

Section 1 - What's in this Chapter

Updated 2011

This chapter provides basic operating procedures for your lodging tax board. Sections cover the bidding process, contracts and agreements, and the keeping of public records. Other topics include crisis communication, insurance, establishing photo libraries, and protecting intellectual and other property rights.

Section 2 - Bidding Process

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For small routine purchases there is generally no need to go through the bidding process, especially if your board does some informal price comparisons prior to purchase. However, for major expenditures you might want to consider undertaking a formal bid process. Appendix 701 summarizes Wyoming Statute 9-2-10 dealing with bidding processes for executive agencies. Although this statute doesn't apply to lodging tax boards, you may want to use the following guidelines established by the Wyoming Procurement Section based on the statute. The purpose of these guidelines is to give your lodging tax board the benefits of competition and to prevent collusion and fraud in letting contracts.

Preference for Wyoming Services and Materials

Lodging tax boards should use Wyoming vendors whenever possible for all services, supplies, materials, and equipment. Preference shouldn't be granted for articles of inferior quality to those offered by competitors outside of the state, but a differential up to five percent may be allowed in cost from Wyoming vendors where quality is equal. W.S. 16-6-105(a)

Purchases under \$500

- No requirements other than normal record keeping.

Purchases from \$501 to \$1500

- Obtain informal quotes from at least three vendors, when possible. Document vendor name, the quoted price and the item name including brand and model.
- Order items from the vendor submitting the lowest quote.

Purchases from \$1501 to \$7500

- Procurement guidelines call for formal bidding within this range following the procedure outlined in the next section. If your board decides not to carry out a formal bid process, you should follow the procedures given in the section above.

Purchases over \$7500

- You should obtain formal bids for all purchases (including services) over \$7500. If your board has a well-defined set of bid specifications, you can issue a Request for Quotation. If specifications have not been defined or you want to allow for flexibility, you can issue a Request for Proposal. These are commonly referred to by their initials, RFQ and RFP

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respectively. The following procedures are used regardless of which you choose. (See Appendices 402 and 611 for RFP examples)

- Create a list of people who provide the items or services you require. Include local vendors as well as others throughout the state. You can get vendor lists from the Procurement Section of the Department of Administration and Information. Depending on the items or services you require, you may want to increase potential vendors by advertising for bids. Run an ad in local or state newspapers specifying the type of items or services you are looking for and ask potential vendors to contact your board.
- Prepare and send out either a RFQ or a RFP. These don't have to be complex documents, but they should include specifics of what you expect the vendor to do if hired, the time frame for doing it, incentives for timely work, penalties for missed deadlines, plus any items that you would like them to focus on. It may be helpful to ask for references and samples. Don't forget to include a deadline for returning the request and state how many copies you need for your board. Since you are using public funds, it is advisable to send the RFQ or RFP to everyone on your list to avoid any possible charges of favoritism.
- Hold all returned bids unopened until the deadline for submittal has arrived. Two or three board members should meet to open all the bids. Do not accept bids that arrive after the deadline. It may be helpful to create a spreadsheet with pertinent information: cost, past performance (if known), references, time line, did they include requested materials (reference, samples, etc.), did they focus on what you asked them to, etc.. Then, as a board, review all of the proposals looking at the sample materials. Choose the vendor that looks like the best fit and can provide the items or services within your budget and time line.
- Finalize a contract or agreement covering the scope of work.

Section 3 - Contracts and Agreements

Updated 2011

There may be times, especially when procuring ongoing services, that your board will want to sign a contract with a vendor. These can be simple, one-page letter agreements or more complex multi-page contracts. In both cases you must have a written document that is clear and definite as to all of the terms and conditions, including amount, quality, price, delivery, payment terms and any other special terms. In order to be a binding contract, all agreements must contain five elements: capacity of parties (you are qualified to sign the agreement), legality of object (what the contract covers is legal), consideration (amount to be paid), mutuality of agreement (both parties agree to terms), and mutuality of consent (both parties sign the contract.) Contracts may be extended or amended by written mutual agreement of the parties provided the original terms and conditions remain unchanged. Some of the more common types of contracts your board may encounter include:

- Firm fixed price - A contract issued on the basis of competitive price that eliminates the risk of price increase throughout the duration of the contract.
- Fixed price with specified escalation - This variation may be used for a long term contract when the future labor or material costs are uncertain. The escalation clause will be tied to some index such as the consumer price index. This type of contract prevents vendors from including a hidden contingency in their pricing for upward cost adjustments. If used, it must also provide for adjustments downward. * Fixed price with redetermination - This variation may be used for contracts when quantities of labor and materials are unknown. It uses an estimated price and states the maximum cost that will have to be paid.

