiating Committee (PNC), which examines both the technical and cost proposals. Additionally, evaluation of proposals is aided by additional Agency staff members otherwise known as evaluating team and material experts. After all contributing factors of the bid event are examined, the evaluating team will make their recommendation to the PNC in the form of a written justification.

Request for Quotations (RFQs) and Invitation for bids (IFBs) do not require a PNC. IFB and RFQs shall be awarded to the lowest responsible Bidder meeting specifications. Awards will not be made if minimum requirements are not met.

A. Roles and Responsibilities

OPC: Office of Procurements and Contracts (OPC) is the centralized procurement expert and deemed the authority for all facets of bid events, Contract negotiations, award, and approvals as delegated by the Director of Purchases. All communications with Bidders, including coordinating clarifications and Bidder presentations and negotiations are conducted by OPC.

PNC: Statutorily responsible for the final award recommendation decision of RFPs.

Agency: Additional Agency staff members who have signed an NDA may assist the PNC in the evaluation of RFP technical proposals. This includes the creation of a complete and detailed technical evaluation for each of the proposals submitted.

RFQ and IFB do not require a PNC, however, Agency staff are responsible for reviewing bid solicitation and confirming that the Bidder(s) meet specifications, and award to the lowest responsible Bidder meeting specifications.

B. Review of Proposals for Responsiveness and Responsibility

All bids/proposals are submitted to OPC and are due by the closing date listed within the bid event. Bidders must include all requested documentation to be considered. Bidders are instructed to provide both a technical proposal and cost proposal in separate documents. OPC is responsible for the initial review of the responses to determine the validity of the submissions. At an RFP bid opening, only names of responding Bidders are announced. At IFB and RFQ bid openings, both the name of the Bidders and the costs proposed are announced. This serves as a reminder to Bidders that the lowest cost bid/quote does not necessarily win in an IFB/RFQ - bids/quotes must also meet the required specifications.
The following details the mandatory requirements OPC should check for in an RFP response:

1. Is the response signed by the proper authority?
2. Was the proposal submitted on time?
3. Has the conflict-of-interest certification been included?
4. Has the performance guarantee been included?
5. Is the *Boycott of Israel Form* included and complete?
6. Is the *Immigration & Reform Control Act* form included and complete?
7. Is the *Tax Clearance form* included and complete?
8. Is the *Policy Regarding Sexual Harassment Acknowledgment Form* included and complete?
9. Does the response include a list of references, if requested?
10. Does the response include a technical proposal/response to the required specifications?
11. Does the response include a cost proposal?

The following details a supplemental checklist of preferred items in an RFP response:

1. Does the response have a Table of Contents?
2. Is the completed cover sheet included?
3. Does the proposal contain an introduction?
4. Is the Corporate Background and Experience section included and complete?
5. Has any proprietary or confidential information been marked?

Additional detail on some of the above instructions:

**Table of Contents**
All proposals shall have a Table of Contents to assist reviewers in their evaluations.

**Proposal Introduction**
This section must contain an introduction to the proposal and a statement of the project as the Bidder understands it. While the section should be brief, Bidders should provide sufficient information to demonstrate they have read the RFP and related documentation and understand the intent, scope, and importance of the project.

**Corporate Background and Experience**
This section should state the background and experience of the individual or corporation submitting the bid in providing the requested good or service. This section must include a copy of the company or individual’s most recent independent financial audit and a list of customers who have obtained substantially similar goods and services from the Bidder. The list of customers must include contact information for a person familiar with the goods and services provided by the Bidder.

**C. Technical Proposal Evaluation Requirements**
In RFPs, technical proposals are a required element of proposal submissions. PNC members, along with additional Agency members who have signed an NDA, are sent technical proposals for review, without cost information. Additional Agency staff members assist the PNC in the evaluation of technical proposals. This includes the creation of a complete and detailed technical evaluation for each of the proposals submitted. The technical evaluation is then submitted to OPC by the Agency in the form of a Technical Evaluation Transmittal Letter.

Technical Evaluation Transmittal Letters should include and/or comment on, at a minimum, the below:
1. Response format as required by the RFP
2. Adequacy and completeness of proposal
3. Bidder's understanding of the project
4. Compliance with the specifications, terms and conditions of the RFP
5. Consideration of any Bidder exceptions to the terms and conditions or to the contract in general
6. Experience in providing like services
7. Qualified staff
8. Methodology to accomplish tasks
9. Pros / Cons
10. Strengths / Weaknesses
11. Additional considerations may be included as the Agency sees fit

The Agency selects the top Bidder(s) who have a solution that closely aligns to the project, based only on the technical proposal. Agencies may use scoring systems during their internal evaluation process, but scores should not be shared with OPC as part of the technical evaluations. If the agency plans on using a scoring system to aid in the evaluation process, the scoring system and points values must be clearly spelled out in the RFP Specifications.

D. Cost Proposal Evaluation Requirements
Cost proposals are a required element of proposal submissions. In an RFP, the initial evaluation of technical proposals done by the PNC and the Agency does not include cost proposals. Cost proposals remain sealed throughout this process. The Agency is not provided with any cost proposals to ensure their evaluation is unbiased regarding pricing. Once OPC receives a complete technical evaluation based solely on technical proposals, the cost proposals are released to the PNC and the Agency for review. The PNC and the Agency review the cost proposals in concert with the technical evaluations and recommend to OPC one or more Bidders to invite to negotiations. The Agency is encouraged to examine the bids according to cost, starting with the lowest bid. In the event the lowest bid is not selected, K.S.A. 75-37,102 (e) requires an explanation why. If required, negotiation session(s) are scheduled by OPC.

E. Clarifications
In an RFP, the evaluation team has the opportunity to ask Bidders clarifying questions through OPC before making their award recommendation. The Agency provides OPC a list of written clarification questions for each Bidder, which OPC will forward to the Bidders. The Bidders will answer the questions in writing prior to the negotiation session. The response to these questions will be provided to the agency prior to the negotiation session for review.

F. Oral Presentations/Bidder Presentations/Sandbox Demonstrations

In an RFP, after clarification questions have been issued, the Agency may request an oral presentation or demonstration. The bidding Agency must prepare a list of items and/or questions that they want the Bidder to address. The presentations are scheduled and moderated by the Procurement Officer assigned to the bid event. This process includes:

1. OPC will send clarifications and any discussion points for negotiations to the Bidders in advance of the negotiations to allow the Bidders to be better prepared for the meeting.
2. Demonstrations of systems or equipment may be necessary.
3. The PNC negotiates any exceptions to the contract language the Bidder may have communicated. At the end of the negotiations, and before award, the contract language will have been largely agreed to by both the PNC and the Bidders. The legal teams of both OPC and the Agency may assist in the negotiation of exceptions and adjustments to the contract.
4. At the end of negotiations, the PNC may request that OPC ask for a revised offer. If revised offers are requested, OPC will provide these to the PNC for consideration.

G. Scheduling by OPC

Bidder presentations must be scheduled by OPC, not the Agency. During an active procurement, all communications between the State and the Bidders must run through OPC. Additionally, the Agency should work with OPC to select the top two or three Bidders for Bidder presentations. This limit can be increased in the event that the Agency intends to award to multiple Bidders or competition is so close it is unreasonable to exclude anyone without entering into negotiations.
13. PREFERENCE PROGRAMS

The State has created several Bidder preferences with the goal of providing employment and economic opportunities for several types of businesses. These established agreements, a Bidder Preference Program, and business certifications support the employment of blind and disabled Kansans and disabled veterans. This section will discuss the following Bidder preferences:

- **State Use Program**
- **Kansas Correctional Industries**
- **Bidder Preference Program**
  - Bidder Preference #1 – Certified Businesses
  - Bidder Preference #2 – State Use Vendor Program
  - Bidder Preference #3 – Purchases from a Certified Business
- **Disabled Veteran Business**

A. State Use Program

The State Use Program is subject to the provisions of K.S.A 75-3317 through 75-3322, known as “The Kansas Use Law.” The main goal of the State Use Program is to provide employment for blind and disabled Kansans by requiring the purchase of specific goods and services by State Agencies and unified school districts from qualified Vendors. A “qualified vendor” is defined by K.S.A 75-3317 as a “not-for-profit entity incorporated in the State of Kansas that primarily employs the blind or disabled,” as well as several other stipulations.

The Director of Purchases, with the recommendation of the State Use Law Committee, approves the prices of the goods and services manufactured or offered by qualified Vendors. All approved goods and services subject to the State Use Program are required to be listed in the published catalog “Products and Services Manufactured and Offered By Blind and Severely Disabled Kansans,” which can be found on the [State Use Catalog](https://www.ksstateuse.org/) website.

