

# Slippery Rock University

## Purchasing and Contracting Policies and Procedures

### I. POLICY

#### PURPOSE

The Purchasing and Contracts Offices strive to make the procurement of all goods and services as simple and efficient as legally possible. Our role is to establish institutional guidelines and prudent business practices for the procurement of goods and services in accordance with the Commonwealth of Pennsylvania Procurement Code (Act 57 of 1998) and the Pennsylvania State System of Higher Education polices. At the same time attempt to find legal solutions and strategies to help expedite and simplify the process.

#### MISSION

The Purchasing and Contracts Offices provide valued customer service by using best business practices in the acquisition of quality goods and services while adhering to University, state and federal requirements in support of the University's mission of excellence in undergraduate and graduate education.

### II. PROCEDURES

#### AUTHORITY

**The president or his designees will serve as contracting officers for the University and, as such, are the only individuals authorized to procure goods and services, enter into and administer contracts and make written determinations with respect to contracts. Those individuals who make unauthorized purchasing or contractual obligations will be held personally liable for their actions.**

#### Contracting Officer

##### Duties of the Contracting Officer

- The only individual authorized to procure goods, services, supplies and construction; enter into and administer contracts; and make determinations with respect to contracts for the State System.
- Determine the method of source selection and public notice.
- Makes the written determination for sole source purchases.
- Determines pre-qualifications of prospective bidders, whenever a pre-qualification list is to be use for the procurement action.
- Whenever a contract type other than a firm, fixed-price contract or an emergency procurement, the Contracting Officer will first review the contractor's accounting system to ensure it meets acceptable accounting standards.
- Inspect the plant of contractors or subcontractors and audit cost and pricing data to the extent necessary to ensure that the provisions of the contract are met and the pricing is accurate.
- Appoint selection committees.

- Ensure that withdrawals of bids are made in accordance with the provisions of Act 57.
- Determine the security, payments and performance bonding required in each contract.
- Hear and issue findings on bid protests, claims, and/or disputes concerning solicitation, award or administration of a contract.

## REQUISITIONS

All University purchases begin with a requisition initiated by the department requesting the goods and services, and must be entered into SAP before the purchase is made. This allows the requisition to be electronically approved by the appropriate management officer, and also assures there are budget funds available to pay for the goods or services. For services \$1,500 or more, a requisition should be entered four to six weeks before the service is required for the Contracts Office to complete a Service Purchase Contract. For purchases and services \$21,000 and over, a requisition should be entered six to eight weeks before the goods or services are required so Purchasing or Contracts can solicit bids. Additional time should be allotted for manufacturing and delivery of goods.

Requisitions must include as much information and specification of the goods or services required that you can obtain to be placed in the header text, or the item detail text section of the SAP electronic requisition. Insufficient information or specification may delay the purchasing process and/or result in goods or services differing from those desired. Purchasing and Contracts personnel can only purchase precisely what is needed when the requisition adequately describes the requirements. The Purchasing Office can provide assistance in the form of catalogs, lists of suppliers, product specifications, and price estimates.

### **A. Purchases \$21,000 and under**

- Procurements in amounts of \$250 or less should be handled by the University's Purchasing Card whenever possible and appropriate, as defined under separate policy document for that program.
- Purchases under \$21,000.00 do not require competitive bidding. Although no formal bidding is required, departments must contemplate prudent business practices and should solicit at least three telephone/internet bids whenever possible and practical. Bids may be solicited under \$21,000 at the discretion of the Director of Purchasing and Contract Services.
- University Legal Counsel must pre-approve all service contracts that exceed \$5,000.00.
- All procurements must be authorized in advance by Purchasing and Contracts Offices.
- Under no circumstances should purchases be split up to avoid this dollar threshold. Solicitation of bids is encouraged. Buying in a series means making multiple purchases of the same item or service from the same vendor within a twelve month period. This practice is prohibited.
- All requests for purchases and services must be entered into SAP. The only exception is construction requests.
- Purchases of office supplies and toner cartridges up to \$250 per transaction should be made through University contract vendors. Authorized department staff may order supplies with verbal organization manager approval.

## **B. Purchases \$21,000 or over**

Pursuant to Act 57, Act 188 and Board of Governors Policy 1983-02-A, all University purchases greater than \$20,100 must be publicly advertised and competitively bid under institutionally established business practices. Such competitive bidding will be undertaken centrally by Purchasing and Contracts and documented appropriately for audit purposes.