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- Service contracts - A contract issued for the purchase of services including administration, marketing, janitorial, consulting, legal, and accounting.
- Rental/Lease agreements - A contract issued for the purpose of renting or leasing property. While this manual contains some examples of agreements and contracts in Appendices 712 through 717, it is important to seek legal advice, particularly if the contract is long-term or involves significant expenditures.

Section 4 - Crisis Communication

Updated 2011

A community's reputation, patiently nurtured for years, is jeopardized overnight by a demented person's sabotage. A natural disaster such as a fire, flood or earthquake occurs. A natural gas explosion injures or kills an unknown number of tourists. It's your community's worst nightmare. The good news is that crisis planning can help minimize the damage. While your lodging tax board is not responsible for handling the crisis directly, you will normally get questions from the media as to how the crisis will impact tourism in your community. Your response to these questions must be carefully thought out and you should have a designated spokesman who can relay the Board's prepared position.

Good crisis management begins with a comprehensive but flexible crisis communications plan. Prepared in advance, it will significantly ease your stress during the chaos that usually accompanies a crisis. You will want to decide how best to coordinate with the State's crisis communication team so that the same message will reach the public from all sources. At a minimum, your crisis plan should contain the following elements.

- A designated official spokesperson (and a back-up) who can provide the media and public with factual, timely, straightforward information.
- Telephone listings (office and home) for all board members and key staff who need to be notified immediately in an emergency situation.
- Comprehensive media lists, so you can initiate immediate contact with reporters when appropriate rather than simply reacting to media inquiries.
- Contact information for key members of your community, including county and city government and lodging representatives.

There are several principles that seem to apply no matter what the crisis may be.

First, and most important, accept the fact that "the truth will come out." Be candid with reporters. They won't abandon their search for answers just because you keep a tight lid on information. A "no comment" generally whets reporters' interest and increases the public's skepticism. Even though the lodging tax board may not be a primary contact, if you have developed a good relationship with the media you will be answering questions. Your failure to deal frankly with the public and the media in a crisis could be remembered long after the crisis has ended. Distortion or dishonesty may permanently tarnish your personal reputation as well as the reputation of your lodging tax board.

Second, try to give the media as much objective information as possible, but don't speculate. The information you provide should be absolutely verifiable. Third, remember the media's needs but weigh them against your own. Newspapers have unalterable deadlines. Obviously, you should

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try to release statements so reporters can meet their deadlines. On the other hand, reporters sometimes use deadlines as an excuse to pressure you for information you haven't fully confirmed. Common sense suggests that you balance reporters' legitimate needs with your own need to present only factual information. You will have more leeway in a crisis if you have already developed a good rapport with the media.

Section 5 - Insurance and Bonding

Updated 2011

Since your need for insurance will vary depending on the activities of your lodging tax board, you will want to consult with a local insurance representative. Some of the various kinds of insurance you may want to consider include:

- Board of Director insurance
- Property insurance
- Liability insurance
- Automobile insurance
- Health insurance

If your lodging tax board has opted to disburse lodging tax board revenues, your treasurer must have a surety bond on file with the County Treasurer before lodging tax revenues are disbursed. W.S. 38-2-101

In addition, you may want to provide bonds for other board members or staff that handle any funds, invoices, checks, or other financial affairs of the board. See Appendix 704 for a summary of Wyoming Statute 38-2-1 dealing with surety bonds.

Section 6 - Meetings

Updated 2011

Joint powers lodging tax boards exist to conduct public business. All meetings of your lodging tax board are public meetings, and with only a few exceptions are open to the public at all times. All actions that your lodging tax board takes must be in open meetings. Wyoming Statute 16-4-4 dealing with public meetings is summarized below. A more complete version is included in Appendix 703.

Actions include any collective decision by your lodging tax board, any collective commitment to make a positive or negative decision, or any actual vote by your lodging tax board upon a motion, proposal, or resolution. These must all occur in open meeting where notice of the meeting has been given. W.S. 16-4-402

Notice of regularly scheduled meetings (e.g. the third Wednesday of every month) should be given periodically. Notice of special meetings should be given at least 48 hours prior to the meeting. W.S. 16-4-404

Action taken in a meeting where notice has not been given is automatically null and void. W.S. 16-4-403(a)

A member of the public cannot be required to register his name, to supply information, to

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complete a questionnaire, or fulfill any other condition as a requirement for his attendance. However, your board can require a person to give his name and affiliation before making comments at the meeting. W.S. 16-4-403(b)

Regular Meetings

Meetings must be held at least once every three months, at the call of the chairman, or within five days after an oral or written request of a majority of the board members. W.S. 16-1-106c

Special Meetings

Special meetings may be called by the chairman of the lodging tax board by giving notice of the meeting to each member of the board and to each newspaper, radio or television station requesting the notice. W.S. 16-4-404(b)