K.S.A 75-3321 states “The Director of Purchases and any person or officer authorized to purchase materials, supplies and services for any State Agency or unified school district shall purchase, except as otherwise provided in this section, the products and services on the list certified by the Director of Purchases from qualified Vendors, when those products are to be procured by or for the state or unified school district or when those services are to be procured by or for the state. Services offered for

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14 [https://www.ksstateuse.org/](https://www.ksstateuse.org/)
purchase are not required to be purchased by a unified school district. The person or officer authorized to purchase materials, supplies and services for any municipality may purchase the products and services on the list certified by the Director of Purchases for qualified Vendors.”

Purchases from State Use Vendors may be made through the Kansas State Use website, which will prompt the creation of an account to facilitate purchases.

**When to use a State Use Vendor**

Agencies should always try to source products and services from State Use Vendors before searching Statewide or Agency specific Contracts. Several State Use Vendors include sourcing and may offer discounts for bulk ordering.

**State Use Program Waiver Process**

In the event the qualified Vendors cannot supply the needed products or services or are unable to meet delivery requirements of a purchase order or requisition, the State Agency Procurement Officer or Purchasing Officer of the unified school district must submit a waiver to the Director of Purchases. Two forms may be utilized to fulfill this waiver requirement:

1. Prior Authorization Form
2. State Use Program Waiver

When submitting a State Use Program Waiver, an Agency must address:

1. Why was the qualified Vendor unable to supply the products needed?
2. Why was the qualified Vendor unable to meet delivery requirements on this order?
3. What attempt has been made by the Agency to be in compliance with the State Use Laws?
4. What was the nature of the communications between the Agency and the State Use Vendor?
5. How/Where will the Agency purchase these items, if not from a Qualified State Use Vendor?
6. If the purchase involves a large quantity, has the State Use Vendor been notified of the fact? Has the Agency asked for a “quantity discount” from the Qualified State Use Vendor?

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15 [https://www.ksstateuse.org/](https://www.ksstateuse.org/)
State Use Program Waivers submitted on the basis of price will be denied. If the waiver is approved by the Director of Purchases, then the specific purchase order, request, or requisition will be exempt from K.S.A 75-3317 through 75-3322.

Additionally, only unified school districts may submit a State Use Program Waiver on the basis of ‘substantial use,’ meeting the definition from K.S.A. 75-3322 that “purchases have been made or contracts for purchase have been entered into for a substantial amount of such product or products from a qualified Vendor or Vendors during such unified school district fiscal year.”

B. Kansas Correctional Industries

Statute K.S.A. 75-5276 states, in part, “All State Agencies shall purchase from the secretary all articles or products required by such State Agencies that are produced by inmates and no such article or product shall be purchased by any State Agency from any other source, unless excepted from the provisions of this section by law or in accordance with K.S.A. 75-5277, and amendments thereto.” Please refer to the Kansas Legislature website18 for the full text of this statute.

Accordingly, State Agencies must purchase goods and services, including office furniture, from Kansas Correctional Industries (KCI). The KCI Waiver Request defines “office furniture” to mean “Furniture, at the time product requirement is indicated, that it is intended primarily for use in an office environment (including faculty offices, meeting rooms and conference rooms). KCI’s website and catalogs do not contain all products offered.”

Kansas Correctional Industries Waiver Process

If a State Agency needs to seek exception from the requirements to purchase from Kansas Correctional Industries, the appropriate procedures described in the Kansas Correctional Industries Waiver Request must be followed. The KCI Waiver Request can be found on the Office of Procurement and Contracts website,19 under Procurement Forms.

C. Bidder Preference Program

The Kansas Legislature established the Bidder Preference Program through K.S.A 75-3740, which seeks to encourage employment for disabled Kansans by providing a scoring discount during the evaluation process for businesses that employ disabled Kansans or buy from such businesses. The Bidder Preference Program contains 3 bid preferences:

18 http://www.kslegislature.org/li/
19 https://admin.ks.gov/offices/procurement-contracts/procurement-resources/procurement-forms
1. Bidder Preference #1 – 10% for a Certified Business

Bidder Preference #1 is governed by K.S.A 75-3740, and defined in the Bid Event Preference Attachment as follows: “A contract shall be awarded to a certified business which is also a responsible Bidder, whose total bid cost is not more than 10% higher than the lowest competitive bid. Such contract shall contain a promise by the certified business that the percentage of employees that are individuals with disabilities will be maintained throughout the contract term and a condition that the certified business shall not subcontract for goods or services in an aggregate amount of more than 25% of the total bid cost.”

Bidders claiming Preference #1 the statutory definition of a “certified business” is as follows: "Certified business" means any business certified annually by the Department of Administration that is a sole proprietorship, partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that:

- Does business primarily in Kansas or substantially all of its production in Kansas;
- Employs at least 10% of its employees who are individuals with disabilities and reside in Kansas;
- Offers to contribute at least 75% of the premium cost for individual health insurance coverage for each employee. The Department of Administration shall require a certification of these facts as a condition to the certified business being awarded a contract pursuant to subsection (b); and does not employ individuals under a certificate issued by the United States Secretary of Labor under subsection (c) of 29 U.S.C. § 214.

In addition to meeting the statutory requirements, Bidders claiming Preference #1 must also submit a Certified Business Application and all required attachments, as well as Employee Evaluation Forms, to the Department of Administration to receive certification on an annual basis. All required forms can be found publicly on the Office of Procurement and Contracts website. It is important to note that a business must apply for and receive certification before they can request that a bidding preference be applied to their bid.

2. Bidder Preference #2 – Dollar for Dollar, up to 10%, for purchases from the State Use Vendor Program

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21 https://admin.ks.gov/offices/procurement-contracts/bidding--contracts/bidder-programs/bidder-preference-program
Bidder Preference #2 is governed by K.S.A 75-3740, and defined in Bid Event Preference Attachment as follows: “A responsible Bidder purchases from a qualified vendor goods or services on the list certified by the director of purchases pursuant to K.S.A. 75-3317 et seq., and amendments thereto, the dollar amount of such purchases made during the previous fiscal year shall be deducted from the original bid received from such Bidder for the purpose of determining the lowest responsible bid, except that such deduction shall not exceed 10% of the original bid received from such Bidder…”

To claim Bidder Preference #2, the Bidder is required to submit a Certificate of Purchases to the Department of Administration that certifies that the Bidder bought the specified dollar amount of goods or services from a qualified Vendor during the previous fiscal year. The posting date of the bid will be the basis for determining which fiscal year purchases can be utilized. This specified dollar amount of qualifying purchases is then deducted from the original bid, except that the deduction cannot exceed 10% of the original bid received from the Bidder. At the State’s request, the Bidder is expected to produce to the State any documentation or other such evidence to verify the Bidder's above noted purchases. All required forms can be found publicly on the Office of Procurement and Contracts website here.

3. Bidder Preference #3 – Dollar for Dollar, up to 10%, for purchases from a Certified Business

Bidder Preference #3 is governed by K.S.A 75-3740, and defined in the Bid Event Preference Attachment as follows: “Per K.S.A. 75-3740d, a responsible Bidder purchases from a certified business the dollar amount of such purchases made during the previous fiscal year shall be deducted from the original bid received from such Bidder for the purpose of determining the lowest responsible bid, except that such deduction shall not exceed 10% of the original bid received from such Bidder;”

The process to claim Bidder Preference #3 is similar to claiming Bidder Preference #2. The main difference is that the Bidder is required to submit a Certificate of Purchases to the Department of Administration that certifies the Bidder bought the specified dollar amount of goods or services from a certified business during the previous fiscal year, rather than from a qualified Vendor as is the case for Bidder Preference #2. The posting date of the bid will be the basis for determining which fiscal

23 [https://admin.ks.gov/offices/procurement-contracts/bidding--contracts/bidder-programs/bidder-preference-program](https://admin.ks.gov/offices/procurement-contracts/bidding--contracts/bidder-programs/bidder-preference-program)
year purchases can be utilized. This specified dollar amount of qualifying purchases is then deducted from the original bid, except that the deduction cannot exceed 10% of the original bid received from the Bidder. At the State’s request, the Bidder is expected to produce to the State any documentation or other such evidence to verify the Bidder's above noted purchases. All required forms can be found publicly here\(^{25}\) at the Office of Procurement and Contracts website.

### D. Disabled Veteran Business

K.S.A 75-3740 governs the Disabled Veteran Owned Business preference, and states:

“A contract shall be awarded to a certified business or disabled veteran business which is also a responsible Bidder, whose total bid cost is not more than 10% higher than the lowest competitive bid. Such contract shall contain a promise by the certified business that the percentage of employees that are individuals with disabilities will be maintained throughout the contract term and a condition that the certified business shall not subcontract for goods or services in an aggregate amount of more than 25% of the total bid cost.”

