

16C.10 EXCEPTIONS TO THE SOLICITATION PROCESS.

Subdivision 1. **Single source.** The solicitation process described in this chapter is not required when there is clearly and legitimately only a single source for the goods and services and the commissioner determines that the price has been fairly and reasonably established.

Subd. 2. **Emergency acquisition.** (a) For the purpose of this subdivision, "emergency" means a threat to public health, welfare, or safety that threatens the functioning of government, the protection of property, or the health or safety of people.

(b) The solicitation process described in this chapter is not required in emergencies. In emergencies, the commissioner may make any purchases necessary for the repair, rehabilitation, and improvement of a state-owned structure or may authorize an agency to do so and may purchase, or may authorize an agency to purchase, goods, services, or utility services directly for immediate use.

Subd. 3. **Federal agency price schedules.** Notwithstanding anything in this chapter to the contrary, the commissioner may, instead of soliciting bids, contract for purchases with suppliers who have published schedules of prices effective for sales to any federal agency of the United States. These contracts may be entered into, regardless of the amount of the purchase price, if the commissioner considers them advantageous and if the purchase price of all the commodities purchased under the contract do not exceed the price specified by the schedule.

Subd. 4. **Cooperative agreements.** The solicitation process described in this chapter is not required for cooperative agreements. The commissioner may enter into contracts or accept prices effective for sales to any governmental unit as defined in section 471.59, through a cooperative agreement as defined in section 471.59.

Subd. 5. **Specific purchases.** The solicitation process described in this chapter is not required for acquisition of the following:

- (1) merchandise for resale purchased under policies determined by the commissioner;
- (2) farm and garden products which, as determined by the commissioner, may be purchased at the prevailing market price on the date of sale;
- (3) goods and services from the Minnesota correctional facilities;
- (4) goods and services from rehabilitation facilities and extended employment providers that are certified by the commissioner of employment and economic development, and day training and habilitation services licensed under sections 245B.01 to 245B.08;
- (5) goods and services for use by a community-based facility operated by the commissioner of human services;
- (6) goods purchased at auction or when submitting a sealed bid at auction provided that before authorizing such an action, the commissioner consult with the requesting agency to determine a fair and reasonable value for the goods considering factors including, but not limited to, costs associated with submitting a bid, travel, transportation, and storage. This fair and reasonable value must represent the limit of the state's bid;
- (7) utility services where no competition exists or where rates are fixed by law or ordinance; and
- (8) goods and services from Minnesota sex offender program facilities.

Subd. 6. **Expenditures under specified amounts.** The solicitation process described in this chapter is not required for:

- (1) acquisition of goods or services, other than professional or technical services, in an amount of \$2,500 or less; or
- (2) acquisition of professional or technical services in an amount of \$5,000 or less, provided the requirements of section 16C.08, subdivisions 3 to 6, are met.

Subd. 7. **Reverse auction.** (a) For the purpose of this subdivision, "reverse auction" means a purchasing process in which vendors compete to provide goods or services at the lowest selling price in an open and interactive environment. Reverse auctions may not be utilized to procure engineering design services or architectural services or to establish building and construction contracts under sections 16C.26 to 16C.29.

(b) The provisions of sections 13.591, subdivision 3, and 16C.06, subdivision 2, do not apply when the commissioner determines that a reverse auction is the appropriate purchasing process.

History: 1998 c 386 art 1 s 11; 1999 c 245 art 5 s 1; 2000 c 420 s 2; 1Sp2003 c 1 art 2 s 56; 1Sp2003 c 8 art 1 s 8; art 2 s 14; 2004 c 206 s 52; 2005 c 9 s 1; 2005 c 156 art 2 s 22; 2007 c 148 art 2 s 42; 2009 c 111 s 2