The appropriate format is determined by Purchasing and Contracts and depends upon the nature and complexity of the goods or services required. A request for quotation or invitation for bid is used for the purchase of most commodities, supplies, and equipment when price is the only determining factor.

A request for proposal is used for services and specialized product purchases when other evaluation criteria also need to be considered. Regardless of the bid solicitation method utilized, adequate public notice must be given with adequate response time. Bid solicitations may only be issued by Purchasing and Contracts.

All bids whether written or electronic must remain sealed and the contents not disclosed until the designated bid opening time. Bids received after the formal bid opening time, regardless of reason, will not be accepted for consideration. Written bids shall be opened publicly in the presence of one or more witnesses. No determination of the successful bidder will be made at the bid opening. An award will be made only after careful review by appropriate University personnel.

All proposals received in response to a request for proposal will remain sealed until the designated opening time. The opening of sealed proposals is not open to the public. Proposals will be held in confidence and, except for proposals which are subject to the Pennsylvania "Right to Know" Law, and the University's Right to Know Policy, will not be revealed or discussed with competitors to protect proprietary information.

Bid information, including contracts awarded to successful bidders, is available by contacting Purchasing or Contracts.

On requests for quotations, awards will be made to the lowest responsive, responsible bidder within 60 days of the bid opening date. For request for proposals, the award is made to the bidder submitting the proposal deemed most advantageous to the University considering price and other evaluation factors as specified in the request for proposal. This involves review by an evaluation committee consisting of knowledgeable University personnel and at least one member of the purchasing staff. The contracting officer has the right to reject any bid or proposal that he/she has just cause to believe is not in the best interest of the University.

Purchasing and Contracts will make an award recommendation and prepare the appropriate purchasing document (contract or purchase order) for submission to the contracting officer and fiscal officer, or their designees, for review and approval. Contracts for services in excess of \$5,000 must also be forwarded to University Legal Counsel and, if in excess of \$20,000 to the Commonwealth Attorney General for review and approval. Contracts in excess of \$500,000 require approval by the Office of General Counsel.

## **C. Purchases Procured with Federal Funds**

In accordance with the Office of Management and Budget guidelines, the University must follow five methods of procurement for micro-, small-, and over-threshold purchases. Specific

information is required to be documented and attached to all purchase requisitions prior to purchases. See Purchases Procured with Federal Funds by Non-Federal Entities policy on the SRU Grant Management page at <http://www.sru.edu/offices/grants-research-and-sponsored-programs>.

**For purchases less than \$10,000**, complete the checklist for purchases procured with federal funds by Non-Federal Entities. Checklist can be found on the SRU Grant Management page. The checklist should be attached to the purchase requisition.

**For purchases \$10,001 to \$21,000**, requisitioner will need to submit at least **three** price quotes. Quotes can include written, telephone or internet quotations. This documentation should be attached to the purchase requisition.

**For purchases greater than \$21,000**, requisitioner will need to follow standard university bidding procedures. Contact James Revesz, Director of Contracts and Purchasing, for assistance with the formal bid process. It is important therefore that the buyer communicate their plans for major purchases as early as possible so there will be reasonable time to accomplish the bidding procedure.

**Noncompetitive Purchases**, Special circumstances must be present and applicable for noncompetitive purchases. Follow Sole Source Certification procedures.

#### D. Additional Internal Approvals

All purchases that normally require additional approvals (aka "technical standards approval" under the Purchasing Guidelines) shall continue requiring such approvals, regardless of dollar value. Examples include, but are not limited to:

Item or Service	Additional Approval by:
Computer Hardware / Software	Information Services
Equipment affecting Facilities	Facilities and Planning
Hazardous Materials or Related Services	Environmental Health & Safety Office
Publication - Use of Logo, Seals, etc.	University Public Relations
Grants and Sponsored Research	Restricted Funds Office

#### E. Exceptions to the Competitive Bidding Requirements

Exceptions to the competitive bidding requirements are authorized for the following: (i) emergency procurements, (ii) sole source procurements, (iii) goods or services available under state contracts, (iv) goods or services available from agencies for persons with disabilities (i.e. Pennsylvania Industries for Blind and Handicapped), (v) procurement of design professional services (which is subject to competitive state selection process referred to as "Request for Proposal") and (vi) items specified under grant or restricted gift provisions. An exception may also be authorized for emergency facility projects when a threat exists to public health, welfare or the safety. In such case, written documentation substantiating the emergency and for the selection of the contractor must be included in the contract file.

