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Chapter: Fiscal & Business Services

Modification No. 019

Subject: **Procurement, Contracts, and Consultant Services**

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- I. The Board of Trustees has authority to enter into Contracts for goods and services to carry out the College's mission. The Board of Trustees expects that the College's procurement processes will be consistent with all applicable laws, regulations and ethical standards.
- II. This policy serves the following purposes:
  - A. To govern procurements by the College to facilitate the educational mission of the College through the acquisition of goods and services.
  - B. To apply best procurement methods and practices that provide for a clear procurement process, broad-based competition, and public confidence through standard procurement policies and procedures.
  - C. Ensuring that the College utilizes and leverages its purchasing power directly, and through other governmental entities, to meet educational and institutional needs in a timely, economical, effective and responsible way.
  - D. Providing safeguards for maintaining a College procurement system of quality and integrity, consistent with conflicts of interests' requirements and other requirements of law, regulations, and grant governing documents.
  - E. Fostering effective broad-based competition to the extent practicable.
  - F. Supporting governmental priorities and responsibilities, including contracting in accordance with MD Code Education Article §16-311(c)(7)(ii), and the use of environmentally responsible materials and services.
  - G. Ensuring fair and equitable treatment of all persons who deal with the College procurement system.
- III. The Board of Trustees must authorize by resolution all competitively bid Contracts that exceed \$450,000.00 (full-term) and all Sole Source contracts that exceed \$100,000.00 (full-term). The Board delegates to the president, or designee, the authority to procure and enter into agreements for materials and services that do not exceed these stated thresholds.
- IV. All Contracts shall be awarded by Competitive Sealed Solicitation unless such Contract is below the threshold required, the Contract is a Special Procurement, the president, or designee, deems that an Emergency Procurement or Sole Source award is appropriate, or under other circumstances when alternative authorized procurement methods are deemed to be in the best interest of the College.
- V. The College may enter into multi-year Contracts for goods and services pursuant to any procedures that may specify or limit terms of such agreements that extend beyond the current fiscal year.

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- A. A multi-year Contract must not obligate the College to allocate funding in subsequent fiscal years.
  - B. Each year of the term shall be subject to appropriation, and a determination by the College that funds are sufficient for the then current fiscal year and to meet all of the College's anticipated needs, including the subject Contract.
  - C. The sufficiency determination is at the sole discretion of the College and for any fiscal year in which the College determines that funding is not adequate to meet all of the College's needs, the College may terminate the Contract and the Contractor and the College will then be discharged from future performance of the Contract, but not from their rights and obligations existing up to the time of termination.
  - D. The College will reimburse Contractor for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract.
  - E. The College shall not enter into a Contract where any part of the compensation is based on a cost-plus-a-percentage-of-cost of the work performed or goods provided.
- VI. College Contracts should not include the following provisions:
- A. A provision that requires the College to indemnify, defend, or hold harmless another person beyond the limits of MD Code, Courts and Judicial Proceedings Article, Title 5, Subtitle 3 and Section 5-519, or beyond the amount of an express appropriation of funds for that purpose.
  - B. A provision that requires the College to submit to binding arbitration or any other binding extrajudicial dispute resolution process.
  - C. A provision that names a jurisdiction or venue for any action or dispute against the College other than a court of proper jurisdiction in the State of Maryland.
  - D. A provision that requires the College to be bound by a term or condition that (1) is unknown to the College at the time of signing a Contract, (2) may be unilaterally changed by the other party.
  - E. A provision for automatic renewal that obligates the College to allocate funding in subsequent fiscal years.
- VII. Except as otherwise provided, a Contract which is entered into in violation of this Policy is void, unless it is determined, upon review, that good faith has been shown by all parties, and that there has been substantial compliance with these policies and procedures. If a Contract is void, any Contractor who entered the agreement in good faith and without knowledge of any violation or contribution to any violation prior to award may be compensated for actual costs incurred.
- VIII. The Board of Trustees authorizes the President to modify Contracts or to enter into Contract Amendments for Contracts previously approved by the Board of Trustees so long as the total modifications or Contract Amendments do not exceed 25 percent over the life of the initial Contract award amount. In the event that College Policy 61001:Fiscal Control is contradictory to this policy, where applicable, this policy shall prevail.

