

Reason for Policy

This policy outlines matters pertaining to purchasing and contracting goods or services including the use of procurement cards and thresholds. The associated Purchasing and Contracting procedures detail how Purchasing and Contracting Services will implement this policy.

Entities Affected by this Policy

Finance & Administration, all campus entities or business units engaged in purchasing, contracting or procurement.

Web Site Address for this Policy

<https://policies.uoregon.edu/vol-4-finance-administration-infrastructure/ch-9-purchasing-contracting/purchasing-and-contracts>~~<http://policies.uoregon.edu/purchasing-and-contracts-personal-or-professional-services-and-goods-and-services>~~

Responsible Office

For questions about this policy, please contact Purchasing and Contracting Services at 541-346-2416.

Enactment & Revision History

Amendments approved by the university president; policy renumbered to IV.09.05 (from 580.062 et seq) on May 30, 2019

Technical revisions enacted by the University Secretary on September 3, 2015.

Became a University of Oregon Policy by operation of law on July 1, 2014.

Former Oregon Administrative Rule Chapter 580 Division 62.

Policy

A. Definitions

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All capitalized terms in Policy [IV.09.05](#) have the meanings set forth in Policy IV.09.06 unless the context requires otherwise or except as stated.

“Construction Contracts” are contracts for goods or services where state law requires the University to pay for labor at published prevailing wage rates established by the Oregon Bureau of Labor and Industries-, or where the University receives construction related professional services, including services provided by architects, engineers, energy analysts and commissioning agents, planners, land surveyors, construction contractors, and construction managers.

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~~For ease of reference, the following definitions from Policy IV.09.06 used in this Policy are provided below, and subject to change:~~

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~~“Competitive Process” means the process of procuring goods and services and construction-related services by fair and open competition, under varying market conditions, with the intent of minimizing opportunities for favoritism and assuring that Contracts are award equitably and economically using in determining such equitability and economy.~~

Commented [GS2R1]: Deleted to avoid competing policies.

~~“Qualified Rehabilitation Facility” means a nonprofit activity center or rehabilitation facility authorized by the Oregon Department of Administrative Services to provide goods or services in accordance with ORS 279.835 et seq.~~

~~“Retainer Contract” means a Contract by which, pursuant to a Solicitation Document, multiple Contractors are authorized to provide specific supplies or equipment to or perform specific services for the Universities. Contractors on a Retainer Contract may provide goods or services on a non-exclusive and as-needed basis.~~

~~“Single Seller” means the only Contractor of a particular product or service reasonably available. “Solicitation Document” means an Invitation to Bid, Request for Proposals, Request for Qualifications, Request for or any other written document issued or posted on the University procurement website by the University that outlines the required Specifications necessary to submit a Bid, Proposal, or other response.~~

B. Procurement and Contracting Procedures

The in addition to this Policy, the University follows ~~U~~University Policy IV.09.02 and University Policy ~~IV.09.06 580.061~~ when procuring goods or services. Purchasing and Contracting Services creates and maintains purchasing and contracting procedures that detail how this ~~policy~~Policy is implemented. This ~~P~~policy does not cover Construction Contracts, as contemplated in Policy ~~580.063~~IV.07.10.

C. Procurement Card

The University may maintain procurement card services for the benefit of the University. Purchasing and Contracting Services will publish policies and procedures governing use of the procurement card.

D. Goods and Services Contract Procurement Thresholds

(1) ~~When procuring goods or services, excluding Construction Contracts, the University will, at minimum, conduct the procurement procure goods and services based on the anticipated contract price, in accordance with the Direct Procurement, Informal Procurement, or Formal Procurement method, unless another method is applicable methods enumerated in this Policy, based on the anticipated contract price, reimbursable expenses, and all amendments contemplated by the parties. Multiple contracts, purchase orders, or purchasing requisitions will cannot be issued separately with the intent to circumvent this Policy. Except as otherwise allowed under this Policy, the following anticipated contract price thresholds and processes apply to University purchases of goods and services. The University may establish lower procurement thresholds for specific procurements or as a University policy or procedure.~~

Commented [KW3]: I assume this sentence is a carryover from the old OUS Policy. It doesn't make sense to keep it here.

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(a) ~~\$2550,000~~ or less — Direct Procurement or other method of procurement that the Public University deems beneficial.

(b) ~~\$2550,000.01 to \$150250,000~~ — Informal Procurement, Formal Procurement, or other method of procurement, except the Direct Procurement method, that the University deems beneficial.

(c) Greater than ~~\$150250,000~~ — Formal Procurement or other method of procurement, except the Direct Procurement or Informal Procurement methods, that the University deems beneficial.

