

IOWA STATE UNIVERSITY
PROCUREMENT SERVICES DEPARTMENT

DEPARTMENTAL PROCUREMENT PROCEDURES

December 1984
Revised 1991, 1997, 2005, 2008, Oct. 2012, Dec 2012, June 2014
Last Revised: August 2016

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**IOWA STATE UNIVERSITY
PROCUREMENT SERVICES DEPARTMENT POLICIES AND PROCEDURES**

1. INTRODUCTION

1.1 Statement of Policy

Public employment is a public trust. It is the expectation and responsibility of all Iowa State University employees, and particularly those of its Procurement Services Department, to promote professional integrity and objectivity in all transactions involving public funds. As such, employees must discharge their duties impartially assuring fair and open competition when conducting university business. Procurement Services is charged with providing responsive and responsible suppliers/contractors an opportunity to compete for university contracts. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of public trust and will result in disciplinary action, which may include termination of employment.

1.2 Applicability

These procurement policies and procedures apply to all goods and services regardless of funding source.

Exclusions: These procedures do not apply to the following situations:

- The procurement is a FP&M small project construction project > \$25,000 and <\$250,000. The bid processes for capital construction projects expected to cost \$25,000 or more are generally handled by Facilities Planning & Management (FP&M). Procurement Services may, at the determination of Facilities Planning & Management, handle capital projects in excess of \$25,000 and less than \$250,000 when only a single trade (e.g., roofing) is involved. When handling bids for capital projects in this cost range, the purchasing agent shall utilize the process approved by FP&M.
- The procurement is between the University and another State entity. Any contracts require prior review by Procurement Services or University Counsel.
- The procurement is for services provided by architects and engineers for capital construction projects, projects involving any university building or facility, or projects for the Special Schools. These acquisitions are coordinated by FP&M.
- The procurement is for the lease, sale, purchase, transfer, disposal or any other transaction involving an interest in real property. Such actions are coordinated by the Senior Vice-President for University Services and generally require approval by the Board of Regents, State of Iowa.
- The procurement is for an employment contract. Depending on the type of employment contract it must be coordinated with Human Resources or the Office of the Senior Vice President and Provost.
- The procurement is for property insurance or most other non-group insurance coverages, which are coordinated through the Office of Risk Management. Coverages coordinated through Procurement Services include group health, flexible spending, long-term care and international evacuation.

1.3 Fund Account Numbers

Each department is assigned one or more fund account numbers by the Controller's Department. All requisitions must include the complete number from the account(s) to be charged. Invalid or closed fund account numbers will not be accepted by the Requisitioning system since a match is made with numbers supplied by the Controller's Department. Specific fund numbers and certain types of acquisitions require approvals beyond the Department Chair or his/her designee, which is required for all requisitions. Purchasing agents are to ensure the appropriate Dean or Director has

approved all equipment acquisitions in excess of \$5,000. In addition, Sponsored Programs Accounting must authorize all equipment acquisitions purchased on sponsored funding. Ag Experiment Station, Cooperative Extension, Biotechnology, Environmental Health and Safety, etc., all are required to approve certain purchases. Procurement Services staff shall familiarize themselves with these requirements and assure advance approval by the appropriate parties.

1.4 Fund Sources

With the sole exception of 206 vending funds, all funds deposited with the University, regardless of source and including 490 Incentive Funds, are University funds and are to be handled in accordance with University and Regents procurement policies. No university funds may be used for the personal benefit of University employees. Although departments are allocated funds in their budgets for a given period, this allocation is only an authorization to requisition, not to purchase. All acquisitions become the property of ISU, not the individual requisitioning the item.

Funds originating through the ISU Foundation are transferred to the University as 497 funds. These funds are treated like any other University fund, with certain exceptions. University policy allows these funds to be used to support the mission of the University including events where alcohol is served, as long as it is consistent with the donor's intended use for these funds. The serving of alcohol on campus must be coordinated in advance through the Senior Vice President for University Services and/or the Office of Risk Management. Foundation 497 funds may not be used for the personal benefit of University employees. The determination of legitimate business purpose and consistency with the donor's intended use are the responsibility of the appropriate Department Chair, Director, or Dean.

Funds originating from federally sponsored projects require compliance with 2CFR Part 200. Procurement Services will adhere to Procurement Standards §200.317 to §200.326 effective July 1, 2018. Until that time ISU will comply with OMB Circulars A89, A-102 and A-110.

2. AUTHORITY & RESPONSIBILITY

2.1 Authority for Procurement

The Procurement Services Department is a division of the Office of the Senior Vice President for University Services. Authority for all procurement transactions has been delegated to the Assistant Vice President for Business Services by the Chief Business Officer of the University as stated in Board of Regents, State of Iowa policy (Section 2.2.6.A). This authority has been further delegated to purchasing agents and purchasing management by letters of delegation outlining specific contracting authority and limitations. Limited procurement authority has also been delegated to departments consistent with written agreements authorizing the use of Purchasing Cards (P-cards). Maximum p-card limits are established by Procurement Services for general campus users. Circumstances requiring exceptions require a departmental explanation of the need for higher limits and must be approved by the Director of Procurement Services. Oversight of the use of the p-card is the responsibility of the Procurement Services Department.

The Parks Library has been delegated the authority to order books, periodicals, and similar electronic content by the Chief Business Officer of the University. The University Book Store has been delegated authority by the Assistant Vice President for Business Services to procure textbooks, course materials and other items for resale to students, faculty, staff and the public. In the extended absence of the Assistant Vice President for Business Services or in an emergency situation, the Director of Procurement Services is authorized to sign for the Assistant Vice President for Business Services to meet any requirements stated in this document. The Associate Director of Procurement Services is also authorized to act for the Director in the Director's extended absence or in an emergency situation.

The Regents Chief Operating Officer (COO) will be responsible for setting the direction and prioritization of sourcing initiatives across the five Regents. The Director of Procurement Services will be ISU's member of the Procurement Council.

2.2 Authority to Commit University

Each purchasing agent, when requested to place orders by phone, has authorization to commit for goods and services not to exceed \$100,000. Unless otherwise stated in an individual's Memorandum of Delegation-Contract Authority any phone order above that amount will require approval by the Director of Procurement Services, prior to the order being placed. The Associate Director of Procurement Services or the Assistant Vice President for Business Services should approve in the absence of the Director of Procurement Services. In addition, purchasing agents, after negotiating modifications to unacceptable terms and provisions of supplier-generated agreements are authorized to sign such agreements, when associated with purchases handled by the respective agent, up to the following thresholds.

Purchasing Agent I	\$25,000
Purchasing Agent II	\$50,000
Purchasing Agent III	\$100,000
Purchasing Agent IV	\$200,000
Purchasing Agent V	\$250,000

Any contractual agreement or memorandum of agreement in excess of \$200,000, which is generated by the Procurement Services Department, and any supplier-generated agreement that exceeds the levels noted above, must be signed by the Director of Procurement Services, the Associate Director of Procurement Services, or the Assistant Vice President for Business Services. Before an individual purchase order ("I" order) or contract purchase order ("C" order), which exceeds the level of authority stated in the individual's respective Memorandum of Delegation-Contract Authority, is placed or sent to a supplier/contractor the Director or Associate Director of Procurement Services shall review the entire procurement process and approve placement of the order or execution of the contract.

2.3 Responsibility and Objectives

The function of the Procurement Services Department is to administer and provide centralized procurement services for all University departments. In providing these services and in accordance with sound business practices, Procurement Services seeks to realize the maximum value for every dollar expended.

To achieve this goal, the Procurement Services Department has been charged with responsibility for the following.

- a. Securing competitive bids, when appropriate and consistent with Board of Regents, State of Iowa policy and Code of Federal Regulations for federally-funded acquisitions, to obtain maximum value from the expenditures of University or Federal funds.
- b. Maintaining effective business relationships with the suppliers/contractors that service the University.
- c. Coordinating the procurement of goods and services for the academic, administrative, research, and outreach functions of the University, consistent with the University's Strategic Plan.
- d. Developing sources of supply to assure that University departments have an adequate number of qualified suppliers/contractors from which to obtain supplies, equipment and services.

- e. Encouraging utilization and development of diverse businesses, including businesses owned by women and socially disadvantaged groups.
- f. Promoting good working relationships with faculty, staff, and students through an understanding of their purpose and objectives.
- g. Promoting the highest level of service and facilitating acquisitions to help university departments meet their goals and research obligations, while adhering to state and federal requirements.
- h. Managing contracts to assure compliance and performance.

Procurement Services will handle purchases of \$15,000 or more for the special schools.

2.4 Unauthorized Purchases

Except for delegated procurement authority (purchasing card or certain small dollar professional services agreements, direct pays located at <http://www.purchasing.iastate.edu/policy/docs/Direct-Disbursement-Guidelines.pdf>); no person may obligate the University to a purchase without first receiving approval from the Procurement Services Department. Confirming requisitions for goods or services (that were not approved by Procurement Services in advance) may require a written explanation or email to accompany the requisition and be included with the documentation before a purchase order is printed or electronically distributed. Depending upon the frequency, risk, or severity of the infraction, the Director of Procurement Services may require a Supervisor, Department Chair, Dean, or Director to sign the explanatory document.

2.5 Sales Agreements

It is in the best interest of the University to refrain from signing supplier sales agreements. A basic set of terms and conditions governing a purchase may be found by accessing the Procurement Services website URL referenced on the purchase order. However, additional terms will likely be required for most acquisitions of services or equipment and Purchasing Agents are responsible for identifying and properly addressing those situations by adding language to the order or writing an agreement.

If a supplier requires its document to be signed, the appropriate procurement official will sign for the University, as noted in section 2.2, only after a properly approved requisition is received. A copy of the agreement will be retained in the procurement system.

2.6 Purchase of Goods or Services Available at ISU

Goods or services available through University stores/operations (Chemistry Stores, Central Stores, University Book Store) are generally to be used in lieu of writing extramural purchase orders or making external procurement card purchases. However, if items are not available from University stores/operations and significant savings are provided by using an outside source, this may be permitted. When departmental requirements involve electrical wiring, plumbing, or modification to buildings, Facilities Planning and Management must be involved and must approve utilization of outside contractors or labor sources.

2.7 Professional Development of Purchasing Professionals

All purchasing agents receive in-house training, and to the extent funding permits, are annually offered professional development opportunities associated with procurement requirements and best practices.

2.8 Oversight and Training of Individuals with Delegated Authority

Individuals with delegated authority are expected to participate and receive training offered by the procurement services department. The Director shall be responsible for monitoring the training needs of those with delegated authority and shall have the authority to withhold delegated authority, if necessary.

3. PROCUREMENT METHODS AND COMPETITIVE PROCESSES

3.1 Selection of the Competitive Process

Selection of the type and application of the competitive process to be used depends on the nature of the procurement, source and type of funding, and value of the expenditure. It is both Regents policy and the policy of the University to purchase goods and services in a manner that affords vendors a fair and equal opportunity to compete.

3.2 Competitive Thresholds

\$4900 or less – campus departments have purchasing authority via p-card, when operating consistent with the applicable written agreement and in compliance with P-card policies. This limit may be raised if doing so is in the best interest of the university and approved by the Director of Procurement Services.

Up to \$25,000 – except for the P-card transactions identified above, purchases of goods and services are processed through the existing requisition system and only require a price or rate quotation from an adequate number of sources if the fund source is Federal.

\$25,001 - \$50,000- competition for goods and services is sought via the 'informal solicitation' (phone quotes, fax, or email).

\$50,000 and above – formal competitive bid process (Request for Quotation or Request for Proposal).

Exemptions may include, but are not limited to, feed orders, livestock, veterinary/hospital supplies, food, other items that must be purchased on a spot-market or emergency basis, and certain acquisitions where price is not the only criteria of award.

3.3 Bid Limitations

Where appropriate on requests up to \$50,000, the purchasing agent will seek competition. Discretion shall be used by the purchasing agent as to the potential for cost savings/cost avoidance relative to the economies of mailing, faxing, emailing or phoning to obtain competitive prices. All transactions exceeding \$50,000 will be competitively bid, unless legitimate sole source or extenuating emergency circumstances exist, which are properly documented. In situations where it is not appropriate to seek competitive bids, orders of less than \$50,000 may be placed with a supplier statement of price.

With the higher competitive bid threshold, it is important to ensure that all bidding requirements of the federal government are met for federally funded acquisitions. Procurement by micro-purchase is the acquisition of supplies or services less than \$3,500 (or \$2,000 in the case for construction subject to Davis-Bacon Act) may be awarded without competition with awards equitably distributed among qualified suppliers.

A price or cost analysis is to be performed by the purchasing agent and documented on all federally funded transactions in excess of the Simplified Acquisition Threshold of \$150,000.

In cases where no price competition exists, profit shall be negotiated as a separate element of the price for each contract.

Price analysis may be accomplished in various ways, including the comparison of market prices, results of past bid processes and similar indicia, both at ISU and at other institutions, together with catalog prices and discounts.

NOTE: Equipment orders from \$5,000 to \$50,000 require a minimum of one phone, facsimile, or written bid to establish a firm price.

3.4 Informal Bid Process

When soliciting bids on any item or group of items costing less than \$50,000 as a single purchase or over the life of the contract, the Procurement Services Department will generally solicit bids by phone, email or fax in order to obtain a written offer from the supplier.

