

## **Policy 3-100: University Procurement.**

**Revision #10. Effective date: April 12, 2022**

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**I. Purpose and Scope**

A. Purpose.

To outline the general Procurement policies and responsibilities of the University of Utah which include: transparency, ensuring fair and equitable treatment of all Suppliers and fostering broad-based competition and ensuring that Procurement operations may be conducted efficiently to allow University personnel to effectively carryout the mission of the University. University Procurement policies are written to comply with Utah Board of Higher Education Policy R571, Delegation of Purchasing Authority and Utah Code Title 63G, Chapter 6a, Utah Procurement Code.

B. Scope

This policy is binding for all University colleges, departments, and Organizational Units, including University of Utah Hospitals & Clinics (UUHC).

**II. Definitions**

As used in this policy, and in the rules and procedures adopted to implement this policy, the following terms shall have the same meaning as in the Utah Procurement Code, adapted to circumstances of the University of Utah:

A. "Annual Cumulative Threshold" means the limit for the University for total purchases from a single Supplier without competition during a fiscal year. The cumulative total includes all forms of payment.

B. "Construction" means the process of building, renovating, altering, improving or repairing any University building or public work. Construction does not include

the routine operation, repair, or maintenance of an existing structure, building or real property.

- C. "Design Professional Services" means professional Services within the scope of the practice of architecture, professional engineering, master planning and programming Services, or Services within the scope of the practice of commercial interior design.
- D. "Emergency Procurement" means Procurement conducted due to circumstances that threaten public health, welfare, safety, property, including natural disaster, or other harm, including presenting a risk of causing financial harm to the University or significantly disrupting University operations, or circumstances where timeliness, litigation deadlines or other factors necessitate waiver of provisions of the standard Procurement process.
- E. "Formal Purchase Threshold" is the minimum total Procurement price that requires formal bid procedures including bid advertising, a minimum number of days for bid publication, etc. Informal purchases include those less than the Formal Purchase Threshold. The dollar amount for this threshold is established in Rule R3-100D.
- F. "High Speed Printers/Copiers" means an automated or semi-automated offset press, digital, xerographic, or similar photo process machine capable of producing duplicate copies in excess of 90 pages per minute.
- G. "Invitation for Bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids when cost is a major factor in determining the award.
- H. "Lease" means to lease or lease-purchase a Procurement item, excluding real property, from a vendor.
- I. "Non-standard Furnishings" means office furniture, equipment, and accessories that are by their nature, beyond the functional need of the office, and would

generally be considered to be more deluxe, extravagant, or lavish (and therefore much costlier) than their “standard” counterpart.

- J. “Organizational Unit” means a department, division, school, college or other campus entity which is part of the University of Utah.
- K. "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any Supplies, Services, or Construction. Procurement includes all functions that pertain to the obtaining of any supply, Service, or Construction, including description of requirements, selection, and solicitation of sources, preparation and award of a contract, and all phases of contract administration using University funds.
- L. "Procurement Official" means the person duly authorized to enter into and administer Procurement contracts for the University and is delegated duties and responsibilities to administer all Procurement activities. This position is filled by the director of Procurement & Contracting Services who acts as the Procurement Official with independent Procurement authority referred to in the Procurement code. Hereafter referred to as the director of purchasing. The director of purchasing may delegate authority to a designee(s) within the Purchasing Department.
- M. "Procurement Contract" or “Purchase Order" means any University agreement for the Procurement or disposal of Supplies, Services, or Construction. The word contract may be used interchangeably with procurement contract.
- N. “Professional Provider or Consultant Services Threshold” means the maximum total transaction cost that can be purchased by one Organizational Unit at one time for the Services of a professional provider or consultant when competition is encouraged but not required. The nature of professional provider or consultant Services for one project may be ongoing regardless of the project duration. The dollar amount for this threshold is established in Rule R3-100D.

