

PROCUREMENT POLICIES AND PROCEDURES

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IOWA STATE UNIVERSITY
PROCUREMENT SERVICES DEPARTMENT
POLICIES AND PROCEDURES

SECTION I 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 supplier 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 (Workday Driver Worktag).

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

- The procurement is a FP&M small construction project > \$25,000 and <\$250,000.
- The bid process 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 procurement 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 Operations and Finance 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, University Counsel and/or the Office of the Senior Vice President and Provost.
- The procurement is for property insurance or 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 Driver Worktags (Funding Source)

Each department is assigned one or more Driver Worktag that represent funding sources. All financial transactions require a driver Worktag to identify the cost center being charged and to route

approvals. Invalid or closed Driver Worktags will not be accepted in the Workday system. Specific Worktags (e.g. federal funds) and certain types of acquisitions require approvals beyond a Cost Center Manager. A Grants Finance Specialist will ensure that Sponsored Programs Accounting authorizes any equipment acquisitions purchased on sponsored funding. Procurement Services staff shall familiarize themselves with any additional approval requirements and assure advance approval by the appropriate parties.

1.4 Fund Sources related to Worktags

With the sole exception of vending funds, all funds deposited with the university, regardless of source and including 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. 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 Iowa State, not the individual requisitioning the item.

Funds originating through the ISU Foundation are transferred to the university funds (Gift Worktags). These Worktag funding sources are treated like any other university funded Worktags, with certain exceptions. University policy allows these funding Worktags 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 Operations and Finance and/or the Office of Risk Management. Gift Worktags 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 §200.327 effective July 1, 2018. Until that time Iowa State complied with OMB Circulars A89, A-102 and A-110. Procurement utilizes a checklist for to ensure federal UGA compliance (See Appendix F).

SECTION II AUTHORITY & RESPONSIBILITY

2.1 Authority for Procurement

The Procurement Services Department is a division of the Office of the Treasurer. Authority for all procurement transactions has been delegated to the Treasurer 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 the Chief Procurement Officer and Associate Director of Procurement and procurement agents by letters of delegation outlining specific contracting authority and limitations. Limited procurement authority has also been delegated to departments consistent with written agreements or by Procurement Services authorizing the use of Procurement Cards (p-cards) and Travel & Hospitality Cards (T&H 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 Chief Procurement Officer (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 Senior Vice President for Operations and Finance to procure textbooks, course materials and other items for resale to students, faculty, staff and the public. The Associate Director of Procurement Services is also authorized to act for the Chief Procurement Officer (CPO) in the CPO'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 CPO for Iowa State (Director of Procurement Services) will be Iowa State's member of the Procurement Council.

2.2 **Authority to Commit University**

Each procurement agent, when requested to place orders without issuing a PO, 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 Chief Procurement Officer (Director of Procurement Services) prior to the order being placed. The Associate Director of Procurement Services or the Treasurer should approve in the absence of the CPO. In addition, procurement 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.

Procurement Agent I	\$25,000
Procurement Agent II	\$50,000
Procurement Agent III	\$100,000
Procurement Agent IV	\$200,000
Procurement Agent V	\$250,000
Procurement Agent VI	\$500,000

Any contractual agreement or memorandum of agreement in excess of \$500,000, which is generated by the Procurement Services Department, and any supplier-generated agreement that exceeds the levels noted above, must be signed by the CPO, the Associate Director of Procurement Services, or the Treasurer. Before a non-catalog purchase order or supplier contract, which exceeds the level of authority stated in the individual's respective Memorandum of Delegation-Contract Authority, is placed or sent to a supplier, the CPO 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 for federally-funded acquisitions to follow either Federal Uniform Guidance (UGA) or the Code of Federal Regulations (CFAR) to obtain maximum value from the expenditures of university or Federal funds.
- b. Maintaining effective business relationships with the supplier 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 supplier 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 also handle purchases of \$15,000 or more for the special schools.

2.4 Unauthorized Procurements

Except for delegated procurement authority (procurement card, travel & hospitality card, authorized direct payments or procurement within someone's delegated authority given to them by a letter of delegation); 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 created. Depending upon the frequency, risk, or severity of the infraction, the CPO 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 may likely be required for acquisitions of services or equipment and procurement agents are responsible for identifying and properly addressing those situations by adding language to the purchase 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 Iowa State

Goods or services available through university stores/operations (Chemistry Stores, Central Stores, Printing Services, Transportation Services, University Book Store) are generally to be used in lieu of writing 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 suppliers or labor sources.

2.7 Professional Development of Procurement Professionals

All procurement staff receive in-house training, and to the extent funding permits, are offered internal and external professional development opportunities associated with procurement requirements, employee improvement opportunities, 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 CPO shall be responsible for monitoring the training needs of those with delegated authority and shall have the authority to withhold delegated authority, if necessary.

SECTION III 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 suppliers a fair and equal opportunity to compete.

3.2 Competitive Thresholds

\$4900 or less – Campus departments may be provided procurement authority via p-card and T&H card, when operating consistent with the applicable written agreement and in compliance with p-card and T&H card policies. This limit may be raised, if doing so is in the best interest of the university and is approved by the CPO (Director of Procurement Services).

Up to \$24,999 Except for the p-card and T&H card transactions identified above, purchases of goods and services are processed through a Workday requisition and may require a price or rate quotation from an adequate number of sources.

\$25,000 - \$49,999 Competition for goods and services is sought via an ‘informal solicitation’ (phone quotes, fax, or email) with an adequate number of sources. Competition can be waived by documenting the need for a particular source or that competition would not yield a desirable result.

\$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, food, or 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 procurement agent will seek competition. Discretion shall be used by the procurement agent as to the potential for cost savings/cost avoidance relative to the economies of mailing, 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.

Regardless of Iowa State’s existing bid thresholds, it is important to ensure that all bidding requirements of the federal government are met for federally funded acquisitions. Procurement will follow UGA guidance for purchases under the micro-purchase limit (supplies or services less than \$50,000 or \$2,000 in the case for construction subject to Davis-Bacon Act).

A price or cost analysis is to be performed by the procurement agent and documented on all federally funded transactions in excess of the Simplified Acquisition Threshold of \$250,000.

In cases where no price competition exists, or a sole source is requested, Procurement will negotiate profit 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, both at Iowa State and at other institutions, auditing of procurement data sources (e.g. GovSpend) or analysis of catalog prices and discounts.

NOTE: Equipment orders exceeding \$5,000 require a minimum of one phone or written quote to establish a firm price unless a bid process is used to establish price.

3.4 Informal Bid Process

When soliciting quotes 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 or email in order to obtain an offer from the supplier.