3.5 Formal Bid Process

Formal bids as outlined herein shall be required on items costing in aggregate more than \$50,000 as a single purchase or over the life of the contract. This formal Request For Quotation process is used for procurements where clear and concise specifications can be written and firm pricing can be established without further price negotiation with vendors. The formal Request For Proposal process is used for procurement method or solution is proposed by suppliers and factors other than price are in the best interest of the university. The Procurement Services Department will prepare a written "Request for Quotation" or "Request for Proposal" form and transmit notification, either via mail or electronically, requiring the supplier to properly identify its returned bid. The bid solicitation notification will be sent to the approved suppliers for the particular commodity being bid. The Request for Quotation shall contain the following information or require the steps stated below, at a minimum:

- a. Include a Form of Bid, or similar which requests pricing and the items necessary to evaluate the bid responses.
- b. Provide Bid Instructions with a stated time and due date. Include a complete description of goods/services needed, using functional specifications.
- c. List any special circumstances, i.e., critical delivery times, site preparation, special packing, etc.
- d. State the evaluation criteria upon which the bid solicitation will be evaluated. Evaluation criteria shall be listed in order of importance to the evaluation process.
- e. Provide the purchasing agent's name and contact information.
- f. Post the bid solicitation on the Procurement website.
- g. Advertise the bid on the TSB 48-hour website through the link from the 48-hour website.

Bids may be opened publicly, unless otherwise stated in the bid documents, on the due date and hour designated on the bid form.

Bids that are opened publicly are to be tabulated and the tabulation made available to all interested parties upon their request. Other than the bid tabulation, the contents of the quotations are not to be viewed by bidders until an award is made. Bids that are not opened publicly are not to be viewed or shared with other bidders until an award is made.

In addition to the use of electronic mail request for soliciting bids, all solicitations shall be posted on the ISU Procurement Services website for the period of time the bids are open. This site affords interested suppliers the opportunity to access and download bids electronically. In addition, after consulting with the Director of Procurement Services or Assistant Vice President for Business Services, the purchasing agent may cause to be printed in the Public Notices section of one (1) or more daily papers in the State of Iowa, a classified advertisement containing the following information at a minimum:

- a. Due date and time of formal bid opening.
- b. General description of commodity to be purchased.
- c. Phone number of person to be contacted to obtain official bid forms and the Procurement website (www.public.iastate.edu/~purchasing/vendors_quotes_out.htm) where bids can be accessed by vendors.
- d. Solicitation Number
- e. When required to meet federal requirements, the percentage of the federal fund support.

The TSB 48 hour website shall link to the ISU bid solicitation website for current and accurate information on all solicitations.

3.6 Request for Proposal

The purpose of a Request for Proposal (RFP) is to provide the supplier with sufficient information about a requirement for technical equipment or professional services so that the supplier may propose a solution to the requirement. Such proposals should include the following at a minimum:

- a. Instructions for attending a pre-proposal conference (purchasing agent discretion up to \$150,000 individual acquisition or \$150,000 projected annual contract value). Pre-proposal conferences are encouraged when the value of the acquisition (individual order) exceeds \$150,000 or a contract order exceeds \$250,000 over the life of the contract and there is a need for the conference. The Director of Procurement Services (or in the Director's absence, the Associate Director of Procurement Services) or the Assistant Vice President for Business Services may waive this requirement for a particular acquisition. Such waiver is to be documented. A pre-proposal conference may not be made mandatory without the documented consent of the Director of Procurement or the Assistant Vice President for Business Services.
- b. Purpose, intent and background of the requirement.
- c. Key dates in the proposal–award process.
- d. Administrative requirements for submitting a proposal and format for the proposal.
- e. Contractual terms and conditions.

- f. Scope of work, or description of desired outcome and performance requirements that the supplier must meet.
- g. Evaluation criteria, listed in order of importance and method(s) of evaluation.

3.7 Competitive Negotiation

Contracts may be awarded by Competitive Negotiation after an unsuccessful Request for Quotation or Request for Proposal process if the Director of Procurement Services or Assistant Vice President for Business Services determines that time does not permit re-solicitation.

A Request for Quotation (Bid) or Request for Proposal process is unsuccessful if:

- all offers received are nonresponsive or noncompliant to the bid requirements,
- the lowest acceptable bid exceeds available funds, as certified in writing by the appropriate departmental or college fiscal officer;
- the number of responsive offers is not sufficient to ensure adequate competition and pricing is not competitive with the known marketplace.
- the Solicitation has been properly canceled in accordance with provision in Section 4.11.

The competitive negotiation process shall at a minimum include the lowest responsible bidders who responded to the solicitation or any rebid and may include other vendors capable of fulfilling the University's needs.

The Procurement Services Department may set reasonable times and locations for participation in the competitive negotiation, reflecting the fact that time constraints are the basis for the competitive negotiation process.

Each supplier/contractor with whom the Procurement Services Department negotiates shall be given a fair and equal chance to compete. Negotiations shall be conducted separately and independently with each supplier, and in no case shall the terms of any supplier's offer be communicated to any other supplier until an award has been made or an intent to award notice has been issued. Any change in requirements shall be communicated to all suppliers. A supplier's offer may be eliminated from the process upon a determination that its offer is unacceptable and will not reasonably be selected for award. The award shall be made to the supplier whose offer is most advantageous to the University. The Director of Procurement or Assistant Vice President for Business Services shall approve written documentation from the purchasing agent that summarizes the nature of the discussions with each supplier and states why the selected offer is the most advantageous to the University.

3.8 Waiver of Bid Requirements

Any of the following conditions, when documented, may preclude bidding requirements:

- a. Emergency Need: Life will be in endangered, property will be destroyed or considerable cost will ensue because of events beyond the control of the department if the procurement is not completed without delay. An emergency includes but is not limited to one of these conditions in which an immediate or emergency need exists for an item or service because of events and circumstances not reasonably foreseeable.
 - 1) Critical to sustaining patient care or human life, maintaining critical equipment or services.
 - 2) In which there is a need to protect the health, safety or welfare of persons occupying or visiting a public property.
 - 3) In which an institution must act to preserve critical services or programs.

- 4) Purchases that are considered time sensitive and would result in increased costs due to delay or the inability to continue to provide necessary services to patients, students, public, etc.

Each institution shall submit a quarterly summary of emergency purchases over \$50,000 to the COO.

- b. Sole Source: In some instances equipment, supplies or services may be required which are obtainable only from a sole source. Sole source purchases must be documented and reviewed/approved by Director of Procurement Services. Requests for a sole or single source must include a written explanation, "sole source justification", to support the request. The purchasing agent is required to verify information. Sole source procurements may be approved based upon compatibility with existing equipment, compatibility for instructional purposes, compatibility for research, or when only one supplier can be identified to supply a compliant product or serviced.
- c. Noncompetitive Justification: Non-competitive negotiation may replace competitive bidding when in the best interest of the institution. Justification for such use must be documented and available upon request. The following may be reasons for using noncompetitive procurement methods:
 - Patent rights, copyrights, secret processes, the control of basic raw materials, or the need to match existing equipment, research, or processes may preclude competition, although they do not in and of themselves always justify using noncompetitive procurement.
 - Bids have been solicited and no responsive bid (conforming to the primary requirements of the solicitation) has been received.
 - Memberships, advertising, subscriptions, registrations, and other direct pay transactions.
 - Use of competitively bid State of Iowa, joint regent, Iowa Biotechnology Association, group purchasing organizations (GPO's), or other consortia.
 - Subsequent years of a competitively awarded contract, subawards determined by granting entity, equipment service agreements with the OEM, software renewals, study abroad lodging for students, international service contracting, and other situations which may justify using noncompetitive procurement.

3.9 Use of Auctions

The use of on-line auctions (i.e. eBay) is not allowed as the terms of sale include product "as is" and there are no return options or remedies for non-compliant or stolen goods. If an item is only available on such a site, the purchasing agent may contact the company to complete a normal business-to-business transaction via p-card or purchase order with acceptable terms.

The university may purchase items at auctions such as livestock or used equipment auctions in coordination with the Procurement Services Department. If items are purchased at other types of auctions, such as fundraising auctions, the items purchased must have a reasonable market value.

3.10 Acquisitions Involving Donations

Any purchase that involves a potential partial donation or other form of consideration must be handled through the normal purchasing process. If a vendor wishes to donate the entire value of the acquisition, the Procurement Services Department need only record this transaction with a zero

dollar purchase order. The receiving unit is to be advised it must coordinate with the ISU Foundation to ensure all campus gift requirements are met and the gift is properly acknowledged and recorded. Any items gifted to the university that meet the equipment definition must be tagged and added to the university's equipment inventory by contacting the Inventory Control Office. The value of donation(s) should be verified as reasonable by a Procurement Services Department purchasing agent or the Foundation. See Tips for Handling Equipment Donation Agreements and Agreement Template Appendix E.

3.11 Purchases from Regents Master Agreements

Regent Master Agreements shall be used whenever possible. Exceptions to the use of such agreements must be supported with sufficient justification – i.e., lower price, emergency need, etc.

3.12 Purchases from Cooperatives, Consortia or Group Purchasing Organizations

Some contracts available through E & I Cooperative and other Cooperatives, Consortia or Group Purchasing Organizations (GPO's) were developed as a result of competitive negotiation. At a purchasing agent's discretion, bidding requirements may be waived for purchases up to \$50,000 when using these contracts. Equipment items costing between \$5,000 and \$50,000 will require a phone, fax, or written quotation be supplied by the Cooperative or GPO, or their contract supplier. These Cooperatives and GPO's have also developed contracts through a competitive bid process. These contracts may be accessed and used as if the contract provides competitive pricing. No further competition need be sought for these orders, but the agent will have discretion to seek competition. Caution should be exhibited when federal funds will be expended, unless the Purchasing Agent is aware the Cooperative's bid process properly addressed federal requirements.

3.13 Purchases from State Department of Administrative Services Contracts/Other State Agencies

Bids are not required for orders exceeding our bid thresholds, including equipment, when such items are included on State of Iowa contracts, provided such contracts were competitively bid and competitively awarded or represent a legitimate sole source. Equipment will require confirmation of price prior to entering an order. Caution should be exhibited when federal funds will be expended, unless the Purchasing Agent is aware the agency's bid process properly addressed federal requirements. When acquiring services from another state agency, a contractual agreement should be developed between the parties. At the discretion of the office of University Counsel, this may involve a 28E agreement which requires Board action for approval. All such agreements should be discussed in advance with the University Counsel to determine whether a 28E agreement is appropriate.

3.14 Iowa State Industries (a.k.a. Iowa Prison Industries)

Items that can be supplied by Iowa Prison Industries must always be considered, unless there are extenuating circumstances such as quality, price, or they are unable to supply the needed items in a timely manner. Under competitive bid situations, where the goods or services are available from Iowa Prison Industries, it is mandatory they be included as one of the suppliers solicited.

3.15 Iowa Biotechnology Association Purchasing Consortium

Individual items with a unit cost of less than \$150,000 or and groups of items costing less than \$150,000 in total per release may be purchased through contracts established by Iowa Biotechnology Association's Purchasing Consortium, provided the contracts have been established through competitive bid processes comparable to those required in this document, any applicable federal funding requirements have been addressed and pricing is competitive. Releases or orders in excess of \$150,000 must be reviewed and approved by the Director of Procurement Services before an order is placed or a contract release is issued. Consideration will be given to the value

of competitively bidding items or groups of items in excess of \$150,000. All equipment approvals and inventory requirements must be properly addressed

3.16 Procurement for Off-Shore University Activities

In the event that traditional sourcing and procurement policies do not provide the University with adequate protection in international commerce within certain countries, the Assistant Vice President for Business Services may approve other methods to procure goods and services, such as contracting with a third party administrator.

4. SOLICITATIONS

4.1 Sourcing

The Procurement Services Department will maintain a master list of all suppliers who wish to bid on University purchases. Invitations to bid will be solicited from those suppliers whom Procurement Services determines will encourage viable competitive bidding.

In addition, Procurement Services will maintain and update small business and minority/women-owned supplier lists with the objective of stimulating greater procurement activity within these business groups.

Whenever a purchase is partially or fully federally funded and is being competitively bid, the purchasing agent shall query the Central Contractor Registration site, the System for Award Management (SAM) site or any future replacement site to ensure federal small and disadvantaged vendors are included in the bid process. Purchasing agents shall adhere to the Iowa State University Procurement Services Department Guidelines for Iowa Targeted Small Businesses/Federal Disadvantage/Women-Owned Small Business Entities (see Appendix A).

Whenever a purchase is partially or fully federally funded, the purchasing agent shall also query the System for Award Management (SAM) site or any future replacement site to document that the vendor has not been prohibited from doing business with the federal government.

When a new supplier submits an application to be on the supplier list, the Procurement Services Department shall check federal debarred lists as well as other federal homeland security restricted lists.

4.2 Solicitation Notification

An electronic solicitation notification system process targeted to specific vendors along with public posting on the Procurement Services "vendor" website:

(<http://www.purchasing.iastate.edu/vendors/>)

is the required method for advertising competitive solicitations for goods and services made through Procurement Services. Exceptions to this process require approval of the Director or the Assistant Vice President for Business Services. Other methods of solicitation notification may also be used at the discretion of the Purchasing Agent, provided the bid document is publicly posted on the Procurement Services "vendor" website.