- IX. The Board of Trustees authorizes the president to establish any procedures necessary to implement this policy.

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Chapter: Fiscal & Business Services

Modification No. 022

Subject: **Procurement, Contracts, and Consultant Services**

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I. Definitions

- A. Administrator: An Administrator is a management level employee of the College with decision-making authority over the Business Unit that is initiating any procurement action under these procedures.
- B. Affiliated Non-employee: This type of non-employee is defined as a Consultant, or board member of either the Montgomery College Foundation or the PIC MC Foundation, Inc. Affiliated Non-employees may also be a former employee of the College, or a current or former employee of Montgomery County or another governmental entity.
- C. Bid (or RFP) Addendum: A document issued by the College to change a material aspect of an initial solicitation prior to the closing date.
- D. Bidder: A person or entity that submits a bid in response to a Request for Bid issued by the College.
- E. Business Unit: A section or office within a division, program or institute of the College or one of its supporting foundations.
- F. Competitive Sealed Solicitation: The College's preferred procurement method requiring Bidders/Offerors to submit sealed bids, which are opened in a public forum and the results read aloud at a specific date and time. There are two types of Competitive Sealed Solicitations:
  - 1. Request for Bid: A type of procurement method used when the College awards a Contract to a Bidder solely because the Bidder provided the lowest price for the goods or services with no material exception to the provisions of the Request for Bid.
  - 2. Request for Proposal: A procurement method used when the College issues a list of unique specifications for goods or services and evaluates proposals by Offerors based on a range of pre-determined criteria.
- G. Consultant: A person or company that possesses unique qualifications that allow them to perform specialized services for or on behalf of the College for a fee.
- H. Contract: A written agreement between parties exchanging goods or services for money or other consideration for a specified duration.
- I. Contract Amendment: A mutually agreed upon modification to an existing Contract.
- J. Contractor: Any person or entity that is a party to a Contract with the College.
- K. Cooperative Procurement: A procurement method involving two or more public entities that combine their needs for goods or services to obtain cost savings and

other benefits.

- L. Emergency Procurement: A procurement method which typically waives formal competitive bidding procedures based on a need to purchase goods or services for an unexpected or urgent reason such as risks of health and safety or the conservation of public resources.
- M. Interagency Procurement: The purchase of goods or services from a federal, state, or local government agency or political sub-division, or from a public college, university, or school system, whereby the best interest of the College is served.
- N. Offeror: A person or company that submits an offer/proposal in response to a Request for Proposal issued by the College.
- O. Open Market Purchase: A procurement method permitting an authorized college employee to obtain a single quote for the goods or services when the amount is less than the threshold required for the competitive procurement process.
- P. Procurement Through Other Agency (PTOA): A form of intergovernmental cooperative purchasing in which an entity will be extended the pricing and terms of a Contract entered into by another entity. Generally, one entity will competitively award a Contract that will include language allowing for other entities to utilize the Contract, which may be to their advantage in terms of pricing, thereby gaining economies of scale that they normally would not receive, if they competed on their own.
- Q. Prohibited Contract: Any Contract where any part of the compensation is based on a cost-plus-a-percentage-of-cost of the work performed or goods provided.
- R. Quote: A pricing document that a Vendor submits in response to a request for goods or services.
- S. Requisition Form: A form submitted by an authorized college employee to initiate the request to purchase goods or services.
- T. Request for Quote: A document issued by the College requesting prices from potential Vendors for goods or services.
- U. Responsible Bidder/Offeror: A business entity or individual who has the integrity and reliability as well as the financial and technical capacity to perform the requirements of the solicitation and subsequent Contract.
- V. Responsive Bidder/Offeror: A bid or proposal that fully conforms in all material respects to the Request for Bid or Request for Proposals, and all of its requirements, including all form and substance, and College terms and conditions.
- W. Small Procurement (Request for Quote): A purchase valued at less than the competitive sealed bid or proposal threshold, but higher than the Open Market Purchase threshold.
- X. Sole Source: A non-competitive method of procurement used when only a single

Vendor meets the specifications listed in the solicitation, including without limitation, timeliness, or because only one Vendor is available to provide the goods or services, or to fulfill an Emergency Procurement.