3.5 Formal Bid Process

Formal bids, as outlined herein, shall be required on goods or services costing in aggregate more than \$50,000 as a single purchase or exceeding \$50,000 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 suppliers. The formal Request for Proposal process is used when the university is requesting solutions from suppliers and when factors other than price are in the best interest of the university. The Procurement Services Department will prepare an online "Request for Quotation (RFQ)" or "Request for Proposal (RFP)" document and transmit notification via email, requiring the supplier to access Iowa State's online system to respond to the RFQ or RFP. The bid solicitation notification will be sent to a list of chosen suppliers as well as notifying all suppliers for the particular commodity being bid. Suppliers may also choose to download or receive a printed copy of the RFP if they cannot access Iowa State's system. The Request for Quotation/Proposal shall contain the following information or require the steps stated below, at a minimum:

- a. Include a section requesting pricing and the items necessary to evaluate the bid responses.
- b. Provide Bid Instructions and a stated time and due date.
- c. Include a complete description of goods/services needed, using functional specifications.
- d. List any special circumstances, i.e., critical delivery times, site preparation, special packing, etc.
- e. 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. Procurement will oversee and document all evaluations.
- f. Provide the procurement agent's name and contact information.
- g. All solicitations shall be posted on the Iowa State Procurement Services website for the period of time the bids are open, unless circumstances preclude posting of the bids publicly. Bids that are not posted publicly require approval of the Director of Procurement Services
- h. Advertise the bid on the TSB 48-hour website.

Bids may be opened publicly if stated in the bid documents, on the due date and hour designated in the bid. Bids that are opened publicly are to be tabulated and the tabulation made available to all interested parties upon their request. The bid tabulation and the contents of the quotations are not to be viewed by bidders until an award is announced.

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 goods or 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 (when necessary). Pre-proposal conferences are encouraged when the agent or department believes there is a need for the conference.
- b. Purpose, intent and background of the RFP.
- c. Key dates for the proposal to award process.
- d. 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. Procurement Services will oversee and document all evaluations.

3.7 Competitive Negotiation

Contracts may be awarded by competitive negotiation after an unsuccessful Request for Quotation or Request for Proposal process and the Director of Procurement Services or Associate Director of Procurement Services determines that there is no value in 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 suppliers 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 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 Services or the Associate Director of Procurement Services shall approve written documentation from the procurement 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 Board of Regents Chief Operating Officer (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 and approved by the Director of Procurement Services or Associate Director of Procurement Services. Requests for a sole or single source must include a written explanation (sole source justification) to support the request. The procurement agent is required to verify the information. Sole source procurements may be approved on non-federal funds 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 service.

For *federal funds* sole source may only be used for the following four reasons:

1. **The item is only available from a single source** (and can be documented as such. This does not mean only one source can sell a particular brand or style but that no other source for the item required can be identified even through a bid process.)
2. **The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;**
3. **The Federal awarding agency or pass-through entity expressly (in writing) authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or**
4. **After solicitation of a number of sources, competition is determined inadequate.**

- 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:
1. 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.
 2. Bids have been solicited and no responsive bid (conforming to the primary requirements of the solicitation) has been received.
 3. Memberships, advertising, subscriptions, registrations, and other direct pay transactions.
 4. Use of competitively bid State of Iowa, joint regent, Iowa Biotechnology Association, group purchasing organizations (GPO's), or other consortia contracts.
 5. 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 (e.g. eBay) is not allowed. This includes Buy It Now options. Online auctions may add unacceptable risk to a transaction as the terms of sale may include terms that are unacceptable to the university, may require to accept goods "as is," return options may be limited, and remedies for non-compliant or stolen goods may not be available. If an item is only available on such a site, the procurement 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 full or partial donation or other form of consideration must be handled through the normal procurement process. If a supplier wishes to donate the entire value of the acquisition, the Procurement Services Department will 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 if needed. 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 Financial Accounting and Reporting department. The value of the donation(s) should be verified as reasonable by a Procurement Services Department procurement agent or by ISU Foundation. *See Appendix E for the Template and Tips for Donations of Equipment to Iowa State.*

3.11 Purchases from Regent 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 the E & I Cooperative and other Cooperatives, Consortia or Group Purchasing Organizations (GPO's) were developed as a result of competitive negotiation. At a procurement 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 procurement agent will have discretion to seek competition. Caution should be exhibited when federal funds will be expended, unless the procurement agent has confirmed the Cooperative's bid process properly addressed federal requirements.

3.13 Purchases from State Department of Administrative Services Contracts or 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 procurement agent has confirmed 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 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 groups of items costing less than \$150,000 per total order may be purchased through contracts established by the 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. Purchase orders or contracts in excess of \$150,000 must be reviewed and approved by the Director of Procurement Services before an order is placed or a contract 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 Senior Vice President for Operations and Finance may approve other methods to procure goods and services, such as contracting with a third party administrator.

SECTION IV SOURCING AND SOLICITATIONS

4.1 **Sourcing**

The Procurement Services Department will maintain a list of all suppliers who wish to do business with the university. Invitations to bid will be solicited from all suppliers whom Procurement Services believes may be able to supply the goods or services needed.

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 procurement agent shall follow all Uniform Guidance (UGA) or Federal Acquisition Regulations (FAR) whichever applies based on funding. Procurement 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).

4.2 **Solicitation Notification**

Procurement Services will utilize an electronic solicitation notification system to target specific suppliers along with the public posting on the Procurement Services “Supplier” website: <https://supplier.procurement.iastate.edu/isubid/isubid>.

Exceptions to this process require approval of the Director or the Associate Director of Procurement Services. Other methods of solicitation notification may also be used at the discretion of the procurement agent, provided the bid document is publicly posted on the Procurement Services website.

4.3 **Specification Development**

Procurement agents shall issue specifications for goods and services which are not unduly restrictive. Brand name specifications shall be used to reference a level of quality, not to 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:

- Placing unreasonable requirements on firms in order for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants that are on retainer contracts;
- Organizational conflicts of interest;
- 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
- Any arbitrary action in the procurement process.

Supplier assistance in specification preparation shall only be allowed if that supplier 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 or for site visits. Such bidder’s conferences shall be announced in the bid or proposal solicitation document. The conference should be held long enough after the bid solicitation document has been issued to allow suppliers to become familiar

with it, but with adequate time before the solicitation due date to allow supplier 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 university's bid system. Procurement 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 the bid reference number and may require that the supplier acknowledge receipt of all addenda issued. Addenda shall be posted on the university's online bid system with sufficient time to allow suppliers to consider them in preparing their response. If the established due date and time does not permit such preparation, the due date may be extended.

4.6 Tie Bids

Procurement Services will resolve tie proposals 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. However, if this is not possible, the drawing will be made in front of at least three persons and said drawing documented.

Whenever a tie bid involves an Iowa firm and a 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. A Supplier may withdraw and resubmit a withdrawn Proposal up to the time designated for receipt of proposals provided that the resubmitted Proposal complies with the RFP/RFQ documents. Supplier may not withdraw its Proposal for a period of ninety calendar days after the time designated for receipt of proposals unless the Proposal contains an obvious and documented error for which it would be a manifest injustice to require Contractor to perform pursuant to such terms. 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 the [Board of Regents Policy Manual](#).

- 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 procurement 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 Associate Director of Procurement Services.
- d. A request for withdrawal of a bid may 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 Board of Regents 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 **Bids – Request for Extension**

Suppliers who contact Procurement prior to the bid due date, may, at the procurement agent's discretion, have a bid opening date extended. Prior to granting the extension, the requesting department should be contacted to ensure the delay will not have operational ramifications. Generally this should be a reasonable extension of 3-7 days.