4.3 Specification Development

Purchasing agents shall issue goods and services specifications which are not unduly restrictive. Brand name specifications shall be used to reference a level of quality, not restrict bidding. Specifications issued and/or used by the Federal government may be referenced by the University.

Suppliers may be required to certify that these standardized specifications have been met. Some of the situations considered to be restrictive of competition include but are not limited to:

- 1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- 2) Requiring unnecessary experience and excessive bonding;
- 3) Noncompetitive pricing practices between firms or between affiliated companies;
- 4) Noncompetitive contracts to consultants that are on retainer contracts;
- 5) Organizational conflicts of interest;
- 6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
- 7) Any arbitrary action in the procurement process.

Supplier assistance in specification preparation shall only be allowed if that vendor does not participate in the bid process.

4.4 Pre-proposal or Pre-bid Conferences

Pre-proposal or Pre-bid Conferences may be conducted for the benefit of all potential bidders to explain procurement specifications and requirements. Such bidder's conferences shall be announced in the bid or proposal solicitation document. The bidder's conference should be held long enough after the bid solicitation document has been issued to allow vendors to become familiar with it, but with adequate time before the solicitation due date to allow vendor consideration of the conference results in preparing their response. Nothing stated at the conference shall change the solicitation document, unless a change is formalized by written addendum posted on the electronic solicitation notification system. Purchasing agents are cautioned to advise suppliers of this fact, when conducting a bidder's conference. (See also 3.6 (a).)

4.5 Addenda to Solicitations

Addenda issued to modify bid solicitations shall be identified by bid solicitation reference number and may require that the vendor acknowledge receipt of all addenda issued. Addenda shall be posted on the electronic solicitation notification system with sufficient time to allow vendors to consider them in preparing their response. If the established due date and time will not permit such preparation, the due date should be extended.

4.6 Tie Bids

Procurement Services will resolve bids that are equal in all respects and tied in price by drawing lots. Whenever practical, the drawing will be held in the presence of the suppliers who are tied in price. If this is not feasible, the drawing will be made in front of at least three (3) persons and said drawing documented.

Whenever a tie bid involves an Iowa firm and firm outside the State of Iowa, the Iowa firm will receive preference. Whenever a tie involves one or more Iowa firms and one or more firms outside the State of Iowa, the drawing will be held among the Iowa firms only. Tie bids involving Iowa produced or manufactured products and items produced or manufactured outside the State of Iowa will be resolved in favor of the Iowa product.

4.7 Errors in Bids

In the event of a discrepancy between a unit price and its extension, the unit price will govern. Bids may be amended or withdrawn by the bidder up to the bid opening date and time. See also 4.8 Withdrawal of Bids.

4.8 Withdrawal of Bids

- a. Requests to withdraw bids shall be submitted in writing to the purchasing agent by the supplier seeking relief. Only in the event of an obvious and documented error where it would be a manifest injustice to require the supplier to perform, can a supplier withdraw a bid after the time set for receipt of bids. A request shall include documentation of the alleged error and the supplier's rationale why they believe they would be unable to honor the original bid submitted. See Board of Regents Policy Manual 2.2.6.C.v
- b. Each request for withdrawal will be considered on its own merit.
- c. An investigation into the request of the supplier to withdraw shall be carried out by the purchasing agent, who shall then report and make a recommendation for action to the Director of Procurement Services or, in the absence of the Director, the Assistant Vice President for Business Services.
- d. A request for withdrawal of bid shall be made part of the supplier's record. Withdrawals of bids can be done only upon the recommendation of the institution under procedures approved by the COO.
- e. Any further request for bid withdrawal by the same supplier may be cause for removal from all Regent institutions' bid lists as an indication of an irresponsible supplier.

4.9 Late Bids – Informal

Suppliers who phone, prior to the bid due date, may at the purchasing agent's discretion have a bid opening date amended. Prior to granting the extension, requesting departmental personnel should be contacted to ensure the delay will not have severe operational ramifications. Generally this should be no longer than a three (3) day extension and should not be allowed to become a habit with the same supplier.

4.10 Late Bids – Formal

Generally, formal bids received after the published date and hour specified for receipt, will not be considered. Such bids are to be returned to the supplier, unopened, with a notation that they were received subsequent to the bid opening and, as such, were declared nonresponsive. This rule may be altered, but only under the following guidelines:

Prior to bids being opened, or before 5:00 PM Iowa time the next work day after the due date and time, a supplier must timely advise their bid will be or was late, because of extenuating circumstances. If these circumstances can be documented, in hard copy form, that through no fault of the supplier, and that because of circumstances beyond the supplier's control, they were precluded from having their original bid delivered on time, an exception may be made. Generally, this would result from an act of God, e.g., snowstorms, ice, fog, etc., or a courier service delivering the bid to the wrong address. However, this does not include accepting late bids that are the result of a supplier's equipment malfunctioning, e.g., copiers or computers. If these, or similar, occurrences should happen, and the purchasing agent is timely advised, the following actions are appropriate: if contacted prior to the bid opening, request that supplier phone a local non-university document center or service, or another legally capable third party, have their bid price entered into a written document that identifies company name, address, date, bid solicitation number, and the supplier representative authorizing such action. In addition, the supplier must either use a scanned signature or they may authorize and instruct the document center or service to sign the bid for them, and must deliver it to Procurement in a sealed envelope or emailed to the quote desk in time for the bid opening. The bid will be opened and read and if it is the low responsive bid, the purchasing agent will take action to confirm the supplier did deliver to a sending agent in sufficient time to normally arrive by the bid opening. Further, the award cannot be made until the original bid

is in the purchasing agent's possession. Should such bids require bid bonds, insurance certificates, etc., and it is known that a supplier's bid will be price only, state such at time of opening and declare that the supplier's offer is being held in suspense, until proof of extenuating circumstances can be validated.

When the purchasing agent is timely advised after the bid opening, or within such short time prior to the opening as to make it impracticable for the document center, or other legally capable third party option, the purchasing agent must be able to document that the bid was in the possession of an intermediary, e.g., postal service, Federal Express, UPS, etc., and that no provision exists for the bid amount to have been altered. If supplier representatives were present when bids were opened and read, and we accept a late bid and make an award to that firm, the purchasing agent must send written notice to those in attendance, and include an explanation as to why it was accepted.

Under no circumstances will bids be accepted that were not released by the supplier in time to be delivered. This fact must be indisputable at the time of award. The purchasing agent must have documented evidence that validates the supplier acted in good faith to have the bid timely delivered. This would include a signed statement by a courier service representative; verified, electronic tracking documentation; or the postmarked envelope. Such exceptions must be authorized by the Director of Procurement Services or the Assistant Vice President for Business Services, who may also require approval of the Senior Vice President for University Services.

4.11 Cancellation of Bid Solicitations

Any bid solicitation may be cancelled at any point in the process when it is in the best interest of the University as determined by the Director of Procurement Services or Assistant Vice President for Business Services. Approval to cancel will be obtained prior to cancellation and a notice of the solicitation's termination shall be sent to all vendors that submitted bids or proposals. The reason(s) for terminating the solicitation process shall be made part of the file and may include the following:

- The University no longer requires the goods or services;
- The University no longer can reasonably expect to fund the procurement;
- Proposed addenda to the solicitation would be of such magnitude that a new solicitation is desirable;
- Ambiguous or otherwise inadequate specifications were part of the solicitation;
- The solicitation did not provide for consideration of all factors of significance to the University;
- The purchasing agent became aware of factors after the bid solicitation was issued that make it imprudent to continue the process;
- Prices exceed available funds and it would not be appropriate to adjust quantities or qualities to come within available funds;
- All otherwise acceptable bids or proposals received are at clearly unreasonable prices;
- The University has reason to believe that the bids or proposals may not have been independently developed in open competition, may have been collusive, or may have been submitted in bad faith;
- The number of responses is not sufficient to ensure adequate competition.

4.12 Bids Received by Requesting Department

Generally, it is recommended that all written bids be obtained by the Procurement Services Department. However, a purchasing agent may accept a bid requested by a University department other than Purchasing if the purchase is sole source or more than one bid has been supplied with the requisition (up to \$50,000) and the bid contains all of the necessary information, e.g., price, delivery, terms, warranty, signature, etc. Under no circumstance should purchasing agents accept a bid received by a requesting department and then solicit bids from other suppliers, without

including the supplier who submitted a bid directly to the requesting department. Many times a supplier has merely been asked to supply a price for informational purposes to a requestor and has not intended it to be used as their final offer.

If accepting a quote requested and received by the requesting department, the purchasing agent may verify the prices are competitive and shall ensure that the appropriate terms and conditions are applicable to the transaction.

4.13 Rejection of Bids

Should it be necessary to reject bids as a result of the need to change specifications, or if bids came in higher than the budgeted amount, and there is a need to request new bids, the purchasing agent will formally reject all bids and terminate the first bid process. Exceptions to this rejection process can be made in extreme circumstances with approval of the Director of Procurement Services or the Assistant Vice President for Business Services. Unless an exception is granted, written notice is to be sent to all suppliers originally solicited indicating that bid number XXXXX dated XX-XX-XXXX is being rejected. State the reason(s) for rejection. Generally, bids would be rejected as a result of additional information being brought to the attention of the requestor, that he or she was unaware of prior to solicitation. Bids exceeding the budgeted amount should be less frequent. Both of these occurrences necessitate rewriting the bid specifications. Whenever bids are rejected for any other reason, and the bid specifications are not changed, it must be reviewed by the Director of Procurement Services before rejection notices are mailed. The revised bid is to be sent out under a new number.

5. REQUIREMENTS WITHIN BID OR PROPOSAL SOLICITATION DOCUMENTS

5.1 Bid Security

Bid security is to be used in cases where the purchasing agent determines there is a need to protect the interests of the University. The need for bid security may, in part, be determined by the size of the proposed purchase, the item or items being bid, the competitive conditions surrounding the purchase, and the history of such purchases including general reliability of suppliers being requested to bid a particular purchase.

Bids shall be accompanied by and secured only by a cash deposit, cashier's check, certified check, letter of credit or a bid bond in an amount of (5%) of the estimated budgeted amount for the bid. Bids accompanied and secured by any other form of bid security shall automatically be disqualified, consistent with such language which is to be included in the solicitation document.

Certified checks and cashier's checks shall be made payable to Iowa State University.

Bid security shall be agreed upon as the measure of liquidated damages which owner will sustain by failure, neglect, or refusal of bidder to honor the bidder's offer and accept an award in compliance with the contract documents.

When retained, bid security in the form of cash deposit, cashier's check, or certified check is to be returned within forty-eight (48) hours after the contract has been executed.

The use of bid bonds will be at the purchasing agent's discretion and can be used with either the formal or informal solicitation of quotations.

5.2 Performance Bonds/Letters of Credit

Pursuant to Iowa Administrative Code (IAC) Section 573.2, a performance bond is required on public improvement (construction) contracts when the contract price equals \$25,000 or more. The

amount of the bond is set in IAC 573.5. If no part of the contract price will be paid until completion of the public improvement, the amount of the bond may be as low as 25% of the contract price.

Performance bonds or letters of credit may also be required when the university is relying on the supplier to perform contractually and may potentially suffer losses, should the supplier fail to perform on a contract for goods or services. Purchasing agents should be aware that requiring a performance bond will be a cost to the supplier that likely will be passed on to the university in the pricing. Letters of credit are a good option, but may reduce the supplier's access to its financial resources.

5.3 Targeted Small Business Performance Bond Program

On projects of \$50,000 or less, Certified Targeted Small Businesses may provide a performance bond or a bond waiver from the Department of Inspections and Appeals. Pursuant to IAC 12.44, agencies of state government and subdivisions of state government shall be required to waive the requirement of satisfaction, performance, surety, or bid bonds for targeted small businesses which are able to demonstrate the inability of securing such a bond because of lack of experience, lack of net worth, or lack of capital. The waiver does not relieve the business from its contractual obligations and does not preclude the university from pursuing any remedies under law upon default or breach of contract.

5.4 Response Time

The response time provided in the bid or proposal solicitation shall be dependent on the situational needs of the University and the complexity of the solicitation in order to ensure full competition. Generally the university prefers to allow a minimum of fourteen (14) days for potential bidders to respond to the solicitation, if it requires preparation of a bid response that includes more than pricing for commercial off the shelf items.

5.5 Insurance

Generally, Iowa State University operates on the basis of being a self-insurer. However, certain items that are highly susceptible to damage, while in transit, may be insured. These items would include certain high cost computers, extremely sensitive scientific equipment, diagnostic equipment, etc.

Work to be performed on campus by outside contractors will require evidence of appropriate insurance coverage in the form of a certificate of insurance listing ISU, the State of Iowa and the Board of Regents, State of Iowa as additional insureds with the proper endorsement to the policy providing coverage to the aforementioned parties. ISU must also have contractual rights to the vendor's insurance through language in an agreement or purchase order. Procurement Services and the Office of Risk Management shall maintain a current file of certificates of insurance.