- Y. Special Purchasing Request Form: A form required from a Business Unit who requests a specific brand, Sole Source, or emergency procurement exceeding \$25,000.00.
- Z. Vendor: A person or company that provides goods or services. Each Contractor, Consultant, Bidder, and Offeror is considered a Vendor.

## II. General

- A. The President has delegated the responsibility for meeting the College's needs for goods and services to the Director of Procurement. The Director of Procurement shall:
  - 1. Establish internal procedures consistent with best practices to promote an efficient procurement process in compliance with federal, state and local laws;
  - 2. Provide technical assistance and advice to employees and provide guidance on which procurement processes to use;
  - 3. Publicly advertise competitive sealed bids or competitive sealed proposals in timeframes specified by procedure;
  - 4. Keep informed of current developments in the field of purchasing, prices, market conditions and new products;
  - 5. Maintain Vendor catalogs and other current market information regarding goods and services to be made available to faculty and staff of the College;
  - 6. Ensure that all purchases, procurements and Contracts are made in the best interest of the College and in an ethical manner.
- B. College procurements are effectuated using one or more of the following methods:
  - 1. Open Market Procurement (Contracts and purchases up to \$25,000.00).
  - 2. Small Procurement (Contracts and purchases between amounts above \$25,000.00 and up to \$100,000.00).
  - 3. Competitive Sealed Solicitation (over \$100,000.00).
  - 4. Special Procurements.
  - 5. Purchasing and Corporate Card.
- C. The College will follow the processes outlined below to ensure information and communication technology is purchased or acquired by the College is accessible

pursuant to College Policy and Procedure 66004: Information and Communication Technology Accessibility:

1. All vendors shall adhere to current Web Content Accessibility Guidelines (WCAG) standards. At minimum, Vendors must comply with WCAG 2.1 Level AA, as required by applicable Federal, Maryland, and Montgomery County regulations.
  2. Vendors must provide an Accessibility Conformance Report (e.g., ACR/VPAT), completed within one year prior to Contract to demonstrate accessibility conformance to the standard. The ACR/VPAT provided by Vendors must be accurate and based on evaluation conducted by a qualified third party or according to a recognized methodology, such as the Section 508 Trusted Tester process or WCAG conformance evaluation procedures, and should include a plan and schedule for any necessary remediations. Evaluations should include a combination of automated testing, manual inspection, and assistive technology use.
  3. Those making procurement decisions shall ensure adherence to the provisions of this Section II.C, must not have conflicts of interest, and must objectively evaluate the accessibility of products to determine if the information provided by Vendors conforms to the requirements herein. Technical assistance for reviewing documentation to determine accessibility of technology is available through the Office of Information Technology and the Director of ADA Compliance.
- D. College operating funds shall not be used to purchase gift cards for college employees. Gift card purchases for students are prohibited unless prior written approval is obtained from the Senior Vice President of Administrative and Fiscal Affairs upon recommendation from the Director of Procurement.

III. Methods of Procurement

A. Open Market Procurement – PURCHASES UP TO \$25,000.00

1. A Business Unit shall obtain a single, valid price quote from a Vendor and forward the quote to the Procurement Department, along with requisition, for review, approval and purchase.
2. Business Units may not split requisitions into separate requests to circumvent the thresholds in subsections B and C.

