# **Procurement Policies**

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**101 Signature Authority**

## **PURPOSE**

Establish who among the College's employees may sign agreements, contracts, and other documents on behalf of Oberlin College. The policy applies to all agreements, contracts and other documents purporting to bind and/or to be entered on behalf of College. This policy does not limit in any way the ultimate, and in some cases exclusive, power of the Board of Trustees of the College to authorize actions to be taken by vote or unanimous consent pursuant to Article I, Section 1 of the Charter and By-Laws of Oberlin College, effective October 9, 2015.

## **DEFINITIONS**

Signature Authoritymeans the authority to legally bind the College by executing and signing agreements, contracts, and other documents on behalf of the College.

## **POLICY**

* + - * 1. **General**

No College employee may execute a contract or any other document on behalf of the College unless signature authority is delegated to them under this Policy with respect to the (i) subject matter, (ii) contract term and (iii) contract amount.

* + - * 1. **Officers of the College**

As described in Article IV, Section 1, of the Charter and By-Laws of Oberlin College, effective October 9, 2015. The Officers of the Corporation are the President (provided for by the Charter), a Provost, a Vice President for Finance, a Secretary, a Vice President for Development and an Associate Vice President for Finance.

* + - * 1. **Authorization for Execution of Documents**

As described in Article XII, Section 6 of the Charter and By-Laws of Oberlin College, effective October 9, 2015. Any two of the President, Vice President for Finance, Secretary, Vice President for Development, Associate Vice President for Finance, Director of Investments, and Chief Investment Officer, provided that at least one of them is the President, Vice President for Finance, Chief Investment Officer, Director of Investments, or Vice President for Development, are authorized, on behalf of the College:

1. To execute and deliver deeds, assignments, contracts, or other instruments in connection with any transaction which has previously been authorized or approved by the Board of Trustees, Executive Committee, Investment Committee, or any subcommittee of the Investment Committee; and
2. To sell any and all gifts of real estate, personal property, listed or unlisted securities, evidence of interest and/or indebtedness, rights and options to acquire or sell the same standing in the name of or belonging to the College and to execute and deliver deeds, assignments, contracts or other instruments in connection with any such sale, provided that the proceeds of all such sales are paid and delivered to the College or to a depository or custodian of College funds.
	* + - 1. **Delegation of Authority (Limited Authority)**

Any of the above-named Officers may delegate Signature Authority to another College employee provided that the delegation is in writing, that it defines the scope of the authority, and that it is on file with the Office of Finance and Administration. (See Policies 103 Purchase Orders and 104 Contracts for details on spending limits).

Individuals who bind the College in violation of this policy are subject to disciplinary action and may be held personally liable for all unauthorized expenses and damages caused to the College.

**102 PROCUREMENT AUTHORITY AND RESPONSIBILITY**

## **PURPOSE**

Establish authority and responsibility for ensuring compliance with the procurement of goods and services.

## **POLICY**

1. **General**
	1. Procurement activities are decentralized; conducted by the Procurement Office, academic and administrative employees (as appropriate). Procurement activities include obligations for proper transaction documentation, fiscal responsibility, ethical behavior, adherence to federal and state government regulations, and compliance with college by-laws and policies.
		1. No employee of the College, except as authorized by the Board of Trustees, the bylaws of the College or President's letter of delegation, is authorized to incur any obligation or make any commitment on behalf of the College for the procurement of goods, services, or equipment unless designated in writing by an Officer of the College and in accordance with College guidelines.
		2. All purchases must be made for the purpose of College-related activities. Purchasing any goods or services for personal use is prohibited.
		3. Authorization to vendors for the purchase of goods and services must be made through an approved College purchase order, procurement credit card, or contract as appropriate.
2. **Authority and Responsibilities**
	1. **Manager of Procurement.**

The Manager of Procurement is responsible for the daily operations of the Purchasing Office. The Manager of Procurement has authority and power to ensure compliance with all procurement policies and procedures.