4.10 **Late Bids**

Generally, formal bids received after the published date and hour specified for receipt, will not be considered. Such bids will not be reviewed and the supplier may be notified that their bid was not considered. 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 by evidence that through no fault of the supplier, through circumstances beyond the supplier's control, that they were precluded from having their original bid entered or 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 the supplier cannot submit the bid due to Iowa State's bid system being inaccessible or down, Procurement may provide options including emailing a copy that can be filled in and returned via email or dropped off. The bid will be opened and reviewed if it reaches Procurement prior to the due date. If it is the low responsive bid, the procurement 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 procurement agent's possession. Should such bids require bid bonds, or 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.

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 procurement 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 postmarked envelope. Such exceptions must be authorized by the Director of Procurement 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 Associate Director of Procurement Services. Approval to cancel will be obtained prior to cancellation and a notice of the solicitation's termination shall be sent to all suppliers that submitted bids or proposals or to all suppliers invited if the bid due date has not passed. The reason(s) for cancelling 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 procurement 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 Quotes Received by Requesting Department

All competitive bids shall be issued by the Procurement Services Department. However, a procurement agent may accept a quote requested by a university department other than Procurement if the purchase is less than the bid limit and the quote contains all of the necessary information, e.g., price, delivery, terms, warranty, signature, etc. Under no circumstance should procurement agents accept a quote received by a requesting department and then solicit quotes or bids from other suppliers, without including the supplier who submitted the quote directly to the requesting department. A supplier may have only 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 procurement 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 procurement 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 Associate Director of Procurement Services. Unless an exception is granted, written notice is to be sent to all suppliers originally solicited indicating that the 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 bid number.

SECTION V REQUIREMENTS IN BID SOLICITATION DOCUMENTS

5.1 Bid Security

Bid security is to be used in cases where the procurement 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 procurement 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. Procurement 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 utilizes a suggested length 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 suppliers will require evidence of appropriate insurance coverage in the form of a certificate of insurance listing Iowa State University, 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. Iowa State must also have contractual rights to the supplier'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 Risk Management.

SECTION VI SUPPLIER SELECTION

6.1 Awards

Awards on Requests for Quotations (RFQ's), 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 procurement agent as part of the bid process.

6.2 Multiple Awards

Recognizing that best value is achieved through competition, a solicitation normally would result in a single award. Multiple awards to a primary and secondary supplier or awards by product category to more than one supplier may be made if a valid reason exists to do so and the awards are approved by the Director of Procurement Services or Senior Vice President for Operations and Finance.

6.3 All or None Bids

Procurement Services may award bids or proposals by all items, by each item or by group of items, whichever is to the advantage of the university. When this is the case, it will be identified in the bid documents that Iowa State intends to award by item, group or all items. However, care will be taken by the procurement agent to ensure that suppliers will not be penalized by split awards. Generally, Iowa State will not split bids unless reasonable savings is expected to account for the costs for processing multiple purchase orders or contracts, and any contract management required of multiple suppliers.

6.4 Acceptance of Other than Lowest Bid

Iowa State is not required to accept offers based solely on price, unless the original bid solicitation specifically indicated otherwise or no criteria of award other than price was stated in the bid solicitation. Generally price alone would not be the sole determinant. Whenever acceptance of other than the low compliant and responsible bid is recommended by the procurement agent, it must be reviewed with the Director of Procurement Services or the Associate Director of Procurement Services. Iowa State has an ethical obligation to provide objective rationale as to why we did not accept the lowest or lower bids. Procurement Services may request a written statement from the requesting department explaining their rationale for recommending the higher cost bid or will document the scoring methodology used to evaluate criteria. In all instances where the procurement agent recommends an award to other than the low bidder it must be reviewed by the Director of Procurement Services or the Associate Director of Procurement 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, agents should seek management review in order to maintain integrity in the award process.

6.5 Additional Factors That May Be Considered In Supplier Award 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 processes provided to evaluate the costs and benefits.

Experience of the supplier or the supplier'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 contract.

Value-added items proposed by the supplier 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) or when only one response is received to a solicitation on a federal fund, the procurement agent must ensure that the price the university is paying is fair and reasonable by completing a price analysis. Additionally, federal funding would include UGA or FAR stipulations that may mandate that the university perform price cost analysis under certain conditions. If, after analysis, the procurement agent does not feel the price is fair and reasonable, he/she will do one of two things:

- Seek competition (or seek further competition if already bid); or
- Negotiate with the supplier to lower the price.

6.7 Use of Licensed Suppliers - 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 a supplier, their products, or services. Any exception to this policy must be approved by the Senior Vice President for

Operations and Finance. 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 (See Iowa Code §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 Associate Director of Procurement Services is required.

SECTION VII 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 contracts may be prohibited when federal funding is 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. Federal awards may preclude or have other stipulations for time and materials contracts.

7.2 Multiyear Contracts

Procurement Services may enter into multiyear 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 to be able to recoup their investment. Contracts should generally not exceed five years in length, including all renewal options, without prior review and authorization by the Director of Procurement Services or the Associate Director of Procurement Services. Any multiyear contracts or contracts that cross fiscal years and are funded by appropriated monies must contain a non-appropriations cancellation clause that protects the university in the event insufficient funds are appropriated. Procurement Services will typically include terminology that provides a means of termination 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 when it is cost-effective. Many of these agreements are made available through the university's e-procurement marketplace (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 Regent 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 and the Regents Policy Manual define certain responsibilities for the procurement of professional services. Professional services are defined as unique, technical and/or infrequent functions performed by an independent supplier 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 Contractual 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 developed by Procurement Services. Agreements where the total project expense (fee compensation, travel, lodging, etc.) is anticipated to exceed \$50,000 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. All sole source justifications for professional services must be approved by the Board of Regents COO.

All Professional Services Contractual Agreements must be signed by both parties to be valid. When the PSCA is signed 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, Procurement 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 procurement 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.

Before approving and signing a Professional Services Contractual Agreement, the procurement agent shall review the selection process and verify no conflict of interest exists. Conflict of Interest (COI) is defined by the university at the following link:
<https://www.policy.iastate.edu/policy/conflict/>.

Federal conflict of interest is more restrictive and can be found at:
<https://www.ecfr.gov/cgi-bin/ECFR?page=browse>

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 or in multiple years if services continue. 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.

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

Work requirements should clearly define all performance objectives, work expectations and project milestones, and hold the supplier accountable for successful completion of the resultant agreement. Requirements may include, but not be limited to, reports, assessments, evaluations, or other tangible services, all of which are referred to as deliverables. The PSCA 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 supplier has successfully fulfilled his/her obligations under the PSCA. 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 with steps to be taken to resolve any concerns, dates for formal written reports, required oral progress reports, and contract monitoring requirements.
- b. The resultant PSCA must specify a start date and a completion date. While there may be exceptions, in most circumstances an end date to the PSCA will be required and the duration should generally be of one (1) year or less. If an end date cannot be determined a fixed fee should be determined. Extended term agreements for individuals are discouraged and should generally be done as a contractual agreement.
- 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, allowable expenses, 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 supplier 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, procurement 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 PSCA and applicable laws and regulations.
- e. The PSCA should state whether the supplier is required to provide commercial liability insurance coverage, auto liability coverage and workers compensation coverage at statutory levels, when performing work on site at Iowa State 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.