B. Small Procurement (Request for Quote) – PURCHASES above \$25,000.00 through \$100,000.00

1. Business Units shall work with the Procurement Department to obtain a minimum of three valid price quotes from at least three different Vendors, including from local or minority business enterprises to the extent possible.
2. Contracts shall be awarded to the Vendor submitting the lowest responsive and responsible price. To qualify as responsive and responsible, Vendors must commit to full compliance with the College's

standard terms and conditions including but not limited to data protection and accessible information communication technology provisions, without material deviation.

C. Competitive Sealed Solicitation – Purchases Greater than \$100,000.00

1. When applicable, the Competitive Sealed Solicitation process is the College's preferred method for procuring goods and services. It is comprised of the following two solicitation types:
  - a. Request for Bid (RFB):

Used to solicit competitive sealed bid responses for goods or services, when price is the sole basis for award along with Vendor's commitment to adhere to College's standard terms and conditions (including without limitation data protection and accessible information communication technology terms, where applicable) without material deviation.
  - b. Request for Proposal (RFP):

Used to solicit competitive sealed proposals for goods and services when price is not the sole basis for award.
2. Requesting units are responsible for forming a Vendor proposal evaluation committee.
  - a. The Vendor proposal evaluation committee should consist of College employees. Where expert advice is required for the work of the committee, the Business Unit initiating the procurement, with the concurrence of the Procurement Director, may hire Consultants to provide expert advice to a Vendor proposal evaluation committee. These Consultants shall not be considered members of the committee nor be involved in the scoring of the Vendor proposal.
  - b. In cases where specialized knowledge or expertise would help in the evaluation and selection of the most qualified Vendor, the Business Unit may request that the committee include one or more Affiliated Non-employees.
  - c. If a Vendor proposal evaluation committee includes Affiliated Non-employees, the majority of the committee shall be comprised of college employees and a college employee must be the chair of the committee.
  - d. Affiliated Non-employees participating on a Vendor proposal evaluation committee and any Consultant advising a committee must first sign a binding confidentiality agreement with the College, and participation must have been approved by the Procurement Director.
  - e. Affiliated Non-employees on a Vendor proposal evaluation



committee must promptly return and not retain any solicitation materials including evaluation forms.

- f. No person may serve on a Vendor proposal evaluation committee or be a Consultant to the committee if that member has a relationship with an Offeror.

3. Solicitation Process

- a. Business Units shall work with the Procurement Department to develop solicitation specifications. The specifications must include the following:
  - 1) A comprehensive description of all requested goods and/or service requirements and the minimum requirements to meet the needs of the Business Unit.
  - 2) The closing date, time, and location of solicitation.
  - 3) If a specific brand or patented goods or services are required by the College, and which are obtainable in two or more equally competitive brands, acceptable “or equal” language must be included in solicitation.
  - 4) Contract award criteria.
- b. Solicitation shall be made available to the Vendor community for a minimum of 14 days from issuance date.
- c. Announcement of solicitation shall be posted on the Maryland State e-procurement website, in addition to the College’s procurement website.
- d. Associated solicitation addenda shall be issued, as needed.
- e. The College reserves the right to modify a solicitation through a bid or RFP Addendum, and/or to extend solicitation closing dates, as needed.
- f. After solicitation closing date, all received Bidder/Offeror bids/proposals shall be evaluated by the Vendor proposal evaluation committee in accordance with evaluation criteria contained in solicitation.
- g. The College reserves the right to allow best and final offers, if it is in the best interest of the College.
- h. Contract award will be made to lowest priced, or highest ranked responsive/responsible participating Bidder/Offeror.
- i. In the case of tie solicitation responses, the tie shall be resolved by award to:

