

Communications with Vendors

In light of the recent focus on ethics, and open, public, transparent and fair contracting, DAS Procurement staff have frequently been asked the question if agency personnel can communicate with vendors when preparing for a procurement. Certainly, to adequately do our jobs, we need to speak to companies to educate ourselves on their products and services and the industry well in advance of soliciting bids for new products/services. Here are a few things to keep in mind before starting those communications:

- Observe all ethics rules. Staff must have read and understood all State and the agency's particular ethics rules.
- Never have only one employee meet with a vendor; have at least two, one of whom should be a purchasing/fiscal person and one could be a technical person or a product user. The idea here is to have people from different areas of the agency involved and have everything out in the open.
- Whether vendors visit your office to give a presentation or agency staff visit a trade show, they should never make any promises/commitments to vendors about using their product or services. The agency employees should really just be "kicking the tires" and getting educated on what's available, nothing more.
- If a vendor is to provide substantive help to the agency on a procurement or potential procurement, this help must be provided only pursuant to an existing contract with that vendor and the contract must provide that the vendor shall not submit a bid or proposal. If they help on the front end, then they can't play on the back end.
- There must only be one point of contact (one person) with vendors once it has been decided to issue an invitation to bid or request for proposals. That person is responsible for answering all questions that come in from the outside, for asking questions of vendors and for coordinating the entire procurement in general. If DAS is that contracting authority, your agency should not talk to any vendors at any time. That's the role for DAS.
- The procurement playing field must always be kept level. This is paramount. So, no conduct of any agency employee must ever be such that it can be construed as collusive or fraudulent.
- Staff must be encouraged repeatedly to consult with in-house counsel on these matters, even if their question is a slam/dunk. It's important to establish an open culture inside the agency. If there's no in-house counsel, please contact DAS Procurement.

When in doubt, consider issuing a request for information (RFI). A request for information can be as simple as a single paragraph requesting information on products or services. The RFI can be placed on the state contracting portal openly and publicly and vendors will have the ability to provide information on their products and services

Please be sure to share these guidelines with all of your agency personnel, and do not hesitate to contact DAS procurement with any questions or concerns.