

Doane University Procurement Policy

6-29-2018

A. Purpose and Standards

The purpose of this policy is to outline procedures for purchasing goods and services on behalf of the University to ensure that purchasing is performed fairly, competitively, and without conflict in alignment with University best practices and compliance with regard to the use of federal funds.

These procurement procedures are intended to reflect State and local laws and regulations and, for purchases made with federal funds, to conform to 2 C.F.R. § 300.318 through § 200.326. Procurement procedures are maintained in written form in the Treasurer's office.

B. Responsibility for Purchasing and Purchase Methods

All orders over \$2,500 (except for those using Federal funds – see additional requirements below for Federal funds only) should be initiated on a purchase order form. Some vendors require a purchase order before an item is shipped to the institution. Purchase order forms are available from the Business Office.

Departments operating within approved budget levels may order or charge purchases to the institution through the purchase order process. Purchase orders require:

- The account number and name of a department;
- The name of the person requesting the purchase;
- The appropriate approval from the budget responsibility manager;
- The vendor information and/or quote(s);
- Details of the services or goods to be provided; and
- Contract approval by Vice President of Finance or President if applicable (see additional contract requirements at <https://www.doane.edu/offices/finance-administration/contract>).

A copy of the completed form will be approved by the Vice President of Finance or designee (Controller, Assistant Controller, Director of Budget & Post-Award Grant Administration) before being forwarded to the vendor. All completed forms, final invoices and proof of payment will be retained in accordance with the retention policy in the Business Office.

C. Purchase Cards

All items purchased using a University Procurement or Credit card MUST follow all of the above requirements, but do not require the use of a purchase order. See the full University policy at: <https://www.doane.edu/offices/finance-administration/policies>.

D. Additional Requirements for Purchases made with Federal Funds

The remainder of this policy relates only to those purchases made with federal funds.

I. Dollar Threshold Requirements and Procurement Methods

Purchases will be researched and prices compared prior to making decisions regarding the expenditure of Doane University Funds. Expenditures involving federal funds will comply with the following procurement methods according to monetary thresholds:

1. Micro Purchases, up to \$10,000

Purchases under \$10,000 include purchases of goods and services with prices that are readily available from many vendors. To the extent practicable, the University distributes these purchases equitably among qualified suppliers. These purchases may be awarded without soliciting competitive quotations if the University considers the price to be reasonable compared to similar services or goods.

2. Medium/Small Purchases, between \$10,000 and \$250,000

Same as above, except that price or rate quotations must be obtained from at least three sources.

3. Large Purchases, over \$250,000

Contact the Director of Budget & Post-Award Grant Administration to assist in formal bid process. He/she will work collaboratively with the Principal Investigator (PI) or requestor to facilitate this process and meet all the federal procurement method requirements under 2 C.F.R. § 200.320. It is important that the PI or requestor communicate their plans for major purchases as early as possible so there will be reasonable time to accomplish the bidding procedure. All purchases over \$250,000 require the final approval of the Vice President of Finance or President.

Competitive Proposals

Large purchases exceeding \$250,000 shall be made through competitive negotiation or competitive bidding. Competitive negotiation requires the issuance of a Request for Proposals (RFP) that outlines the scope of the goods or services to be purchased, the specifications, the proposed terms and conditions of the resulting contract, and the criteria on which proposals will be evaluated. Competitive bidding is the process of purchasing goods or services by asking interested providers to submit quotes, offers, bids or sealed bids from which the University generally will choose the lowest priced responsive offer. The solicitation and submission of such bids or offers may be done electronically or through a web-based system.

1. Competitive Negotiation. When purchasing through competitive negotiation, RFPs will be mailed or sent electronically to potential offerors who express an interest in submitting a proposal. Each RFP shall state the good or services sought, the criteria on which proposals will be evaluated, and indicate whether the University will award the contract to the offeror that presents the lowest price, or the offeror that presents the best value to the University. In evaluating proposals, the University may, but is not required to, conduct negotiations with responsive offerors to understand and clarify whether an offeror's proposal satisfactorily addresses the University's needs. The University may

also allow offerors to submit final revised proposals after such negotiations but before award. All offerors shall be treated fairly and equally with respect to any opportunity for negotiation and subsequent revision of proposals. The University shall have the right to reject any or all proposals and solicit new proposals, if the University determines it is in its best interest to do so. The University shall give notice of the award decision to all responsive offerors.