- 1) The Bidder/Offeror that took no exceptions to the solicitation.
  - 2) The in-county Bidder/Offeror rather than in-state Bidder/Offeror.
  - 3) The in-state Bidder/Offeror rather than out-of-state Bidder/Offeror.
  - 4) All other tie bids/offers shall be resolved by a toss of a coin which shall be witnessed by a College employee not involved with the procurement.
- j. College employees should report procurement process concerns to either the Office of Compliance, Risk and Ethics or to the Office of General Counsel when they have a reasonable, good faith belief that the process has been compromised or that applicable laws, regulations, or College policies have been violated. All reports should include relevant documentation and evidence.
4. Cancellation and Rejection of Competitive Sealed Solicitations
- a. Every solicitation issued shall state that the solicitation may be cancelled when it is in the best interest of the College to do so.
- 1) Cancellation prior to opening. If the Director of Procurement determines that it is in the best interests of the College to cancel a solicitation prior to opening bids or proposals, all bids or proposals received shall be returned to the Vendors and a notice of cancellation shall be included. Criteria for determination may include, but not be limited to:
    - a) Restriction of funding for project.
    - b) Imperfection in bid document.
    - c) Defective notice of advertisement.
  - 2) Rejection of all bids or proposals. If after opening bids or proposals but prior to award, the Director of Procurement determines that it is in the best interest of the College to reject all bids or proposals, all open bids or proposals shall be retained and a notice of rejection shall be sent to all Vendors that submitted bids or proposals. Criteria for rejection may include but not be limited to:
    - a) All bids exceed budgeted funds.
    - b) Imperfection in bid document discovered after public opening.

- c) Defective notice after opening which would prove injurious to Bidders.
- 3) Determinations of reasons for cancellation or rejection shall be made part of the procurement file.
- 4) The Director of Procurement shall have the right to waive any minor technicality or deficiency when it would be an advantage to the College.
- b. Every solicitation issued by the College shall provide that any bid or proposal may be rejected in whole or in part when it is in the best interest of the College to do so.

5. Bid and Contract Security

The Director of Procurement is authorized to require a bid or performance bond if the circumstances warrant. This bond shall be provided by a surety company authorized to do business in the State of Maryland, or the equivalent in cash, or in a form satisfactory to the General Counsel and the President. No bid, performance or payment bond may be required for Contracts less than the minimum set by state law, unless otherwise required by law or a grant.

- a. Bid Security. For Contracts that exceed \$100,000.00, the College may require submission of bid security in an amount equal to at least five percent of the total amount bid at the time the bid is submitted. If bid security fails to accompany the bid, it shall be deemed unresponsive, unless the Director of Procurement deems the failure to be non-substantial.
- b. Performance and Payment Bond. Performance and payment bonds are required prior to Contract execution in all construction Contracts that exceed \$100,000.00, and may be required in all other Contracts that exceed \$100,000.00. Performance and payment bonds shall be in the amount equal to at least 100 percent of the Contract price. Payment bond requirements may be reduced to 50 percent prior to solicitation, if it is determined to be in the best interest of the College to do so.

6. Irrevocability and Withdrawal of Offers

Bids, proposals, and best and final offers are irrevocable for the period specified in the Request for Bids, Request for Proposals, or request for best and final offers except the President or designee, upon recommendation from the Director of Procurement, may permit the withdrawal of a bid, proposal or best and final offer.

D. Special Procurements

1. Sole Source

A Sole Source procurement is authorized if, in the opinion of the Director of Procurement, the requirements of the College can be satisfied by only a single Vendor.

- a. Any request that a procurement be restricted to a single Vendor shall be accompanied by an acceptable explanation as to why no other Vendor shall be suitable or acceptable to meet the need.
- b. The Director of Procurement shall conduct negotiations as to price, terms and delivery, as appropriate.
- c. Contracts that are the result of a Sole Source procurement valued above \$100,000.00 at the time the Contract is entered into or subsequently through Contract Amendment shall be approved by the Board of Trustees.

2. Emergency Procurements

- a. Emergency Procurements exceeding \$100,000.00 may be conducted through non-competitive negotiation by the Director of Procurement, with approval from the Senior Vice President for Administrative and Fiscal Services when immediate procurement of goods or services is necessitated by the emergency.
- b. Emergency Contracts may be awarded through non-competitive negotiation by the Director of Procurement, with such competition as is practical under the circumstances.
- c. The Business Unit must provide the Director of Procurement with written justification of the emergency need.

