BOISE STATE UNIVERSITY

University Policy 6130

Purchasing

Effective Date

March 1998

Last Revision Date

March 20, 2024

Responsible Party

Procurement and Vendor Services, p2p_procurement@boisestate.edu

Scope and Audience

This policy applies to all purchases made with University funds.

Additional Authority

- Idaho Code § 59-1026
- Idaho Code § 67-9219
- Idaho Code § 67-9225
- Idaho Code § 67-9230
- Idaho Code § 67-9231
- Idaho Code § 67-9233
- Idaho State Board of Education Governing Policies and Procedures Section I.E.2.a
- Idaho State Board of Education Governing Policies and Procedures Section V.I
- University Policy 1110 (Conflict of Interest and Commitment)
- University Policy 5030 (Office of Sponsored Projects)
- University Policy 6030 (University Contracts)

1. Policy Purpose

To establish policies and procedures governing purchases made with University funds.

2. Policy Statement

Procurement (Purchasing) is overseen by the Chief Financial and Operating Officer and Vice President for Finance and Operations. Daily operations have been delegated to the Procurement and Vendor Services Director and will be conducted in strict adherence with applicable federal and state laws and regulations and Idaho State Board of Education and University policies.

Purchasing activities will be administered in a manner that provides maximum practicable open competition appropriate to the type of good or service to be provided. Purchases must support the goals of cost efficiency and good/service quality, and these objectives must be given consideration in the purchasing process.

Purchasing activities include transactions involving trade-ins and leased property. Procurements do not include non-exchange transactions such as sponsorships and transactions not involving the expenditure of University funds.

The university owns all property purchased with university funds and all property received by the university as gifts. In addition, except where provided by the terms of a sponsored project by operation of law, the university owns all personal property purchased with funds from a sponsored project. No department, departmental unit, or university employee may hold proprietary interest in any piece of university property, or property purchased with sponsored project funds which is held by the university. Regardless of which departmental unit ordered the item, the fund cited, or the budget expensed, the principle of university ownership prevails.

This policy has been approved by the Idaho State Board of Education. Any changes to this policy must be submitted in writing to the Executive Director for the Idaho State Board of Education ("Executive Director") for approval. The Executive Director may, in their discretion, refer proposed changes to the Board for approval.

3. Budget Authority

a. It is the responsibility of the requestor to determine and ensure funds are available and properly budgeted.

b. Terms may exceed one (1) year provided they are advantageous to the university and that such contracts contain no penalty to or restriction upon the university in the event cancellation is necessitated by a lack of financing for any such contract or contracts.

4. Requirements

a. Small purchases are those purchases or procurements expected to cost less than two hundred fifty thousand dollars ($250,000). Costs are determined based on the following:

- One-time purchases of property.
- Total cost of a contract for services, including renewal or extension periods.

b. To enhance small business bidding opportunities, the university must seek a minimum of three (3) quotes from vendors having a significant Idaho economic presence as defined in Section 67-2349, Idaho Code. The request for quotation may be written, oral, electronic, telephonic, or facsimile.

c. Large purchases, costing two hundred fifty thousand dollars ($250,000) or more are procured through a formal sealed process. The issuance of Invitations to Bid (ITB) or Requests for Proposal (RFP) is the method for solicitation of offers from qualified vendors in a sealed process in order to establish pricing, specification or performance standards, and the terms and conditions for the purchase of goods and services. The university will ensure adequate ITB's or RFP's are prepared that clearly define the goods and services needed for bidders to properly respond to the request. At the place, date, and time set forth in the solicitation, all bids or proposals received in accordance with the submittal requirements in the solicitation will be publicly opened and read aloud by the buyer to those persons present.

d. Notice of solicitations of bids or proposals for large purchases may be electronic in nature. The university may apply the use of a variety of techniques, including but not limited to reverse auction, electronic posting, or electronic advertisement of solicitations as appropriate to the buying situation. Large purchase notices, regardless of methodology, are referenced in the vendor section of the Procurement and Vendor Services' website.

e. Preference for Idaho suppliers for purchases:

- Reciprocal preference will be given to Idaho vendors in accordance with Section 67-2349, Idaho Code.
- Printing services will be awarded to local vendors in accordance with Section 60-101 - 103, Idaho Code.

f. Where multiple bids and quality of property offered are the same, preference will be given to property of local and domestic production and manufacture or from bidders having a significant Idaho economic presence.

g. The University recognizes that an offered low price is not always indicative of the greatest value. Contracts will be awarded by the university pursuant to determination by the Procurement and Vendor Services Director of the best value to the university based on the criteria outlined in the solicitation. Award of contracts in excess of amounts as proscribed in Idaho State Board of Education policy, section V.I.2.a require the written approval of the Executive Director or the Idaho State Board of Education in a public meeting.

h. No vendor or related party, or subsidiary or affiliate of a vendor, may submit a bid to obtain a contract to provide property to the university if the vendor or related party, or affiliate or subsidiary, was paid for services utilized in preparing the bid specifications or if the services influenced the procurement process.

i. No property to be acquired will be accepted that does not meet the minimum bid specifications.

j. If funding for the purchase of goods or services includes sponsored project funding, federal requirements must be considered. Idaho preference, waivers, and exemptions from bidding could be restricted based on terms and conditions of specific award documents and/or funding agency requirements.