- O. "Purchaser" means anyone that has Procurement authority, whether direct or delegated. Other University employees may participate in the Procurement process.
- P. "Purchasing Card (PCard)" means an institutional credit card administered by the Purchasing Department, billed directly to, and paid by the University of Utah, designated for the direct Procurement of non-travel small purchases made by a University employee.
- Q. "Restricted Purchases" means acquisitions that are controlled and require Special Approvals and processing in compliance with laws, policy, etc.
- R. "Request for Proposals (RFP)" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals when other factors, in addition to cost, are considered significant in determining the award.
- S. "Requisition" means a document used to initiate the Procurement of Supplies and Services utilizing approved University Purchase Orders.
- T. "Responsible" means being capable in all respects of fully performing all the requirements of a solicitation and requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.
- U. "Responsive" means conforming in all material respects to the requirements of a solicitation.
- V. "Sample" means Supplies provided to the University for testing or evaluation purposes. Regarding Sample textbooks, see Policy 6-318.
- W. "Services" means the furnishing of labor, time, or effort by a Supplier.
- X. "Service Recharge Center" means an Organizational Unit established for the primary purpose of providing specialized technical or administrative Services for the benefit of other University Organizational Units.

- Y. "Single Procurement Threshold" means the maximum total transaction cost that can be purchased by one Purchaser at one time from the same Supplier when competition is encouraged but not required. The dollar amount for this threshold is established in Rule R3-100D.
- Z. "Sole Source" means that a contract may be awarded as a result of a non-standard Procurement process and will be conducted pursuant to established University processes.
- AA. "Special Approvals" means acquisitions that are controlled by law, University regulation, or business practice and requires authorization in addition to approval by the Purchasing Department prior to the purchase.
- BB. "Specification" means any description of the physical or functional characteristics, or nature of the Supplies and/or Services included in an invitation for bids, a Request for Proposals, or contract. Specification may include a requirement for inspecting, testing, or other Procurement solicitations for the Supplies and/or Services for delivery.
- CC. "Split Procurement" means any transaction prohibited by law or University regulation when an individual knowingly or intentionally divides a Procurement with the intent to qualify as one or more small purchases, if, before dividing the Procurement, it would not have qualified as a small purchase. Split Procurements are subject to Utah Code Title 63G, Chapter 6a, Part 24, Unlawful Conduct and Penalties.
- DD. "Supplier" means a person, vendor, manufacturer, distributor, or company, etc., that provides Supplies and/or Services.
- EE. "Supplies" means all goods, including but not limited to equipment, technology, materials, printing, or other personal property.
- FF. "Travel Card" means an institutional credit card billed directly to and paid by the University of Utah, designated for the direct Procurement of travel and travel-

authorized expenses made by a University employee. This is an additional Service offered by financial institutions as part of the PCard contract.

GG. "University" means the University of Utah.

HH. "Utah Procurement Code" means Utah Code Title 63G, Chapter 6a, Utah Procurement Code.

### **III. Policy**

#### **A. Purchasing Department.**

1. The Purchasing Department is Responsible for the Procurement of Supplies and Services required by the University of Utah and all its Organizational Units as required by law, except for Purchases specifically exempted under Section III B.
2. The Purchasing Department shall establish organizational procedures to ensure adequate and continuing sources of supply, consistent with legal, budgetary, and delivery requirements of Organizational Units and to provide the necessary assistance to acquire such Supplies and Services in a timely and economical basis; to assure compliance with all applicable state and federal laws and University regulations during the Procurement process; and to provide assistance, consultation, and advice regarding all Procurement needs of the University.
3. The director of purchasing is Responsible to adopt organizational procedures, procure or supervise the Procurement of all Supplies and Services needed by the University, and ensure compliance with state and federal laws and with University regulations.
4. The chief facilities officer is Responsible to adopt organizational procedures, procure or supervise the Procurement of all Construction and related architect, engineer, and similar Services, and ensure compliance with state and federal laws and with University regulations. Procurement & Contracting

Services may provide Construction and similar solicitation Services as agreed upon with the chief facilities officer.

5. The supply chain administrative director for University of Utah Hospitals & Clinics is Responsible to adopt organizational procedures, procure or supervise the Procurement of all Supplies and Services needed by the University of Utah Hospitals & Clinics, and ensure compliance with state and federal laws and with University regulations.
  6. The responsibilities of the Purchasing Department are:
    - a. initiate, conduct, and conclude solicitations and negotiations for the purchase of Supplies and Services for the University;
    - b. issue Purchase Orders for the Procurement of Supplies and Services;
    - c. recommend changes in quality, quantity, or kind of material Requisitioned and/or to suggest appropriate alternatives; and
    - d. ensure transparency, fair and equitable treatment of all Suppliers, and foster broad-based competition.
- B. Exceptions: Delegation of Procurement Authority in University Rules.
1. By virtue of their special needs and the roles they fill at the University, some Organizational Units may be authorized to solicit bids and may be delegated Procurement authority at a higher spend level than normally authorized, compliant with University regulations, the Utah Procurement Code, and written rules found within the Organizational Unit. Organizational Units that qualify for this exception will be identified in rule and enter into a written memorandum of understanding with the director of purchasing. Other Organizational Units may be extended similar limited Procurement exceptions as described in writing, at the discretion of the director of purchasing. The director of purchasing retains Procurement authority for these Organizational Units and may request periodic audits of the delegated purchase authority. (see Rule R3-100D)