3. Cooperative Procurement

- a. When it is determined by the Director of Procurement that cooperative purchasing efforts may result in a fiscal advantage to the College, the Director is authorized by the President to enter into a Cooperative Procurement process with other state and local agencies for the purpose of developing specifications, terms, and conditions.
- b. The Director of Procurement may bid the cooperative agreement for participating agencies and make available certain facilities necessary to form a Contract, if an award results from the process.
- c. Under no circumstances shall the College assume any obligation for performance, payment or other duty implied nor shall it be construed that the College may be held accountable for any agency participating in the cooperative effort.
- d. All purchases under such Contracts shall be in accordance with policies approved by the Board of Trustees.

**4. Interagency Procurement**

- a. The Director of Procurement may procure goods and services from state and local agencies whenever it is advantageous for the College provided such goods and services meet all requirements of the College.
- b. The Director of Procurement shall determine that price, quality, and availability are satisfactory and competitive and shall establish necessary controls for fiscal responsibility. Under no circumstance will budgetary constraints be waived when purchasing from another governmental agency.

**5. Procurement Through Other Agency (PTOA)**

- a. The Director of Procurement shall have the authority to Contract for goods or services that are the subject of a current Contract of a Federal, State, or local government or agency, political subdivision of a state school system where the Contract was the subject of appropriate competition, and is in the best interest of the College. Best interest can be determined by price, timeliness, or associated realized efficiencies.
- b. The Procurement Department shall seek out public agency minority awarded Contracts for possible use, when available and applicable.
- c. Long-term PTOAs shall be reviewed by the Director of Procurement on an annual basis to ensure it remains in the College's best interests to continue to utilize them.

**E. Purchasing and Corporate Card**

Purchasing and corporate cards shall be used in accordance with established card program guidelines. Complete guidelines are available in the purchasing card user guide and corporate card guidelines available on the Procurement Department website.

**IV. Encouraging Participation in the Procurement Process**

- A. The Director of Procurement shall encourage, by all reasonable and practical means, broad participation of qualified businesses in the procurement process, including, underrepresented, female-owned, and disadvantaged businesses in the procurement process of the College.
  - 1. Business enterprises are notified of Montgomery College bid opportunities, via eMaryland Marketplace Advantage (eMMA), the State of Maryland e-procurement platform. Notification is subject to the completion of the Vendor registration process.
  - 2. The Director of Procurement shall create, seek out, and participate in activities which encourage, stimulate and assist broad participation of qualified businesses including minority business enterprises in the

procurement process at the College. These efforts may be within the College or cooperative efforts with other state and local agencies.

V. Preference for Montgomery County Products

- A. The Director shall solicit bids or proposals from Montgomery County-based firms whenever it is reasonable and practical, and is deemed to be in the best interests of the College to do so.
- B. Vendors shall be asked to indicate location of principal place of business on the Bidder's/Offeror's application form as a means of identifying such county-based firms.
- C. The College encourages participation in the procurement process from Montgomery County-based firms, including without limitation, minority business enterprises, and Contractors who can provide goods and services to the College in an environmentally sustainable manner. Consistent with applicable procedures, the President or designee must facilitate the participation of responsible businesses, including, without limitation, certified minority business enterprises.

VI. Procedures for Federal Grant-Funded Purchases

- A. For all federal or state grant-related requests, Montgomery College will execute the procurement in accordance with all governing regulations and compliance requirements.
- B. For all federal government grant-related requests, Montgomery College will reach out to small and minority business organizations for possible participation, when applicable.
- C. For all federal government grant-related requests, Montgomery College will procure items designated in EPA guidelines at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000.00 (or such other threshold specified in 40 CFR 247.2), or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000.00 (or such other threshold specified in 40 CFR 247.2); procuring solid waste management services in a manner that maximizes energy and resource recovery, and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

VII. Procurement Exceptions

The following goods and services are exempt from the competitive procurement process:

- A. Purchases of print (hardcopy) and non-print (digital) library and learning resource material, defined as texts, videos, software, and other materials that teachers use to assist students with meeting learning expectations.
- B. Merchandise purchased for resale. The Procurement Department may assist and advise limits to obtain the best fiscal advantage.