Although it is not advised, PSCA's under \$2,000 may be handled by the department if they use the authorized Professional Services Contractual Agreement template and do not involve a conflict of interest. The PSCA must be completed prior to the work beginning and shall be included in any invoice payment requests. Payment requests that do not include a copy of the signed PSCA may be returned to the requesting department. An IRS Form 8233 is to be completed if the person providing services is a foreign citizen. Payment will be made after services have been provided.

PSCA's are not required for speakers or entertainers. In the event that an agreement needs to be signed or the speaker or entertainer represents a conflict of interest, a Workday non-catalog requisition must be completed. Procurement will review the agreement and issue a purchase order prior to the engagement.

Regardless of the dollar amount, to properly protect the institution, Procurement Services may need to write an agreement when an 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 procurement 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 Supplier Invoice accompanied by a completed Conflict of Interest form, which should be entered into Workday. PSCA's should not be used for speakers or entertainers.

7.6 Revenue Generating Contracts

Revenue generating contracts are typically 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 for Materials or Services

All forms of true lease or rental agreements for materials or services need to be signed on behalf of the university by Procurement Services, 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. Rental of these types of tools can be done with p-card, through e-procurement suppliers or with a non-catalog requisition.

When possible, a copy of any proposed lease agreement should be sent to Procurement Services when the non-catalog requisition is created in Workday. 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 Iowa State 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.

For federal funds, Procurement will analyze the value of leasing equipment and items versus purchase and will upload that analysis to any associated purchase order or contract. Procurement will apply this analysis when the option to lease is presented or normally available for the particular commodity.

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 Operations and Finance. 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 Operations and Finance 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 and can be executed by Procurement Services. Procurement can also sign agreements for intermittent or short-term use of ISU facilities or for ISU's intermittent or short-term use of others' facilities.

7.9 Internal Lease Purchase Program

The university has an internal lease purchase program available. 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 may 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, Procurement will work with the department to contact Iowa State's Treasurer's Office 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, the order for the leased item will not be executed. When approved, the Treasurer's Office will provide a Worktag for the purchase. A copy of this form, when signed by all parties, will be uploaded to the contract or 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 Operations and Finance or the University Treasurer. 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 to the Senior Vice President for Operations and Finance, who will coordinate notification through the Board office.

SECTION VIII 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 procurement 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 Senior Vice President for Operations and Finance (SVPOF) for approval. If approved, the SVPOF will submit the request to the Board of Regents COO for approval.
- c. Equipment costing more than \$2,000,000 will be submitted to the Senior Vice President for Operations and Finance for approval. If approved, the SVPOF will submit the request to the Board of Regents COO for approval. At the discretion of the COO, the equipment purchase may be submitted to the full 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 procurement 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 before it is forwarded to the Office of the Senior Vice President for Operations and Finance. Upon receipt, the Office of the Senior Vice President for Operations and Finance 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 procurement 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 procurement 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 procurement 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 procurement agent shall make an appropriate payment arrangement that protects the university's financial interests and avoids double payment.

Procurement 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 suppliers, 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 procurement 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 required by the supplier shall be reviewed and signed by the appropriate procurement 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 and should be coordinated by a procurement agent.

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) associated with those items. Procurement agents should ask for ECCN numbers on bid solicitations for new types of dual-use equipment or materials. The requisitioning system will alert the procurement agent that an item may be sensitive. The procurement agent shall notify the university's Export Control Administrator and provide the details of the purchase, including the PI, department, and location.

SECTION IX CONTRACT ADMINISTRATION AND CONTRACTOR PERFORMANCE

9.1 Contract Administration Plans (CAP)

It is the responsibility of the procurement 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 supplier'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:

- a. Supplier is billing correctly
- b. Products and service meet the end user's needs
- c. Products and services are meeting specifications
- d. Delivery requirements or milestone dates are being met
- e. Contractor and end user are complying with all terms and conditions of contract
- f. End user is satisfied with contract
- g. Method for resolving problems and complaints
- h. Method for approving change orders
- i. 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.

SECTION X REMEDIES – PROTESTS – 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 procurement 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. Iowa State's Office of University 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 or the Associate Director of Procurement Services before any written correspondence is sent to the supplier.

10.3 Suspension

Nonresponsive and non-responsible 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 supplier 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 procurement agent shall contact the procurement 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 procurement 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 procurement agent, a Supplier (hereinafter "Complainant") shall outline the concern in writing to the Iowa State Director of Procurement Services.
- 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 Director of Procurement Services 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 decision of the Director of Procurement Services 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 Director of Procurement Services 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 written decision of the Director of Procurement Services, and shall contain the specific grounds upon which appeal is made.

- f. The Director of Procurement Services shall communicate all written complaints to the Iowa State Senior Vice President for Operations and Finance (SVPOF).
3. Appeal to University Administration
 - a. Upon receipt of the appeal, Iowa State's SVPOF, 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 SVPOF, or his/her designee, shall be provided to the Complainant and the institution's Director of Procurement Services.
 - c. The written decision of the institution's SVPOF 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 SVPOF. 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.

SECTION XI 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 <https://www.naepnet.org/page/CodeOfEthics>.

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, the purchasing official or Procurement Services shall pay the full cost of his/her own meal.

11.4 Release of Bid Information/Open Records Requests

When a Procurement Services employee receives an open records request, they will immediately notify the Procurement Services Public Records Administrator. The Procurement Services Public Records Administrator will notify the requestor of the records if any payment is required for copying and review of the records. The procurement agent that is currently responsible for the bid or contract is 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. The procurement agent will provide the requested documents to the Procurement Services Public Records Administrator who will provide them to the requestor of the records.

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 all bids. Any person may ask to review bids and has the right to do so and to request copies. Charges for copies 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: <https://www.ur.iastate.edu/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 Director of Procurement Services 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 procurement policies and procedures, procurement staff are prohibited from receiving any kickback, gift, membership, gratuity, or service as a result of a purchase entered into on behalf of Iowa State University, or as a result of their position in the Iowa State University Procurement Services Department. Procurement Services staff should immediately notify their supervisor if they become aware of any other university employee or supplier 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-supplier relationship, or result in the appearance of favoritism or charges of bid rigging.

11.6 Conflict of Interest Bids

No university 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 and the appropriate bid process has been completed. This applies to any firms who represent partnerships involving an employee or a limited liability company formed by an employee.

The COIPC must have authorized the university to purchase from the conflict of interest supplier before an order can be written. Such authorization requires approval of a written narrative submitted by the conflict of interest supplier that explains why the employee's position within the university does not create a conflict of interest situation through which the supplier will benefit from their position with the university. The written narrative is to be submitted to the Director of Procurement Services and will be reviewed by the COIPC. The COIPC will notify the conflict of interest supplier of the decision. After approval is given by the COIPC, the conflict of interest supplier may not sell any goods or services to any Regent institution or state agency that have a value in excess of \$2,000 for any one transaction, unless pursuant to an award or contract let after public notice and competitive bidding.

The Director of Procurement Services, or the COIPC, may recommend if the COI supplier is an employee of Iowa State, that the services rendered by the COI employee be compensated through payroll as added compensation.

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. Procurement Services 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 assistance from the Attorney General's Office. Such assistance shall be with the authorization of the Director of Procurement Services and handled through the Office of University Counsel.