(2) Notwithstanding subsection (1), if the source of the funding for the procurement requires a different procurement method, the University ~~may~~ be required to comply with the procurement method required by the funding source in addition to this Policy.

Commented [KW5]: "may" or "must"? Or "will"? Or "shall"?

Commented [GS6R5]: Clarified

(3) For the purpose of determining the appropriate procurement threshold, the anticipated contract price can be calculated one of two ways:

(a) If the resulting contract is for a one-time purchase or project, the contract price is equal to any fees or expenses payable to the contractor for that one-time purchase or project.

(b) If the resulting contract is for a one-time purchase or project with renewal terms, the contract price is equal to any fees or expenses payable to the contractor in a single year term commitment.

E. Methods of Procurement

The University will use the following methods of procurement when procuring goods or services.

(1) Direct Procurement. A process where the University negotiates with a single entity to provide goods or services.

(2) Informal Procurement. An informal process conducted in a manner that is likely to solicit at least three (3) responsive offers.

(3) Formal Procurement. A Competitive Process where the University:

(a) Creates a Solicitation Document that contains the procurement procedures, scoring process, and necessary specifications.

(b) Publishes a notice of the procurement on the University procurement-business opportunities website and/or other medium for advertising that is accessible to the general public ~~and, at the discretion of the University, in a trade periodical, newspaper of general circulation, or other historically underrepresented business-targeted periodicals, University website, or other medium for advertising. The notice must that specify specifies~~ when and where the Solicitation Document may be obtained and the closing date/time. ~~The notice must be published~~ Respondents must be afforded a for a reasonable period to respond to the Solicitation. under the circumstances the procurement.

(c) Conducts the procurement in accordance with UO Policy IV.09.02 and UO Policy IV.09.06580-061.

(4) Emergency Procurement. The President or Sr. Vice President ~~of~~ for Finance and Administration, or designee, may declare an emergency in accordance with University policy when such a declaration is deemed appropriate. The reasons for the declaration will be documented and include justifications for the procedure used to select the entity for a contract within the scope of the emergency declaration. After the President or Sr. Vice President for Finance and Administration or designee has declared an emergency, the University may negotiate a contract with any qualified entity for services included in the scope of the emergency. The University will maintain appropriate records of negotiations carried out as part of the contracting process.

(5) Retainer. The University may conduct an Informal or Formal Procurement to enter into Retainer Contracts with multiple entities to provide goods or services at contracted rates of compensation, or compensation or based on an established set of qualifications.

Commented [KW7]: These seem very prescriptive for a Policy statement. Perhaps create a separate procedures document that outlines these steps and make this statement broader, like the Informal Procurement above it.

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(6) Alternative Processes. Notwithstanding the foregoing procedures, the Chief Procurement Officer, or designee, may authorize alternative procurements when formal or informal procurement methods are unlikely to produce proposals that are responsive to University objectives or otherwise diminish the University's obligation to secure best value in connection with the purchase of goods and services. The Chief Procurement Officer may approve an alternative process in the following circumstances:

- (a) There are a limited number of qualified respondents able to respond to a public procurement; or
- (b) Qualified respondents, including but not limited to certified historically underrepresented businesses, are not able or are unwilling to respond to formal procurement; or
- (c) Due to a broad range of possible functional solutions and pricing, the University is unable to develop an adequate specification or project budget without significant vendor engagement.

(7) Exempt. The University need not follow, regardless of value, a Competitive Process when seeking, or acquiring, or paying for the following goods and services [listed in this section. An exemption under federal law may also be required in order to forego a Competitive Process.](#)

- (a) Educational services that relate directly to the instruction of University students.
- (b) Advertising, [ad aggregators](#), and media services.
- (c) Price-regulated goods and services, including utilities, where the rate or price for the goods or services being purchased is established by [a federal](#), state, or local regulatory authority.
- (d) Goods or services under federal contracts. When the price of goods and services has been established by a contract with an agency of the federal government pursuant to a federal contract award, the University may purchase the goods and services in accordance with the federal contract. In addition, the University may purchase specific equipment that is only available from one source or use specific entities that are expressly required under the terms of the contract.
- (e) Protected intellectual property. Protected intellectual property materials covered by this exemption may include, but are not limited to, copyrighted materials, licenses of patents, textbooks, workbooks, curriculum kits, reference materials, software, periodicals, library books, library materials, and audio, visual, and electronic media.
- (f) Investment contracts and retirement plan services, excluding consulting services.
- (g) Food and food-related products.

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(h) Maintenance services directly from the contractor providing the goods or services or the original equipment manufacturer or creator of the goods or services.

(i) Used or pre-owned personal property.

Commented [KW9]: Or "pre-owned"?

(j) Goods or services purchased for resale to outside entities.

