

# Cheyney University Procurement Guidelines

## 1. INTRODUCTION

Procurement Services strives to make the procurement of all goods and services as simple and efficient as legally possible. Our role is to establish institutional guidelines and prudent business practices for the procurement of goods and services in accordance with the Commonwealth of Pennsylvania Procurement Code (Act 57 of 1998) and the Pennsylvania State System of Higher Education policies. At the same time attempt to find legal solutions and strategies to help expedite and simplify the process.

## 2. POLICY

Commonwealth Procurement Code - Act 57 establishes the statutory limitations and provisions for all procurement activities for the Commonwealth of Pennsylvania. All procurement of goods, supplies, services and construction for the Pennsylvania State System of Higher Education must conform to the policies, procedures and statutory limitations as set forth in Act 57. The provisions of the Act apply to the State System as a state-affiliated entity such as the State System of Higher Education.

Adherence to the following policies and conditions apply to all purchases, regardless of dollar amount:

- Act 57 of 1998, known as the Commonwealth Procurement Code
- Board Of Governors Policies:
  - 1998-04, Procurement of Goods, Services, Supplies and Construction
  - 1998-04-A, Delegation of authority for Undertaking Design, construction, Repair, Renovation, and Maintenance Projects
  - 1990-07-A, Professional Services Contracting

(The Above Policies are on file in the Procurement Services Office)

- Cheyney University (CU) Use of Public Funds Policy
- Contracting at CU Policy
- CU Purchasing Guidelines
- CU Donated Funds Policy
- CU promotional Items and Gifts Policy
- Adverse Interests Act (on file in the Procurement Services Office)
- [State Ethics Guidelines](#)
- Prohibited Purchases List (see CU Purchasing Guidelines)

These detailed, written policies are available upon request.

## 3. AUTHORITY

### A. Contracting Officer

For the sake of clarity, the primary person who has been delegated with contracting officer authority on behalf of the University, without financial limitations, is Gerald Coleman, Vice President for Finance and Administration. In the event of his absence, that responsibility shall fall to Monique Baylor, Director of Procurement Services. No other individual has contracting signatory authority on behalf of the University unless delegated in advance and in writing by Mr. Coleman, Mrs. Baylor or the President. The new procurement law (Act 57) has established checks and balances to be certain that more than one individual is involved in the approval process. To this end, this Act has designated a Contracting Officer and a Fiscal Officer designation.

#### **Duties of the Contracting Officer:**

- Only individual authorized to procure goods, services, supplies and construction; enter into and administer contracts; and make determinations with respect to contracts for the State System.
- Determine the method of source selection and public notice.
- Makes the written determination for sole source purchases.
- Determines pre-qualifications of prospective bidders, whenever a pre-qualification list is to be used for the procurement action.
- Whenever a contract type other than a firm, fixed-price contract or an emergency procurement, the contracting officer will first review the contractor's accounting system to ensure it meets acceptable accounting standards.
- Inspect the plant of contractors or subcontractors and audit cost and pricing data to the extent necessary to ensure that the provisions of the contract are met and the pricing is accurate.
- Appoint selection committees.
- Ensure that withdrawals of bids are made in accordance with the provisions of Act 57.
- Determine the security, payments and performance bonding required in each contract.
- Hear and issue findings on bid protests, claims, and/or disputes concerning solicitation, award or administration of a contract.

#### **C. Fiscal Officer**

The primary person who has been delegated authority as "fiscal officer" to review contracts, agreements, and to sign disbursement authorizations on behalf of the University, without limitation is Gerald Coleman, Vice President for Finance and Administration. In the event of his absence, that responsibility shall fall to Layna Holmes, Controller. No other individual has fiscal authority on behalf of the University unless delegated in advance and in writing by Mr. Coleman, Ms. Holmes, or the President.

These designations are made pursuant to Act 57 of 1998 and the Board of Governors Policy 1998-04. If you have any questions regarding this memo or require assistance in the preparation of a contract, please feel free to contact Mrs. Monique Baylor at telephone extension 2343 regarding contracting matters or Ms. Holmes at extension 2461 regarding fiscal matters.

## **4. PURCHASING AND CONTRACTING PROCEDURES**

### **A. Purchases \$10,000 and under**

- Purchases under \$10,000.00 do not require competitive bidding. However, solicitation of bids is encouraged and will be done at the discretion of Procurement Services.
- University Legal Counsel must review all contracts that exceed \$5,000.00.
- Prudent business practices must be followed regarding all purchases under \$10,000.00. Three (3) informal bids with one (1) bid a WBE/MBE when possible should be solicited.
- All procurement activities must be authorized in advance by Procurement Services (PS). ALL procurement requests will be rejected if PS is not engaged prior to requesting goods and services.
- Under no circumstances should purchases be split up to avoid this dollar threshold. Solicitation of bids is encouraged. Buying in a series means making multiple purchases of the same item or service from the same vendor within a twelve month period. This practice is prohibited.

### **B. Purchases \$10,000 or more**

Pursuant to Act 57, Act 188 and Board of Governors Policy 1983-02-A, all University purchases greater than \$10,000 must be publicly advertised and competitively bid under institutionally established business practices. Such competitive bidding will be undertaken centrally by Procurement Services and documented appropriately for audit purposes.