A “disabled veteran business” must meet the definition of “a business certified annually by the Department of Administration that is a sole Proprietorship, partnership, association or corporation domiciled in Kansas, or any corporation, even if wholly owned subsidiary of a foreign corporation, and is verified by the Commission on Veteran’s Affairs that not less than 51% is owned by one or more disabled veterans or, in the case of a publicly owned business, not less than 51% of the stock owned by one or more disabled veterans, the management and daily business operations are controlled by one or more disabled veterans and such business maintains these requirements during the entire contract term.”

In order to claim this preference and gain certification, Bidders must submit the Disabled Veteran Owned Business Application to the Department of Administration on an annual basis. The Director of Purchases will then review the application, and if approved, the application will be verified by the Commission on Veteran’s Affairs. Businesses applying for certification should be registered with the service-disabled veteran-owned small businesses (SDVOSBs). The business will then be posted with the certification expiration date to the Office of Procurement and Contracts website under the Certified Business and Disabled Veteran Owned Business listing. The appropriate form and current list of veteran owned businesses can be found on the [Office of Procurement and Contracts website].\(^{26}\)

\(^{25}\) [https://admin.ks.gov/offices/procurement-contracts/bidding--contracts/bidder-programs/bidder-preference-program](https://admin.ks.gov/offices/procurement-contracts/bidding--contracts/bidder-programs/bidder-preference-program)

14. CONTRACT NEGOTIATION AND CREATION

The negotiation of any adjustments or exceptions to the Contract occurs for the most part during the evaluation phase of the procurement. Therefore, when it comes time to finalize the Contract most exceptions and changes have already been agreed to by the Agency and the Vendor. Although most Contract negotiation is handled during the evaluation phase of the procurement, in the final negotiation phase, final details are ironed out and any new issues or exceptions that come up post-award are resolved. The legal teams of both Office of Procurements and Contracts (OPC) and the Agency may assist in the finalization of exceptions and adjustments to the Contract.

Contracts are created in the Statewide Management, Accounting, and Reporting Tool (SMART) and then edited where necessary by OPC. While making any necessary edits, the Procurement Officer should check the Contract has been generated from SMART as they intended before moving forward. After the Contract has been finalized it is re-uploaded to SMART, and the awarded Vendor(s) is notified by OPC via SMART and asked to sign the Contract. Once the awarded Vendor(s) returns the signed Contract to OPC, it is uploaded to an internal repository, and an unsigned Contract is uploaded to SMART.

Per K.S.A. 75-3737, a copy of every Contract or lease extending for a term longer than one year shall be filed with the KDOA Director of Accounts and Reports.

A. Contract Terms and Conditions

When creating the Contract in SMART, the Procurement Officer selects the correct boilerplate language for goods, services, or both goods and services. SMART will automatically include all mandatory language based on the category selection. Additionally, all Contracts must also have the following documents appended to it:

A. DA-146a - Contractual Provisions
B. Boycott of Israel Certification Form
C. Immigration & Reform Control Act
D. Tax Clearance form
E. Policy Regarding Sexual Harassment Acknowledgment Form

These forms must be added by the Procurement Officer after the Contract is initially created in SMART.

Best Practice: During the initial need identification phase, the requesting Agency should consider terms and conditions relative to the unique needs of the Agency and the good or service. These should be included in the solicitation documentation submitted with the original requisition.
15. KANSAS OPEN RECORDS ACT

The Kansas Open Records Act (KORA) K.S.A. 45-215 et seq. ensures that Kansas public records are to be made open for inspection by any person. In the context of procurement, this means that contractors and Bidders can request to see certain documentation that is created as part of the solicitation process. The KORA website contains all relevant information about the Act, including: contact information, fees, and how to make a records request. All information requests related to procurements other than bid tab sheet results, should be done through the standard KORA Request Form, although information may also be requested by mail, in person, via email, or by fax.

Office of Procurements and Contract’s (OPC’s) process for handling KORA requests is as follows: All KORA requests go to the Department of Administration (KDOA) Office of Chief Counsel. The Chief Counsel’s Office then refers the request to the Administrative team at OPC, who provides the Chief Counsel’s Office with the relevant documents. The Chief Counsel’s Office makes the final decision on what may and may not be released. The Chief Counsel’s Office distributes allowable documents with the requestor. There is a separate process for requests of procurement & contract bid tab sheets as outlined below.

Most documents are subject to KORA, although certain documents, such as specific files that contain financial information, may be considered proprietary and not subject to KORA. The final authority on which documents are subject to KORA rests with the Office of Chief Counsel.

Details regarding active procurement events are not available until the event closes. In certain cases, limited information is available from the Office of Procurement and Contracts, which is located at:

Kansas Department of Administration
Procurement and Contracts
Attn: Bid Results
900 SW Jackson, Rm 451-S
Topeka, KS 66612-1216

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27 http://kslegislature.org/li_2020/b2019_20/statute/045_000_0000_chapter/045_002_0000_article/
28 https://admin.ks.gov/offices/chief-counsel/kansas-open-records-act
1. **Tab sheets.** Tab sheets are a summary of Bidder names and bid amounts as submitted for an Invitation for bid (IFB) or Request for Quotation (RFQ) event. OPC can provide tab sheets after a bid event has closed. Tab sheets are not available on RFP events. The public is invited to attend bid openings in-person or through conference calls on the published dates of bid openings.

2. **Vendor Lists.** OPC can provide the name of responding Bidders to an RFP after the event has closed. Bidder submissions are not available through OPC and must be requested through the KORA process. These documents are not available until after award.

To request a tab sheet or Vendor list from OPC, please use the following contact information. Please provide the EVT number for the event.

- In-person at the address above
- Via e-mail to tabsheets@ks.gov
- Via phone call at 785-296-0002
16. AWARD AND PROTEST PROCESS

A. Award Recommendation

1. RFP Award Recommendation

Once the Request for Proposal (RFP) evaluation process is completed, the Procurement Negotiating Committee (PNC) will proceed with a recommendation to either award the Contract to the best evaluated Bidder or not award the solicitation. The PNC is responsible for drafting and submitting a formal written recommendation for award to the Office of Procurements and Contracts (OPC), providing full documentation of the recommendation. This includes any necessary rationale for bypassing lower cost Bidders. OPC may require additional documentation or justification before proceeding with the award.

In an RFP, the award recommendation letter should include the following:

1. Date
2. RFP number
3. PNC member names
4. Contact name and Agency
5. The Bidder(s) the Agency would like to award
6. The Bidder(s) that were not awarded
7. Any necessary explanation in the case that the lowest cost Bidder(s) was not selected
8. Any necessary explanation in the case that multiple Bidders were selected
9. Any required/relevant documentation as attachments
10. Signatures of all members of the PNC

See RFP award recommendation letter template below:

MEMORANDUM

Date: [Date]

Memo To: Request for Proposal #xxxxx

From: PNC Member, Director of Purchases Representative
      PNC Member, Secretary of Administration Representative
      PNC Member, Agency Representative

Subject: Name of Contract
         Agency / Agencies serviced by Contract
The Procurement Negotiating Committee (PNC), as determined to be in the best interest of the State of Kansas, hereby concurs with the Agency’s recommendation that the award on the above referenced project be made in the following manner.

Describe how the award will be made, to whom, and under what conditions.
Include information about Bidders who were rejected.
Attach any required / relevant documentation.

[PNC Member Signature]   [PNC Member Signature]   [PNC Member Signature]

2. RFQ & IFB Award Recommendation
For Request for Quotations (RFQs) and Invitation for bids (IFBs), OPC requires an official award recommendation letter from the Agency that states which Vendor has been selected and that this Vendor meets the specifications detailed in the bid event. In the case where the lowest Bidder was not awarded, the Agency must include an explanation that includes detailed information on how the lowest Bidder did not meet the required specifications. Additionally, the technical and business aspects of each proposal should be considered and included in the award letter.

See RFQ & IFB award recommendation letter template below:

MEMORANDUM
Date: [Date]
Memo To: Request for Quote #xxxxx
From: Agency Representative
Subject: Name of Contract
Agency / Agencies serviced by Contract

[INSERT AGENCY NAME], in concert with the Office of Procurement and Contracts, has determined it to be in the best interest of the State of Kansas that the award on the above referenced project be made in the following manner.

Describe how the award will be made, to whom, and under what conditions.
Include information about Bidders who were rejected.
Attach any required / relevant documentation.