SECTION XII 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 non-federal funds will have only that portion charged to non-federal 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 an invoice is in dispute. In any situation where an invoice is in dispute, the procurement 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 Director of Procurement Services or the Associate Director of Procurement Services. Generally, prepayments of more than \$5,000 will require the supplier supply adequate surety. Surety can be in the form of a performance bond or a properly written irrevocable letter of credit. Procurement 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 supplier's facility are to be reviewed in advance with the Director of Procurement Services 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 procurement 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 suppliers through U.S. Customs, the university uses the following customs broker:

Scarbrough International, Ltd
Attn: Rick Ostendorf – Import Operations
100 Court Avenue Ste. 440
Des Moines, IA 50309
515-287-3840
<http://www.scarbrough0intl.com/services.htm>

12.5 **Utilities**

Most utility payments are handled by procurement card or by Workday Supplier Invoices. Such invoices are not required to be handled by Procurement unless there is a request to contract for the services. There may be certain exceptions, e.g., short-term rental of houses, etc., where utility bills would be involved.

SECTION XIII SUSTAINABILITY AND SOCIAL RESPONSIBILITY

13.1 **Environmentally Preferable Procurement 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.

SECTION XIV 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 the university 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 and T&H 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 procurement agents on the Small Business Program, providing them with potential small-and disadvantaged-supplier 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:

- Provide resources in Procurement 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's) in its procurement activity. All procurement 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.

SECTION XV FEDERAL REQUIREMENTS

15.1 Federal Grants

Federally funded acquisitions are subject to many specific regulations and provisions. These provisions include Uniform Guidance Administration (UGA), which applies to federally funded grants, and the Federal Acquisition Regulations (FAR), which applies to federally funded contracts. Procurement 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, Appendix F Iowa State University Federal Funds UGA Checklist).

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 the U.S. Government, that agreement requires certain federal contract provisions be made a part of any subsequent Purchase Order or Supplier Contract that is issued by the university related to furthering the performance or deliverables required under that Agreement.

The supplier must further agree 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

Procurement agents shall include a clause for federally funded service contracts (excluding investment advisory services, fund management services, sponsored projects, intergovernmental Purchase Orders or information technology services or products and services) requiring the supplier to certify that it does not knowingly employ or contract with an illegal alien who will perform work under the Purchase Order (PO). The supplier 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. Suppliers are required to notify any subcontractor and the university within three days if supplier has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under the PO 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 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.

SECTION XV CARD SERVICES AND E-PROCUREMENT

16.1 Procurement Card

The Iowa State University procurement card (p-card) program has been designed to allow for the procurement of certain low-dollar goods, services and supplies by the end user through the use of a credit card. The intent is to eliminate the need for small dollar purchase requisitions and reimbursements. The p-card program is designed to improve efficiency in processing and completing low-dollar purchases of approved commodities from suppliers that accept a Visa credit card.

The p-card is available to all Iowa State University faculty, staff and graduate assistants with the approval of the cardholder's manager and the department's Cost Center Manager (CCM). All cardholders must sign and accept the terms and conditions of the Iowa State University Procurement Card Program Cardholder Agreement and the Statement of Procurement Card Receipt.

Cardholders are required to follow the policies outlined in the [Cardholder Guide](#)

Cardholders that violate policy will be subject to the card suspension process (See Appendix H)

16.2 E-Procurement (cyBUY)

The cyBUY e-procurement marketplace is designed to allow for the acquisition of supplies and equipment from contracted suppliers in a streamlined online marketplace available through Workday. cyBUY contains competitively bid contracts that are for University use.

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 procurement agents in these efforts, the Director of Procurement Services 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 procurement agents identify these suppliers, as well as, the goods/services they can provide.

Procurement Agent Responsibilities

It shall be the responsibility of each procurement 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 supplier bid list. Procurement 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 Procurement Services (or the Associate Director of Procurement Services) and approval is required before an order can be placed with another supplier.
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 \$50,000), requisitions suggesting award to a business other than a TSB, SDB, MBE, WBE, WOSB, VOSB, SDVOSB should be reviewed by the procurement agent for potential award to a TSB, SDB, MBE, WBE, WOSB, VOSB, SDVOSB selling those goods or services. After the procurement 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 procurement agent, the order should be discussed with the Director of Procurement Services or the Associate Director of Procurement Services before the order is placed. When federal funding is involved, transactions in excess of \$50,000 are subject to Uniform Guidance (UGA) requirements, which require an analysis and documentation of cost reasonableness. This is to be performed by the procurement agent prior to processing the purchase order.

Questions regarding these guidelines should be directed to the Director of Procurement Services. In the absence of the Director and Associate Director of Procurement Services, any of the required review steps described above will be performed by the Assistant Vice President and Treasurer.

Iowa's Certified Targeted Small Business Program Overview

The Iowa Legislature signed HF 890 in May 2007 which provided for the following:

- \$2.5 million for low-interest program loans (5% or less)
- Mandatory establishment of procurement spending goals towards TSBs (expressed in dollar amount)
- Threshold of \$10,000 for TSB purchases where a formal bidding process is not required.
- Funding for technical service providers to mentor and coach TSBs
- Funding for marketing activities to promote the program across Iowa

House File 890 requires that State of Iowa agencies set spending goals (expressed in dollars) each fiscal year for doing business solely with Iowa's certified targeted small businesses. For more information about the Iowa Targeted Small Business program and applications for certification please contact the Iowa Economic Development Authority at 515-725-3132 or visit the website at: <https://www.iowa.gov/tsb>

The Targeted Small Business program overall is administered at the Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, IA 50309.

In order to be a certified Targeted Small Business in Iowa, the business must meet the following minimum requirements:

- Be located in the State of Iowa.
- Be operating for a profit.
- Have an annual gross income of less than \$4.0 million computed as an average of the three preceding fiscal years.
- Be 51 percent or more owned, operated, and actively managed by women, minorities, or persons with a disability.
- Be TSB-certified by the Iowa Economic Development Authority.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

NOTE: Minority Person means a person who is: Black, Hispanic, Asian or Pacific Islander, American Indian, or Alaskan Native American.

Information regarding **Standard Industrial Classification (SIC) Codes** and North American Industry Classification System (NAICS) Codes can be found at <http://www.sba.gov>. Last Updated: August 16, 2002

Small businesses are encouraged to contact the Small Business Administration or the Iowa Department of Economic Development (for businesses located in Iowa) to determine eligibility for participation in various state and federal programs designed to assist small business development. For more information about the federal Small Business programs please contact your local Small Business Administration (SBA) office.

APPENDIX B

FEDERAL BUSINESS CLASSIFICATIONS

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.

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.

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)*

DBE Disadvantaged Business Enterprise

A small business that is a 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)*

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).

HUBZone Small Business

SBA certified; is small and is located in a '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.

8(a) Small Business

A small business that is at least 51% owned and controlled by a socially- and economically-disadvantaged individual or individuals who are of good character and citizens of the United States. The individual's net worth, after excluding the individual's equity in the firm and the equity in the primary residence, may not exceed \$250,000

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.

WOSB Woman-Owned Small Business

Minimum 51% owned, controlled and operated day-to-day by one or more women.

Other Definitions

Disadvantaged Business

A business that is (1) at least 51 percent owned and operated by disadvantaged individuals, or, in the case of publicly owned business at least 51 percent of the stock is owned by one or more disadvantaged individuals, and (2) whose daily business operations are managed and directed by one or more of the disadvantaged owners. "Operated" means actively involved in the day to day management. Disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian Americans, and other minorities, or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8 of the Small Business Reauthorization Act.