Departments requesting insurance coverage on property, buildings, vehicles, etc., should be referred to the Office of Risk Management. Copies of all insurance policies are to be on file in the Office of the Risk Management.

6. SUPPLIER SELECTION

6.1 Awards

Awards on Requests for Quotations, where (1) no award criteria are stated or (2) no award criteria are stated other than compliance with specifications and cost, shall be made to the low compliant bidder offering goods and/or services. Awards where multiple criteria of award are stated shall be evaluated on each stated criterion and the award made to the supplier whose proposal provides

the most value and benefit to the institution considering cost and all other factors stated in the bid solicitation. Evaluations involving multiple criteria shall be documented by the purchasing agent as part of the bid process.

6.2 Multiple Awards

Recognizing that best value is achieved through competition, a solicitation should result in a single award. Multiple awards to a primary and secondary supplier may be made only if a valid reason exists to do so and the awards are approved by the Director of Procurement Services or Assistant Vice President for Business Services.

6.3 All or None Bids

Our standard bid document should specify bids will not be accepted on an "all or none basis". As such, Procurement Services may award either by item or by group of items, whichever is to the advantage of the University. However, care will be taken by the purchasing agent to ensure that suppliers will not be penalized by split awards. Generally, we will not split bids unless we save at least \$100, since it would not be economical when costs are factored for processing two purchase orders, multiple vouchers, and any contract management required of multiple suppliers. There may be some solicitations that the university does not intend to provide split awards. When this is the case, it will be identified in the bid documents.

6.4 Acceptance of Other than Lowest Bid

We are not required to accept offers based solely on price, unless the original bid solicitation specifically indicated otherwise or no criteria of award was stated in the bid solicitation. Generally, it is not advisable to ever state that price alone will be the sole determinant. Whenever acceptance of other than the low compliant and responsible bid is recommended by the purchasing agent, it must be reviewed with the Director of Procurement Services, The Associate Director of Procurement Services, or, in the absence of the Director and Associate Director, the Assistant Vice President for Business Services. We have an ethical obligation to provide objective rationale as to why we did not accept the lower bid. At a minimum, we must have a written statement from the requestor explaining their rationale for recommending the higher cost bid. In all instances where the purchasing agent recommends an award to other than the low bidder, when the low bidder is a Targeted Small Business (TSB), it must be reviewed by the Director of Procurement Services or the Assistant Vice President for Business Services. NOTE: This process applies regardless of whether or not the TSB bid is compliant and responsible. Where there is concern with the justification and recommended award, one should seek management review. We are all responsible for maintaining the integrity of the award process.

6.5 Additional Factors in Vendor Selection

Freight terms may be specified in the solicitation and may be considered in the overall determination of award

Cash discounts or prompt payment discounts may be considered in determining the lowest responsive and responsible bidder.

Cost and length of warranty coverage offered.

Total cost of ownership when the equipment is expected to be used over a period of time and energy consumption, maintenance, and other operating costs represent a significant portion of the total cost to the University.

To evaluate on warranty and total cost of ownership, both need to be included in the specifications with proper avenues provided by the criteria of award.

Experience of the vendor or the vendor's assigned staff may be considered where that experience may reduce the risk or improve the outcome for the University.

References from other customers may be used to gauge the past service or product quality of a supplier.

Financial stability of the company may be used to gauge the ability to provide services for a long-term project.

Value-added items proposed by the vendor that would increase the value of the offer to the University may be considered.

6.6 Price or Cost Analysis

When there is no competition (such as a sole source procurement), when only one response is received to a solicitation, or when the acquisition exceeds \$3,500 on a federal fund, the purchasing agent must ensure that the price the University is paying is fair and reasonable by completing a price cost analysis. Additionally, Federal laws and the Code of Federal Regulations (formerly identified in OMB Circulars) mandate that the University perform price cost analysis under certain conditions. If, after analysis, the purchasing agent does not feel the price is fair and reasonable, he/she will do one of two things:

- Seek competition; or
- Negotiate with the vendor to lower the price.

6.7 Use of Licensed Vendors - Trademarks

All purchases of items using the University marks shall comply with the University Policy on Use of Trademarks (<http://policy.iastate.edu/policy/trademark/>).

6.8 Endorsements

In order to limit liability and maintain a non-partisan position with all suppliers, neither the procurement services staff nor university departmental personnel shall endorse supplier, their products, or services. Any exception to this policy must be approved by the Senior Vice President for University Services. Suppliers participating on the university's e-procurement cyBUY platform have been selected through the competitive process and do not constitute an endorsement.

6.9 Preferences

All state agencies shall use those products produced within the State of Iowa when they are of a quality reasonably suited to the purpose intended and can be secured without additional cost over foreign products or products of other states (I.C. §73.1)

Preference shall be given to purchasing American-made products and purchases from American-based businesses if the total cost of ownership is comparable to those products of foreign businesses and which most adequately fulfill the university's needs.

Whenever applying a preference, the approval of the Director of Procurement Services or Assistant Vice President for Business Services is required.

7. TYPES OF PROCUREMENTS/CONTRACTS

7.1 Types of Contracts

Subject to the limitations of this section, any type of contract which will promote the best interests of the University may be used; except that the use of a cost-plus-a-percentage-of-cost contract is prohibited when federal funding may be utilized on an acquisition. A Cost-Reimbursement or time and materials contract may be used only when a written determination is made that such contract is likely to be less costly to the University than any other type of contract or that it is impracticable to obtain the goods or services required unless the Cost Reimbursement Contract is used.

7.2 Multi-Year Contracts

Procurement Services may enter into multi-year contracts for goods and services subject to funding availability. Contract periods should be consistent with industry practices for the goods or services being provided and/or allow sufficient time for the supplier/contractor to be able to recoup their investment. Contracts should not exceed six years in length, including all renewal options, without prior review and authorization by the Director of Procurement Services or the Assistant Vice President for Business Services. Any multi-year contracts or contracts that cross fiscal years and are funded by appropriated monies must contain a cancellation clause that protects the University in the event insufficient funds are appropriated. It is always prudent to include terminology that provides a means of cancellation, should program requirements or program direction change, regardless of the funding source.

7.3 University-wide Price Agreements

To obtain the best pricing and overall value for the university, Procurement Services may bid and award University-wide or Regent-wide price agreements for goods or services, which are intended to be used by all University departments. These may include, but are not limited to, University-initiated agreements or cooperative agreements. The purpose of such agreements is to promote efficiency and savings that can result from strategically leveraging the University's buying power.

University-wide or Regent-wide Agreement pricing is based on the University's or Regent Schools' overall anticipated volume of purchases during the agreement period. In order to maintain this pricing for the University, all University departments are expected to order needed goods or services from University-wide/Regent-wide Agreements where applicable. Many of these agreements are also made available through cyBUY.

7.4 Regent Master Agreements

The Regents Chief Operations Officer (COO) will be responsible for setting the direction and prioritization of sourcing initiatives across the five Regents institutions (BOR policy 2.2.6.B.ii). The COO along with the Procurement Council will be responsible for ensuring the coordination of regent strategic sourcing activities as well as the monitoring of compliance with campus utilization of the resulting master agreements.

7.5 Professional Services

Iowa Code 8.47 and the Regents Policy Manual 2.2.6.C.x., define certain responsibilities for the procurement of professional services. Professional services are defined as unique, technical and/or infrequent functions performed by an independent contractor qualified by education, experience, and/or technical ability to provide services of a specific project nature. The services are predominately intellectual in character, such as consultants, engineers, architects and similar professionals. Professional Services Agreements may be written with partnerships, corporations, or individuals.

The Board of Regents, State of Iowa institutions have developed specific language as part of the Professional Services Contractual Agreement (PSCA) that is to be utilized for the purchase of professional services. This language is included in the Professional Services Contractual Agreement located on the Procurement Processes website forms page

<http://www.purchasing.iastate.edu/policy/psa.html>. Agreements where the total project expense (fee compensation, travel, lodging, etc.) is anticipated to exceed 505,000 are to be handled through a competitive bidding process, unless a legitimate, documented sole source exists, or there is sufficient justification to utilize a single source, regardless of other potential suppliers.

Any Professional Services Contractual Agreement, which exceeds \$2,000, is to reference a requisition number and be sent by the requesting department to Procurement Services, where it must be bid as noted above or approved and signed to be valid. When approved by Procurement Services, a purchase order will be created referencing the Professional Services Contractual Agreement. Payment requests (invoices) would then be processed as they would against any purchase order, except for services provided by a foreign citizen. If the supplier is a foreign citizen, who has a taxpayer I.D. or social security number, we must have IRS Form 8233 completed. A copy of the IRS Form 8233 is to accompany the invoice when submitted for payment. If the foreign citizen does not have a taxpayer I.D. or social security number, we are required to withhold for tax purposes. The purchasing agent is responsible for notifying the Controller's Department's Accounting Office whenever a payment is made against a purchase order written to a foreign citizen without a taxpayer I.D. or Social Security Number, so that withholding can occur. Purchasing agents shall also add a note to the "agent comments" screen, which appears on the invoicing system (BI) screen, indicating withholding may be necessary.

Before approving and signing a Professional Services Contractual Agreement, the Purchasing Agent shall review the selection process and verify no conflict of interest exists. The agent shall also verify noncompetitive payments to a professional services provider for services obtained by any one University department will not exceed \$50,000 in a fiscal year. Transactions associated with a competitive bidding process conducted by Procurement Services will not count toward the \$50,000 total.

Selection of a professional services provider shall be based on a variety of criteria including, but not limited to, demonstrated competence, knowledge, references, and unique qualifications to perform the services, in addition to offering a fair and reasonable price that is consistent with current market conditions. Additional criteria may be used as appropriate to the circumstances.

Work requirements should clearly define all performance objectives, work expectations and project milestones, and hold the contractor accountable for successful completion of the resultant agreement. Requirements may include, but not be limited to, reports, training sessions, assessments, evaluations, or other tangible services, all of which are referred to as deliverables. The Agreement must address the following:

- a. Performance requirements should be precise and written in such a way that it can easily be determined if and when the contractor has successfully fulfilled his/her obligations under the Agreement. Consequences for noncompliance such as nonpayment and/or termination of the contract also must be defined. Scheduled due dates that specify milestone targets must be clearly identified and may include, but not be limited to, regular meetings scheduled to evaluate progress, identification of problem areas to determinations to be taken to resolve any concerns, dates for formal written reports, required oral progress reports, and contract monitoring requirements.
- b. The resultant Agreement must specify a start date and a completion date. While there may be exceptions, in most circumstances an end date to the Agreement will be required and the duration should generally be of one (1) year or less. If an end date cannot be determined, a maximum time limit or maximum number of hours must be stated. Extended term agreements for individuals are discouraged.
- c. Compensation and payment terms are to include elements relating to cost and payment, such as maximum cost (i.e., not to exceed cost), cost per deliverable, hourly rates for individuals providing services, number of hours required, allowable expenses and total

authorized for expenses, and payment and invoicing procedures. Compensation and payment terms also should include a statement as to whether the Board of Regents, State of Iowa, institutions will pay expenses incurred by the contractor and, if so, which ones. Such expenses may include, but not be limited to, airfare (economy or coach class), lodging, and subsistence necessary during periods of required travel; expenses incurred during travel for telephone, copying and postage, and private vehicle mileage. If other types of expenses are allowed, they must be clearly defined. Should federal grant or contract funds be designated to pay for consulting services, purchasing agents shall verify the per-hour rates charged by the consultants do not exceed those allowed by the funding federal agency before issuing a PSCA. Failure to do so may result in disallowances of all charges by the funding agency.

- d. The University is responsible for monitoring the compliance with the terms and conditions of the Agreement and applicable laws and regulations. In some cases, that may be done best at the departmental level, on others, by the purchasing agent.
- e. The agreement should state whether the provider is required to provide commercial liability insurance coverage, auto liability coverage and workers compensation coverage at statutory levels, when performing work on site at ISU or work that puts the University at risk. When insurance is required Iowa State University, the State of Iowa and the Board of Regents, State of Iowa need to be listed as additional insureds and the proper policy endorsement needs to be in place.

Agreements under \$2,000 may be handled by the department in their entirety if they use the current Professional Services Contractual Agreement and do not involve a conflict of interest. The Agreement must accompany a Disbursement Voucher using the Quali system voucher, which is forwarded to the Controller's Department. Payment requests that do not include a written agreement will be returned to the requesting department. A completed Independent Personal Services form must accompany the Disbursement Voucher form and an IRS Form 8233 is to be completed if the person providing services is a foreign citizen. Agreements for less than \$600 annually need not have a written agreement attached. Payment will be made after services have been provided.

PSCA's are not required for speakers, unless the speaker represents a conflict of interest. However, departments may wish to use a PSCA or similar agreement to protect the University. Payment for speaker services should be made using an honorarium forwarded directly to the Accounting Office.

PSCA's are not required for entertainers, unless the entertainer represents a conflict of interest. Entertainers usually have their own agreements, which they will want signed. Procurement Services may assist departments by reviewing, negotiating and signing all such entertainer agreements under \$50,000. Agreements for entertainment services totaling more than \$50,000 are to be reviewed, negotiated and approved by Procurement Service prior to the event. Regardless of the dollar amount, to properly protect the institution, Procurement Services may need to write an agreement when the entertainer does not have an agreement to sign. A documented public purpose must exist for hiring an entertainer, when paid by University funds. Departments and purchasing agents are encouraged to seek review from the Office of Risk Management for any event that may pose a risk to attendees' personal safety or is held on university property.