The Manager of Procurement has the authority to:

* + - 1. Establish and maintain policies and procedures to provide for the efficient and responsible conduct of all procurement activities.
			2. Administer the centralized procurement system.
			3. Negotiate procurement terms and execute the purchase of goods and services unless otherwise prohibited by College statutes or policy or Trustee action; and
			4. Determine and recommend, when appropriate, the potential benefits offered by a lease as compared to the purchase of equipment in accordance with Procurement Policy 106 Procurement of Equipment.
	1. **Academic and Administrative Personnel**

College Offices/Departments are responsible for their respective expenditures and the required paperwork.

College Offices/Departments must:

* + - 1. Comply with delegated purchasing limits and restrictions, as appropriated.
			2. Ensure goods and services are secured through an approved College purchase order, procurement credit card, or contract as appropriate). (See Policies 103 Purchase Orders, 104 Contracts, and 105 Purchase Card Use)
			3. Utilize the College's eProcurement application, ObieBuy to secure goods and services.
			4. Utilize College contracted Vendors as identified in ObieBuy or through the consortiums for which the College is a member.
			5. Obtain competitive bids with an aggregate value of $2,500. Regardless of the dollar amount, competitive bids are not required for purchases from vendors with an authorized College contract, as identified in ObieBuy or on the Procurement website.
1. **Procurement Approval Limits**

| **Dollar Amount** | **Approvers** |
| --- | --- |
| Up to $1,000 | Level 1 | Division Representative |
| $1,001 – $5,000 | Level 2 | Department Head |
| $5,001– $10,000 | Level 3 | Division Heads |
| $10,001 – $25,000 | Level 4 | Division Director |
| Purchases Over $25,000 | Level 5 | Vice President for Finance and Administration |

1. **Methods of Procurement**

All employees procuring on behalf of the College must use College approved vendors and purchase methods. Purchase methods include a purchase order generated by the College's eProcurement application, College Procurement Card (Pcard), and a contract (as appropriate).

1. Individuals who bind the College in violation of this policy are subject to disciplinary action and may be held personally liable for all unauthorized expenses and damages caused to the College.

**103 PURCHASE ORDERS**

## **PURPOSE**

Establish the need for a purchase order when making purchases on behalf of the College and define the role of the department or unit requesting a purchase order. This policy also sets forth the review, approval, and amendment process for College purchase orders.

## **DEFINITIONS**

Purchase Order is a purchaser’s written document to a vendor formalizing all the terms and conditions of a proposed transaction. It is a legal document and constitutes the vendor’s authority to provide and invoice for the goods and/or services specified therein.

Blanket Purchase Order is a type of purchase order designed to consolidate repetitive small purchases from a single supplier. It is essentially a form of open account which is limited in terms of the things which can be ordered, who can place the orders, the period for which it is to be open, and the total amount which can be ordered.

Rush or emergency purchase order is defined as an immediate need for a good or service, in which routine compliance with procurement practice is impractical and not in the College’s best interest.

1. **POLICY**
2. **General**
	* + 1. The purchase order (Regular) is the basic instrument for making single instance purchases. A purchase order provides for delivery by a specific date of listed goods or services at a predetermined price and is subject to Oberlin College Terms and Conditions.
			2. A purchase order is required for all goods and services when a purchase card cannot be used.
			3. Purchase order requests must be submitted, approved, and dispatched through the College's eProcurement application, ObieBuy.
			4. Purchase orders must be issued prior to the shipment of a good or the delivery of a service. Vendors are not authorized to commence work prior to the receipt of an authorized purchase order. Invoices for goods or services provided without an authorized purchase order require management review and approval prior to payment. The College is not obligated to pay invoices for goods and services that have not been properly authorized.
			5. Ordering divisions/departments are responsible for verifying that purchased goods or services are received in proper condition and are in accordance with the terms of the official College purchase order terms and conditions. (See Policy 107 Receiving and Inspecting Purchased Goods)
3. **Purchase Order Approval Requirements**

Purchase requests require the following approvals prior to a purchase order being dispatched:

| **Dollar Amount** | **Approvers** |
| --- | --- |
| Up to $1,000 | Level 1 | Division Representative |
| $1,001 – $5,000 | Level 2 | Department Head |
| $5,001– $10,000 | Level 3 | Division Heads |
| $10,001 – $25,000 | Level 4 | Division Director |
| Purchases Over $25,000 | Level 5 | Vice President for Finance and Administration |

The purchase of certain items or services may require special steps and/or an additional approval from the appropriate responsible office before it can be issued as an official purchase order. When initiating the purchase requisition in ObieBuy, the appropriate Spend Category must be used so all appropriate automated approvals can be obtained.