- C. Consistent with the provisions he provisions of the Montgomery County Code 11B-4(a), Contracts for the services of special legal counsel or for the services of experts, Consultants and investigators, deemed appropriate by the General Counsel, whether in anticipation of litigation or in preparation for a trial or a compliance issue.
- D. Montgomery College organizational and professional memberships to affinity groups.
- E. Performing artists, though requests should be supported by the Office of General Counsel sign-off for legal sufficiency.

**VIII. Protests and Disputes**

- A. An interested party (actual or prospective Bidder, Offeror, or Contractor) may protest to the Director of Procurement an award or proposed award of a Contract for supplies, services, maintenance, or construction.
  - 1. The protest shall be in writing and addressed to the Director of Procurement of the College.
  - 2. Protests must be filed with the Director within ten (10) days of the announcement of award or intent of award, whichever comes first.
- B. The Director shall inform the Senior Vice President for Administrative and Fiscal Services (SVPAFS) and General Counsel upon receipt of the protest.
- C. The Director shall comply with all applicable federal, state and local laws regarding requests for information and timely decisions.
- D. The Director shall confer with the General Counsel and the SVPAFS prior to issuance of a decision regarding disputes of Contracts or awards in excess of \$100,000.00.
- E. Pursuant to the procedures, the Director of Procurement may, consistent with the budget and all applicable laws, regulations, and Board policies, negotiate and resolve protests and disputes relating to the formation of a procurement Contract with the College. The Director shall inform the SVPAFS of controversies involving the formation of Contracts pursuant to the procedures. The SVPAFS shall inform the President as necessary, who will, in turn, keep the Board of Trustees apprised.
- F. Decisions shall be transmitted to interested parties within 30 days of filing of written protest by certified mail, return receipt requested, or by any method that provides evidence of receipt.

**X. Reporting**

The Director of Procurement shall produce a report of procurement activity upon request from the President or Senior Vice President for Administrative and Fiscal Services or their designee.

**XI. Consultant Services**

- A. When requesting Consultant services, a Business Unit shall follow the general procurement process, including all dollar thresholds.
- B. Guidelines for Requesting Consultant Services
  - 1. The Business Unit is encouraged to determine if the Consultant services sought can be furnished by faculty, staff, administrators, or students without interfering with the performance of their normal functions and without a conflict of interest. Nothing in this section precludes hiring a consulting specialist to meet the needs of the Business Unit.
  - 2. Prior to initiating a request for the services of a Consultant, the initiator should consider contacting the professional staff of associations or societies with which the College has membership and whose activities involve the area for which consulting service is needed. The initiator should determine if the association provides advice or service of the type needed by the College and if the association's resources can be used by the College.
  - 3. Unless the material contained in a Consultant's report is confidential, the contents of the report should be available to all College personnel who have responsibilities related to the report.

- C. Process for Requesting Consultant Services

When the need for the services of a Consultant has been determined, the requester will submit a completed online requisition, to include the following:

- 1. The need to be served by the use of a Consultant.
- 2. A complete Statement of Work (SOW).
- 3. The cost estimated that would be incurred for obtaining consulting services. Costs for per diem, or travel, if any, should be shown separately.
- 4. A statement documenting any other resources that were explored prior to engaging Consultant services.

## XII. Contracts

- A. Initiation

- 1. The Procurement Department will work with the initiating Business Unit to begin Contract development.
- 2. When possible, the standard college Contract format should be utilized. Business Units should contact the Procurement Department for a copy of the standard format.
- 3. For those Contracts for which there is no standard college format, a Business Unit should contact the Procurement Department or the



General Counsel's Office for assistance.