The appropriate format is determined by Procurement Services and depends upon the nature and complexity of the goods or services required. A request for quotation is used for the purchase of most commodities, supplies, and equipment when price is the only determining factor. A request for proposal is used for services and specialized product purchases when other evaluation criteria also need to be considered. Regardless of the bid solicitation method utilized, adequate public notice must be given with adequate response time. Bid solicitations may only be issued by Procurement Services.

All bids received must remain sealed and the contents not disclosed until the designated bid opening time. Bids received after the formal bid opening time, regardless of reason, will not be accepted for consideration. Bids shall be opened publicly in the presence of one or more witnesses. No determination of the successful bidder will be made at the bid opening. An award will be made only after careful review by appropriate university personnel.

All proposals received in response to a request for proposal will remain sealed until the designated opening time. The opening of sealed bids is open to the public. Only the names of the vendors submitting proposals will be made available to the public. Proposals will be held in confidence and, except for the selected proposal which is subject to the Pennsylvania "Right to Know" Law, and the University's Right to Know Policy, will not be revealed or discussed with competitors to protect proprietary information.

Bid information, including contracts awarded to successful bidders, is available on the University purchasing website.

On requests for quotations, awards will be made to the lowest responsive, responsible bidder within 60 days of the bid opening date. For request for proposals, the award is made to the bidder submitting the proposal deemed most advantageous to the university considering price and other evaluation factors as specified in the request for proposal. This involves review by an evaluation committee consisting of knowledgeable university personnel and at least one member of the purchasing staff. The contracting officer has the right to reject any bid or proposal that he/she has just cause to believe is not in the best interest of the university to accept.

Procurement Services will make an award recommendation and prepare the appropriate purchasing document (contract or purchase order) for submission to the contracting officer and fiscal officer, or their designees, for review and approval. Contracts for services in excess of \$5,000 must also be forwarded to university legal counsel and, if in excess of \$20,000 to the Commonwealth Attorney General for review and approval.

**C. Additional Internal Approvals**

All purchases that normally require additional approvals (aka "technical standards approval" under the Purchasing Guidelines) shall continue requiring such approvals, regardless of dollar value. Examples include, but are not limited to:

Item or Service	Additional Approval by:
Computer Hardware / Software	Information Services
Subscription / Memberships	Library Director
Hazardous Materials or Related Services	Environmental Health & Safety Office
Publication - Use of Logo, Seals, etc.	Publications Office
Grants and Sponsored Research	Business Office - Grants

**Additional External Approvals:** Only the President or Vice President for Administration and Finance may seek advance approval or exemptions from approval from those external approving authorities that may be required for any procurement or disbursement transaction.

**D. Exceptions to the Competitive Bidding Requirements**

Exceptions to the competitive bidding requirements are authorized for the following: (i) Emergency procurements, (ii) Sole Source procurements, (iii) goods or services available under State Contracts, (iv) goods or services available from agencies for persons with disabilities (i.e. Pennsylvania Industries for Blind and Handicapped), (v) procurement of design professional services (which is subject to competitive state selection process referred to as "Request for Proposal") and (vi) items specified under grant or restricted gift provisions. An exception may also be authorized for emergency facility projects when a threat exists to public health, welfare or the safety. In such case, written documentation substantiating the emergency and for the selection of the contractor must be included in the contract file.

## **Any exception to the competitive bidding requirement must be approved in advance by the Procurement Services**

### **Sole Source Contracts**

A contract may be awarded for a construction item without the necessity of bidding when the Contracting Officer determines in writing that one of the following statutory conditions exists:

- Only a single contractor is capable of providing the construction;
- A federal or state statute or federal regulation exempts the construction from competitive procurements;
- The total cost of the construction is less than \$10,000.00,
- It is clearly not feasible to award the contract on a competitive basis;
- The services involve the repair, modification or calibration of equipment and the work is to be performed by the manufacturer of the equipment or by an authorized dealer, **provided the Contracting Officer determines that bidding is not appropriate under the circumstances**, or
- The contract is in the best interest of the Commonwealth.

Before entering into a Sole Source Contract, a statement of justification must be prepared by Procurement Services and sent to University's Legal Counsel for approval.

### **Emergency Contracts**

Emergency Contracts are permissible when the Contracting Officer or his designee's determines that there is a threat to public health, safety and welfare or circumstances outside the control of the University create an urgency of need which necessitates the suspension of normal bidding and review requirements.

When possible 2 bids should be secured. These have to be in writing. Written determination of the basis for the emergency and for the selection of the contractor must be included in the contract file and sent in the form of a certification when the contract is submitted for legal review after the work is completed.