1. **Blanket Purchase Orders**

Blanket Orders do not obligate College funds but allows the flexibility for order placement on as-needed basis for a specified period (no greater than 12 months). The blanket order defines the general product or service, total dollar limit for a specified period, and the transaction dollar limits for each order placement.

1. **Rush or Emergency Purchase Orders**

A rush or emergency purchase may be warranted to prevent a hazard to life, health, safety, welfare, or property, or to avoid undue additional cost to the College. Failure to act expeditiously exposes the college to risk of harm to persons or college property or when failure to act jeopardizes the learning environment.

In cases where an emergency occurs and the Procurement Department is closed or unavailable to assist, the Department involved should proceed with the purchase and ensure Procurement is notified and the proper documentation is submitted in ObieBuy no later than the next business day.

1. **Review Open Purchase Orders**
	* + 1. Department Heads must review all open purchase orders on a regular basis to determine if the good or service will be received or if the purchase order should be cancelled.
			2. The Budget Director or designee must review purchase orders on a bi-annual basis to determine the status of all open encumbrances.
2. **Purchase Order Amendments or Changes**
	* + 1. Requests to amend or change an approved purchase order dispatched to the vendor must be submitted through ObieBuy. Requests to close or cancel a purchase order should be made via the Change Order Form.
			2. Ordering divisions/departments may not formally contact a supplier and authorize changes of a purchase order without having obtained a revised purchase order.
			3. Any purchase order amendment must be agreed to in writing by all authorized parties prior to the amendment or change taking place.

**104 CONTRACTS**

1. **PURPOSE**

Establish the need for a contract when making purchases on behalf of the College and define the role of the department or unit recommending a contract. This policy also sets forth the review, approval, and contract administration, and amendment process for College contracts.

1. **DEFINITIONS**

A contract is defined as an agreement between two (2) or more parties, once of which must be the College or any of its subunits, intended to have legally binding effect.

1. **POLICY**
2. **General**
	* 1. Contracts are required regardless of the amount for the procurement of services or deliverable goods (accompanied by a vendor agreement) when it is prudent to detail specific negotiated terms and conditions.
		2. The amount of a contract, specific to the current fiscal year, must be encumbered via a purchase order through College's eProcurement application, ObieBuy.
		3. Oral agreements are not permitted and will not be recognized or honored by the College. All College contracts or vendor agreements requiring signature authorization must:
* Be made in writing
* Be reviewed by the Office of the Vice President, General Counsel and Secretary prior to execution.
* Bear an authorized signature.
1. **College-wide Contracts**
	* 1. The Division of Finance and Administration and designated Divisions/Departments are authorized to negotiate and issue contracts that provide the College with "least total cost" vendor arrangements for goods and services required from external vendors.
		2. In negotiating those contracts, Procurement will ensure that the vendors:
* Provide a “least total cost” structure, available to all College departments.
* Provide high quality goods and services, delivery, and customer service.
* Provide customer training and support as required.
* Provide an acceptable product exchange and return policy.
* Provide support for College systems and technology; and
* Demonstrate financial stability.
	+ 1. Vendor contract pricing and performance are based on the College's overall anticipated volume of purchases during the contract period. In order to assure the College community of "least total cost" of goods and services, and to fulfill the College's obligation to consolidate all of its requirements with the authorized vendor(s), all College departments are required to order needed goods or services from those vendors who are authorized vendors to the College (see list located in Electronic Purchasing Application, ObieBuy.
		2. All College contract vendor information and pricing is proprietary information and may not be used for any purposes other than official College business.

College contract vendor information:

* Is not to be provided to other vendors or anyone outside the College.
* Is not to be used in any unethical fashion.
* Is not to be used for personal purchases or private gain; and
* Is not to be used for misrepresentation or illegal trade practices.

Misuse of vendor data will be considered improper handling of institutional data.