Rural Small Business

A small business where the principal place of business, production, or manufacture occurs in a rural area or rural small town as identified by the SBA.

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 a 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 IOWA STATE UNIVERSITY

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 Iowa State 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 Iowa State
 - 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 Iowa State internal purposes only”
 - Indemnification
 - Limit to the negligent or wrongful acts or omissions of Iowa State and its employees and agents and state Iowa State indemnifies only to the extent permitted by law
 - Avoid clauses that make Iowa State 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]* (“Iowa State”), 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 Iowa State 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)*. Iowa State shall be responsible, at its expense and risk, for packing the Donated Equipment, loading the Donated Equipment and shipping the Donated Equipment to Iowa State. The parties shall mutually agree upon the date for Iowa State 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 Iowa State all right, title and interest of Donor in and to the Donated Equipment at the point Iowa State or its shipping carrier commences packing the Donated Equipment, and Iowa State hereby consents to becoming the owner of all of Donor’s rights, title and interest in and to the Donated Equipment at that point. Iowa State 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 Iowa State’s name, a description of the Donated Equipment, the date Iowa State accepted the Donated Equipment, and a statement that no goods or services were provided by Iowa State 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. Iowa State’s Use of Donated Equipment. Iowa State 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. Iowa State 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. Iowa State

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]

APPENDIX F

IOWA STATE UNIVERSITY FEDERAL FUNDS UGA CHECKLIST

ALL PURCHASES	All purchases made with Federal funds may be subject to a Federal audit at any time.
Under \$50,000	All such purchases should be made prudently and subject to fair and reasonable pricing. Internal documentation (purchase orders, invoices, copies of competitive quotes or proposals, or cost/price analysis) should be retained as justification of reasonable pricing for items of \$50,000 or more. A justification for any sole source selection must also be retained. Competitive bidding is required for each and every purchase \$50,000 and over.
\$50,000 & Over	

For all Purchases the following must be completed:

1. Check SAM to ensure contractor is not debarred/restricted Completed
2. Ensure Conflict of Interest (COI) standards are met (including affiliates) Completed
3. Determine if the contractor is responsible Completed

How was this determined? (past performance, references, FAPIIS check, etc.)

4. Buy America Act Not Applicable Completed
Domestic Preference (Construction Materials, Steel, etc.) Not Applicable Completed
5. Solid Waste Disposal Act Not Applicable Completed
6. Method of procurement reasoning (Purchase Order, Contract, Bid, etc.)

7. Time and Materials contract (used sparingly and with not to exceed cap) Not Applicable Completed
8. Lease versus Purchase Evaluation Not Applicable Completed
9. Consolidation versus break-out analysis Not Applicable Completed
10. Federal Excess Property check Not Applicable Completed

Iowa State University requires supplier selection justification and price verification for all orders of \$50,000 or more purchased with Federal funds, ARRA funds, and acquisitions with possible FEMA reimbursement. Typically performed through a bid process.

For Procurements over \$50,000 the following additional items must be completed or reviewed:

11. Eliminate any language for Iowa preference in bid documents Not Applicable Completed
12. Review any construction for value-engineering Not Applicable Completed
13. Full and open competition review Not Applicable Completed
14. Sealed Bid Review Not Applicable Completed
15. Competitive Bid Review RFP/RFQ No. _____ Not Applicable Completed

Awarded Supplier _____ Basis of Award _____

Criteria of award are listed in order of importance Completed

16. Sole Source Review (attach any sole source request memo separately) Not Applicable Completed
Sole Source Reasoning (if applicable)
 The item is only available from a single source
 The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
 The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity
 After solicitation of a number of sources, competition is deemed inadequate

17. Price or Cost Analysis (When there is no competition (such as a sole source procurement) or when only one response is received to a solicitation) Not Applicable Completed

If applicable, select **one or more** of the following statements to indicate that the bid price was fair and reasonable and add a detailed explanation on the line provided below. Attach additional sheets as necessary to document the analysis.

- The quoted prices incorporate discounts not available to the general public and reflect substantial savings (e.g., university-wide Iowa State University contract prices, negotiated pricing, supplier partnership agreements or Regents/other contract pricing).
- The quoted prices compare favorably to previous prices paid for the same or similar items on Purchase Order No. _____ Dated _____.
- The quoted prices compare favorably to Iowa State University in-house pricing (e.g., Information Technology Services, Central Stores, etc.) for similar items.
- The supplier has stated that the quoted prices are no greater than those charged to the supplier's most favored customer.
- The price was obtained from a current printed price list that reflects a discounted price and is lower than manufacturer's list price.
- Other _____
Explanation _____

18. Small business participation Not Applicable Completed

For Procurements over \$250,000 the following additional items must be completed or reviewed:

19. Simple Acquisition Threshold independent assessment Completed

20. Performance Bond Not Applicable Completed

Procurement Agent Name: _____ Date: _____

Signature: _____

APPENDIX G

UGA Agent Checklist Description

For all Purchases the following must be completed or reviewed:

1. **Check SAM** to ensure contractor is not debarred/restricted - CFR Appendix II to Part 200(H):
www.sam.gov

2. **Ensure Conflict of Interest (COI) standards are met – CFR 200.318(c)(1) and (2)**
No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

3. **Determine if the contractor is responsible – CFR 200.318(g)**
This can be performed through reference checks, past experience with ISU, reviewing financial or technical resources, or by accessing the FAPIIS federal site at:
<https://www.fapiis.gov/fapiis/index.action>

4. **Buy America Act (if exceeds \$2,500 and the contract or grant contains language requiring a preference for US products) – see Appendix A and 200.321 (a) and (b)**

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. (b) For purposes of this section: (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

5. **Solid Waste Disposal Act (Sec. 6002) CFR 200.322 – see Appendix A**
For transactions that exceed \$10,000 or for contract where the value of items purchased in the prior fiscal year exceeded \$10,000, procurement will review the requirements to utilize recovered materials at the highest percentage possible while maintaining a satisfactory level of competition. Procurement will also procure solid waste management services in a manner that maximizes energy and resource recovery. ***Procurement will review these requirements for goods that are typically***

procured as recycled (paper), for other goods that can be normally procured as recycled, or for recycling/waste services.

6. **Method of procurement reasoning (Purchase Order, Contract, Bid, etc.) – CFR 200.318(h)**
Procurement will add document the reason for the method of procurement selected (e.g. bid, state contract, consortium contract, etc.)
7. **Time and Materials (T&M) contract – CFR 200.318(i)**
Procurement will avoid T&M contracts when possible and only with a not-to-exceed cap.
8. **Lease versus Purchase Evaluation – CFR 300.318(c)(2)**
When applicable, Procurement will analyze the value of leasing equipment and items versus purchase and will upload that analysis to the contract. Procurement will apply this analysis when the option to lease is presented or normally available for the particular commodity.
9. **Consolidation versus break-out analysis – CFR 300.318(c)(2)**
When applicable and available, Procurement will evaluate the benefit of breaking out purchases or consolidating purchases to gain cost savings.
10. **Federal Excess Property check – CFR 200.318(e)**
When applicable, Procurement will check with local Federal Excess Property for items in lieu of procuring new items when the use is feasible and will result in a lower cost to the project.