Payment for entertainers and speakers may be made by Disbursement Voucher accompanied by a completed Independent Personal Services form, which should be submitted to the Controller's Office. If the department elects to use a PSCA for speakers or entertainers, a copy should be attached to the voucher.

Legal services require the approval of the Board of Regents, State of Iowa, per Iowa Administrative Code section 681-8.2(3). The University's Office of Legal Counsel is to be notified whenever legal services have been requested.

7.6 Revenue Generating Contracts

Revenue generating contracts are competitively bid to allow all competing companies an opportunity to perform services that create a shared revenue situation. Commissions or rebates are often based on a percentage of gross receipts, but other financial arrangements are possible. The University must be able to verify gross sales under agreements of this type. The contract administrator must assume responsibility for contract performance. Disposition of any purchased capital equipment at termination and additions to real property during the term of the agreement must also be addressed in the contract.

7.7 Leases/Rental Agreements

All forms of true lease or rental agreements for materials or services need to be signed on behalf of the University by a Procurement Services professional, prior to the execution and issuance of any purchase order or contract order referencing the lease or rental agreements. Rentals of tools, air hammers, garden tillers, etc. (normally provided by rental companies) are not subject to this requirement. Orders for these items should be handled as any other order.

When possible, a copy of any proposed lease agreement should be sent to Procurement Services when the requisition is generated. Prior to accepting lease agreements submitted by the requisitioning department, Procurement Services will perform an analysis. This analysis will be made to determine the economic soundness of whether the goods or services should be leased or purchased.

Some of the factors that will be considered in making this determination are as follows:

- a. Title – Who retains title to the equipment?
- b. Liability – Who is responsible if equipment is stolen or damaged?
- c. Insurance – Who will operate the equipment? If the supplier operates the equipment, does supplier carry sufficient insurance on their employees when rendering services and/or is the equipment adequately insured? If ISU will operate the equipment are employees adequately trained in its safety aspects?
- d. Maintenance – Are all maintenance costs included in the original cost of the lease or is the University responsible for maintaining the equipment at its own expense?
- e. Payback Period – If the University were to make an outright purchase, what is the payback period and what credits are accumulated in the event that a lease agreement is executed?
- f. Normal Wear and Tear – Who will be responsible for bringing equipment back to its original condition when returned to the Supplier?
- g. Interest – Is interest included in the lease price and is it a legally permissible and reasonable interest rate given the current market? Interest or finance charges cannot be paid with federal funding.

7.8 Lease of Land or Real Property

The authority to lease land or real property, either as the lessor or lessee, is vested with the Board of Regents, State of Iowa. Therefore, all property lease agreements must be coordinated through

the Office of the Senior Vice President for University Services. With the exception of farm leases and certain low dollar or shorter term property leases that Board of Regents has authorized the Senior Vice President for University Services to approve, all other real property leases fall under the specific lease authority delegated to the University by the Board of Regents (see section 2.3.2 of Board Policy). Property lease agreements will be placed on the docket for ratification by the Board of Regents, State of Iowa, at a regularly scheduled meeting. Crop test plot use agreements, which generally allow for research use of a small number of acres of land for one growing season or less, are generally not considered to be land leases.

7.9 Internal Lease Purchase Program

The University has an internal lease purchase program available for financed amounts of greater than \$2,500 and less than \$100,000. On occasion higher amounts have been financed internally through this program. The program was initiated as a method of purchasing equipment in installments, while retaining the interest cost within the university system. Federal funds may not be used on any lease purchase agreement, as Federal regulations prohibit payment of interest.

When the acquisition cost exceeds the bid threshold, Procurement Services is responsible for competitively bidding the request to determine the amount to be financed and best source. After bidding, contact the Treasurer's Office and the requesting department to establish the terms and applicable interest rate for internal lease purchase agreements. The Treasurer's Office will prepare a copy of the Internal Financing Agreement form. Until this form is signed by all parties listed, do not enter an order for the equipment item. When approved, the Treasurer's Office will provide a fund number for the purchase. Do not use the department's account number. A copy of this form, when signed by all parties, is to be filed or scanned with Procurement Services' copy of the purchase order for record retention purposes.

7.10 Lease Purchase Agreement

No lease purchase or installment agreements outside the internal program may be processed without the approval of the Office of the Senior Vice President for University Services or the Assistant Vice President for Business Services. Any agreement that exceeds \$100,000 will require specific review and approval of the Executive Director of the Board of Regents, State of Iowa. As stated in Code of Iowa section 8.46 a lease purchase arrangement or an installment acquisition as defined in Code 8.46, when it exceeds \$50,000, requires thirty-day prior notification to the Legislative Fiscal Committee using the prescribed format, before an order may be placed. Such notification shall be submitted through the Director of Procurement Services or Assistant Vice President for Business Services, to the Vice President for University Services, who will coordinate notification through the Board office.

8. EQUIPMENT PURCHASES

8.1 Equipment Definitions

Moveable equipment is defined as any moveable property valued at a unit acquisition cost of at least \$5,000 which is identifiable, is not a replacement part, and has a useful life of one year or more.

Fixed equipment is defined as permanently affixed/installed furniture, fixtures and equipment. Examples include but are not limited to: elevators, kitchen cabinets, laboratory casework, building directories, library shelving, drinking fountains, signage, plumbing fixtures, building mechanical systems, fixed electronic equipment, and fixed theater or classroom seating, as well as other fixtures and equipment installed with the intent of permanent use in that location. Fixed equipment which is part of a capital project approved and reported to the Board, is exempt from the requirements of the Section 8.2.

8.2 Board of Regents Approval Process

Equipment purchases of either moveable or fixed equipment, except those included in a capital project, are subject to the following review procedures prior to the issuance of a purchase order or any other purchase commitment by the institution.

- a. Equipment with a unit cost of less than \$1,000,000 will be purchased by the Procurement Services Director acting through the purchasing agent after obtaining all required departmental and administrative authorizations.
- b. Equipment with a unit cost greater than \$1,000,000 and less than \$2,000,000 will be submitted to the COO for approval.
- c. Equipment costing more than \$2,000,000 will be submitted to the COO for approval. At the discretion of the COO, the equipment purchase may be submitted to the Board for approval.

Any request submitted to the COO for approval pursuant to sections 2(b) and 2(c) of this policy will include the following information regarding the equipment to be purchased.

- a. Description of the equipment
- b. Justification of the need for the equipment
- c. Any known alternatives to the equipment proposed.
- d. Estimated cost and source of funding.

Submissions to the COO shall be coordinated by the purchasing agent working with the requesting department to provide the above justification. Upon completion, a draft of the justification shall be reviewed by the Director of Procurement Services or Assistant Vice President for Business Services before it is forwarded to the Office of the Senior Vice President for University Services. Upon receipt the Office of the Senior Vice President for University Services will submit the request to the COO. Equipment orders may be placed only after receipt of appropriate Board of Regents/COO approval.

8.3 Purchase of Agricultural Products and Used Equipment

When buying agricultural products (crops, livestock, and supplies) or used farm equipment directly from a person engaged in farming operations it is the purchasing agent's responsibility to check the Secretary of State website and determine if there are liens or other security interests on the goods being purchased. If there are liens or security interests the purchasing agent shall work with the creditor and the debtor to make payment in a manner that protects the university from potentially being obligated to make a double payment for the goods.

Used equipment, including farm equipment, may be purchased on a noncompetitive basis if the following criteria are met:

- a. A market analysis conducted by the purchasing agent supports that it is clearly to the University's advantage (cost).
- b. We can verify age and condition of the equipment.

When buying used equipment (other than buying farm equipment from a farmer) if the university is buying the equipment from a merchant who regularly sells the equipment being purchased and the

university is not made aware of the existence of a lien or security interest, there is no need to check the Secretary of State's website for liens. The purchase order should always contain language that makes it clear the seller warrants it is supplying the equipment with clear title, free and clear of any liens, encumbrances or security interests.

When buying used equipment from an individual or from a used equipment dealer, who does not have a history of successfully dealing with the university, it is prudent to check the Secretary of State website and determine if there are liens or other security interests on the items being purchased. If there are liens the purchasing agent shall make an appropriate payment arrangement that protects the university's financial interests and avoids double payment.

Purchasing agents should always be alert to the possibility that individuals may be selling stolen goods and shall avoid making such purchases.

8.4 Demonstration Equipment

Demonstration equipment may be bid against new equipment to determine feasibility of purchase; however, the option must be clearly explained in the bid document. Suppliers should be made aware of policy that nonexpendable goods are subject to competitive bid procedures, if offers are made to supply units for demonstration purposes and possible sale.

8.5 Demonstration or Sample Agreements

Equipment requested by University departments from vendors, or offered by suppliers to University departments, on a trial, loan, demonstration, or evaluation basis does not constitute a commitment to purchase the equipment. The University department shall be responsible for advising the supplier that, for purchases totaling over \$5,000, a purchase order will be issued at the discretion of the Purchasing Agent, and that competitive purchasing procedures shall be used as required by University policies and procedures (at or above \$50,000). If the supplier who loaned the equipment is the successful supplier, new equipment must be supplied unless otherwise specified.

All moving, handling, transportation, insurance and applicable installation costs associated with the equipment of this nature are the sole responsibility of the supplier unless otherwise specified. The University will not incur any costs associated with equipment that is on trial, loaned, demonstrated, tested, or evaluated unless otherwise specified by Procurement Services.

Any agreement which is required by the supplier shall be reviewed and signed by the appropriate Purchasing Agent, regardless of the dollar value of the equipment.

If there is a need to purchase equipment, the preferable method of demonstrating equipment is as part of the bid evaluation process.

8.6 Export Controls

The University shall comply with deemed export control laws by identifying potentially restrictive equipment or materials through the Export Control Classification Number (ECCN) numbers associated with those items. Purchasing agents should ask for ECCN numbers on bid solicitations for new types of dual-use equipment or materials. The requisitioning system will alert the purchasing agent that an item may be sensitive. The purchasing agent shall notify the University's Export Control Administrator and provide the details of the purchase, including the PI, department, and location.

9. CONTRACT ADMINISTRATION AND VENDOR PERFORMANCE

9.1 Contract Administration Plans (CAP)

It is the responsibility of the purchasing agent to develop the appropriate methodology for active contract administration. Contract administration begins with the signing or execution of a contract or purchase order. Its purpose is to assure that the contractor's total performance is in accordance with the terms and conditions of the contractual agreement. The integrity of the public purchasing process demands that goods and services be furnished as specified in the contract. Contract administration includes all actions taken by the University relative to a specific contract after the award is made. A contract administrator is normally identified in each contract.

Contract Administration Plans should determine:

- 1) Supplier is billing correctly
- 2) Products and service meet the end user's needs
- 3) Products and services are meeting specifications
- 4) Delivery requirements or milestone dates are being met
- 5) Contractor and end user are complying with all terms and conditions of contract
- 6) End user is satisfied with contract
- 7) Method for resolving problems and complaints
- 8) Method for approving change orders
- 9) Contract close out procedure

9.2 Contract Modifications

Any contract modifications must be approved by Procurement Services. Modifications are generally not allowed for the supplier's inability to meet the requirements of the contract. Should the University need to make changes to scope or other requirements and are deemed to be in the best interest of the University, those changes must be in writing from Procurement Services.

10. REMEDIES – PROTEST – DISPUTES

10.1 Due Process

All procedures under these guidelines shall be in accordance with due process requirements. All suppliers shall have a right to notice and an opportunity for a hearing prior to imposition of any termination, debarment, or suspension from being a supplier under contract to the University.

10.2 Remedies for Failure to Deliver or Delivery of Nonconforming Goods or Services

In any case where the supplier has failed to deliver, has delivered nonconforming goods or services, or has breached an agreement, the purchasing agent shall provide written notice. If after notice the supplier continues to be in default, the University may procure goods or services from another source and charge the difference between the contracted price and the market price to the defaulting supplier. The University's Office of Legal Counsel may be requested to assist in collection from the defaulting supplier. All such occurrences are to be brought to the attention of the Director of Procurement Services and the Assistant Vice President for Business Services, before any written correspondence is sent to the supplier.

10.3 Suspension

Nonresponsive and nonresponsible suppliers may be removed from the qualified supplier list by the University for good and sufficient reasons. Removal for cause is not to exceed three years, except upon specific authorization of the COO. Such suppliers shall be reported to the COO.

Reinstatement requires application to the institution. Such reasons shall include, but not be limited to, the following:

- Delivery of goods and services that do not comply with specifications;
- Refusal to deliver after submitting a quotation, bid or proposal and after receiving; an order
- Withdrawal of quotations, bids, or proposals prior to the placing of an order;
- Failure to comply with state and federal laws and regulations;
- Illegal purchasing practices;
- Consistent failure to respond to bid opportunities requested in the last consecutive two-year period;
- Failure to timely cure one or more noncompliant deliveries;
- Removal from an institutional master list of another Regent Institution

The Director of Procurement Services shall make the determination of suspension of a supplier after thoroughly investigating the situation. A written notice of the suspension shall be sent to the suspended vendor and to the COO. The notice shall:

- State that the suspension will be for the period necessary to complete an investigation into possible debarment; and
- Inform the suspended supplier that no business may be conducted with the University by any person(s) representing the suspended supplier during the suspension period and that any solicitation responses received from the suspended supplier during the suspension period shall not be considered.