1. Procurement is responsible for publicizing all College-wide contract agreements and monitoring compliance.
2. **Division/Department Specific Contracts**
	* + 1. Any vendor contract or agreement requiring signature authorization must be reviewed by the Procurement Department and/or the Office of the Vice President, General Counsel and Secretary prior to execution. Only the Manager of Procurement; officers of the College or their authorized designee may execute vendor contract forms.
			2. Contract Approval Requirements

Regardless of the dollar amount, contracts entered on behalf of the College require approval of either the President, Vice President for Finance, Chief Investment Officer, Director of Investments, or Vice President for Development or their authorized designee.

* + - 1. Recommending a College Contract
1. College contracts may begin either as a draft proposal from a College unit or as a draft sent to the College by a non-College party (e.g. software vendors, other not for profit entities, and contractors).
2. The College unit that is recommending that the College enter a contract is responsible for determining the following:
* Contract language accurately reflects the current state of negotiations.
* Contract meets programmatic and College mission requirements.
* Contract is in the best interest of the College and represents the best deal regarding price, quality or efficacy of goods and services.
* Compliance with the obligations it places on the College can be assured.
* Contract is sufficiently clear and consistent.
	+ - 1. Contract Administration

Requesting divisions/departments serve as the Contract Administrator. Responsibilities of the Contract Administrator include, but are not limited to the following:

Ensure a fully executed copy is in place prior to any work being performed.

Return a fully executed agreement to the Procurement Department.

Verify that the contractor or vendor complies with all the terms and conditions of the agreement.

Ensure that all services have been received according to specification prior to authorizing payment.

Ensure that all revenue generated pursuant to the terms of the contract is received and deposited into an appropriate College account.

Contact the Controller’s Office to establish an appropriate College account if necessary.

Ensure the collection, review, and maintenance of any required documentation, to include certificates of insurance, worker’s compensation insurance, and licenses.

* + - 1. Closing a College contract
	1. Divisions/Departments are required to verify that the parties (College and vendor) have fulfilled their contractual obligations and there are no responsibilities remaining.
	2. A contract is completed when the following has occurred:

All goods or services have been received and accepted.

All reports have been delivered and accepted.

All administrative actions have been accomplished. All College furnished equipment and material has been returned.

Final payment has been made to the contractor.

* + - 1. Contract Amendment or Change
1. Amendments or changes to an approved contract are executed only by the Procurement Department and must be submitted, via the designated College contract e-mail, to the Manager of Procurement.
2. Ordering departments shall not formally contact a vendor and authorize changes of a contract without having obtained prior authorization from the Procurement Department.
3. Any contract amendment must be agreed to in writing by all authorized parties prior to the amendment or change taking place.

# **105 PURCHASE CARD USE**

## **PURPOSE**

Establish the appropriate use of an Oberlin College Purchase Card.