**Any exception to the competitive bidding requirement for emergency procurement must be approved in advance by the Contracts Office.**

### **Sole Source Contracts**

A contract may be awarded for an item without the necessity of bidding when the Contracting Officer determines in writing that one of the following statutory conditions exists:

- Only a single contractor is capable of providing the construction;
- A federal or state statute or federal regulation exempts the construction from competitive procurements;
- The total cost of the purchase or service is less than \$21,000;
- It is clearly not feasible to award the contract on a competitive basis;
- The services involve the repair, modification or calibration of equipment and the work is to be performed by the manufacturer of the equipment or by an authorized dealer, **provided the Contracting Officer determines that bidding is not appropriate under the circumstances, or;**
- The contract is in the best interest of the Commonwealth.

Before entering into a sole source contract, a statement of justification must be completed by the requisitioner and submitted to the Contracts and Purchasing Office for consideration. If the sole source procurement is approved locally the contracting officer will submit a Sole Source Certification form to University Legal Counsel (ULC) for review. Legal counsel will either approve or disapprove the sole source as viable and return it to the contracting officer for further processing. If ULC approves the sole source, it is then posted on Procurement for public notice for the required seven days. If the sole source is not challenged, the contracting officer will submit the sole source to ULC for approval.

### **Emergency Contracts**

Emergency Contracts are permissible when the Contracting Officer or his designee's determines that there is a threat to public health, safety and welfare or circumstances outside the control of the University create an urgency of need which necessitates the suspension of normal bidding and review requirements.

When possible two bids should be secured. These do not have to be in writing. However, written determination of the basis for the emergency and for the selection of the contractor must be included in the contract file and sent in the form of a certification when the contract is submitted for legal review after the work is completed.

The following items are required for all Emergency Contracts:

- Written Scope of Work
- Contractor's written documentation of its bid
- Performance and Payment Bonds (if required)
- Prevailing Wage Determination (if required)

### **F. Minority and Women Business Enterprise (MBE/WBE)**

It is the University's policy to seek and recruit small and disadvantaged businesses, including minority and women owned business enterprises (MBE/WBE), for inclusion on the vendor list. Vendors are identified through minority magazines, trade fairs, and the

Commonwealth Office of Minority and Women Business. On a yearly basis, at least one MBE trade show is attended by the Purchasing and Contracts Director or his/her designee. The names, addresses, phone numbers and product listings, if available, of identified small and disadvantaged businesses are shared with other universities in the Pennsylvania State System of Higher Education.

When identified, qualified small and disadvantaged businesses are added to the vendor list for the goods or services they can provide. Purchasing and Contract Services will make every reasonable attempt to include one or more of these businesses on every request for quotation or proposal. Bid and proposal evaluation procedures do not allow for preference or advantage ratings for any vendors, but provide equality for all vendors.

The following web site is a good source of information relating to MBE/WBE's in Pennsylvania:

<http://www.dgsapp.state.pa.us/cabd/mwbdata.asp>

### **G. Proprietary Specifications**

The use of proprietary specifications is not permitted without advance written approval with justification.

### **H. Modification or Withdrawal of Bids**

Bids may be modified or withdrawn by the bidder upon written notice or in person any time prior to the date and time set for the opening of the bids. Except as otherwise provided in this part, requests for withdrawals and modifications of bids received after the exact hour and date specified for the opening of bids shall not be considered.

Withdrawal of erroneous bids after bid opening but before award shall be permitted by written determination of the contracting officer when the bidder requests relief and presents credible evidence that the reason for the lower bid price was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional arithmetical error or an unintentional omission of a substantial quantity of work, labor, material or services made directly in the compilation of the bid.

### **I. Bid Protests**

A bid protest is a procedural mechanism that permits an unsuccessful vendor/contractor or a potential vendor/contractor to file a complaint in regards to the solicitation and/or awarding of a public contract.

### **J. Resolution of Contract Disputes**

If a controversy arises between a contractor and the University as a result of a contractual relationship (i.e., breach of contract, mistake, misrepresentation or other cause for contract modification or recession) a claim must first be filed in writing with the Contracting Officer, the Vice President for Finance and Administration, within six months after it accrues.

The Contracting Officer has the authority to settle or resolve this action without the necessity of bringing the matter before the Board of Claims for formal adjudication. However, all settlements must be reviewed and approved by Chief Council and a release

must be prepared and executed by all parties that must include the contractor, the University, Chief Council and the OAG. Untimely claims are to be disregarded by the Contracting Officer in consultation with University Legal Counsel.