Federal Surplus is available through Iowa Prison Industries (IPI) at:
<http://www.iaprisoinind.com/store/c/27-Federal-Surplus.aspx>.

Current contact in Iowa for federal surplus property (IPI):

Clint Schmidt
Iowa Federal Surplus Property
600 South East 18th Street
Des Moines, IA 50317
Phone: [515-266-6913](tel:515-266-6913)
Email: clint.schmidt@iowa.gov
Fax: [515-263-4910](tel:515-263-4910)

Procurement will also access federal surplus property information at <https://gsaxcess.gov/> and work to procure through IPI when needed.

Contractor performance confirmation - CFR 200.344

Procurement will communicate with the requesting department when a contract or purchase order is closed to ensure they have received items in good working order or that services have been satisfactorily performed. For contracts utilized by multiple departments, Procurement will review vendor performance on an annual or more frequent basis.

For Procurements over \$50,000 the following additional items must be completed or reviewed:

11. **Eliminate any language for Iowa preference in bid documents – CFR 200.319(b)**
The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

12. **Review any construction for value engineering - 200.318(f)**
When applicable, Procurement will review construction for value engineering (usually larger projects done through FP&M). Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
13. **Full and open competition review - 200.319 (a)**
Procurement will not allow vendors competing in the bid process to assist in the development or draft of specifications, requirements, or the scope of work.
14. **Sealed Bid Review – CFR 200.320 (b) (1)**
Procurement will utilize sealed bids when two or more bidders are willing and able to compete and the procurement lends itself to a firm fixed price and the successful bidder can be selected solely on the basis of price. Life cycle cost will be taken into account when applicable.
15. **Competitive Bid Review – CFR 200.320 (b) (2) and 200.319 (d)**
Procurement will conduct competitive bids for procurements over \$50,000 unless a sole source is approved. Bids will include evaluation criteria *ranked in the order of importance*. Criteria will be weighted and allocated a weight of 1-10 with the most important criteria receiving a 10 “weight”. Bids are scored on the criteria with a 0-10 score multiplied by the weight to get a weighted score.
- Procurement will not bid a brand name on bids without the approval of the awarding authority unless it is used as a “standard of quality” and it is made clear that other brands are acceptable.
16. **Sole Source Review – CFR 200.320(c)**
When sole source is used for services, Procurement will need to negotiate profit as a separate element of price (see CFR 200.323). Procurement will elect to bid in most cases and use competition in lieu of negotiating profit. IF a sole source is used, Procurement will document the reason from the following:
- The item is only available from a single source
 - The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
 - The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity
 - After solicitation of a number of sources, competition is deemed inadequate
- When possible, Procurement will validate the sole source with the awarding agency.***
17. **Price or Cost Analysis – CFR 200.324 (a)**
When there is no competition (such as a sole source procurement) or when only one response is received to a solicitation on a federal fund, the procurement 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 procurement agent does not feel the price is fair and reasonable, he/she will do one of two things:
- Seek competition (or seek further competition if already bid); or
 - Negotiate with the vendor to lower the price.
- The GSA labor rate calculator can be used to search awarded ceiling rates for labor categories:
<https://calc.gsa.gov/>
18. **Small business participation – CFR 200.321**
Procurement will advertise all bids on the Iowa 48 hour TSB site as well as send bids to all vendors registered in a commodity area to encourage small business participation. When feasible, Procurement will work with departments to divide requirements into smaller tasks or quantities/groups to encourage small business participation.

Additional Requirement for Contracts and Purchase Orders over \$250,000

19. **Simple Acquisition Threshold independent assessment – CFR 200.324(a)**
For transactions that exceed the simple acquisition threshold (currently \$250,000) or contracts that exceed \$250,000 over the contract term, procurement will perform an independent assessment of the cost prior to soliciting bids. This can be through informal quotes, comparing prior purchases, reviewing consortium contract pricing or reviewing online or written information.
20. **Performance Bond – CFR 200.326**
For construction or related projects that exceed the Simplified Acquisition Threshold (currently \$250,000), a performance bond equal to 100% of the contract price will need to be obtained.

Appendix A

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.

Solid Waste Disposal Act

SEC. 6002. (a) APPLICATION OF SECTION.—Except as provided in subsection (b), a procuring agency shall comply with the requirements set forth in this section and any regulations issued under this section, with respect to any purchase or acquisition of a procurement item where the purchase price of the item exceeds \$10,000 or where the quantity of such items or of functionally equivalent items purchased or acquired in the course of the preceding fiscal year was \$10,000 or more.

(b) PROCUREMENT SUBJECT TO OTHER LAW.—Any procurement, by any procuring agency, which is subject to regulations of the Administrator under section 6004 (as promulgated before the date of enactment of this section under comparable provisions of prior law) shall not be subject to the requirements of this section to the extent that such requirements are inconsistent with such regulations.

(c) REQUIREMENTS.—(1) After the date specified in applicable guidelines prepared pursuant to subsection (e) of this section, each procuring agency which procures any items designated in such guidelines shall procure such items composed of the highest percentage of recovered materials practicable (and in the case of paper, the highest percentage of the postconsumer recovered materials referred to in subsection (h)(1) practicable), consistent with maintaining a satisfactory level of competition, considering such guidelines. The decision not to procure such items shall be based on a determination that such procurement items—

(A) are not reasonably available within a reasonable period of time; (B) fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or (C) are only available at an unreasonable price. Any determination under subparagraph (B) shall be made on the basis of the guidelines of the Bureau of Standards in any case in which such material is covered by such guidelines. (2) Agencies that generate heat, mechanical, or electrical energy from fossil fuel in systems that have the technical capability of using energy or fuels derived from solid waste as a primary or supplementary fuel shall use such capability to the maximum extent practicable. (3)(A) After