10.4 Debarment

A supplier may be debarred for any of the following reasons:

- Conviction of a criminal offense in relation to obtaining or attempting to obtain a University contract or in the performance of such contract.
- Conviction under Federal antitrust statutes arising out of the submission of bids or proposals;
- Willful material failure to perform in accordance with the terms of one or more contracts following notice of such failure, or a history of material failure to perform, or of materially unsatisfactory performance on one or more contracts;
- The supplier is currently under debarment by any other governmental entity.

A written notice of debarment shall be sent to the debarred supplier stating:

- The debarment period;
- No business may be conducted with the University by any person(s) representing the debarred supplier during the debarment period and that any solicitation response received from the debarred supplier during the debarment period shall not be considered.

10.5 Supplier Appeal/Complaints

The following procedures shall be used by any supplier who wishes to file a complaint regarding a procurement action with the exception of disputes involving the terms, conditions, obligations and interpretations of executed contracts or purchase orders; including, but not limited to, change orders. If an executed contract or purchase order contains a dispute resolution clause, that clause shall apply and not the procedure outlined in this section. The filing of a complaint shall not delay the award process if it is determined to be in the best interest of the institution. Failure to raise a timely complaint in accordance with the following procedure shall be deemed a waiver of the right to contest the matter further.

1. Informal Dispute Resolution with the University Department

A Supplier who has a concern with a decision made by a Purchasing Agent shall contact the Purchasing Agent within five (5) working days of when the Supplier became aware, or

reasonably should have become aware, of the decision or action which forms the basis of the concern. The Purchasing Agent shall discuss the issue(s) with the Supplier in an attempt to resolve the dispute.

2. Initiation of Complaint to University Administration

- a. Within five (5) working days of discussing the matter with the Purchasing Agent, a Supplier (hereinafter "Complainant") shall outline the concern in writing to the institutional Procurement Services Director..
- b. The complaint shall be in writing and shall include the following information:
 - i. Name, address, and contact information of the Complainant;
 - ii. Identification of the purchasing action forming the basis of the complaint, including the RFQ/RFP number if available;
 - iii. A detailed statement of the legal and factual grounds of the complaint, including copies of relevant documents;
 - iv. The specific relief requested; and
 - v. Signature of the Complainant.
- c. Upon receipt of the complaint, the Procurement Services Director shall conduct a review of the complaint and render a decision within ten (10) working days. Where information needed for the decision must be obtained from sources outside Procurement Services, the university's response may be delayed up to ten (10) additional working days.
- d. The Procurement Services Director's decision shall be in writing and shall contain the name and contact information of the individual to whom the decision may be appealed.
- e. The decision of the Procurement Services Director is final unless written appeal is filed with the individual identified in the written decision to receive the appeal. The appeal must be filed within five (5) working days of receipt of the Procurement Services Director's written decision, and shall contain the specific grounds upon which appeal is made.
- f. The Procurement Services Director shall communicate all written complaints to the ISU Sr. Vice President for University Services.

3. Appeal to University Administration

- a. Upon receipt of the appeal, the institution's Sr. Vice President for University Services (SVPUS), or his/her designee, shall conduct a review of the written record of the complaint and render a decision in writing within ten (10) working days.
 - b. Copies of the decision of the institution's SVPUS, or his/her designee, shall be provided to the Complainant and the institution's Procurement Services Director.
 - c. The written decision of the institution's SVPUS shall be final unless written appeal is filed with the General Counsel for the Board of Regents.
4. Should the complaint be affirmed at any stage of institutional review, the institutional representative responsible for reviewing the complaint may, in his/her discretion, grant the requested relief or fashion an alternate remedy as deemed appropriate. The issuance of a specific remedy shall not be subject to appeal under this procedure.

5. Copies of any written complaint received by the institution and any decision rendered pursuant to this procedure shall be forwarded to the Office of the Board of Regents.
6. Appeal to the Board of Regents
 - a. Written appeal to the Board of Regents must be filed with the General Counsel for the Board of Regents within five (5) working days of receipt of the final decision of the institution's SVPUS. The appeal must state the specific grounds on which appeal is made and include copies of all relevant documents and written institutional decisions.
 - b. Upon receipt of an appeal to the Board of Regents, the COO, or his/her designee, shall take steps to assist the Complainant and the Institution in resolving the issue(s)
 - c. If the issue(s) remain unresolved, and in the opinion of the COO the complaint involves serious questions of law or allegations of procedural error having a material impact on the award process, the appeal may be reviewed by the Executive Director. The Executive Director shall notify the parties in writing of the date on which the appeal will be heard.
 - d. If a right of review is granted, the parties may submit additional written argument for review by the Executive Director. The Executive Director shall notify the parties of the deadline for submission of additional written materials. Oral argument before the Executive Director shall not be permitted.
 - e. Following review and determination by the Executive Director and in consultation with the COO, the appeal may be docketed for the next regularly scheduled Board Meeting. The Board, if docketed, may affirm, reverse, modify or remand all or any part of the final institutional decision. The decision of the Board of Regents is considered final agency action.

11. ETHICS – CONFLICT OF INTEREST – OPEN RECORDS

11.1 Code of Ethics

All employees of Procurement Services are expected to conduct themselves within the guidelines established by the procedures set forth in the "Code of Ethics" published by the National Association of Educational Procurement (NAEP). These standards are posted on NAEP's website at <http://www.naepnet.org/code.htm>.

11.2 Use of Confidential Information

It shall be a breach of ethical standards for any employee or former employee to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of another person.

11.3 Gifts and Gratuities

Procurement Services policy is to accept no gifts or gratuities. This includes luncheon appointments and meals with sales representatives. It excludes such items as ballpoint pens, wall or desk calendars, paperweights, etc., which would be considered promotional samples and will be used within a University department. Where it is in the best interest of the University to visit with supplier representatives over a meal, it shall be done with Procurement Services Director or Assistant Vice President for Business Services approval and the purchasing official or Procurement Services shall pay the full cost of the meal.

11.4 Release of Bid Information/Public Records Requests

When you receive a public records request immediately notify the Procurement Services Director as we are required to notify the university's public records administrator. The Iowa Fair Information Practices Act requires the contents of bids to be placed in the public domain immediately after the bids have been evaluated and an award has been made. This law applies to both formal and informal bids. Any person may ask to review bids and has the right to do so and to request photocopies. University officials and purchasing agents responsible for the opening and handling of bids are charged with: (1) reviewing the bids to identify and protect proprietary content and (2) ensuring items protected by Iowa law are not released or copied for public distribution. Individual social security numbers should not appear on any copies viewed by the public or released for public distribution. Charges for photocopies (25 cents per page, as well as time spent to redact proprietary information and postage) may be applied if significant copies and/or time are involved. Questions and answers about public records request can be found at:

<http://www.public.iastate.edu/~ur/records/>

11.5 Reporting of Anticompetitive Practices

When for any reason collusion or other anticompetitive practices are suspected among bidders, written narrative shall be submitted to the Assistant Vice President for Business Services or the Procurement Services Director for possible transmittal to the Attorney General's Office. Consistent with the State of Iowa's "Iowa Public Officials Act" (Chapter 68B *Code of Iowa*), Federal Anti-Kickback Act of 1986 (41 *USC* 51-58), 2 CFR Part 215 (OMB A-110), State Board of Regents policies, and Iowa State University purchasing policies and procedures procurement staff are prohibited from receiving any kickback, gift, membership, gratuity, or service, as a result of a purchase entered into by you on behalf of Iowa State University, or as a result of your position in the Iowa State University Procurement Services Department. You are to immediately notify your supervisor, if you become aware of any other university employee or vendor, involved in the purchase or bid process, who accepts or offers a kickback, gift, membership, gratuity, or service of any kind that might compromise the buyer-vendor relationship, or result in the appearance of favoritism or charges of bid rigging.

11.6 Conflict of Interest Bids

No "employee", whether full-time, part-time, temporary, or student (including a graduate student on assistantship), may sell in any one occurrence to any Regents institution or state agency, either directly or indirectly, any goods or services in excess of \$2,000 unless the University's Conflict of Interest Procurement Committee (COIPC) gives its consent. This also applies to any firms who represent partnerships involving an employee or a limited liability company formed by an employee. After consent is obtained, by state law employees or conflict of interest vendors may not sell any goods or service to any Regent institution or state agency that have a value in excess of \$2,000 for any on transaction, unless pursuant to an award or contract let after public notice and competitive bidding.

The COIPC must have authorized the University to purchase from the conflict of interest vendor, before an order can be written. Such authorization requires approval of a written narrative submitted by the conflict of interest vendor that explains why the employee's position within the university does not create a conflict of interest situation through which the vendor will benefit from their position with the university. The written narrative is to be submitted to the Director of Purchasing and will be reviewed by the COIPC. The COIPC will notify the conflict of interest vendor and purchasing agents of the decision.

11.7 Unsolicited Orders/Gifts

Any items shipped to the University without an authorized purchase order can be rejected and/or payment of invoice denied. Our responsibility is to notify the shipper that they are to remove the goods within a specified period of time and at their expense.

The offer of items of value to University employees in return for placing orders may violate Iowa statutes on gifts, bribery, and gratuities (see Chapter 68B and 722, of the *Code of Iowa*). If warranted, Procurement Services may request the Attorney General's Office assistance. Such assistance shall be with the authorization of the Procurement Services Director or the Assistant Vice President for Business Services and handled through the Office of University Counsel.

12. PAYMENTS

12.1 Payment of Interest Claims

Chapter 8A.514 of the Iowa Code allows a one percent (1%) per month interest charge on a simple interest basis when invoices are not paid within sixty (60) days. Federal funds are not subject to this act. Claims paid with both federal and nonfederal funds will have only that portion charged to nonfederal funds assessed interest charges. Interest rates become payable sixty (60) days following the receipt of the claim or the satisfactory delivery, furnishing or performance of the services, supplies, materials, or contract, whichever date is later.

No interest charges need to be paid if proper procedures are followed when a claim is in dispute. In any situation where an invoice is in dispute, the purchasing agent shall notify the supplier in writing and maintain a file copy as proof the invoice is in dispute.

12.2 Sales Tax

The University is exempt from state sales and use tax in Iowa and several other states. When requested, the Procurement Services Department will furnish a copy of our Tax Exemption Certificate.

12.3 Prepayments

State of Iowa regulations generally preclude payment for any services that have not been supplied or goods that have not been received. However, where no other recourse exists but to make prepayments, these shall be handled with authorization by the Procurement Services Director, the Associate Director of Procurement Services, or in their absence the Assistant Vice President for Business Services. Generally, prepayments of more than \$5,000 will require the vendor supply adequate surety. Surety can be in the form of a performance bond or a properly written irrevocable letter of credit. Purchasing agents are authorized to approve prepayments of \$2,000 or less, provided the agent has adequately reviewed the associated risk.

Requests for prepayment of materials stored off-site or at a vendor's facility are to be reviewed in advance with Director of Purchasing to ensure a process is followed that protects the university.

12.4 Customs Charges

Most customs charges are handled by a contracted broker in Des Moines. On foreign purchases, the purchasing agent should always attempt to determine if the goods are to be sent duty-free or if we must pay duty charges. Such charges are to be considered in evaluating competing bids between domestic and foreign suppliers.

For brokerage services to clear inbound parcel from foreign vendors through U.S. Customs, the University uses the following customs broker:

Scarborough International, Ltd
Attn: Rick Ostendorf – Import Operations
100 Court Avenue Ste. 440
Des Moines, IA 50309
515-287-3840
<http://www.scarboroughintl.com/services.htm>

12.5 Utilities

Most utility payments are handled by Purchasing Card or by forwarding vouchers and the utility bill directly to either Facilities Planning & Management (FP&M) or the Controller's Department. Such invoices are not required to clear this office. There may be certain exceptions, e.g., short-term rental of houses, etc., where utility bills would be involved. Questions should be referred to the FP&M Utilities Office located in the Power Plant.

13. SUSTAINABILITY AND SOCIAL RESPONSIBILITY

13.1 Environmentally Preferable Purchasing Guidelines

Recognizing our impact as a significant purchaser of goods and services, Iowa State University's goal is to give preference to environmentally friendly products whose sustainability, functionality and quality are equal or superior to more traditional products and whose cost is equal or less. This policy will:

- Conserve natural resources
- Minimize pollution
- Reduce the use of water and energy
- Reduce or eliminate environmental health hazards on our campus and in our community
- Support markets for recycled content products
- Reduce materials sent to landfills
- Increase the use and availability of environmentally preferable products
- Encourage suppliers to reduce environmental impacts within the supply chain
- Create a model for successfully purchasing environmentally preferable products while maintaining fiscal responsibility, quality, and compliance with applicable laws and regulations
- Support locally produced goods and services
- Educate ourselves, suppliers, and campus community

13.2 Recycled Content

As stated in Iowa law and Executive Orders:

- Iowa State University shall purchase and use recycled printing and writing paper for 90% of total use. In total 100% of rough tissue products shall be recycled product (i.e. hand towels, toilet paper, etc.).
- Information on recycled content shall be requested on all bids for paper products and on other products which could have recycled content such as oil, plastic products, including but not limited to starch-based plastic products, compost materials, aggregate, solvents, soybean-based inks, and rubber products.