[Agency Representative Signature]
B. Award Announcement

For an RFP, all members of the PNC must sign the award recommendation letter prior to submitting it to OPC. Once submitted, OPC will enter the award in the Statewide Management, Accounting, and Reporting Tool (SMART) and begin the Contract creation process. As part of the Contract creation process, the SMART system automatically notifies the winning Bidder of their award through a system generated notification. The Bidder(s) who were not awarded do not get notifications from SMART, but rather through a regret letter drafted and sent by OPC. As such, it is recommended that the Contract negotiations be concluded with the awarded Bidder prior to Contract creation so as to make an official award announcement quickly. Kansas statute requires that awards be publicly posted for a specified amount of time dependent upon the value of the resulting Contract and/or the underlying products or services. Additionally, the protest period begins on the date the Regret Letters are issued to unsuccessful Bidders.

See sample Regret Letter template below:

Date:

Name
Address
Zip

Sent via email: Email Address

Re: State of Kansas Request for Proposal
EVT# __________ Bid Name

Dear: ___________

The members of the Procurement Negotiating Committee for the above referenced RFP wish to thank you for your time, effort and courtesy in responding to the RFP.

Please be advised an intent to award has been made to Vendor Name., whose bid we believe best serves the interests of the State of Kansas. The Contract file will be open for review once a signed Contract is completed. To obtain copies of any records or view any records, please go to the following link, http://admin.ks.gov/offices/chief-counsel pursuant to Section 1, Item 13 of the RFP.

Should you have questions, please feel free to contact me at Procurement Office Telephone #.

Sincerely,
C. Protest Procedures

The 30-day protest period begins when regret letters are sent to the Bidder(s) who was not awarded. OPC typically sends regret letters and begins the protest period after the Contract has been fully executed in SMART with the awarded Bidder(s).

The Bidder protest procedure is as follows:

1. The protest shall be made in writing to, and received by, the Director of Purchases within thirty (30) calendar days after the date of the event which gives rise to the Bidder’s protest. The Division of Purchases shall not accept any protest more than thirty (30) days after the date of the Contract award or renewal.

2. The written protest shall include the following:
   a. The name and address of the protesting Bidder;
   b. Appropriate identification of the procurement by bid or Contract number;
   c. A statement of the specific reasons for the protest; and
   d. Supporting exhibits, evidence, or documents, unless they are not available within the filing time, in which case the expected availability date shall be indicated.

3. If a protest has been filed before an award or renewal has been made, no Contract shall be awarded or renewed until the protest has been heard, unless the Director of Purchases determines that the immediate award of the Contract is necessary to protect State interest.

4. A protest decision shall be made by the Director of Purchases as soon as possible after receiving all relevant, requested information. The decision of the Director of Purchases is final and there is no further administrative appeal process. The Director of Purchases is the State Agency officer to receive service of a petition for judicial review on behalf of the Kansas Division of Purchases.

5. To maintain the integrity of the procurement process, the Director of Purchases shall not grant waivers for, or hear protests concerning, the following omissions:
   a. Failure to properly complete the bid form;
   b. Failure to submit the bid to the Division of Purchases by the due date or time;
   c. Failure to provide samples, descriptive literature, or other required documents by the bid deadline or other specified time; or
   d. Failure to provide a required bid deposit or performance bond by the specified date or time.
17. CONTRACT MANAGEMENT

The majority of day-to-day Contract management responsibility rests with the Agency. However, key events in the life cycle of a Contract like extensions, amendments, renewals, terminations, and cancellations must go through the Office of Procurements and Contracts (OPC). While these important contracting events must be handled by OPC and OPC proactively reaches out regarding Contract management wherever it can, the ultimate responsibility for ensuring active Contracts are managed correctly rests with the Agency.

A. Contract Renewals

1. Agency Contract Renewals

Agency Contract renewals begin with the Agency reaching out to OPC to request a renewal. To the extent possible, OPC may attempt to reach out to Agencies on a periodic basis to provide Agencies a status update on their Contracts in need of renewal. This process aims to help OPC better serve their clients and stay ahead of upcoming Contract renewals. Ultimate responsibility to ensure OPC is aware of and has the necessary information for a Contract renewal rests with the Agency, while the responsibility to execute the renewal rests with OPC.

The process to renew a Contract is as follows:

1. Agency identifies a Contract for renewal
2. Agency notifies OPC of need for a renewal
3. OPC notes need for Contract renewal and begins work on amendment
4. OPC updates the cover page of the Contract reflecting the renewal, no other content changes are made to the original, fully executed Contract
5. OPC contacts Contractor with amendment/renewal documents and additional forms as required
6. Contractor signs amendment, obtains and signs additional documents as necessary, and returns them to OPC
7. OPC sends amendment and attachments to Agency for signature
8. Agency returns signed amendment and attachments to OPC
9. OPC signs amendment
10. OPC uploads amendment to the Statewide Management, Accounting, and Reporting Tool (SMART) without signatures
11. OPC saves signed amendment in separate repository
12. OPC emails Contractor and Agency the signed and officially renewed amendment documents

For the majority of Contracts, OPC adheres to the common standard of five years maximum for Contract length. This means OPC does not establish an initial maximum term or renew a Contract past the five-year mark in the majority of cases. Approval is required from the Director of Purchases to go beyond the
five-year term. Certain commodities are more commonly given exceptions to the five-year limit, including land leases, financial services, and IT systems.

2. **Statewide Contract Renewals**

The process for renewing Statewide Contracts is similar to the process for renewing Agency Contracts described above. The main difference is that Agencies are not involved. The Procurement Officer responsible for the Contract approves the renewal, and the renewal must only be signed by the Contractor and the Director of Purchases.

**B. Contract Extensions**

Contract extensions generally refer to the continuation of a Contract outside of the standard renewal process. This typically occurs when Contracts are out of renewals, or if the Agency needs more time to re-bid or evaluate renewing the Contract. All Contract extensions must occur in writing and require the Contractor’s consent. OPC, in conjunction with the Agency, has the option to extend Contracts. Typically, Agencies reach out to OPC to request Contract extensions and OPC takes the necessary steps to extend Contracts in SMART. The length of a Contract extension is at the discretion of the Procurement Officer, with consultation from the Director of Purchases where necessary. Extensions to Statewide Contracts follow the same process but are managed at the discretion of OPC.

**C. Contract Amendments**

Throughout the term of the Contract, changes to the Contract may become necessary. Changes to Contracts are done in the form of a Contract amendment. These changes may be minor, administrative changes such as a change of address, or they can be substantial changes that affect price and delivery. Care should be taken to ensure that if a change is needed, the change is within the scope or parameters of the original solicitation. A change in the scope of work will not be allowed, because it was not originally subject to fair competition. In addition to content changes, Contract extensions and renewals are also processed as amendments to the Contract.

OPC has the ability to amend Contracts in SMART, in conjunction with the Agency. The process for making an amendment to an active Contract is as follows:

1. Agency identifies the need for a Contract amendment
2. Agency notifies OPC of their desired change and the need for an amendment
3. OPC validates need for an amendment
4. OPC verifies the change with the Agency
5. OPC makes the change to the Contract in the form of an amendment
6. OPC sends the amendment and any necessary attachments to the Contractor for signature
7. Contractor returns signed amendment and attachments to OPC
8. OPC sends the amendment and attachments to the Agency for signature
9. Agency returns signed amendment and attachments to OPC
10. OPC signs the amendment and attachments if applicable
11. OPC publicly posts the amendment and updates SMART with dates and funds as applicable

D. Contract Terminations

Contract termination refers to when OPC, in conjunction with the Agency, decide to end a Contract due to cause or convenience.

1. Termination for Cause

The Director of Purchases may terminate a Contract, or any part of a Contract, for cause under any one of the following circumstances:

- The Contractor fails to make delivery of goods or services as specified in the Contract;
- The Contractor provides substandard quality or workmanship;
- The Contractor fails to perform any of the provisions of the Contract, or
- The Contractor fails to make progress as to endanger performance of the Contract in accordance with its terms.

Contract terminations for cause are handled on a case-by-case basis, but many terminations include the use of the Complaint to Vendor Form (for more detail on the Complaint to Vendor Form, see Section 18: Vendor Management). In the cases where the Agency uses the Complaint to Vendor Form, the termination process is as follows:

1. Agency is required to reach out to the Contractor to determine if an agreement can be made for a resolution, if this cannot be achieved then the agency sends OPC a Complaint to Vendor Form along with supporting documentation to communicate they are having an issue with a Contractor.
2. The Director of Purchases provides the Contractor with written notice of the conditions endangering performance.
3. If the Contractor fails to remedy the conditions within ten (10) days from the receipt of the notice (or such longer period as State may authorize in writing), the Director of Purchases shall issue the Contractor an order to stop work immediately.
4. There are no additional signatures needed to terminate a Contract.
5. OPC modifies SMART to the date of termination so that the Contract cannot be utilized moving forward.