(k) Goods or services related to intercollegiate athletic programs.

(L) Cadavers or cadaveric organs.

(m) Hotel reservations at a hotel that is a site for conferences or workshops organized by outside entities.-

(n) Dues, registrations, and membership fees.

(o) Gasoline, diesel fuel, heating oil, lubricants, natural gas, electricity, and similar commodities and products and the transportation thereof.

(p) Supplies, maintenance, and services for ocean-going vessels when they are in other than home port.

(q) Repair and overhaul of goods or equipment.

(r) Goods or services purchased and provided in foreign countries.

(s) Insurance and insurance-related contracts.

(t) Grants, including services related to the development of grant applications and proposals.

(u) Contracts for legal services, including professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the University is or may become interested.

(v) Contracts entered into, issued, or established~~executed~~ in connection with:

(A) The incurring of debt by the University, including but not limited to the issuance of bonds, certificates of participation, and other debt repayment obligations, and any associated contracts, regardless of whether the obligations that the contracts establish are general, special, or limited;

Commented [KW10]: These no longer exist.

(B) The making of program loans and similar extensions or advances of funds, aid, or assistance by the University to a public or private body for the purpose of carrying out, promoting, or sustaining activities or programs authorized by law; or

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(C) The investment of funds by the University as authorized by law and other financial transactions of the University that by their character cannot practically be established under the Competitive Process.

(D) Grant-funded projects where professional or personal service providers are named in grant or identified in the grant budget, ~~where a the granting agency has issued an express waiver to a competitive process, or where the contracted party qualifies as a subaward grantee,~~ unless the University determines it is in its best interest to require a Competitive Process.

(w) Contracts for employee benefit plans as authorized by law.

(x) Services provided by those in the medical community including, but not limited to, doctors, physicians, psychologists, nurses, veterinarians, and those with specific license to administer treatments for the health and well-being of people or animals.

(y) Artists, musicians, performers, photographers, videographers, graphic designers, website designers, and speakers.

(z) Sponsorship agreements for University events or facilities.

(aa) Booth space for exhibits at conventions, recruitment events, trade shows, and similar events.

(bb) Third-party student recruitment service providers.

(cc) Group travel in foreign countries.

(8) Sole Source. A process where the Chief Procurement Officer, or designee, has made a written determination that due to special needs or qualifications, only a Single Seller is reasonably available to provide such goods or services. Sole source procurement will be avoided except when no reasonably available alternative source exists.

~~(a) The University will provide public notice of its determination that the person or professional services or goods or services are only available from a Single Seller. Public notice may be provided on the University procurement website. The public notice will describe the goods or services to be acquired from the Single Seller, identify the prospective contractor, and include the date, time and place that protests are due. The University shall give entities at least seven (7) Calendar days from the date of notice publication to protest the sole source determination.~~

(b) An entity may protest the University's determination that the goods or services are available from a Single Seller in accordance with Policy ~~580-061~~ IV.09.06(CC).

-(9) Special Entity.

Commented [KW11]: Again, these seem more like procedures than Policy.

Commented [GS12R11]: We simplified this and we will cover the details in our procedures.

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(a) The University may purchase goods or services, without using a Competitive Process, if purchasing from a federal, state, local governmental agency, a federally recognized tribe, or a corporation owned and operated by a government entity, (including, but not limited to, [OHSU \(Oregon Health & Science University\)](#)), or a state ~~Qualified Rehabilitation Facility~~[Oregon Forward Entity](#) certified by the Oregon Department of Human Services or the Oregon State Procurement Office.

(b) The University may participate in cooperative procurements with other contracting agencies or entities or utilize other public contracts or ~~cooperatively procured~~[cooperatively procured](#) contracts if it is determined, in writing, that the solicitation and award process used to award that contract was reasonably equivalent to the respective processes established in this policy, including notice during solicitation process that the contract resulting from the procurement may be utilized by other entities. Determinations regarding equivalency and adequacy of processes for cooperating procurements will be made by the Chief Procurement Officer.

(10) Special Procurement. A special procurement is an exemption from competitive procedures that the President or [Sr.](#) Vice President for Finance and Administration determines is appropriate because it:

~~(Aa)~~ Is reasonably expected to result in substantial cost savings to the University or to the public; or

~~(Bb)~~ Otherwise substantially promotes the public interest in a manner that could not [practically](#) be realized by complying with other processes described in this section.

Related Resources

<https://policies.uoregon.edu/ous-procurement-and-contracting-code>

<https://policies.uoregon.edu/vol-4-finance-administration-infrastructure/ch-9-purchasing-contracting/procurement-and-contracting>

<https://policies.uoregon.edu/capital-construction-and-contracting>

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