## **POLICY**

1. The appropriate Division/Department Head must approve all requests to obtain a new purchase card.
2. The cardholder must successfully complete required training, and, upon completion of training, sign and accept the terms and conditions of the Purchasing Card Cardholder Agreement prior to receiving his/her purchase card. Cardholders must also complete a biennial refresher training course to retain use of a College issued purchase card.
3. All purchase card transactions must be processed in accordance with College Procurement and Disbursement financial policies.
4. All purchase card cardholders must adhere to the [ethics in purchasing](https://cms.business-services.upenn.edu/purchasing/about/code-of-ethics.html) guidelines.
5. The standard purchase card monthly spend limit is $1,800.00. The standard single transaction limit is $1,000.00. Requests to increase the standard spend or transaction limit must include an explanation of the business purpose for the request and must be approved by the appropriate Division/Department Business Manager. The request must then be forwarded to the Manager of Procurement (or designee) for final review and approval. Requests to increase the standard spend or transaction limit must be submitted via email using the online form. To request a single transaction exception limit for one time use, please submit a properly completed [purchase card single transaction exception request.](https://cms.business-services.upenn.edu/purchasing/policies-a-forms/forms/index.php?option=com_form&form_id=4) To request a permanent monthly/single (not to exceed $4,999) spending limit increase, please submit a properly completed [purchasing card](https://cms.business-services.upenn.edu/purchasing/policies-a-forms/forms/index.php?option=com_form&form_id=5) [monthly spend limit exception request.](https://cms.business-services.upenn.edu/purchasing/policies-a-forms/forms/index.php?option=com_form&form_id=5) This form can also be used for a temporary monthly increase.
6. The purchase card cannot be used for purchases of [restricted commodities and/or purchases from restricted vendors.](https://cms.business-services.upenn.edu/purchasing/making-purchases/purchasing-basics/card-programs/purchasing-card/care-usage-guidelines.html)
7. All purchase card transactions must be made by the individual to whom the purchasing card is issued unless a Division/Department card has been issued.
8. All purchase card transactions must be made for the sole use and benefit of Oberlin College. Personal purchases are not permitted under any circumstances as per the terms and conditions of the Cardholder Agreement.
9. As an authorized agent of the College, it is the cardholder’s responsibility to ensure proper use of the College’s sales tax exemption number.
10. It is the cardholder’s responsibility to maintain appropriate supporting documentation for each purchasing card transaction along with a copy of the monthly statement of account for all transactions.
11. Procurement is authorized to review purchasing card purchasing activity to ensure compliance with this policy. Procurement is authorized to suspend the purchasing card privileges of any cardholder who is deemed to be in violation of this policy.
12. Violation of this policy and/or the duties and responsibilities listed in the Purchasing Card Training Manual will result in further action by the Dean, Director, or Department Business Manager in accordance with the Oberlin College Human Resources policies.
13. Fraudulent use of the purchasing card will result in actions being taken in accordance with the procedures established in the Cardholder Agreement form.

# **106 PROCUREMENT OF EQUIPMENT**

## **PURPOSE**

Ensure the most cost-effective method of acquiring equipment, i.e., purchase or lease.

## **POLICY**

1. The Vice President for Finance and Administration has the authority and responsibility to determine the most appropriate method of acquiring equipment, i.e., purchase or lease (capital & operating) of $25,000 or more. The Vice President for Finance and Administration may evaluate each external third-party lease over $25,000 for proper accounting and reporting treatment (i.e. capital or operating).
2. Procurement has the authority to review all vendor leased contracts on behalf of the College.
3. Procurement is responsible for maintaining copies of all fully executed external vendor third party lease contracts.
4. While it is not recommended, external third-party leases are permitted only when the Division of Finance and Administration determines that economic benefits will be realized. Such benefits may include lower cash payments, beneficial financing terms, and/or decreased risk, e.g. obsolescence, assumed by the College. Third-party leases may be cost prohibitive and, in the case of capital leases, create reporting requirements.
5. The procurement of equipment via an external third-party lease with a total lease payment cost of $2,500 or more is subject to the College’s competitive bidding policy and request for equipment lease approval procedure.
6. A College purchase order must be issued for each fiscal year to cover the full term of the lease contract period.
7. In the event of a department audit, the ordering department must be able to produce a copy of the original fiscal year purchase order with all supporting documents and all subsequent fiscal year purchase orders that cover the full term of the lease agreement.

# **107 RECEIVING & INSPECTING PURCHASED GOODS**

## **PURPOSE**

Ensure the proper receipt and inspection of purchased goods.

## **POLICY**

1. Ordering departments are responsible for verifying that purchased goods or services are received in proper condition and are in accordance with the terms of the official College purchase order.
2. Any damage to the shipping container noticed at the time of delivery is to be noted on the bill of lading, packing slip, and presented to the carrier making the delivery.
3. Purchased goods identified as being damaged should not be put into use.
4. The ordering department, or its designated receiving agent, is responsible for:
	* + 1. Notifying the vendor and the Procurement Department immediately upon the discovery of damaged goods; and,
			2. Notifying Accounts Payable in any instance where the goods or services are discovered to be in less than satisfactory condition. Any decision to withhold payment will be made in accordance with the terms of the purchase order and applicable law, and in consultation with the Office of the Vice President, General Counsel and Secretary, as appropriate.
5. When damage to goods is discovered after the goods have been put into use, the department is responsible for immediately notifying the vendor of the damage. Further use should be halted until the issues regarding the damage are resolved.
6. Procurement in consultation with the Controller’s Office and Office of the Vice President, General Counsel and Secretary as appropriate, may assist with negotiating the settlement of invoices when goods received are determined to be in less than satisfactory condition.
7. Whenever legal questions arise regarding the receipt, inspection, rejection or use of purchased goods, the College's position and actions will be determined with reference to the relevant contract(s) and applicable law. Procurement will consult with the Office of the Vice President, General Counsel and Secretary, as appropriate.
8. Departments must record, in the College's eProcurement application, ObieBuy their receipt of goods and/or services for all purchase orders.