There are other cases where a Contract can be terminated for cause without the use of the Complaint to Vendor Form, typically in cases where extenuating circumstances cause the Contract to require immediate termination. This determination is made by the Director of Purchases.
**Best Practice:** Generally, OPC views Contract termination as a last resort. The goal of OPC and the Agencies is to work with Contractors to resolve issues, so that Contracts can be maintained for their agreed upon timeframes.

2. Termination for Convenience
The State may terminate a Contract without cause. Said termination will not be deemed a breach of Contract by the State. Termination for convenience is utilized for reasons outside of the Contractor’s contractual default. In most cases, the Director of Purchases will provide written notice thirty (30) days in advance of termination for convenience. The termination for convenience process is as follows:

1. Agency or OPC identify the need to terminate a Contract (e.g. funding cancellation)
2. OPC sends a letter to the Contractor, with relevant documentation, notifying Contractor of the termination
3. OPC modifies SMART to the date of the termination

E. Contract Cancellation
Contract cancellation refers to when a Contractor decides to cancel a Contract instead of renewing it, or notifies the Agency and OPC that they cannot proceed with the Contract under the current contractual requirements. A Contractor may choose to cancel a Contract for a variety of reasons. A common example is that the Contractor requests a price increase that is not in alignment with Agency budgets or current marketplace pricing. The Contractor will then choose to cancel the Contract instead of renewing it at a lower price. To cancel a Contract, OPC takes various steps to process the cancellation and update SMART, so that it cannot be utilized moving forward. There are no additional signatures or forms needed to cancel a Contract.

A Contractor unilaterally cancelling a Contract before the scheduled end date can result in debarment. Any Contractor who defaults on delivery or does not perform in a satisfactory manner as defined in their Contract may be barred for a period up to three (3) years, pursuant to K.S.A. 75-37,103, or have their work evaluated for pre-qualification purposes pursuant to K.S.A. 75-37,104. Per K.S.A. 75-37,103, the causes for debarment include failure without good cause to perform in accordance with the terms of the Contract.
18. VENDOR MANAGEMENT

A. Vendor Registration

Bidders are required to be registered in the Statewide Management, Accounting, and Reporting Tool (SMART) prior to bid closing to be considered responsive and responsible and eligible for award. Bidders can register their business with the State through the State of Kansas eSupplier Portal. By clicking on the “Registration” button followed by the “Register New Bidder” option, a Bidder can fill out the details pertaining to their business to obtain official registration. These details include identifying tax information such as a W-9, company addresses, and company contacts. As part of this process, a Bidder can list UNSPSC category codes that may apply to their business in order to be notified automatically by the Office of Procurements and Contracts (OPC) if future bid opportunities in their industry arise. Once a Bidder application has been processed, an email will be sent confirming approval of application and providing a Bidder number in a format starting with BDR#000. Further details about this process can be found in the New Bidder Registration Checklist produced by OPC. Completing a Vendor application only takes a few minutes.

After a Bidder has been registered, they must not submit another application. If changes are required to a Vendor’s records, such as contact information, address changes, or adding/deleting commodity codes, the Vendor must email bids@ks.gov with their company name, taxpayer identification number, and the requested changes.

If an organization is already doing business with the State of Kansas, then they do not have to register as a new Bidder. Instead, by following the same link to the eSupplier Portal, organizations that have already done business with the State of Kansas and have received a payment from the State in the past 60 months can create a Supplier User Account. Qualifying Vendors can register by clicking on the “Registration” button followed by the “Register Supplier User Account” option. After providing the full and exact 10-character Supplier ID listed on their State payment files or on their Contract document, the Vendor can fill out their identifying tax information, payment information, and user account details. Vendors have the option to create multiple Supplier User Accounts for their company. Once Supplier User Registration is complete, the new user will immediately be able to login to the Kansas eSupplier Portal with the user ID and password they created.

B. Vendor Performance Management

If an Agency is experiencing issues with a Contractor and their resulting performance on a Contract, and if the Agency has already attempted to come to a resolution, the Agency can complete a *Complaint to Vendor form* listing the specific issues that are causing concern. It is important that Agencies have documented their issues in writing, along with the dates of issues, specific details, communications with the Vendor about these issues, and any attempts to reach a resolution before submitting a complaint. This documentation is necessary supporting information to include with the complaint form. The *Complaint to Vendor form* can be downloaded from the Department of Administration website\(^{31}\). These issues may include late delivery, under-shipment, damaged shipments, failure to meet contractual obligations, or other issues described by the Agency. The Agency shall send their completed complaint form along with supporting documentation to OPC, after which OPC will pass along an official complaint to the Contractor. Once OPC reaches out to the Contractor, they will set a timetable for the Contractor to respond with their proposed solutions to rectify the issue. In these situations, OPC is acting as a non-biased party seeking a successful resolution that will be in the best interest of the State of Kansas.

If issues persist after this complaint, Agencies shall take note in writing of continued concerns with the Contractor and contact OPC with their documented issues. From that point, it is at the discretion of OPC as to what action to take. These actions can include dictating a corrective action plan for the Vendor to follow, cancelling a Contract, or terminating a Contract.

⚠️ **IMPORTANT:** *The Director of Purchases may need to be consulted on a Vendor performance issue if a Notice to Cure is to be issued or if the issue cannot be successfully resolved.*

C. Debarment and Suspension

The State of Kansas sets the causes and terms supporting debarment and suspension in K.S.A. 75-37,103 as follows:

“After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the secretary of administration, after consultation with the contracting Agency and the attorney general, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period exceeding three (3) years. The secretary, after consultation with the contracting Agency and the attorney general, shall have authority to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The suspension shall not be for a period exceeding three (3)

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31 [https://admin.ks.gov/offices/procurement-contracts/procurement-resources/procurement-forms](https://admin.ks.gov/offices/procurement-contracts/procurement-resources/procurement-forms)
months unless an indictment has been issued for an offense which would be a cause for debarment, in which case the suspension shall, at the request of the attorney general, remain in effect until after the trial of the suspended person.”

“The causes for debarment include the following:
- Conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private Contract or subcontract or in the performance of such contractor or subcontract
- Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a state contractor
- Conviction under state or federal antitrust statutes
- Failure without good cause to perform in accordance with the terms of the Contract
- Any other cause the secretary determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause pursuant to rules and regulations,"

The Department of Administration is charged with maintaining a public posting of debarred or suspended Vendors on their website. A current listing can be located on the Department of Administration website.  

[32 https://admin.ks.gov/offices/procurement-contracts/procurement-resources/procurement-forms](https://admin.ks.gov/offices/procurement-contracts/procurement-resources/procurement-forms)
19. FISCAL YEAR END PROCEDURES

In order to allow the Office of Procurement and Contracts sufficient lead time for processing purchase requisitions funded from the current fiscal year appropriations, all Agencies are expected to comply with the submission schedule outlined by the Director of Purchases. Before the end of the fiscal year, between February and April, the Director of Purchases will release an informational circular detailing the exact submission deadlines for different types of requisitions and Prior Authorizations based on the fiscal year they are funded under. Previous years’ Informational Circulars can be found under Procurement Resources on the Office of Procurement and Contracts website.

A. Processing Requisitions that Require Bidding

1. Current Fiscal Year Funded Transactions
   If an Agency intends to utilize the Request for Proposal (RFP) negotiated procurement process for a current fiscal year transaction, the Agency must submit the purchase requisition by the close of business on the date specified by the Director of Purchases. Dates will be applicable based on whether the transaction is a non-RFP purchase, and the anticipated dollar amount of the purchase. These dates will be specified in the Informational Circular.

   If any exceptions or deviations are to be requested, the Agency head should contact the Director of Purchases through email. The Agency must receive written approval via email.

2. Next Fiscal Year Funded Transactions
   Requisitions that are funded under the next fiscal year and that require bidding may be entered into SMART beginning on the date specified by the Director of Purchases.

   When entering the requisition into the Statewide Management, Accounting, and Reporting Tool (SMART), the requisitioner or Agency approver must enter the current fiscal year budget date, and in the Justification/Comments field of the requisition note that it is funded under the next fiscal year. It is essential this note is included in the Justification/Comments field on the requisition, rather than at the line level. Should this not be done, and the requisition is approved, it may need to be resubmitted.

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33 https://admin.ks.gov/offices/procurement-contracts/procurement-resources
The Procurement Officer will then change the budget date on the requisition to reflect the next fiscal year date.

B. Processing Prior Authorization Requisitions

1. Processing Current Fiscal Year Prior Authorization Requisitions
Requisitions funded under the current fiscal year that require Prior Authorization approval must be entered into SMART and routed to the Office of Procurement and Contracts in accordance with dates specified by the Director of Purchases. Dates will be applicable based on the requisition’s dollar amount. These dates will be specified in the Informational Circular.