5. Waiver of Competitive Bidding (Sole Source)

a. The determination to waive the competitive bid process may be made only by the Procurement and Vendor Services Director. Any request by a department to restrict a purchase to one (1) potential supplier must be accompanied by an explanation as to why no other item is suitable or that no other vendors exist to meet the need.

b. Examples include, without limitation, circumstances where 1.) the compatibility of equipment, components, accessories, software, replacement parts, or service is the paramount consideration, 2.) a single supplier's property is needed for trial use or testing, or 3.) the purchase involves property for which it is determined there is no functional equivalent. A requirement for a particular proprietary item does not justify a sole source purchase if there is more than one (1) potential source for that item.

c. The Procurement and Vendor Services department will conduct negotiations, as appropriate, to determine price, availability, and terms.

6. Exemptions from Bidding for Purchases Equal or Greater than $20,000

6.1 State Open Contracts

6.1.1 Purchases Under $20,000

6.1.2 State Open Contracts

a. Certain commodities are procured through open contracts by the State of Idaho Division of Purchasing in order to obtain the lowest possible pricing for all agencies.

b. No officer or employee may fail to utilize an open contract without justifiable cause for such action. Justifiable cause must be determined by the Chief Financial and Operating Officer and Vice President for Finance and Operations. Approved deviations from open contract use will be administered by the Procurement and Vendor Services Director.

- Purchases from General Services Administration Federal Supply Contractors are allowed when the acquisition is advantageous to the university with approval from the Procurement and Vendor Services Director.

- Where no state open contract exists, state institutions of higher education (as defined in 67-9203 (16)) operating under the Idaho State Board of Education approved model purchasing policy, may collaborate with each other or the University of Idaho on solicitations where the combined volume of multiple institutions will provide the best value.

6.2 Cooperative Purchasing

Use of contracts issued by cooperative purchasing programs established by any association that offers its goods or services as a result of competitive solicitation processes is allowed with approval from the Procurement and Vendor Services Director. Purchases made through the use of a cooperative purchasing program are subject to confirmation that such program's competitive solicitation process meets the minimum criteria for competitive solicitations and resulting purchases set forth in University policies.

6.3 Government and Agency Acquisitions

a. Rehabilitation agency acquisitions

b. Correctional industries acquisitions

c. Federal government acquisitions including federal surplus

d. Interagency contracts, including contracts with other institutions of higher education.

e. The University may contract with any one (1) or more other public agencies or institution of higher education to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform, including, but not limited to joint contracting for services, supplies and capital equipment, provided that such contract is authorized by the governing body of each party to the contract.

6.4 Situational Acquisitions

a. Legal advertising, publication or placement of advertisements directly with media sources

b. Contracts for legal services or bond related services

c. Professional, consultant and information-related technology services costing less than $250,000

d. University employee education, training, and related travel expenses costing less than $250,000

e. Purchases with special educational discounts offered by vendors exclusively to schools, colleges, universities, and other educational institutions where the property is for the express purpose of educating students

f. Concession services where there is no expenditure of University funds

g. Goods and services for which competitive solicitation procedures are impractical

h. Medical director and medical professional services

i. Property held for resale, such as bookstore inventory

j. Purchase of copyrighted materials available primarily from the publisher

k. Membership dues and subscriptions where competitive solicitations are impractical

l. Goods that are in used condition

m. Preventative maintenance and repair of scientific equipment, when the services are only available from a single supplier

n. Ongoing maintenance, upgrades, support, or additional licenses for software or other information technology solutions, including a change in the manner of solution delivery; which software or solution was originally acquired in compliance with the purchasing laws in effect at the time of acquisition

o. Ongoing maintenance, upgrades, and support for existing equipment.

6.5 Emergency Purchases

The Procurement and Vendor Services Director, or designee, may authorize emergency purchases of goods and services when determined necessary and in the best interest of the university. Examples of circumstances that could necessitate an emergency purchase include:

a. Unforeseen or beyond the control of the University or constituting a force majeure

b. Present a real, immediate, or extreme threat to the proper performance of essential University functions

c. May reasonably be expected to result in excessive loss or damage to property or other resources, and/or bodily injury or loss of life

d. Any affected department may make an emergency purchase in the open market at the best attainable price when a documented emergency condition exists and the need cannot be met through the university's normal procurement method, provided that:

- Funds are available for the purchase
- Verbal authorization is obtained from the Chief Financial and Operating Officer and Vice President for Finance and Operations

- Competition to the fullest extent practicable under existing circumstances is obtained and documented
- The cost of the purchase does not exceed the amount requiring Executive Director approval as prescribed in Idaho State Board of Education Policy, section V.I.3 a
- A fully signed explanation of the circumstances surrounding the emergency and the necessity for the purchase is filed by the requester with the Procurement and Vendor Services Director within two (2) working days after such purchase or cessation of emergency conditions, whichever is later.