The notice should specify the time and place of the special meeting and the business to be transacted. No other business can be considered at a special meeting. W.S. 16-4-404(b)

Recessed Meetings

A lodging tax board may recess any meeting to a place and time given in the order of recess. A copy of the order of recess must be conspicuously posted at the place where the meeting was held. W.S. 16-4-404(c)

Emergency Meetings

A lodging tax board may hold an emergency meeting without notice in order to take temporary action on matters of serious immediate concern. However, you must still make a reasonable effort to offer as much notice as possible. W.S. 16-4-404(d)

All action taken at an emergency meeting is of a temporary nature and in order to become permanent must be reconsidered and acted upon at an open public meeting within 48 hours. W.S. 16-4-404(d)

Executive Session

Statute provides a limited number of reasons for holding a closed (executive session) meeting. Since lodging tax boards are set up to conduct public business, you should be careful not to overuse this provision. Actions taken in executive session which should have been taken in a public meeting are automatically null and void. Statutory reasons for holding a closed meeting are:

- To consider the hiring or firing of an employee, or to hear complaints brought against an employee. The board may deliberate on its decision in executive session. W.S. 16-4-405(a)(ii)
- To discuss wages, salaries, benefits or terms of employment. W.S. 16-4-405(a)(x)
- To consider acceptance of gifts, donations and bequests which the donor has requested in

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- writing be kept confidential. W.S. 16-4-405(a)(viii)
- To discuss litigation to which the lodging tax board is a party or proposed litigation to which the lodging tax board may be a party. W.S. 16-4-405(a)(iii)

Section 7 - Minutes and Agenda

Updated 2011

The minutes of lodging tax board meetings are the fundamental communication between the lodging tax board and the county commissioners, city council members, and the public. They tell these important groups what you have done. The agenda for your meeting lets these groups know what you plan to do. A suggested agenda outline is given in Appendix 706.

For ease of reference the minutes should follow the same order as the agenda. It helps if you keep the same order from meeting to meeting. You may also want to use topic and sub-topic headings to make the minutes easier to read. Be sure to record the time when the meeting begins and ends.

A sample outline for your minutes is given in Appendix 707.

- Minutes of a meeting where action is taken are required to be recorded and published.
- If no action is taken, minutes are required to be recorded but not published. W.S. 16-4-403(c)(I)
- The chairman of the board and the secretary should both sign the minutes.
- To make it easier to find past decisions for later reference, you may want to extract critical agenda items and those that have long-term impact. Critical motions and decisions can be kept in your policy guide or in a separate file.

Section 8 - Photo Library

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As you start putting together promotional material for your community, you will find that you need photographs with a wide variety of subject matter taken at different times of year. Maintaining a photo library takes constant effort and commitment from the board since buildings and attractions change. Remember that the photographs you use will create expectations for potential guests. If they can't find what the photograph shows, they may be disappointed or even angry.

Here are a few ideas to help you build a photo library.

- Work with the Wyoming Office of Tourism. They have photographers on contract throughout the state and may be able to supply the shot you need. These photographs are normally provided free of charge with credit to be given to the Division. A simple photo credit; "Courtesy of Wyoming Wyoming Office of Tourism" is usually sufficient credit.
- Hire a professional photographer to take the photographs you want or use some from their personal photo library. This can be expensive so if you choose this method, be sure you have an agreement in writing stating how you can use the photographs and what credit needs to be given.
- Sponsor a community contest for the subject matter you are interested in. Pay a fixed fee for each photograph you decide to add to your library. As with the professionals, you need an

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- agreement stating how you can use the photographs and what credit needs to be given.
- Encourage board or staff members who are amateur photographers to take pictures. The board might decide to pay for equipment, film, or processing. It is easier for all involved if clear guidelines are established up front concerning number of photographs, subject matter, etc.
- Use a photo release form (see Appendix 709) if the photo includes identifiable people.

Section 9 - Protecting Property Rights

Updated 2011

Over time your lodging tax board will create a large volume of promotional materials. You may also have invested large amounts of time and energy (and perhaps money) in developing a logo or slogan to promote your community. Your board may want to protect these items from unauthorized reproduction. On the other hand, you may decide that the more ways your community's name is promoted the better and thus not concern yourself with (and in fact may even encourage) copying. If you do have something your board feels is worth protecting, it is important to seek legal advice to determine the best way to protect it.

Trademarks

When wording or an image has been used enough to indicate a source of goods or services, and that source is distinguishable from those of others, that is a trademark. State trademarks are controlled under the Wyoming Trademarks Act (see Appendix 705) and federal trademarks are controlled primarily under the Lanham Act. Trademarks are also protected under common law.