13.3 Energy Savings

Recognizing that electricity generation is a major contributor to air pollution and global warming issues, and clean water is a finite resource; the University values products that minimize the use of these resources. Procurement activity shall support University efforts to reduce the use of electricity, natural gas, fuel oil and water in all state office buildings and may include:

- Energy-efficient equipment and lighting.

- Products for which the U.S. EPA Energy Star certification is available or equivalent non-certified products.
- Support LEED silver construction goals.
- EPEAT certified computer products

13.4 Toxins and Pollutants

The use of toxics and the generation of pollution should be minimized to reduce risks to health, safety, and the environment. Procurement activity shall include:

- The purchase of degradable disposable plastic products to the maximum extent practicable when those products are determined to be reasonably available, cost and quality competitive.
- The purchase of products covered by Executive Orders to include: trash liners with recycled content; degradable foam or plastic products for containers unless recycled or reused.
- Restricting the purchase of foam products manufactured with chlorofluorocarbons (CFC's) and phase out of chlorofluorocarbon-containing refrigerants, solvents and similar products.
- The purchase of soybean-based inks for printing services.
- The purchase of environmentally preferable cleaning products, when practicable, but without reducing quality, safety, and cost effectiveness.
- Identifying and using products with lowest amounts of volatile organic compounds, formaldehyde, lead or mercury.
- Providing for recycling of products containing toxic materials such as fluorescent lamps, ballasts, lead acid batteries, waste oil, electronics, etc.

13.5 Waste Minimization

The University recognizes the importance of waste minimization in being a good steward of the environment. Iowa State University collaborates with the City of Ames to minimize waste in the community. A strong recycling program is in place at the university and any waste not recycled is disposed of at the City's Resource Recovery Plant where recyclable materials are separated and other waste is used for creating electricity in the City's Power Plant.

13.6 Supplier Code of Conduct

The University strives to manage its business in a sustainable and responsible way. We seek to do business with Suppliers who share our concerns for and commitment to sustainable business practices. Suppliers shall meet all applicable environmental rules, regulations and laws in the countries where they do business and shall consistently look for new and better ways to conserve resources, reduce pollution and waste, and enhance the communities in which they operate.

14. SMALL BUSINESS PROGRAM

14.1 Overview

The mission of the Iowa State University Small Business Program is to maximize and create opportunities for small businesses to do business with the university, when it procures goods and services at all dollar levels and regardless of fund source.

The University's Small Business Program is administered by the Procurement Services Department. In addition, all campus departments that require goods and services have a responsibility to support and cooperate with the Small Business Program. Departmental staff members with the authority to purchase using P-cards are integral to the success of this program.

14.2 Initiatives

The efforts in support of the Small Business Program include:

- Educating campus departments and Purchasing Agents on the Small Business Program, providing them with potential small-and disadvantaged-vendor sources, and training them on the use of the CCR/SAM database and the Iowa Department of Economic Development Targeted Small Business database;
- Circulating small-and disadvantaged-company brochures, as applicable to appropriate purchasing personnel, including campus department staff;
- Attending small-and disadvantaged-business fairs, trade shows, and seminars;
- Informing/reporting to various levels of University management regarding the University's efforts in the Small Business Program area;
- Receiving visits from small –and disadvantaged-business representatives;
- Encouraging small-and disadvantaged-businesses to register with the University and CCR/SAM;
- Advising small- and disadvantaged–business officials about University procurement procedures; and,
- Monitoring applicable statutes and regulations to keep apprised of all relevant developments.

14.3 Commitment to the Small Business Program

Within the policies and procedures of the University, the University will:

- Appoint a Small Business Liaison Officer to:
 - Administer the University's Small Business Program
 - Assist in the preparation of subcontracting plans for applicable contracts; and,
 - Prepare complete and accurate records for timely submission to the designated government agencies.
- Increase awareness of the Small Business Program throughout the University
- Maximize opportunities for departments to procure goods and services from small business concerns, including:
 - Small Business Concerns;
 - Women-Owned Small Business Concerns;
 - Historically Black Colleges/Universities and Minority Institutions;
 - HUBZone Small Business Concerns;
 - Veteran-Owned Small Business Concerns; and,
 - Service-Disabled Veteran-Owned Small Business Concerns.
- Inform small and disadvantaged businesses about how to conduct business with the University, as well as about the various procurement opportunities available at the University.

14.4 Small Business Definitions – Federal

See Appendix B – Federal Business Classifications

14.5 Iowa Targeted Small Business Program

The University is committed to fostering greater participation by disadvantaged and woman-owned enterprises and Targeted Small Businesses (TSB) in its procurement activity. All purchasing agents shall abide by Procurement Services Department guidelines for such businesses. See Appendix A, Iowa State University Procurement Services Department Guidelines for Iowa Targeted Small Businesses/Federal Disadvantaged/Women and Small Business Entities.

The Iowa Department of Inspections and Appeals (DIA) certifies businesses owned, operated, and actively managed by women, minority group members, or persons with disabilities as targeted small

businesses. In order to become a certified TSB, the individual's business must meet the following minimum requirements:

- Be located in the State of Iowa;
- Be operated for a profit;
- Have a gross income of less than \$4.0 million computed as an average of the preceding three fiscal years, and
- Be owned, operated, and actively managed by a female, a minority group member, or a person with a disability.

15.0 FEDERAL REQUIREMENTS

15.1 Federal Grants

Federally funded acquisitions are subject to many specific regulations and provisions. These provisions include OMB Circulars A-110 (2 CFR 215) and A-21, which apply to federally funded grants, and several flow-down provisions, which apply to federally funded contracts. Purchasing agents are responsible for complying with applicable federal provisions when establishing contracts or issuing purchase orders for partially or fully federally funded acquisitions (see Appendix C – Flowdown Provisions for Federally Funded Grants and Appendix D – Flowdown Provisions for Federally Funded Contracts).

15.2 Federal Contracts

When the University enters into an Agreement with either the U.S. Government, or another entity who has itself entered into an Agreement with U.S. Government, that agreement requires certain federal contract provisions be made a part of any subsequent Purchase Order issued by the University related to furthering the performance or deliverables required under that Agreement.

The vendor/seller further agrees to flow down the applicable clauses to its lower-tier subcontractors, and agrees that the clauses are in effect between it and the buyer, as applicable.

The flowdown provisions are located in Appendix D – Flowdown Provisions for Federally Funded Contracts. Specific flowdown clauses are identified in the contract between the federal agency and the university.

15.3 Public Contracts For Services

Purchasing Agents shall include a clause for federally funded services contracts (excluding investment advisory services, fund management services, sponsored projects, intergovernmental Purchase Orders or information technology services or products and services) requiring the vendor to certify that it does not knowingly employ or contract with an illegal alien who will perform work under the Purchase Order (P.O.) . The vendor shall be required to confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under the PO, through participation in the E-Verify Program. Vendors are required to notify any subcontractor and the University within three days if vendor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under the P.O. and terminate that subcontract immediately.

15.4 Buy-American Act

All federally funded acquisitions in excess of \$2,500 are subject to the Buy American Act (41 U.S.C. 10.a-10.d). Under the provisions of that act, only articles, materials, or supplies that have been produced or manufactured in the United States all substantially from articles, materials, or supplies mined, produced, or manufactured in the United States are to be acquired, with certain exceptions. Commercial-off-the Shelf (COTS) items manufactured in the United States are not subject to this act, regardless of the percentage of components produced in the United States, if the product is

not modified for sale to the university or the product is both produced in a country that has a an applicable free trade agreement in place under the World Trade Organization Agreement on Government Procurement and the acquisition falls below the established threshold. This Act will not apply if the articles, materials or supplies are a class or kind that are (1) not manufactured or produced in the United States (2) are not reasonably available in sufficient and commercial quantities and of a satisfactory quality in the United States or (3) the cost of those items is deemed to be unreasonable and not in the public interest.

APPENDIX A

IOWA STATE UNIVERSITY PROCUREMENT SERVICES DEPARTMENT GUIDELINES FOR IOWA TARGETED SMALL BUSINESSES/FEDERAL DISADVANTAGED/ WOMAN-OWNED SMALL BUSINESS ENTITIES

It is the goal of the Iowa State University Procurement Services Department to encourage utilization of Certified Iowa Targeted Small Businesses (TSB's), Federal Small Disadvantaged Businesses (SDB's), Women-Owned Small Business (WOSB's), Veteran-Owned Small Business (VOSB's), Service Disabled Veteran-Owned Business (SDVOSB's) and Federal Disadvantaged Businesses to include Minority-Owned Business Enterprises (MBE's) and Women-Owned Business Enterprises (WBE's), whenever practicable and reasonable. To assist purchasing agents in these efforts, the Director of Purchasing will assign responsibility for monitoring the current list of certified Iowa TSB's and the goods/services they sell in an effort to determine when those goods or services sold by TSB's, SDB's, and MBE's/WBE's/WOSB's/VOSB's/SDVOSB's are utilized by Iowa State University in its normal course of business. In addition, the Small Business Coordinator will help purchasing agents identify these suppliers, as well as, the goods/services they can provide.

Purchasing Agent Responsibilities

It shall be the responsibility of each purchasing agent to take the following steps:

1. Become thoroughly familiar with the list of Iowa Certified TSB's and Federal SDB's/MBE's/WBE's/WOSB's/VOSB's/SDVOSB's, including the goods/services they provide.
2. Whenever conducting a competitive bid solicitation, ensure all TSB's and any qualified SDB's/MBE's/WBE's/WOSB's/VOSB's, SDVOSB's selling the goods/services being procured are included in the vendor bid list. Purchasing Agents are to search on the System for Awards Management (SAM) website or its successor website to obtain sources for each bid solicitation issued.
3. Before making an award on the bid solicitation, should a TSB or SDB/MBE/WBE/WOSB/VOSB/SDVOSB provide the lowest cost response, review by the Director of Purchasing (or the Associate Director of Purchasing) and approval is required before an order can be placed with another vendor.
4. After completing the bid process, contact all TSB's who responded to the bid solicitation and explain the award, if the responding TSB did not receive the award. Contact all TSB's, who did not respond, to ascertain why they did not respond. If the reason the TSB did not respond is a result of language contained in the bid documents, take the time to explain the purpose of the language. If certain language is unduly restrictive and not critical to conducting the bid process, remove it from future bid solicitations that include TSB's, SDB's, and/or MBE's/WBE's/WOSB's/VOSB's/SDVOSB's.
5. When making purchases below the competitive bid threshold (currently \$25,000), requisitions suggesting award to a business other than a TSB, SDB, MBE, WBE, WOSB, VOSB, SDVOSB should be reviewed by the purchasing agent for potential award to a TSB, SDB, MBE, WBE, WOSB, VOSB, SDVOSB selling those goods or services. After the purchasing agent contacts the requesting/funding department to discuss the possibility of changing the source and awarding the order to a TSB, SDB, MBE, WBE, WOSB, VOSB, SDVOSB with department approval, the order should be redirected to the TSB, SDB, MBE, WBE, WOSB, VOSB, SDVOSB. Should the requesting/funding department decline approval for reasons, which seem unreasonable to the purchasing agent, the order should be discussed with the Director of Purchasing or the Associate Director of Purchasing before the order is placed. When federal funding is involved, transactions in excess of \$3,500 are subject to OMB Circular A-110

requirements, which require an analysis and documentation of cost reasonableness. This is to be performed by the purchasing agent prior to processing the purchase order.

Questions regarding these guidelines should be directed to Nancy Brooks, Director of Purchasing or Arlo W. Meyer, Assistant Vice President for Business Services. In the absence of the Director and Associate Director of Purchasing, any of the required review steps described above will be performed by the Assistant Vice President for Business Services.

APPENDIX B

FEDERAL BUSINESS CLASSIFICATIONS

- MBE** Minority-Owned Enterprise (Large Business)
Minimum 51% owned, controlled and operated day-to-day by one or more minority individuals; includes the following categories:
- African American
 - Asian-Pacific American
 - Hispanic American
 - Asian-Indian American
 - Native American (American Indian, Eskimo, Aleut, Native Hawaiian)
- WBE** Woman-Owned Business Enterprise (Large Business)
Minimum 51% owned and controlled by one or more women who have active involvement in day-to-day operations.
- SBC** Small Business Concern
Independently owned and operated, and meets industry size and receipt requirements for small businesses per SBA 13 CFR 121. Section 3 of the Small Business Act.
- SDB** Small Disadvantaged Business
Minimum 51% owned, controlled and operated day-to-day by one or more socially disadvantaged individuals. May be Section 8(a)-certified per 13 CFR 124.1002. Small Disadvantaged Ethnicity definitions include the following categories:
- African American
 - Asian-Pacific American
 - Hispanic American
 - Asian-Indian American
 - Native American (American Indian, Eskimo, Aleut, Native Hawaiian)
- WOSB** Woman-Owned Small Business
Minimum 51% owned, controlled and operated day-to-day by one or more women.
- HUBZone** Small Business
SBA certified; is small and is located in an 'historically underutilized business zone' and is owned, controlled and operated at least 51% by U.S. citizens and at least 35% of employees reside in HUB zone.
- VOSB** Veteran-Owned Small Business
Minimum 51% owned, controlled and operated day-to-day by one or more U.S. veterans.
- SDVOSB** Service-Disabled Veteran-Owned Small Business
Minimum 51% owned by one or more service-disabled veterans (if publicly owned, minimum 51% of the stock is owned by one or more service-disabled veterans), and the management and daily business operations of which are controlled by one or more service-disabled veterans (if permanently and severely disabled, by their spouse or primary care giver).