2. Processing Next Fiscal Year Prior Authorization Requisitions
Requisitions that are funded under the next fiscal year that require Prior Authorization approval may be entered into SMART beginning on the date specified by the Director of Purchases and Contracts.

When entering the requisition into SMART, the requisitioner or Agency approver will enter the current fiscal year budget date, and in the Justification/Comments field of the requisition note that it is funded under the next fiscal year. It is essential this note is included in the Justification/Comments field on the requisition, rather than at the line level. Should this not be done, and the requisition is approved, it may need to be resubmitted.

For additional information on the Prior Authorization submittal process, please refer to Informational Circular 11-03. Justification for Prior Authorization requisitions must be clearly and fully described.

C. Processing Requisitions for Prior Approved Contracts

Processing Next Fiscal Year Requisitions for Prior Approved Contracts
For requisitions that require funding across multiple fiscal years that have been previously approved in SMART for the current fiscal year, the Agency must send a revised Prior Authorization requisition to the Procurement Officer administering the contract via email.

Requisitions that will be funded under the next fiscal year must be entered into SMART on or after the beginning of the State Fiscal Year on July 1. Entering a requisition prior to July 1 will create an encumbrance for the current fiscal year rather than the intended next fiscal year.

34 https://admin.ks.gov/offices/procurement-contracts/procurement-resources/procurement-informational-circulars/categories/647256b9b0af4440912fa11e4a37df21
Due to system controls, a budget date can only be changed by central users (OPC procurement staff). Therefore, to alleviate the need for budget date changes on these requisitions, a grace period is allowed during the month of July to allow Agencies time to enter encumbrances for the new fiscal year. No audit findings will be issued during July based on a comparison of service date or order date to the requisition date.

D. Construction or Major Repairs and Improvements

For any construction projects financed by funds that end at the end of the current fiscal year, preliminary work on plans and specifications should be started immediately with Design, Construction, and Compliance (DCC) at the time of Informational Circular distribution. Completed construction documents must be submitted by the close of business on the date specified by the Director of Purchases and Contracts in order to allow for compliance and bids to be issued and submitted by the date specified in the Informational Circular. Please see Appendix A for more construction procurement information. The dates specified in the Informational Circular are also applicable to projects reviewed by Office of Facilities & Property Management (OFPM) and bid by the Office of Procurement and Contracts.
APPENDIX A. OTHER PROCUREMENT METHODS

While competitive and non-competitive procurement methods are discussed in detail in Manual Section 9 Procurement Methods, six types of procurements are called out as having unique requirements. This section will highlight the differences between these special categories and standard procurements. Any steps or requirements not highlighted in this section may be assumed to follow the standard processes discussed in Manual Section 9 Procurement Methods.

1. Construction Purchases and Capital Improvement Projects
   For construction, installation, repair, and capital improvement projects with estimated values above an Agency’s delegated authority, procurements may go through either OPC or OFPM based on the nature of the construction or capital improvement work to be done.

   **Construction Bid Workflow**

   **Projects Concerning Health and Safety**
   *(including IBC, IFC, IFGC, IPC, IMC, NEC or 2010 ADA Standards)*
   - Agency coordinates with OFPM and DCC following the preparation of specifications for review and prior to the release of bid
   - Following award, OFPM will negotiate contract on behalf of requesting agency; materials are submitted to OPC for contract creation in SMART

   **Projects Not Concerning Health or Safety**
   - Agency may coordinate with OFPM and DCC to prepare specifications; OPC releases and runs bid
   - Following award, OPC creates and finalizes contract
All construction and capital improvements related to health and safety (including projects subject to IBC, IFC, IFGC, IPC, IMC, NEC or 2010 ADA Standards) must be coordinated through OFPM DCC, whereas other projects may be run through OPC. For projects required to be bid through OFPM, OFPM requirements and documentation may be found on their website.

For projects being bid through OPC, all requirements applicable to IFBs and RFQs are also applicable in addition to the following considerations:

- Agencies should determine if a pre-bid site visit is necessary or desirable;
- Agencies should include with their specifications of the work to be done goal completion dates;
- OPC will determine the applicability and amount of bid, performance, and public works bonds.

While the RFQ and IFB requirements for award (i.e., low-cost Bidder that meets specifications) are applicable for construction procurement, successful Bidders must also be pre-qualified by OFPM or otherwise approved by OFPM to provide construction services. This is applicable regardless of whether OFPM or OPC is responsible for the bidding. The pre-qualified list of Vendors must be requested through OFPM by emailing contractor.prequalification@da.ks.gov.

Available on OFPM’s website is Form 840: Pre-Qualification Application, which is required of all Vendors who wish be pre-qualified to respond to all construction bids.

### 2. Boiler and Cooling Tower Treatment Chemical Purchases

Pursuant to Informational Circular 16-02, OPC specifically allows Agencies to procure boiler and cooling tower treatment chemicals via the prior authorization process detailed in Manual Section 9 Procurement Methods and Appendix B (utilizing the DOP code). This should only be done after the Agency has sought competition for these products and has concluded that there is no reasonable competition for the agency’s service location. Agencies utilizing the PA process to purchase boiler and cooling tower treatment chemical should still provide information to OPC on why purchasing from the selected Vendor is in the best interest of the State.

### 3. Financial Services

A specific exception to the procurement process exists for financial services; K.S.A. 75-3799 provides for an alternative purchasing method when an Agency wishes to procure financial
services. In these scenarios, State Agencies must request that the Director of Purchases form a Financial Services Negotiating Committee (FSNC) comprised of a representative from OPC, a representative from the Agency requesting the services, and a representative from the Office of Accounts & Reports.

This FSNC is authorized to request and evaluate proposals from Bidders and select a Bidder to begin contract negotiations outside of the standard procurement process for RFPs, detailed in Manual Section 9 Procurement Methods.

4. Telecommunication Services

Similar to financial services, Agencies wishing to procure telecommunication services are exempt from standard procurement procedures and are subject to K.S.A. 75-4713. This statute calls for the creation of a telecommunication negotiating committee (TNC) comprised of a representative of the governor’s office, a representative from OPC, and a representative from the Executive Branch Information Technology (EBIT) office. Similar to FSNCs, TNCs may solicit sealed bids for telecommunication services and select Bidders with whom to begin Contract negotiations.

5. Information Technology (IT) Services

Agencies seeking information technology services, solutions, and systems are subject to a unique series of steps prior to the normal RFP process. Any IT initiative meeting the definition of a project must be evaluated by the KARS system. Additional information and training on this system is available on the KITO website. Involving the KITO office early prevents delays and surprises that could occur later, the KARS risk evaluation should be performed prior to the specification drafting process.

The Agency is to submit a comprehensive vendor list, PNC letter, specifications, and pricing sheet with the requisition. The specifications and pricing sheets should identify the priorities of the purchase. These should allow for the agency to analyze each bid submission in a fair and equitable manner.

37 https://ebit.ks.gov/kito/home
APPENDIX B. PRIOR AUTHORIZATION REQUIREMENTS BY CATEGORY

As discussed in Section 9, Prior Authorizations are specific exemptions to the competitive procurement process allowed by statute and granted by the Director of Purchases. While introduced in Section 9, this Appendix provides more details on each PA type.

1. CHE  Conference or Hotel Event

**Use:** Use when organizing meetings or conferences in which an outside event site is needed, and the cost exceeds delegated purchase authority

**Statute:** Governed by DOA-OPC Policy: Informational Circular #13-04

**Approval Authority:** Department of Administration, Director of Purchases

**Procurement Responsibility:** Agency

**Considerations:**
- All amounts the Agency pays for directly should be included in the estimated cost, such as meeting space, audio-visual (AV) equipment usage, food and lodging.
- Attendee-paid lodging costs do not need to be included in estimated costs.
- If the estimated cost is expected to exceed $5,000, the Event/Conference Quote Form must be sent to multiple Vendors (3 or more is recommended), requesting quotes for the event.
- If quotes from multiple Vendors cannot be obtained, the rationale needs to be included on the Prior Authorization Form.

**Requirements:**
- Prior Authorization Request Form
- Event/Conference Quote Form
- Sexual Harassment Form
- Boycott of Israel Form (procurement value over $100K)
- SMART Requisition (with all above attached)

**Award Type:** Purchase Order (one-time purchases) or Contract (repetitive purchases)

**Best Practice:** Agencies are encouraged to obtain quotes which may include more than one city to hold the meeting or conference.
2. COM Compatible with Existing Equipment

Use: Use when compatibility with existing contractual services, supplies, materials or equipment is the overriding consideration

Statute: 75-3739(a)(5): when compatibility with existing contractual services, supplies, materials or equipment is the overriding consideration

Approval Authority: Department of Administration, Director of Purchases

Procurement Responsibility: Agency

Considerations:
- Written justification of market research must show how minor deviations in size and operational characteristics from those set forth in any product or service specification will be considered when such deviations do not alter nor deter the Agency from accomplishing its intended usage or function.
- Lack of competition must be demonstrated through the impact of changing from the desired or specified equipment or services. Details on the availability of the required equipment or services within the marketplace must be included.