Applications to register your trademark can be obtained from the Secretary of State, Corporations Division.

Once registered, you may decide to license your trademark to someone else for their use. An example is given in Appendix 710 where your board charges a fee for the use of your trademark and in Appendix 711 where you allow your trademark to be used for free.

Copyright

Written material, whether in print or on the Internet, is subject to copyright protection.

Section 10 - Public Records

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With only a few exceptions, all information your lodging tax board receives or generates is open for public inspection. Items classified as public records in the Public Record Act include:

- The original and copies of any paper, correspondence, form, book, photograph, photostat, film, microfilm, sound recording, map drawing or other document, regardless of physical form or characteristics. W.S. 16-4-201(a)(v)
- All original vouchers, receipts and other documents dealing with the receipt, use and disposition of all public property and public income from all sources whatsoever. W.S. 16-4-201(a)(vi)(A)
- All agreements and contracts to which the lodging tax board is a party. W.S. 16-4-

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201(a)(vi)(A)

- All fidelity, surety and performance bonds. W.S. 16-4-201(a)(vi)(A)
- All claims filed against the lodging tax board. W.S. 16-4-201(a)(vi)(A)
- All records, correspondence, exhibits, books, booklets, drawings, maps, blank forms, and all documents and reports made for the internal administration of the lodging tax board. W.S. 16-4-201(a)(vi)(B)
- Employment contracts, working agreements or other documents setting forth the terms and conditions of employment of lodging tax board employees are not considered part of a personnel file and are thus available for public inspection. W.S. 16-4-203(d)(iii)

Public Inspection

All public records listed above can be inspected by any person at reasonable times, but the lodging tax board can establish public inspection guidelines in order to protect the records and to prevent unnecessary interference with the duties of the lodging tax board. W.S. 16-4-202(a)

If the public records requested are not in the custody or control of the lodging tax board, the person requesting the information must be told immediately. W.S. 16-4-202(b)

If the public records requested are in the custody and control of the lodging tax board but are in active use or in storage, and therefore not available at the time an applicant asks to examine them, the board shall notify the applicant of this situation. W.S. 16-4-202(c)

In all cases where a person has the right to inspect any public records, he may obtain a copy for a reasonable fee to be set by the lodging tax board. W.S. 16-4-204(a)

Restricted Records

The lodging tax board shall deny the right of inspection of the following records, unless otherwise provided by law:

- Medical, psychological and sociological data on individual persons. W.S. 16-4-203(d)(I)
- Personnel files including applications, letters of reference, performance ratings, and scholastic achievement data (these files are available to the individual employee and the lodging tax board.) W.S. 16-4-203(d)(iii)
- Trade secrets, privileged information and confidential commercial or financial data furnished by or obtained from any person. W.S. 16-4-203(d)(v)

Penalty for Violation

Any person who willfully and knowingly violates the Public Records Act is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$750. W.S. 16-4-205

Section 11 - Record Retention

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At the time of this writing, there are no records retention schedules available. However, WTIC is

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working with the State Archives to develop a schedule. For now, you should maintain all minutes and proceeding material as permanent records; personnel records should be kept for a minimum of four years after separation of employee; and budget and financial information should be kept at least 10 years. A complete schedule with retention times will be provided in Appendix 718 as soon as it is available.

Section 12 - Resource Material

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Bidding, RFP, RFQ Information

Dept of Administration & Information, General Services

Procurement Manager, (307) 777-7253

Link: [Procurement Section](#)

Records Retention Information

Wyoming State Archives, (307) 777-5586

Link: [Records Management](#)

This manual should be used as a guide only as it is based on changing legal requirements. We suggest you consult appropriate professional counsel if you have specific questions. The following material is included in the appendix section of this manual for general reference. You can also check the State's websites at <http://legisweb.state.wy.us> for current statutes and <http://soswy.state.wy.us> for current rules.

- Appendix 701 - Wyoming Statute 9-2-10: bidding processes
- Appendix 702 - Wyoming Statute 16-4-2: Public Records
- Appendix 703 - Wyoming Statute 16-4-4: Public Meetings
- Appendix 704 - Wyoming Statute 38-2-1: Surety Bonds
- Appendix 705 - Wyoming Statute 40-1-1: Trademarks and Service Marks
- Appendix 706 - Sample Meeting Agenda
- Appendix 707 - Sample Meeting Minutes
- Appendix 708 - Agency of Record Agreement
- Appendix 709 - Sample Photo Release
- Appendix 710 - Trademark License Agreement with Fee
- Appendix 711 - Trademark License Agreement without Fee
- Appendix 712 - Letter of Agreement for Office Space
- Appendix 713 - Letter of Agreement for Staff and Limited Services