6.6 Direct Negotiations

In lieu of competitive bidding, and when not covered by a State open contract, negotiations may be conducted whenever any of the following conditions are applicable and authorized by the Procurement and Vendor Services Director:

- The public good as determined by the Procurement and Vendor Services Director will not permit the competitive bid process due to time constraints
- No responsive or responsible bids are received at acceptable levels of price, service, or terms
- Approved sole source scenarios
- The purchase is for experimental, developmental or research work, or for the manufacture of furnishing of property for experimentation, development, research or test
- Where there is a particular savings through the use of educational discounts
- Acquisition of federal surplus or excess property

7. Qualification of Vendors

a. No vendor will be allowed to submit a bid unless such vendor is qualified

b. All vendors are qualified unless disqualified

c. Vendors may be disqualified for any of the following reasons:

- Failure to perform according to the terms of any agreement
- Attempts by whatever means to cause acquisition specifications to be drawn so as to favor a specific vendor
- Actions to obstruct or unreasonably delay acquisitions by the University. Obstruction is hereby defined as a lack of success in more than fifty percent (50%) of the appeals made in each of three (3) different acquisitions during any twenty-four (24) month period.
- Perjury in a vendor disqualification hearing
- Debarment, suspension, or ineligibility from federal contracting of the vendor, its principals, or affiliates
- Any reason in Idaho law that would disqualify a particular vendor for a particular bid

d. A vendor must be notified by registered mail within ten (10) days of disqualification and may, within thirty (30) days of the receipt of such notice, challenge the disqualification

e. Disqualification or conditions may be imposed for a period of not more than five (5) years

8. Appeals

a. Elements of a formal sealed bid that are appealable include:

- Bid specifications
- Determination by the university that the bid is non-responsive and does not comply with the bid invitation and specifications
- Award to a successful vendor

b. The detailed appeal process for formal procurements utilizing the sealed bid process is located on the Procurement and Vendor Services' website with a link to the website listed in the bid package.

c. In addition, Sole Source determinations are appealable. The detailed process for appeal is located on the Procurement and Vendor Services' website with a link to the website listed in the legal notice.

d. Any appeal will be reviewed and a written decision setting forth reasons for denial will be provided, or if upheld an amendment (for a specification or intent to award appeal), to the original bid or sole source determination will be posted.

e. Submitting a bid to the university constitutes standard acceptance of this policy including the appeals process.

f. Small purchases or purchases that are exempted from bidding requirements may not be appealed.

9. Ethics Requirements

a. All faculty, staff, and students at the university are required to adhere to the intent and spirit of these policies and directives. Such policies and directives are designed as a means to acquire the necessary goods and services as effectively and economically as possible while also maintaining compliance with the laws of the state of Idaho. Employees are subject to penalties as described in Idaho Code, including, but not limited to those in Section 67-9231.

b. Employees are prohibited from obtaining goods or services by avoiding the competitive process through such actions as splitting purchases, creating false emergency situations, and purchasing outside open contracts without authorization.

c. Any effort to circumvent or abuse State and University purchasing regulations and policies or procedures will not be condoned and is subject to disciplinary action up to and including dismissal from employment.

d. Purchasing Ethics and Vendor Relationships

- All employees are involved in business transacted by the University in one form or another, especially those who are professional purchasers or other personnel who purchase items and services, including those using the University P-card. Each employee has a personal responsibility to conduct University business in an ethical manner to ensure the integrity of the purchasing and procurement processes.

- Conflict of interest: A conflict of interest occurs when a person's private interests compete with their professional obligations to the University to a degree that an independent observer might reasonably question whether the person's professional actions or decisions are materially affected by personal considerations, including but not limited to personal gain, financial, or otherwise. Employees are therefore prohibited

from entering into service contracts with or selling goods to the university (see University Policy 1110 - Conflict of Interest and Commitment).

- Influencing/conspiring to influence: The university prohibits the influencing or conspiring to influence purchasing decisions and contract awards. Attempts at influence may include kickbacks and bribes, peddling or payment of a fee, back door selling, hard-sell tactics, fraternization, or offering gifts to avoid following published procedures or gain advantages.

- Post issuance contract oversight is required to guarantee the university receives all goods and services as per the terms of the agreement. University Policy 6030 (University Contracts) describes the roles and responsibilities for contract management.

e. It is the responsibility of the Procurement and Vendor Services Director to ensure that the procurement staff are properly trained to execute their duties efficiently and in accordance with applicable laws and regulations.

10. Related Information

Procurement and Vendor Services Website
https://www.boisestate.edu/vpfa-p2p/

Last Review Date

March 16, 2022

Revision History

July 2011; September 2016; June 2018; March 2020; March 20, 2024