Requirements:
- Marketplace research including Vendors, comparable products or lack thereof, specifications of required items, and pricing analysis.
- Sole source justification letter from selected Vendor
- Sexual Harassment Form
- Boycott of Israel Form (procurement value over $100K)
- Prior Authorization Request Form
- SMART Requisition (with all above attached)

Award Type: Purchase Order (one-time purchases) or Contract (repetitive purchases)

⚠️ IMPORTANT: When evaluating the marketplace, each Agency must consider how comparable products or services with minor deviations in size and operational characteristics from those set forth in any product or service specification could still fulfill the requirements. Justification must be included in both the sole source Vendor letter and the Prior Request Authorization Form.
**Best Practice:** Consider establishing a long-term agreement for items or services that will be purchased repetitively. This will save time by eliminating the need for repetitive PA requests and reporting requirements.

3. **DOP  Director of Purchases**

   **Use:** Use when, in the judgment of the Director of Purchases and the head of the acquiring State Agency, not seeking competitive bids is in the best interest of the State

   **Statute:** K.S.A. 75-3739(a)(7): when, in the judgment of the Director of Purchases and the head of the acquiring State Agency, not seeking competitive bids is in the best interest of the State.

   **Approval Authority:** Department of Administration, Director of Purchases

   **Procurement Responsibility:** Agency

   **Considerations:**
   - Use of this PA type is not typically used for a Sole Source transaction, but for situations when there may be competition but "…not seeking competitive bids is in the best interest of the State of Kansas…”
   - Past uses of this PA-type have required that the Director of Purchases prepare a memorandum in support of the designation, explaining why not subjecting the transaction to the competitive bid process is in the best interest of the State of Kansas. Detailed supporting documentation must be submitted with the PA Request Form.

   **Requirements:**
   - Marketplace research including potential Vendors, comparable products or lack thereof, specifications of required items, and pricing analysis.
   - *Sexual Harassment Form*
   - *Boycott of Israel Form* (procurement value over $100K)
   - *Prior Authorization Request Form*
   - SMART Requisition (with all above attached)

   **Award Type:** Purchase Order (one-time purchases) or Contract (repetitive purchases)

   **Best Practice:** Agencies should engage OPC procurement personnel to determine the appropriateness and applicability of this PA category relative to their need.

4. **EMR  Emergency Procurement**
Use: Use when an Agency emergency requires immediate delivery of supplies, materials or equipment, or immediate performance of services

Statute: 75-3739(a)(3): when, in the judgment of the Director of Purchases, an Agency emergency requires immediate delivery of supplies, materials or equipment, or immediate performance of services

Approval Authority: Department of Administration, Director of Purchases

Considerations: For use only in instances of life, health or safety issues.

Award Type: Purchase Order (one-time purchases) or Contract (repetitive purchases)

Best Practice: In the event of an emergency this PA category should be utilized for the short-term remediation of the issue and once the situation is stabilized a competitive bid event should be conducted for the permanent repair or replacement.

IMPORTANT: An emergency condition exists when there is a threat to Agency resources, public health, welfare, or safety which may arise by reason of weather, epidemics, infrastructure failures or other circumstances. The existence of such a condition must create an immediate and serious need for supplies, goods and services, or services that cannot be met through normal procurement methods.

5. GSR Grants Sub-Recipients
Use: Use when issuing a grant to a sub-recipient for encumbrance purposes. *If the Agency does not wish to encumber the grant funds, the SMART Requisition to Purchase Order process is not required.*

Statute: 75-3739(j): The Director of Purchases may delegate authority to any State Agency to make purchases under certain prescribed conditions and procedures when the acquisition is funded, in whole or in part, from a grant. Except as otherwise provided in subsection (k) of this section, purchases made in compliance with such conditions and procedures shall be exempt from other provisions of this section. As used in this subsection the term "grant" means a disbursement made from federal or private funds, or a combination of these sources, to a State Agency. Nothing in this subsection shall allow federal grant moneys to be handled differently from any other moneys of the State unless the requirements of the applicable federal grant specifically require such federal moneys to be handled differently.

Approval Authority: Department of Administration, Director of Purchases
Procurement Responsibility: Agency

Considerations:
- Use of this PA type is limited to instances where the Agency/State will not receive direct benefit from the grant.

Requirements:
- Prior Authorization Request Form
- Funding line codes 52, 55, and 773

Award Type: N/A

Best Practice: Agencies should use the following account codes:
- 52**** series account code for contractual services where the Agency receives direct benefit
- 55**** series account code for grants to contractors (no direct benefit)
- 773*** series account code for intragovernmental transfers

6. IGP Inter/Intra-Governmental Procurements

Use: Use when the Agency wishes to purchase goods/services from another governmental entity

Statute: 75-3739(h): The Director of Purchases may authorize State Agencies to contract for services and materials with other State Agencies, or with federal agencies, political subdivisions of Kansas, agencies of other states or subdivisions thereof, or private nonprofit educational institutions, without competitive bids.

Approval Authority: Department of Administration, Director of Purchases

Procurement Responsibility: Agency

Considerations:
- Inter-governmental: between State of Kansas Agency and an outside governmental entity
- Intra-governmental: between State of Kansas Agencies
- Marketplace research should be conducted to determine the competitiveness of the inter/intra-governmental pricing.

Requirements:
- Documentation is not required for the establishment of an IGP. In the event the agreement requires amendment or modification, a revised PA form detailing the original agreement and required changes must be submitted to OPC.
Award Type: N/A

Best Practice: When creating a requisition to another State Agency, use the correct SMART Vendor number to eliminate unnecessary re-work.

7. LRE Lab or Research Equipment/ Supplies

Use: Use for chemicals and other material or equipment for use in laboratories or experimental studies which are best purchased without competition, or where rates are fixed by law or ordinance

Statute: 75-3739(a)(2): when, in the judgment of the Director of Purchases, chemicals and other material or equipment for use in laboratories or experimental studies by State Agencies are best purchased without competition, or where rates are fixed by law or ordinance;

Approval Authority: Department of Administration, Director of Purchases

Procurement Responsibility: Agency

Considerations:
- Written justification of market research must show how minor deviations in size and operational characteristics from those set forth in any product or service specification will be considered when such deviations do not alter nor deter the Agency from accomplishing its intended usage or function.
- Lack of competition must be demonstrated through the impact of changing from the desired or specified equipment or services. Details on the availability of the required equipment or services within the marketplace must be included.

Requirements:
- Marketplace research including Vendors, comparable products or lack thereof, specifications of required items, and pricing analysis.
- Sole source justification letter from selected Vendor
- Sexual Harassment Form
- Boycott of Israel Form (procurement value over $100K)
- Prior Authorization Request Form
- SMART Requisition (with all above attached)

Award Type: Purchase Order (one-time purchases) or Contract (repetitive purchases)
**Best Practice:** Establishing a long-term price agreement for items that will be purchased repetitively will reduce the need to submit multiple PA requests. Additionally, bidding equipment and supplies together may result in more beneficial pricing.

8. **OKP Only Known Provider**

   **Use:** Use when the Vendor is the only known provider and no competition exists

   **Statute:** 75-3739(a)(1): (a) All contracts for construction and repairs, and all purchases of and contracts for supplies, materials, equipment and contractual services to be acquired for State Agencies shall be based on competitive bids, except that competitive bids need not be required in the following instances: (1) For contractual services, supplies, materials, or equipment when, in the judgment of the Director of Purchases, no competition exists;

   **Approval Authority:** Department of Administration, Director of Purchases

   **Procurement Responsibility:** Agency

   **Considerations:**
   - Written justification of market research must show how minor deviations in size and operational characteristics from those set forth in any product or service specification will be considered when such deviations do not alter nor deter the Agency from accomplishing its intended usage or function.
   - Lack of competition must be demonstrated through the impact of changing from the desired or specified equipment or services. Details on the availability of the required equipment or services within the marketplace must be included.