the date specified in any applicable guidelines prepared pursuant to subsection (e) of this section, contracting offices shall require that vendors—(i) certify that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by applicable specifications or other contractual requirements and (ii) estimate the percentage of the total material utilized for the performance of the contract which is recovered materials. (B) Clause (ii) of subparagraph (A) applies only to a contract in an amount greater than \$100,000. (d) SPECIFICATIONS.—All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies shall—(1) as expeditiously as possible but in any event no later than eighteen months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, eliminate from such specifications— (A) any exclusion of recovered materials and (B) any requirement that items be manufactured from virgin materials; and (2) within one year after the date of publication of applicable guidelines under subsection (e), or as otherwise specified in such guidelines, assure that such specifications require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item. (e) GUIDELINES.—The Administrator, after consultation with the Administrator of General Services, the Secretary of Commerce (acting through the Bureau of Standards), and the Public Printer, shall prepare, and from time to time, revise, guidelines for the use of procuring agencies in complying with the requirements of this section. Such guidelines shall—(1) designate those items which are or can be produced with recovered materials and whose procurement by procuring agencies will carry out the objectives of this section, and in the case of paper, provide for maximizing the use of postconsumer recovered materials referred to in subsection (h)(1); and (2) set forth recommended practices with respect to the procurement of recovered materials and items containing such materials and with respect to certification by vendors of the percentage of recovered materials used, and shall provide information as to the availability, relative price, and performance of such materials and items and where appropriate shall recommend the level of recovered material to be contained in the procured product. The Administrator shall prepare final guidelines for paper within one hundred and eighty days after the enactment of the Hazardous and Solid Waste Amendments of 1984, and for three additional product categories (including tires) by October 1, 1985. In making the designation under paragraph (1), the Administrator shall consider, but is not limited in his considerations, to—(A) the availability of such items; (B) the impact of the procurement of such items by procuring agencies on the volume of solid waste which must be treated, stored or disposed of; (C) the economic and technological feasibility of producing and using such items; and (D) other uses for such recovered materials. (f) PROCUREMENT OF SERVICES.—A procuring agency shall, to the maximum extent practicable, manage or arrange for the procurement of solid waste management services in a manner which maximizes energy and resource recovery.(g) EXECUTIVE OFFICE.—The Office of Procurement Policy in the Executive Office of the President, in cooperation with the Administrator, shall implement the requirements of this section. It shall be the responsibility of the Office of Procurement Policy to coordinate this policy with other policies for Federal procurement, in such a way as to maximize the use of recovered resources, and to, every two years beginning in 1984, report to the Congress on actions taken by Federal agencies and the progress made in the implementation of this section, including agency compliance with subsection (d). (h) DEFINITION.—As used in this section, in the case of paper products, the term “recovered materials” includes— (1) postconsumer materials such as— (A) paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and (B) all paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and (2) manufacturing, forest residues, and other wastes such as— (A) dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and (B) finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others; (C) fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues; (D) wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and (E) fibers recovered from waste water which otherwise would enter the waste stream. (i) PROCUREMENT PROGRAM.—(1) Within one year after the date of publication of applicable guidelines under subsection (e), each procuring agency shall

develop an affirmative procurement program which will assure that items composed of recovered materials will be purchased to the maximum extent practicable and which is consistent with applicable provisions of Federal procurement law. (2) Each affirmative procurement program required under this subsection shall, at a minimum, contain— (A) a recovered materials preference program; (B) an agency promotion program to promote the preference program adopted under subparagraph (A); (C) a program for requiring estimates of the total percentage of recovered material utilized in the performance of a contract; certification of minimum recovered material content actually utilized, where appropriate; and reasonable verification procedures for estimates and certifications; and (D) annual review and monitoring of the effectiveness of an agency's affirmative procurement program. In the case of paper, the recovered materials preference program required under subparagraph (A) shall provide for the maximum use of the post-consumer recovered materials referred to in subsection (h)(1). (3) In developing the preference program, the following options shall be considered for adoption: (A) Case-by-Case Policy Development: Subject to the limitations of subsection (c)(1) (A) through (C), a policy of awarding contracts to the vendor offering an item composed of the highest percentage of recovered materials practicable (and in the case of paper, the highest percentage of the post-consumer recovered materials referred to in subsection (h)(1)). Subject to such limitations, agencies may make an award to a vendor offering items with less than the maximum recovered materials content. (B) Minimum Content Standards: Minimum recovered materials content specifications which are set in such a way as to assure that the recovered materials content (and in the case of paper, the content of post-consumer materials referred to in subsection (h)(1)) required is the maximum available without jeopardizing the intended end use of the item, or violating the limitations of subsection (c)(1) (A) through (C). Procuring agencies shall adopt one of the options set forth in subparagraphs (A) and (B) or a substantially equivalent alternative, for inclusion in the affirmative procurement program

APPENDIX H

CARD SUSPENSION PROCESS AND POLICY

Card process for unreconciled PCVs/expense reports <30 Days

- I. Team supervisor or delegated Procurement & Expense Specialist (PES) runs ISU Credit Card Transactions Report weekly to capture all outstanding transactions with a posted date to Workday greater than 15 days prior to the current date.
 - a. The PES will reach out the following week to the cardholder for information or follow-up. If the cardholder does not respond within a week, a second attempt will be made by the PES.
 - i. After two documented attempts and no response has been received from the cardholder, the team supervisor reaches out to Cost Center Manager (CCM).

30 Days Overdue

- I. After day 30 and before day 60, if no response has been received from either the cardholder or CCM, the Team supervisor will email card services at cardservices@iastate.edu regarding overdue card transactions (exceeding 30 days).
 - a. The email should contain the transaction details and all previous communications they have had with the cardholder. Documentation of each communication attempt will be saved in Cybox.
- II. After review by Card Services, the e-mails will be forwarded to the Director of Procurement/Associate Director of Procurement for review.
- III. The Director of Procurement will contact the cardholder about the overdue card transactions and potential card suspension and will blind carbon copy the team supervisor, CCM and Card Services
 - a. The Director of Procurement's email is saved to the cardholder's file in the common folder by Card Services.
- IV. If suspension is suggested by the Director of Procurement, Card Services changes cardholder's Single Purchase Limit (SPL) on bank site and Workday to \$1, and a comment is included to the Authorization Limit on US Bank's Access Online site indicating the previous SPL.
 - a. Director of Procurement will contact the cardholder about the suspension and will blind carbon copy the team supervisor, CCM and Card Services

>60 Days Overdue

- I. PES will continue to work with cardholder to complete Procurement Card Verification for P-card transactions and/or Expense Reports for T&H card transactions.
- II. The cardholder or team supervisor will inform the Director of Procurement and CCM when all Procurement Card verifications and/or Expense Reports are completed (approved). If the card is suspended, the Director of Procurement will send Card Services an email to reinstate the card. Card Services will track the number of suspensions and inform the Director or Procurement when a card has reached its third suspension. In the event of a third suspension, the card will not be reinstated unless extenuating circumstances are present and the cardholder receives approval by the Director of Procurement Services.
 - a. Card Services will notify the Director of Procurement, CCM and the team supervisor for that cardholder that the card has been reinstated. The Director of Procurement will notify the cardholder of the reinstatement

- III. The email documentation from the Director of Procurement is saved to the cardholder's file in the common folder by Card Services.
- IV. The cardholder's SPL is restored on US Bank's Access Online and in Workday.
 - a. The incident will be documented under Authorization Limit Comments History in Access Online and in the suspensions access database in CyBox by Card Services.

>60 Days Overdue and no communication from the cardholder

- I. If a cardholder's transactions equal or exceed 60 days past the post date to Workday, and communication to the cardholder from Finance Delivery/Procurement does not resolve the overdue transactions or the cardholder does not respond, transactions will be posted to the cardholder's U-Bill.
- II. The Director of Procurement will notify the PES to post the overdue transactions to the cardholder's U-Bill. The PES will use SC10873 U-Bill Charges (to differentiate these charges from SC10636 Personal Charge on Credit Card) if the charges are on a P-card. If the charges are on a T&H card, the transaction should be processed as an Expense Item: Overdue T&H Charge with SC10873 U-Bill Charges.
 - a. The Director of Procurement will contact the CCM and cardholder about the overdue card transactions charged to the U-Bill and will blind carbon copy the team supervisor and Card Services
- III. Transactions charged to the U-Bill will only be reimbursed (via an Expense Report) if extenuating circumstances are present and the cardholder receives approval by the Senior Vice President of Operations and Finance or designee.
 - a. Request for reimbursement can be submitted via the [Credit Card U-bill Reimbursement Request Form](#).