4. Vendors should use the College's form of Contracts and terms and conditions and are discouraged from taking exception to provisions of a solicitation. Use of Vendor prepared Contracts and exceptions to provisions of a solicitation are not preferred and must be reviewed and approved by the Administrator of the Business Unit, Procurement Department, and General Counsel prior to execution. Vendors insisting on the use of their form of Contract may be found to be non-responsive or to not meet the College's minimum qualifications for a solicitation. College's Data Protection Addendum and Accessible Information Communication Technology Addendum should be used where applicable.
5. The General Counsel shall review and approve proposed Contracts and Contract Amendments for form and legality. In those instances where the General Counsel has approved a standard Contract or Contract Amendment, this approval is not required as long as there are no substitutions for, additions to, or deletions from, the standard approved language.

**B. Review and Execution**

1. The President has delegated the general authority to execute Contracts on behalf of the College to the Senior Vice President for Administrative and Fiscal Services, the Senior Vice President for Academic Affairs/College Provost, the Senior Vice President for Student Affairs, and the Senior Vice President for Advancement and Community Engagement. All Senior Vice Presidents may sub-delegate Contract execution within their perspective areas of responsibility.
2. Sub-delegation authority must be submitted in writing to the Procurement Department. Contract execution sub-delegation authority shall not exceed \$25,000.00.
3. All Contracts signed and executed by the Senior Vice Presidents, or their sub-delegates, should be sent to the Procurement Department for central administration and recordkeeping for audit purposes.
4. The Director of Procurement shall have authority to execute Contracts up to \$100,000.00 in value.
5. It is the responsibility of the Business Unit to review, approve, and be accountable for all Contracts before they are transmitted for execution on behalf of the College. The Administrator of a Business Unit must have authorized the procurement prior to a Business Unit pursuing a procurement action.

A transmittal routing form will accompany each Contract review to document the collective accountability, through signatures, of the following parties:

- a. The Administrator responsible for procuring and monitoring

- Contract performance as to the review and acceptance of the terms and responsibilities of the proposed Contract.
- b. The Procurement Department as to meeting the requirements of this Policy and Procedure,
  - c. The General Counsel (where other than standard terms are used) for legal sufficiency prior to Contract execution.
  - d. SVP authorized to sign and bind the College to the Contract terms.
6. Contracts should be signed by all other parties before execution by the College's authorized representative. Offerors and Bidders signatures must be provided in proper legal form by individuals authorized to bind their organization.
7. Two original copies of every hard copy Contract should be submitted so that the College and the Contractor may each have an original. E-signature may be used where all parties to the Contract consent to the use of a secure electronic record prior to execution and except as may be prohibited by policy, state or federal law or regulation.
- a. The following conditions apply to any Contract signed electronically:
    - 1) The signature must be allowed by law and the methodology/software approved by OIT.
    - 2) The signature must be by an individual authorized to sign on behalf of the Bidder/Offeror and have provided identification.
    - 3) Authentication of the signer must be possible based on the e-signature.
    - 4) The signer must confirm intent to sign the Contract.
    - 5) The e-signature must be reliably associated with the Contract.
    - 6) The signed Contract must be legible, have no indication of alteration, be securely and reliably stored, and with limited access by authorized persons.
    - 7) Prior to accepting a legally binding electronic document from a Bidder/Offeror, the Procurement Office must ensure that Bidder/Offeror has confirmed signature authority and authenticity. The Procurement Office must retain the e-signatures and associate it with the Contract that it authenticates.
8. Unless otherwise specified, after an agreement is executed, the initiator is

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responsible to the appropriate major Administrator for the administration of the agreement.

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Administrative Approval: November 20, 1984; April 23, 1985; June 16, 1986; January 12, 1987; May 16, 1988; July 27, 1989; July 14, 1990; January 5, 1993; March 20, 1995; February 26, 1996; March 24, 1997; June 15, 1998; January 3, 2000; December 10, 2001; August 13, 2010; February 9, 2016; February 2, 2017 (administrative correction only); June 30, 2017; June 28, 2018; January 31, 2020; June 22, 2021; September 11, 2025.