2. Competitive bidding. When purchasing through competitive bidding, the University shall prepare a solicitation describing the goods and services sought, specifying a date and time by which bids must be received. The solicitation will be mailed or sent electronically to all potential offerors who express an interest in submitting a bid, or from whom the University requests a bid. It is the bidders' responsibility to ensure that their bids are received by the University no later than the appointed date and time specified in the solicitation. Late bids shall not be considered and will be returned unopened to the bidder. The Director of Budget & Post-Award Grant Administration or designee shall publicly open all bids received and select the lowest price responsive bid for award. The bid opening and award selection shall be witnessed and documented by the PI or designee. Except as prohibited by law, if the bids received are: (i) unreasonable; (ii) have unacceptable terms and conditions; (iii) are noncompetitive; or (iv) exceed available funds, and time or other circumstances will not permit the delay that would result from resoliciting competitive bids, then the University may change the scope of the purchase as needed and accept revised bids without rebidding. The Director of Budget & Post-Award Grant Administration must document such circumstances in writing, and each responsive bidder who submitted a bid under the original solicitation must be provided a reasonable opportunity to modify its original bid and submit a revised bid in response to the University's changed scope. When such measures are taken because original bids were deemed noncompetitive or exceeded available funds, the amount of any revised bid selected by the University must be lower than the lowest rejected bid under the original solicitation. The University shall give notice of the award decision to all responsive offerors.

Noncompetitive Proposals (Sole Sourcing)

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- The item is available only 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 University; or
- After solicitation of a number of sources, competition is determined inadequate.

If one of the above circumstances applies in the context of a large purchase, the PI or Director of Budget & Post-Award Grant Administration shall document the existence of the applicable circumstance and provide the written justification for the sole source purchase with the contract for review by the treasurer's office and the Vice President of Finance.

II. Full and Open Competition

Open Competition

Generally, all procurement transactions must be conducted in a manner providing full and open competition consistent with 2 C.F.R. § 200.319. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

To encourage full and open competition, the University discourages the unnecessary imposition of restrictions that may limit competition. 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.

Geographical Preferences Prohibited

The University 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. 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.

Minority Business Enterprises and Women Business Enterprises

Doane University recognizes the value of diversity in our community and is, therefore, committed to actively developing supplier diversity by supporting Minority Business Enterprises (MBE) and Women Business Enterprises (WBE). Doane University is committed to providing opportunities to certified Minority & Women-owned vendors for procurement of goods and services.

To that end, PIs must work with the Director of Budget & Post-Award Grant Administration in any procurement to take affirmative steps which assure that MBEs and WBEs are used when possible. Such affirmative steps should be documented for each procurement and must include the following:

1. Placing any qualified small businesses, MBEs, and WBEs on solicitation lists;

2. Assuring that any small businesses, MBEs, or WBEs which may be potential sources for the procurement are solicited;
3. When economically feasible, dividing the requirements of a procurement into smaller quantities or tasks that will permit maximum MBE and WBE participation;
4. When possible, establishing delivery schedules that encourage participation of small businesses, MBEs, and WBEs;
5. Where appropriate, consulting with, or using the services of, the Small Business Administration and the Minority Business Development Agency of the Department of Commerce;
6. Requiring any prime contractors or subrecipients to take similar affirmative steps to encourage small business, MBE, and WBE participation in the awarding of any subcontracts or subawards.

Prequalified Lists

The University must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the University must not preclude potential bidders from qualifying during the solicitation period.

Solicitation Language

The University must ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. 2 C.F.R. § 200.319(c).

III. Procurement Standards

Contract Provisions

As required by 2 C.F.R. § 200.326, certain contract provisions will be included when involving the use of federal funds. The required provisions may be found in Addendum A.

Oversight

The University maintains a contract administration system which ensures contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Each PI or department head (or designee) that uses the goods or services purchased in

accordance with these procedures is required to regularly oversee contract performance and report any non-performance to the Treasurer's office and the Vice President of Finance. The Vice President of Finance (or designee), in consultation with the relevant PI or department head, shall make a final determination regarding the perceived non-performance and whether to renew or cancel the subject contract.