   **Requirements:**
   - Marketplace research including Vendors, comparable products or lack thereof, specifications of required items, and pricing analysis.
   - Sole source justification letter from selected Vendor
   - *Sexual Harassment Form*
   - *Boycott of Israel Form* (procurement value over $100K)
   - *Prior Authorization Request Form*
   - SMART Requisition (with all above attached)

   **Award Type:** Purchase Order (one-time purchases) or Contract (repetitive purchases)
IMPORTANT: Because of the statutory requirement for competitive procurement and the reporting of any non-competitive transactions, it is imperative that the Agency provide complete but concise documentation to support their PA Request for a non-competitive procurement.

9. PEP Purchased for Evaluation Purpose
Use: Use when the purchase is for evaluation purposes only.

Statute: Governed by DOA-OPC Policy: Informational Circular #11-03 and Prior Authorization Training Document

Approval Authority: Department of Administration, Director of Purchases

Procurement Responsibility: Agency

Considerations:
- Written justification must include supporting documentation on the competitiveness of the pricing, names of Vendors researched, marketplace availability, and comparable products.
- Requests must be “quantity-friendly” and consider the entire long-term need for a good or service.

Requirements:
- Marketplace research including Vendors, comparable products or lack thereof, specifications of required items, and pricing analysis.
- Sole source justification letter from selected Vendor
- Sexual Harassment Form
- Boycott of Israel Form (procurement value over $100K)
- Prior Authorization Request Form
- SMART Requisition (with all above attached)

Award Type: Purchase Order (one-time purchases) or Contract (repetitive purchases)

IMPORTANT: When using PA-type PEP to develop a Qualified Products List for future bids, all interested contractors/ manufacturers / service providers must be considered to ensure fair and balanced competition.

10. PSP Professional Services Purchase
Use: Use when the purchase is covered by the Professional Services Sunshine Act, K.S.A. 75-37,130
Statute: 75-37,130 et seq:

Approval Authority: Department of Administration, Director of Purchases

Procurement Responsibility: Agency

Considerations:
- Deliverable-based specifications must be utilized.
- Statutes do not include competitive bid exceptions for "incumbent," "preferred," or "familiar" Vendors
- Annual fiscal dollar limits per Vendor and statutory requirements to consider:
  - Up to $5,000: Agencies may enter into their own contracts, no prior authorization is required, and there are no reporting requirements.
  - $5,000 to $25,000: Agencies may informally negotiate their own contracts after seeking competition with written deliverable-based scope of work. The PA Form must be utilized, and a SMART requisition must be submitted.
  - Over $25,000: all needs valued over $25,000 will be handled through OPC utilizing the RFP procurement process. Agencies must submit all required RFP documents. See Manual Section 10 for additional information.

Requirements:
- Marketplace research including Vendors, comparable products or lack thereof, specifications of required items, and pricing analysis.
- For needs valued at more than $25,000:
  - PNC Request Letter
  - Scope of Work/Specifications
  - Pricing Sheet
  - Technical Proposal Questions
  - Bidder List
- Sole source justification letter from selected Vendor (if applicable)
- Sexual Harassment Form
- Boycott of Israel Form (procurement value over $100K)
- Prior Authorization Request Form
- SMART Requisition (with all above attached)

Award Type: Purchase Order (one-time purchases) or Contract (repetitive purchases)

IMPORTANT: PSP is limited to three (3) types of services that are called out in statutory language:
Office of Procurement and Contracts
Procurement Policies and Procedures Manual

- Consulting Services
- Certified Public Accountants
- Attorneys (licensed attorney providing a legal opinion)

This definition eliminates physical services including Medical Services, Temporary Employment Services, Computer Programming Services, and Training Services.

11. SCW  State Use Catalog Waiver Request

Use: Use when the Agency wishes to waive the requirement to use a State Use Vendor

Statute: K.S.A. 75-3322: (a) Whenever the qualified Vendors are unable to supply the products or services needed or are unable to meet delivery requirements on any order or requisition, a written waiver [request] shall immediately be forwarded to the Director of Purchases by the State Agency procurement officer or purchasing officer of the unified school district. If approved by the Director of Purchases, such waiver shall relieve and exempt the State or unified school district purchasing authority from the mandatory provisions of K.S.A. 75-3317 to 75-3322, inclusive, and amendments thereto, in the case of the specific order, request or requisition.

Approval Authority: Department of Administration, Director of Purchases

Procurement Responsibility: Agency

Considerations:
- Marketplace research must include justification for why a qualified State use Vendor was unable to supply the products needed and documentation of the efforts undertaken to attempt to utilize the qualified State use Vendor.

Requirements:
- Marketplace research (see above considerations)
- Sexual Harassment Form
- Boycott of Israel Form (procurement value over $100K)
- Prior Authorization Request Form
- SMART Requisition (with all above attached)

Award Type: Purchase Order (one-time purchases) or Contract (repetitive purchases)

Best Practice: Use of the standard PA form is acceptable, but a more specific State Use Program Waiver Form can be found at the following URL / Web Address: State Use Waiver Request Form
IMPORTANT: Audits of SMART Reports, P-Card Transactions and feedback from State Use Catalog Vendors will be used to determine if abuse of this PA category is occurring. Abuse could result in loss of delegated purchase authority, restriction of P-Card utilization, and ordering restrictions.

12. STX Statutorily Exempt

Use: Use when an alternative statute authorizes another procedure or provides an exemption from seeking competition

Statute: 75-3739(a)(4): when any statute authorizes another procedure or provides an exemption from the provisions of this section;

Approval Authority: Department of Administration, Director of Purchases

Procurement Responsibility: Agency

Considerations:

- To be eligible for this PA-type, exemptions must not be vague; statutory language must have specific references to an exemption from procurement and/or statutes which govern procurement.
- Some budget provisos carry the weight of statute; when a statute or proviso directs the Agency to pay a specific Vendor or entity, or to take specific contract action, these instructions must be attached to the SMART requisition.
- Some "Enabling Statutes" (base laws that establish State Agencies) include language allowing the Agency head to enter into contracts, but unless there is a specific statement exempting transactions from procurement processes, the expectation is that the procurement will be competitively bid subject to K.S.A. 75-3739
- Agencies are cautioned that a statutory exemption from OPC may not exempt the procurement from a formal bid process or from conducting the procurement in a fair and transparent manner. Please read the entire statute for specific instructions.

Requirements:

- Supporting statutory language
- Prior Authorization Request Form
- SMART Requisition (with all above attached)

Award Type: Purchase Order (one-time purchases) or Contract (repetitive purchases)
Best Practice: If the statutory language is lengthy, citing the exact section / sub-section of the K.S.A. or attaching a copy of the specific language exempting the procurement from competition could help expedite the review process.

13. USE  Purchase of Used Equipment

Use: Use when a used item becomes available and is subject to immediate sale

Statute: 75-3739(a)(6): (6) when a used item becomes available and is subject to immediate sale;

Approval Authority: Department of Administration, Director of Purchases

Procurement Responsibility: Agency

Considerations:
- Long-term needs, such as supplies and maintenance, must be considered.
- A comparison of pricing for new equipment must be conducted.

Requirements:
- Marketplace research including Vendors, comparable products or lack thereof, specifications of required items, and pricing analysis.
- Sexual Harassment Form
- Boycott of Israel Form (procurement value over $100K)
- Prior Authorization Request Form
- SMART Requisition (with all above attached)

Award Type: Purchase Order (one-time purchases) or Contract (repetitive purchases)

14. USR  Utility Services

Use: Use for utility services

Statute: Governed by DOA-OPC Policy: Informational Circular #11-03 and Prior Authorization Training Document

Approval Authority: Department of Administration, Director of Purchases

Procurement Responsibility: Agency

Considerations:
● Utility services requiring the PA Request Form and process are: electricity, municipal water service, rural water districts, municipal sewer, sewage and run-off.

● Services not covered by this PA type include:
  o Cable/satellite television and similar telecommunication services
  o Cellular phone/ data devices and similar telecommunication services
  o Trash, refuse, and recycling services
  o Natural gas (for most locations through an established agreement)
  o General postal and overnight shipping services
  o Services related to maintaining typical building infrastructure utilities

● Prior Authorization Request Form
● SMART Requisition (with all above attached)

Requirements:
● Marketplace research including Vendors, comparable products or lack thereof, specifications of required items, and pricing analysis.
● Sole source justification letter from selected Vendor
● Sexual Harassment Form
● Boycott of Israel Form (procurement value over $100K)
● Prior Authorization Request Form
● SMART Requisition (with all above attached)

Award Type: Purchase Order (one-time purchases) or Contract (repetitive purchases)

⚠️ Best Practice: If paying for utilities directly without an encumbrance, use the SMART voucher process. When using the voucher process, the account code must match the services needed.

⚠️ IMPORTANT: If an Agency does not wish to encumber the funds for Utilities, the Requisition to Purchase Order process is not required. For true USR transactions, Agencies do not need to fill out a PA form.