### **K. Appropriate and Allowable Purchases**

It is the University's primary mission to provide a quality education to students. Consequently, appropriate and allowable purchases would include all goods, services, and construction necessary to accomplish that mission. These include expenditures, within budget limitations, for instruction, research, public service, academic support, student services, institutional support, operation and maintenance of facilities, technology and auxiliary operations.

Public funds should only be used for public purposes. University funds should not be used to purchase gifts or personal items for employees, alcohol, party supplies, flowers for individuals, or similar items that benefit only a select few or have no legitimate business or educational purpose. In all instances, the Purchasing Office has the right to question any purchase request that appears inappropriate. If, after seeking further justification from the requestor, the Purchasing Office still believes the purchase request to be questionable, the matter will be referred to the Vice President for Finance and Administrative Affairs, or his/her designee, for final determination of appropriateness.

### **L. Principles of Prudent Procurement Practices**

The University uses the following principles of good procurement practices to implement this policy:

Responsiveness:

1. First consideration is given to the objectives and policies of the institution.
2. Community understanding of purchasing procedures and requirements is assured.

Accountability:

1. Compliance with all federal, Commonwealth of Pennsylvania, Pennsylvania State System of Higher Education, and University laws, regulations, and policies is maintained.
2. The maximum value for each dollar of expenditure is sought through:
  1. Assertively seeking the widest possible audience of potential vendors to maximize competition.
  2. Setting aside competitive practices only in the most justifiable circumstances.
  3. Pursuing cooperation and collaboration with other Universities and public agencies to maximize value.
3. Adequate documentation is provided for public review as an "audit trail" on all procurement decisions.

Fairness and Openness:

1. All competitive suppliers are granted equal consideration insofar as state or federal statutes and institutional policies permit.
2. A reasonable effort is made to make all competing suppliers aware of institutional needs for goods and services.
3. Small and disadvantaged businesses, including Minority/Women Business Enterprises

- (MBE/WBE), are sought actively as suppliers of goods and services.
4. Honesty in sales representation, whether offered by verbal or written statement, an advertisement, or a sample of the product, is demanded.
  5. Business is conducted with potential and current suppliers in an atmosphere of good faith, devoid of intentional misrepresentation.
  6. Consent from the originator of proprietary ideas and designs are received before using them for competitive purchasing purposes.
  7. Personal and institutional gifts or gratuities are not accepted.

## **M. Responsibility and Ethics**

It is each employee's responsibility to:

- Ensure that purchase costs are reasonable. Employees must take whatever action is necessary to ensure the reasonableness of costs, including, as a minimum, the comparison of pricing from more than one vendor.
- Obtain purchase order, contract and change order authorization from Purchasing and Contract Services before committing the University.
- Adhere to the Principles of Public Notice (where applicable), including responsiveness (satisfying the objectives and policies of the University while promoting community understanding of purchasing procedures and requirements), accountability, fairness and openness to all firms or individuals seeking economic business opportunities at the University.
- Protection of public funds as if they are your own. All purchases are subject to public scrutiny and audits by authorities.
- Maintain records for audit.
- Report inappropriate purchase or contracting activities to the Contracting Officer.
- Comply with the University's Right to Know Policy
- Adhere to General Ethical Standards, which include:
  - No attempt to realize personal gain
  - Avoid conflict of interest (or appearance of same)
  - No improper use of confidential information
  - Cannot require use of a particular surety company, agency

## **III. Sanctions**

Those individuals who make unauthorized purchasing or contractual obligations will be held personally liable for their actions.

## **IV. Responsibility for Implementation**

The President or designees will serve as Contracting Officers for the University and, as such, are the only individuals authorized to procure goods and services, enter into and administer contracts and make written determinations with respect to contracts.

## **V. SCOPE**

This Policy applies to all university employees.

Commonwealth Procurement Code - Act 57 establishes the statutory limitations and provisions for all procurement activities for the Commonwealth of Pennsylvania. All procurement of goods, supplies, services and construction for the Pennsylvania State

System of Higher Education must conform to the policies, procedures and statutory limitations as set forth in Act 57. The provisions of the Act apply to the State System as a state-affiliated entity such as the State System of Higher Education.

Adherence to the following policies and conditions apply to all purchases, regardless of dollar amount:

- Act 57 of 1998, known as the Commonwealth Procurement Code
- Board Of Governors Policies:
  - 1998-04-A, Procurement of Goods, Services, Supplies and Construction
  - 1990-07-A, Professional Services Contracting(The Above Policies are accessible on the PASSHE website)
- Adverse Interests Act
- SRU Purchasing Card Policy
- State Ethics Guidelines

These detailed, written policies are available upon request.