APPENDIX C

FLOWDOWN PROVISIONS FOR FEDERALLY FUNDED GRANTS

Iowa State University frequently enters into Agreements with either the U.S. Government, or another entity who has itself entered into an Agreement with the U.S. Government, under which the granting agency provides funding to the university. The Agreements require that certain federal grant provisions be made a part of any subsequent Purchase Order or Contract Purchase Order issued by Iowa State University related to furthering the performance or deliverables required under that Agreement. Where necessary to make the context of these provisions applicable to this order, the term “contractor” shall mean “seller”, the term “contract” shall mean “this order”, and the terms “Government”, “contracting officer”, and equivalent phrases shall mean “buyer”. Seller hereby agrees to flowdown the applicable clauses from OMB Circular A-110 to its lower-tier subcontractors, and agrees that the clauses are in effect between it and the buyer, as applicable.

Performance by the seller under this Purchase Order/Contract constitutes certification that the seller is presently in compliance with:

Equal Employment Opportunity

All contracts shall contain a provision requiring compliance with E.O. 11246, “Equal Employment Opportunity”, as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity”, and as supplemented by regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor”.

Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c)

All contracts and subgrants in excess of \$2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)

When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)

Where applicable, all contracts awarded by recipients in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Acts (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or

under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended

Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining an Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

Debarment and Suspension (E.O.s 12549 and 12689)

No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689. "Debarment and Suspension". This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contracts declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

Access to Records (OMB Circular A-110, .48(d))

All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examination, excerpts and transcriptions.

APPENDIX D

FLOWDOWN PROVISIONS FOR FEDERALLY FUNDED CONTRACTS

Iowa State University has entered into an Agreement with either the U.S. Government, or another entity who has itself entered into an Agreement with the U.S. Government. That Agreement requires that certain federal contract provisions be made a part of any subsequent Purchase Order or Contract Purchase Order issued by Iowa State University related to furthering the performance or deliverables required under that Agreement. Where necessary to make the context of these provisions applicable to this order, the term “contractor” shall mean “seller”, the term “contract” shall mean “this order”, and the terms “Government”, “contracting officer”, and equivalent phrases shall mean “buyer”. Seller hereby agrees to flowdown the applicable clauses to its lower-tier subcontractors, and agrees that the clauses are in effect between it and the buyer, as applicable.

The following provisions are from the Federal Acquisition Regulations (FAR), which are available online at <https://www.acquisition.gov/far/current/html/FARTOCP52.html#wp372482>

These FAR clauses may have applicability only when the Purchase Order/Contract is at or in excess of a certain dollar threshold.

- 52.202-1 Definitions
- 52.203-3 Gratuities
- 52.203-5 Covenant Against Contingent Fees
- 52.203-6 Restrictions on Subcontractor Sales to the Government
- 52.203-7 Anti-Kickback Procedures
- 52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity
- 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions
- 52.204-4 Printed or Copied Double-Sided on Recycled Paper
- 52.204-6 Data Universal Numbering System (DUNS) Number
- 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment
- 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards
- 52.211-11 Liquidated Damages – Supplies, Services, or Research and Development
- 52.211-15 Defense Priority and Allocation Requirements
- 52.215-2 Audit and Records -- Negotiation
- 52.215-12 Subcontractor Cost or Pricing Data
- 52.215-14 Integrity of Unit Prices
- 52.215-17 Waiver of Facilities Capital Cost of Money
- 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions
- 52.215-19 Notification of Ownership Changes
- 52.216-7 Allowable Cost and Payment
- 52.216-8 Fixed Fee
- 52.219-8 Utilization of Small Business Concerns
- 52.222-1 Notice to the Government of Labor Disputes
- 52.222-2 Payment for Overtime Premiums
 - Para a., Dollar amount is \$0.00
- 52.222-3 Convict Labor

52.222-21 Prohibition of Segregated Facilities
52.222-23 Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction
52.222-26 Equal Opportunity
52.222-27 Affirmative Action Compliance Requirements for Construction
52.222-34 Project Labor Agreement (for construction contracts and subcontracts only)
52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans
52.222-36 Affirmative Action for Works with Disabilities
52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans
52.222-38 Compliance with Veterans' Employment Reporting Requirements
52.222-40 Notification of Employee Rights Under National Labor Relations Act
52.222-41 Service Contract Act
52.222-50 Combating Trafficking in Persons
52.223-3 Hazardous Material Identification and Material Safety Data
52.223-6 Drug-Free Workplace
52.223-13 Certification of Toxic Chemical Release Reporting
52.223-14 Toxic Chemical Release Reporting
52.223-18 Contractor Policy to Ban Text Messaging While Driving
52.225-13 Restrictions on Certain Foreign Purchases
52.227-1 Authorization and Consent
52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement
52.227-3 Patent Indemnity
52.228-7 Insurance – Liability to Third Persons
52.230-3 Disclosure and Consistency of Cost Accounting Practices
52.232-1 Payments
52.232-8 Discounts for Prompt Payment
52.232-9 Limitation on Withholding of Payments
52.232-25 Prompt Payment
52.233-1 Disputes
52.233-3 Protest After Award
52.233-4 Applicable Law for Breach of Contract Claim
52.242-1 Notice of Intent to Disallow Costs
52.242-3 Penalties for Unallowable Costs
52.242-4 Certification of Final Indirect Costs
52.242-13 Bankruptcy
52.243-1 Changes—Fixed Price, Alternate I
52.243-2 Changes—Cost Reimbursement
52.244-5 Competition in Subcontracting
52.244-6 Subcontracts for Commercial Items
52.245-1 Government Property
52.245-9 Use and Charges
52.246-4 Inspection of Services – Fixed-Price
52.246-23 Limitation of Liability

- 52.246-25 Limitation of Liability – Services
- 52.247-1 Commercial Bill of Lading Notations
- 52.249-1 Termination for Convenience of the Government (Fixed-Price) (Short Form)
- 52.249-2 Termination for Convenience of the Government (Fixed Price)
- 52.249-4 Termination for the Convenience of the Government (Services) (Short Form)
- 52.249-6 Termination (Cost Reimbursement)
- 52.249-8 Default (Fixed-Price Supply and Service)
- 52.249-14 Excusable Delays

Defense Federal Acquisition Regulation Supplement Clauses (use if Prime is funded by DOD)

- 252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies
- 252.203-7002 Requirement to Inform Employees of Whistleblower Rights
- 252.204-7000 Disclosure of Information
- 252.204-7003 Control of Government Personnel Work Product
- 252.204-7008 Export-Controlled Items
- 252.209-7002 Disclosure of Ownership or Control by a Foreign Government
- 252.209-7004 Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country
- 252.211-7003 Item Identification and Valuation
- 252.211-7007 Reporting of Government-Furnished Equipment in the DoD Item Unique Identification (IUID) Registry
- 252.219-7004 Small Business Subcontracting Plan
- 252.227-7016 Rights in Bid or Proposal Information
- 252.227-7017 Identification and Assertion of Use, Release, or Disclosure Restrictions
- 252.227-7019 Validation of Asserted Restrictions – Computer Software
- 252.227-7021 Rights in Data – Existing Works
- 252.247-7023 Transportation of Supplies By Sea
- 252.247-7024 Notification of Transportation of Supplies By Sea

APPENDIX E

TEMPLATE AND TIPS FOR DONATIONS OF EQUIPMENT TO ISU

Tips For Handling Equipment Donation Agreements

- Items that may need to be coordinated with other departments
 - Department accepting donation – equipment use, hidden costs, equipment inspection
 - FP&M – structural and utility needs
 - EH&S – environmental hazard
 - Risk Management – insurance
 - ISU Foundation – acknowledgement of gift
 - Inventory Control – addition of equipment to ISU inventory
 - University Counsel – assistance
- Key Terms and Conditions that may need to be included in an agreement
 - Description of the equipment
 - Model number, serial number, pictures
 - Warranties
 - Ownership/title
 - No liens
 - No known material defects
 - Shipping of equipment to ISU
 - Arrangements
 - Packing
 - Payment
 - Date
 - Installation
 - Transfer of Ownership
 - Transfer of ownership at time we take control of equipment
 - If we are picking up, transfer ownership at time of pickup
 - If donor is delivering, transfer ownership at time of delivery or installation
 - No compensation (we are not paying for the item)
- Other Terms and Conditions
 - Use of Equipment
 - Consistent with department's use
 - No interference with research and fee for service use
 - Avoid clauses that restrict “for ISU internal purposes only”
 - Indemnification
 - Limit to the negligent or wrongful acts or omissions of ISU and its employees and agents and state ISU indemnifies only to the extent permitted by law
 - Avoid clauses that make ISU responsible for any damages or injuries caused by the equipment
 - Installation of equipment by donor
 - Donor indemnification
 - Insurance
 - Acknowledgement of gift

AGREEMENT FOR DONATION OF EQUIPMENT TO IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

This Agreement for Donation of Equipment ("Agreement") is made by and between Iowa State University of Science and Technology, on behalf of its [insert unit name and address] ("ISU"), and [insert donor's name and address] ("Donor") and sets forth the terms and conditions relating to the donation of certain equipment by Donor to Iowa State University of Science and Technology.

Terms and Conditions

1. **Description of Donated Equipment; Warranties.** The equipment to be donated to ISU by Donor is described in Attachment A ("Donated Equipment"). Donor represents and warrants that it is the sole owner of the Donated Equipment, that it holds good and valid title to the Donated Equipment and that the Donated Equipment is free and clear of all liens and encumbrances. Donor further represents and warrants that Donor knows of no material defect in the Donated Equipment.
2. **Delivery/Pick-Up of Donated Equipment.** Shipping terms are EXW (INCOTERMS 2010) Donor's facility (INSERT ADDRESS OF FACILITY). ISU shall be responsible, at its expense and risk, for packing the Donated Equipment, loading the Donated Equipment and shipping the Donated Equipment to ISU. The parties shall mutually agree upon the date for ISU or its shipping carrier to pack, load and ship the Donated Equipment, such date not to be later than February 29, 2016.
3. **Transfer of Ownership.** Donor hereby conveys, assigns and transfers to ISU all right, title and interest of Donor in and to the Donated Equipment at the point ISU or its shipping carrier commences packing the Donated Equipment, and ISU hereby consents to becoming the owner of all of Donor's rights, title and interest in and to the Donated Equipment at that point. ISU shall not provide any goods, services or monetary consideration in exchange for the Donated Equipment.
4. **Acknowledgement.** At the request of the Donor, the ISU Foundation shall promptly provide a written acknowledgement of the Donated Equipment. Such acknowledgement will include ISU's name, a description of the Donated Equipment, the date ISU accepted the Donated Equipment, and a statement that no goods or services were provided by ISU to Donor in return for the Donated Equipment. If Donor plans to claim a charitable deduction for this contribution, and the contribution is valued at more than \$5,000, IRS Form 8283 may need to be completed along with a qualified appraisal. Donor should consult its tax professional advisor.
5. **ISU's Use of Donated Equipment.** ISU may use the Donated Equipment for any legal purpose, including but not limited to educating students, engaging in research funded by third-parties and performing services for third-parties for a fee. ISU may also permit third-parties to use the Donated Equipment for a fee or sell the Donated Equipment.
6. **Miscellaneous.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior agreements, whether written, oral, or implied. This Agreement shall not be modified without the written mutual consent of the parties. The failure of either party to require performance of any term or condition of this Agreement by the other party shall not constitute a waiver to subsequently enforce such term or condition. The invalidity or illegality of one or more provisions of this Agreement shall not affect the enforceability of the remaining provisions. The parties' rights and obligations in this Agreement that, by their nature, would continue beyond the termination of this Agreement shall survive such termination. This Agreement shall be construed in accordance with the laws of the State of Iowa, without giving effect to its conflicts of law provisions, and any litigation or actions commenced in connection with this Agreement shall be instituted in a court of competent

jurisdiction in the State of Iowa. ISU and Donor are independent entities, and nothing in this Agreement creates any partnership or joint venture.

7. **Counterparts; Authorization.** This Agreement may be executed in any number of counterparts and delivered by electronic transmission in PDF format. Each party represents and warrants that the person executing this Agreement on its behalf is authorized to do so.

IOWA STATE UNIVERSITY
OF SCIENCE AND TECHNOLOGY

[Insert donor name]

Signature: _____
Name: _____
Title: _____
Date: _____

Signature: _____
Name: _____
Title: _____
Date: _____

ATTACHMENT A
EQUIPMENT

[Insert or attach list of equipment, including description, model number, serial number and estimated value]