### C. Limited Delegation of Procurement Authority to Organizational Units

1. By virtue of their special needs and the roles they fill at the University, some Organizational Units may be authorized to solicit bids and may be delegated Procurement authority at a higher spend level than normally authorized, compliant with University regulations and the Utah Procurement Code. The delegation shall be described in writing at the discretion of the director of purchasing. The director of purchasing retains Procurement authority for these Organizational Units and may request periodic audits of the activities pursuant to the delegated purchase authority (see Rule R3-100D).
2. In addition to the special authorizations referred to in Section III.C.1, all Organizational Units of the University may make small purchases by following requirements provided for in Rule R3-100D.
3. Items purchased by the University for re-sale to the public are exempt from competitive bid requirements.
4. University Organizational Units may purchase Supplies and Services from other University Organizational Units and other Utah public Procurement units that directly produce or provide the Supplies and/or Services (not those provided by a contractor or third party). These purchases are exempt from competitive bid requirements.

### D. Limitations and Restrictions on Procurement

1. The University is prohibited from procuring Supplies or Services for the personal use of any University employee. Organizational Unit management is Responsible to ensure the University expenditure policy and purchasing regulations are observed (see Policy 3-010).
2. Unless specifically approved in writing by the director of purchasing or by a University officer as defined in Policy 3-004, orders or commitments for Procurement by University employees are not binding on the University, except as permitted by University regulation (see Rule R3-100D). Individuals

who do not comply with University policy when placing Procurement orders may become personally liable to the Supplier for the contract price.

3. Procurement Contracts with significant legal implications (excluding contract forms preapproved by the director of purchasing or the Office of General Counsel, such as Purchase Orders, independent contractor agreements, etc.) require review by the Office of General Counsel prior to contract execution (see Policy 3-004).
4. Additional restrictions on Procurement of specified items may apply, as described in a University rule implementing this policy. (see Rule R3-100B, C, D and E)
5. Solicitation by Suppliers on University property to students and University employees other than for official University business is prohibited unless authorized by the chief financial officer or designee.

#### E. Requirements

1. A Purchase Order may not be processed unless the Organizational Unit verifies that funds are available to cover the amount of the purchase. In addition, purchases made under federal contracts during the final weeks prior to the end of the contract period may be disallowed (see Rule R3-100E).
2. Pre-payments to Suppliers for Supplies or Services are prohibited with limited exceptions as established by the Utah Procurement Code and University procedure (See Rule R3-100B).
3. Donations to the University of Supplies, equipment, or materials (other than Samples) furnished without charge to the University may be accepted but must be reported to the Advancement Office to assure the donation is recorded and an appropriate acknowledgment provided to the donor. Donated equipment should also be reported to the Property Accounting Department to assure the items are properly inventoried. Donations shall not

influence or obligate the University in any purchasing decisions unless the donation will fund the full cost of the Supply, Service, or Construction.

4. Samples provided by Suppliers, where permitted by University regulation, for review or testing that are not returned to the Supplier become University property, unless agreed otherwise in writing by the Supplier and the University.
5. Consistent with Utah Code Title 63G, Chapter 6a, Part 24, Unlawful Conduct and Penalties, it is unlawful for certain Procurement participants and those involved in administration of a Procurement contract to accept or receive gifts or gratuities, including money, admission to an event, meals, lodging, travel, among other items for the person's own use or benefit, or the use or benefit of family members when the gift or gratuity is provided by a party interested in the sale of a Procurement item to the University.
6. The Purchasing Department shall develop University rules, procedures, or guidelines for the solicitation of Invitation for Bids, Request for Proposals, or other Procurement processes consistent with the provisions of the Utah Procurement Code. (see Rule R3-100B)

#### F. Emergency Procurement

1. Upon request by an impacted University unit, when an emergency exists, as defined by policy, the director of purchasing or designee may, authorize Procurements that exceed the single Procurement threshold. The UUHC supply chain administrator or designee may authorize Emergency Procurements as defined by policy that exceed the single Procurement threshold for UUHC.
2. The Emergency Procurement shall be made with as much competition as reasonably practical.
3. With the exception of Emergency Procurement for legal Services, the term of the contract for an Emergency Procurement shall not exceed thirty (30) days,

or sixty (60) days if the Emergency Procurement is related to a natural disaster.