# **108 Government Grant-Funded Purchases**

## **PURPOSE**

Ensure that goods and services purchased for government grants comply with policies of both the grantor agency and Oberlin College.

## **POLICY**

1. **Scope**

This policy applies to Principal Investigators (PIs), Project Directors and any designees (“buyers”) who make purchases using government grants. This policy is not applicable to the general purchases of the College. PIs should familiarize themselves with these requirements in advance of any expenditure and contact the Purchasing Department and Grants Office with any questions.

1. **Responsibility**

The buyer is responsible for determining whether a purchase is allowable and necessary under the terms of the government grant and will ensure purchases are in accordance with this policy. The Controller’s Office will serve as the final repository for purchase transaction records for government grants.

1. **Code of Conduct**

As representatives of the College, all employees (faculty and staff) are expected to conduct themselves in a professional and ethical manner, maintaining high standards of integrity, using good judgment, and complying with the College’s Financial Conflict of Interest Policy for Sponsored Research. Employees are expected to be principled in their business interactions and act in good faith with individuals both inside and outside the campus community.

Conflict of Interest (Contact Purchasing or the Grants Office for questions and instruction)

Signed Financial Conflict of Interest for Sponsored Research for Faculty and PIs (PHS and other funders)

Signed Conflict of Interest Policy for Board Members and Senior Administrators

Additionally, all vendors are required to provide a Conflict of Interest Statement as part of their proposal response in the bidding process.

1. **Overview**

To promote compliance with government regulations, the College requires buyers to perform a cost and pricing analysis, which shall be documented in the procurement files in connection with every procurement action. Price analysis may be done in various ways, including comparison of price quotations submitted, market prices, discounts, etc. Buyers shall avoid purchasing unnecessary or duplicative items. All vendor bids and quotations must be evaluated on the basis of product quality, technical compliance with specifications, total cost, and the vendor’s acceptance of the College’s terms and conditions. The vendor selection process for goods and services valued at $5,000 or greater must be documented and stored as part of the transaction record. All prequalified lists of persons, firms, or products used in acquiring goods and services should be current and include enough qualified sources to ensure maximum open and free competition. The College will not preclude potential bidders from qualifying during the solicitation period.

The procurement process must comply with policies of both Oberlin College and the grantor agency. When policies disagree, the most restrictive take precedence.

1. **Vendor Selection and Bidding Requirements**

 Buyers should consider the following before making a vendor selection:

1. Does the vendor provide the best mix of quality, service, and price for the specified need? Government regulations require that the lowest price have priority, unless quality, service, or delivery time takes priority as to need.
2. Does the vendor qualify as a small, disadvantaged, minority or women-owned business? Qualifying vendors should be given preference to the extent practical and economically feasible. Affirmative steps to be considered during the bidding phase include:
3. Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
4. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
5. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
6. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
7. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
8. Requiring the prime contractor, if subcontractors are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.
9. Does the vendor have a conflict of interest with anyone connected with the grant in accordance with Oberlin College's policy on Conflict of Interest as described in Section 4 of this document?

The level of bidding required and bid documentation to be submitted to the Procurement Office and approved by the Business Office is determined by the dollar amount of the purchase. The type of procuring instruments used shall be determined by the College but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved.