Conflicts of Interest and Gratuity Violation

No employee, officer, or agent of the University shall participate in the selection, award, or administration of a contract supported by a federal award if a conflict of interest, real or apparent, would be involved. The University will not purchase supplies or materials from an employee, officer, or agent of the University, nor 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 University may neither solicit nor accept, directly or indirectly, gifts, gratuities, favors, or anything of monetary value that is: (i) offered or provided because of the officer's, employee's, or agent's official position at the University; (ii) is provided by any person who seeks official action by the University officer, employee, or agent; (iii) is provided by any person who seeks to influence the award of a contract, subcontract, grant award or subaward.

Officers, employees, and agents of the University may accept unsolicited gifts or other items of monetary value which are not offered or provided for one of the prohibited purposes outlined above. However, the acceptance of unsolicited gifts or other items which have a value of: (i) \$200 or more from a single source on a single occasion; or (ii) \$1,000 or more in the aggregate during a calendar year from any one source, must be reported to the Vice President of Finance (or, if necessary, the President), who may elect to exclude the officer, employee, or agent from any further procurement decisions in which the source of the unsolicited gifts or items of value is involved.

Where an employee, officer, or agent of the University has violated a procurement standard or constitutes a gratuity violation, discipline may follow up to and including termination of employment or removal from the Board.

Avoiding Acquisition of Unnecessary or Duplicative Items

The University will avoid the acquisition of unnecessary or duplicative items. Additionally, consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis will be made of leases versus purchase alternatives, and another other appropriate analysis to determine the most economical approach. These considerations are given as part of the process to determine the allowability of each purchase made with federal funds.

Use of Intergovernmental Agreements

To foster greater economy and efficiency, the University will encourage entering into state and local intergovernmental agreements or inter-entity agreements, where appropriate, for procurement or use of common or shared goods and services.

Use of Federal Excess and Surplus Property

The University will consider the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Debarment and Suspension

The University will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

Under the provisions of 2 C.F.R. § 200.213; 2 C.F.R. Part 200, Appendix II(H); and 2 C.F.R. §§ 180.220 & 180.300, the University may not subcontract with or award subgrants to any person or company who is debarred or suspended. For all contracts over \$25,000 the University verifies that the vendor with whom the University intends to do business with is not excluded or disqualified. This is accomplished by the PI checking the excluded parties list on www.sam.gov.

Maintain Records

The University will maintain records in accordance with its current document retention policies sufficient to detail its history of procurement and the steps taken for each procurement. These records will include, at least the following: (i) rationale for the method of procurement; (ii) selection of contract type; (iii) contractor selection or rejection; and (iv) the basis for the contract price.

Time and Materials Contracts

The University may use a time and materials type contract only (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the University is the sum of: the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

The University will assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

Settlements of Issues Arising Out of Procurements

The University alone is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the University of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

Protest Procedures to Resolve Disputes

Protests of an award under an RFP must be received by the Director of Budget & Post-Award Grant Administration no later than 10 business days after the protester receives notice of the final award decision. Protests must, at a minimum, include the following:

- i. The name and address of the protester, including a point of contact and mailing address to which a response can be sent;
- ii. Reference the RFP number at issue;
- iii. A statement of the specific issues being disputed or the reasons for the protest;
- iv. Attach any relevant exhibits, evidence or documents supporting the protest; and
- v. Identify the remedy requested.

Protests that do not comply with the requirements above, or which do not allege improprieties or irregularities in the solicitation process, specifications, evaluation of bids/proposals, will not be considered. The Vice President of Finance will consider the protest and issue a written response to the protester's point of contact. The decision of the Vice President of Finance shall be final and generally will be issued within 10 business days of receipt of the protest, unless additional time is necessary to fully examine the issues presented.

Doane University Procurement Policy: Addendum A

2 C.F.R. Part 200, Appendix II – Contract Provisions for Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) 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” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) 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 non-Federal entity 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 non-Federal entity 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 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 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 non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) 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 or 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 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.

(F) 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.

(G) 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 subgrants of amounts in excess of \$250,000 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).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) 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 any agency, a member of

Congress, officer or employee of Congress, or an employee of 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.

(J) See § 200.322 Procurement of recovered materials.