4. Within fourteen (14) days of the Emergency Procurement, a notice shall be posted on the University Purchasing Department's or University of Utah Hospitals & Clinics' website describing the emergency and including a copy of the written contract related to the Emergency Procurement.

#### G. Absence of University Procurement Regulation

1. In the absence of a University Procurement regulation, the director of purchasing may, but is not required to, follow a State of Utah Procurement rule.

#### H. Commitments

1. The University is committed to locating and encouraging small, socially/economically disadvantaged, and women-owned and veteran-owned businesses to become Suppliers to the University on a continuing basis, subject to applicable legal requirements and limitations. University commitment to affirmative action extends to all aspects of its affairs, including the Procurement function.
2. The Purchasing Department, in cooperation with all University Organizational Units, supports Environmentally Preferred Purchasing (EPP) practices and encourages the purchase of Supplies and Services that effectively minimize negative environmental impacts and supports sustainability, subject to University regulations and federal laws. The University is committed to sustainable behavior in its Procurement practices.

#### I. Legal Recognition of Electronic Records, Electronic Signatures, and Electronic Contracts

1. Electronic records, electronic signatures, and electronic contracts are legally recognized for use with Procurement documents and contracts (See Utah Code Section 46-4-201).

#### J. Administrative Fees

1. The Purchasing Department may require and collect from the contractor an administrative/use fee for campus-wide or department-specific contract net purchases. When used, this requirement shall be included in solicitations and resulting contracts. Fee disposition shall be determined by the University's chief financial officer (CFO).

#### K. Approved Procurement Systems

1. Organizational Units shall procure Supplies and Services through the University's designated Procurement system, Purchasing Cards, or other processes approved by the Purchasing Department.

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#### *IV—VII Regulations Resource Information.*

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*\*\*User Note: Parts IV-VII of this Regulation (and all other University Regulations) are Regulations Resource Information – the contents of which are not approved by the Academic Senate or Board of Trustees, and are to be updated from time to time as determined appropriate by the cognizant Policy Officer and the Institutional Policy Committee, as per Policy 1-001 and Rule 1-001.\*\**

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### **IV. Rules, Procedures, Guidelines, Forms and other Related Resources**

#### A. Rules

1. R3-100B, Solicitation of Bids, Proposals and the Award of Procurement Contracts
2. R3-100C, Requisition Use
3. R3-100D, Delegated Small Purchase Authority
4. R3-100E, Restricted Purchases and Special Procurement

B. Procedures

1. P3-100B, Conducting Business with Excluded Vendors, August 18, 2016

C. Guidelines (reserved)

D. Forms (reserved)

E. Other related resource materials

1. Buying & Payment Guide

**V. References**

A. Utah Board of Higher Education Policy R571

B. Utah Code Title 63G, Chapter 6a, Utah Procurement Code

C. Policy 3-003, Authorizations and Approvals Required for Financial Transactions

D. Policy 6-318, Acquisition and Control of Non-Library Books

**VI. Contacts**

The designated contact officials for this Regulation are:

A. Policy Owners (primary contact person for questions and advice): Director of Procurement

B. Policy Officers: Chief Financial Officer

See University Rule 1-001 for information about the roles and authority of policy owners and policy officers.

**VII. History**

Renumbering Renumbered from Policies and Procedures Manual 4-1.

Revision History.

A. Current version. Revision 10.

1. Approved by -- Academic Senate April 4, 2022, and Board of Trustees April 12, 2022, with effective date of April 12, 2022.
2. Legislative History for current version
3. Editorial Revisions: *[reserved]*

B. Past versions.

1. Revision 9.
  - a. Legislative History for Revision 9
  - b. Approved by the Board of Trustees October 8, 2013
2. Revision 8. Effective April 12, 2011
3. Revision 7