All procurement transactions shall be conducted to the maximum extent practical, in a manner providing full and open competition. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality, and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order to be evaluated by the College. The College shall 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.

|  |  |  |  |
| --- | --- | --- | --- |
|  | Purchases<$5,000 | Between $5,000 and $10,000 | > $10,000 |
| Formal bid process required. | No | Yes | Yes |
| Acceptable forms of bids (Contact Purchasing about purchases over $10,000) | N/A | Verbal, Published Catalogues, Written | Written Only |
| Minimum number of bids required | N/A | 3 | 3 |
| Submit bid documentation to the Purchasing Department | No | Yes | Yes |
| Complete a Vendor SelectionForm | Not Required | Yes | Yes |
| Analyze lease vs. buy options | Not Required | Not Required | Yes |

1. **Micro-purchases**

Micro-purchases are the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold ($5,000 according to College policy supported by 41 USC 1902, $2,000 in the case of acquisitions for construction subject to the Davis Bacon Act). Formal documentation of vendor selection is not required. Buyers are expected to conduct an informal cost/price analysis and select the vendor offering the best mix of quality, service, and price for the specified need. Reasonable efforts shall be made to ensure fair and competitive pricing. To the extent practicable, the College shall distribute micro-purchases equitably among qualified vendors. Securing a price comparison, however, shall be strongly encouraged when beneficial to the College.

1. **Small Purchases**

Solicitations for goods and services shall provide the following:

1. A clear and accurate description of the technical requirements for the material, product, or service desired. The description shall not be designed to limit competitive solicitation from multiple vendors.
2. Requirements that the bidder must fulfill and all other factors to be used in evaluating bids and proposals.
3. A detailed statement describing the source of the funds (Federal, State of Ohio, awarding agency, pass-through information, grant identification number).
4. A description of the technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
5. The specific features of "brand name or equal'’ descriptions that bidders are required to meet.
6. To the extent practical, that products and service be dimensioned in the metric system of measurement.
7. Preference, to the extent practical and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

For purchases from $5,000 to $10,000

A minimum of three (3) bids, written or verbal, are required. Each vendor must be provided with the same precise and accurate description of the specifications and technical requirements for the item or service. Web price lists and catalogue listings can be considered verbal bids.

Buyers must complete a Vendor Selection Form. A copy of the completed form must be attached to the selected vendor’s invoice and submitted to the Controller’s Office for payment. The College shall document the technical evaluations of the proposals received, including the basis for the award cost or price, any justification for lack of competition when competitive bids or offers are not obtained, and the selection of recipients, and basis therein, in written form.

For purchases $10,000 and over

Contact Purchasing and the Grants Office regarding purchases of $10,000 or more. A minimum of three (3) written bids is required. Each vendor must be provided with the same precise and accurate description of the specifications and technical requirements for the item or service. Written bids may be received by mail, fax or email and should be signed/e-mailed by an authorized representative of the vendor. See Competitive Bids below.

Buyers must complete a Vendor Selection Form. A copy of the completed form and all written bids must be attached to the selected vendor’s invoice and submitted to the Controller’s Office for payment. The College shall document the technical evaluations of the proposals received, including the basis for the award cost or price, any justification for lack of competition when competitive bids or offers are not obtained, and the selection of recipients, and basis therein, in written form.

When lease options are available, an analysis of the lease versus buy option must be performed to determine which alternative would be the most economical and practical form of procurement. The Controller will assist buyers with a lease/buy analysis upon request.

1. **Sealed Bids**

Contact Purchasing and the Grants Office regarding sealed bids. Sealed bids are solicited, and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder, whose bid conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction if the following conditions apply:

1. A complete, adequate, and realistic specification or purchase description is available.
2. Two or more responsible bidders are willing and able to compete effectively for the business; and
3. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

1. Bids must be solicited from an adequate number of known vendors, providing them sufficient response time prior to the date set for opening bids.
2. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond.
3. All bids will be opened at the time and place prescribed in the invitation for

 bids.

1. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
2. Any or all bids may be rejected if there is a sound documented reason.
3. **Competitive Bids**

Contact Purchasing and the Grants Office regarding competitive bids. Competitive bids are normally conducted with more than one source submitting an offer, and either a fixed price or cost reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. For competitive bids, the following requirements apply:

1. Requests for proposals must be developed and identify all evaluation factors and their relative importance.
2. Proposals must be solicited from an adequate number of qualified sources.
3. The College shall document all technical evaluations of the proposals received and for selecting recipients.
4. Contract shall be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
5. The College may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors’ qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services.
6. **Non-Competitive Vendor Selection**

Occasionally, a PI is unable or chooses not to competitively bid the requirements. These situations are characterized as sole or single source transactions.

Sole Source: No other vendor capable of fully meeting the requirements exists.

Single Source: Alternative vendors exist in the competitive market, but the buyer chooses to solicit a bid from only one particular vendor because of technical requirements (precision, reliability) or past performance by other vendors (poor service, availability of parts).

Emergency Procurement: In the case that the requirement of a product or service does not permit a delay resulting from competitive solicitation, an emergency procurement may be necessary. At the next reasonable opportunity, the standard paperwork should be submitted to the Office of Procurement.

PIs should contact Purchasing and the Grants Office if considering a non-competitive vendor selection, and PIs should seek approval from the granting agency prior to making a sole or single source purchase. In addition, the PI must complete the Vendor Selection Form if the purchase is $5,000 or greater, and written documentation should be maintained in the procurement files providing the justification for the sole or single source selection.

1. **Contract Administration**
2. The College shall evaluate contractor conformance with the terms, conditions, and specifications of the contract to ensure adequate and timely follow-up of all purchases and document whether contractors have met the terms, conditions, and specifications of the contract.
3. Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.
4. The College shall perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold ($150,000) including contract modifications.
5. The College must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed.
6. Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred, or cost estimated included in negotiated prices would be allowable for the non-Federal entity under 2 CFR 200, Subpart E.
7. Contracts in excess of the Simplified Acquisition Threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms and provide for such remedial actions as may be appropriate.
8. All contracts in excess of $10,000 shall contain suitable provisions for termination, including the manner by which termination shall be affected and the basis for the settlement. The contract will also state under which conditions the contract may be terminated for default as well as conditions where it may be terminated because of circumstances beyond control of the contractor.
9. The “cost-plus-a-percentage-of-cost” or “percentage of construction cost” methods of contracting shall not be used.
10. Except as otherwise required by statute, an award that requires the contracting/subcontracting for construction of facility improvements shall follow the College’s requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract/subcontract exceeds $100,000. The Federal awarding agency may accept the policy/requirements of the College in contracts exceeding $100,000 if a determination has been made that the Federal Government’s interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:
11. A bid guarantee from each bidder equivalent to five percent of the bid price.
12. A performance bond on the part of the contractor for 100 percent of the contract price.
13. A payment bond on the part of the contractor for 100 percent of the contract price.
14. **Contract Provisions**

When entering into a contract or subcontract, the College shall include provisions to define a sound and complete agreement. The following provisions will also apply:

1. Debarment and Suspension (Executive Orders 12549 and 12698) - Federal Executive Orders 12549 and 12689 prohibit sub-awards, contracts and purchase orders with certain parties who are debarred, suspended, or proposed for debarment, unless there is a compelling reason to do so. Federal agencies have issued regulations regarding the implementation of these Orders, and it is the responsibility of each Buyer to understand and follow the regulations of the grantor agency. Buyers shall use the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion when requesting bids for purchases in excess of the grantor’s small purchase threshold (generally $25,000). The Excluded Parties List System (EPLS) in the System for Award Management (SAM) must be checked before issuing a purchase order or contract for amounts in excess of the grantor’s small purchase threshold. (The small purchase threshold applies to an entire contract, not to separate invoice amounts.) The signed certification or printed results from the EPLS must be attached to the vendor’s invoice when it is submitted to Accounts Payable. Any transaction proposed with an entity or individual that is debarred, suspended, or proposed for debarment must be approved in advance by the grantor.
2. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity.”
3. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The College must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The College must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145). As supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors in Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that every contractor or sub-recipient must 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 or she is otherwise entitled. The College must report all suspected or reported violations to the Federal awarding agency.
4. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics and laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must 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 one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work is 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.
5. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the recipient or sub­recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or sub­recipient must comply with the requirements of 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.
6. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and sub-grants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding $100,000 must 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 an agency, a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must 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 non-Federal award.

Please contact the Grants Office with questions.