The following items are required for all Emergency Contracts:

- Written Scope of Work
- Contractor's written documentation of its bid
- Performance and Payment Bonds (if required)
- Prevailing Wage Determination (if required)

## **E. Minority and Women Business Enterprise (MBE/WBE)**

It is the University's policy to seek and recruit small and disadvantaged businesses, including minority and women owned business enterprises (MBE/WBE), for inclusion on the vendor list. Vendors are identified through minority magazines, trade fairs, and the Commonwealth Office of Minority and Women Business. On a yearly basis, at least one MBE trade show is attended by the Purchasing Director or his/her designee. The names, addresses, phone numbers and product listings, if available, of identified small and disadvantaged businesses are shared with other universities in the Pennsylvania State System of Higher Education as requested. Purchasing and Contract Services tracks and reports annually the total dollar amount of contracts and purchase orders awarded to such vendors.

When identified, qualified small and disadvantaged businesses are added to the vendor list for the goods or services they can provide. Procurement Services will make every reasonable attempt to include one or more of these businesses on every request for quotation or proposal. The University may also reduce the level or change the type of bonding requirements and modify progress payments for small and disadvantaged businesses. However, bid and proposal evaluation procedures do not allow for preference or advantage ratings for any vendors, but provide equality for all vendors.

The following web site is a good source of information relating to MBE/WBE's in Pennsylvania:

<http://www.dgsapp.state.pa.us/cabd/mwbddata.asp>

## **F. Proprietary Specifications**

The use of Proprietary Specifications are not permitted without the advance written approval of the Vice President for Administration and Finance.

## **G. Modification or Withdrawal of Bids**

Bids may be modified or withdrawn by the bidder upon written notice or in person any time prior to the date and time set for the opening of the bids. Except as otherwise provided in this part, requests for withdrawals and modifications of bids received after the exact hour and date specified for the opening of bids shall not be considered.

Withdrawal of erroneous bids after bid opening but before award shall be permitted by written determination of the contracting officer when the bidder requests relief and presents credible evidence that the reason for the lower bid price was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional arithmetical error or an unintentional omission of a substantial quantity of work, labor, material or services made directly in the compilation of the bid. The request for relief and the supporting evidence must be received by the Vice President for Finance and Administration within two business days after the bid opening.

## **H. Bid Protests**

A bid protest is a procedural mechanism that permits an unsuccessful vendor/contractor or a potential vendor/contractor to file a complaint in regards to the solicitation and/or awarding of a public contract. In 2002, amendments to Act 57 significantly altered the previous procedures of resolving bid protests. Every bid/proposal package issued by the University contains a Notice as to Filing a Bid Protest section with detailed bid protest procedures. Bid protest procedures are listed on the Cheyney University's Purchasing Department web page and can also be obtained by contacting the University Purchasing Department. The bid protest procedures must be followed when filing a bid protest.

## **I. Resolution of Contract Disputes**

If a controversy arises between a contractor and the University as a result of a contractual relationship (i.e., breach of contract, mistake, misrepresentation or other cause for contract modification or recession) a claim must first be filed in writing with the contracting officer, the Vice President for Finance and Administration, within six months after it accrues. The contracting officer has the authority to settle or resolve this action without the necessity of

bringing the matter before the Board of Claims for formal adjudication. However, all settlements must be reviewed and approved by Chief Council and a release must be prepared and executed by all parties that must include the contractor, the University, Chief Council and the OAG. Untimely claims are to be disregarded by the contracting officer in consultation with University legal council.

## **5. Appropriate and Allowable Purchases**

It is the university's primary mission to provide a quality education to students. Consequently, appropriate and allowable purchases would include all goods, services, and construction necessary to accomplish that mission. These include expenditures, within budget limitations, for instruction, research, public service, academic support, student services, institutional support, operation and maintenance of facilities, technology and auxiliary operations.

Public funds should only be used for public purposes. University funds should not be used to purchase gifts or personal items for employees, alcohol, party supplies, flowers for individuals, or similar items that benefit only a select few or have no legitimate business or educational purpose. In all instances, the Purchasing Office has the right to question any purchase request that appears inappropriate. If, after seeking further justification from the requestor, the Purchasing Office still believes the purchase request to be questionable, the matter will be referred to the Vice President for Finance and Administration, or his/her designee, for final determination of appropriateness.

## **6. Principles of Prudent Procurement Practices**

The university uses the following principles of good procurement practices to implement this policy:

Responsiveness:

1. First consideration is given to the objectives and policies of the institution.
2. Community understanding of purchasing procedures and requirements is assured.

Accountability:

1. Compliance with all federal, Commonwealth of Pennsylvania, Pennsylvania State System of Higher Education, and university laws, regulations, and policies is maintained.
2. The maximum value for each dollar of expenditure is sought through:
  1. Assertively seeking the widest possible audience of potential vendors to maximize competition.
  2. Setting aside competitive practices only in the most justifiable circumstances.
  3. Pursuing cooperation and collaboration with other universities and public agencies to maximize value.
3. Adequate documentation is provided for public review as an "audit trail" on all procurement decisions.

Fairness and Openness:

1. All competitive suppliers are granted equal consideration insofar as state or federal statutes and institutional policies permit.
2. A reasonable effort is made to make all competing suppliers aware of institutional needs for goods and services.
3. Small and disadvantaged businesses, including Minority/Women Business Enterprises (MBE/WBE), are sought actively as suppliers of goods and services.
4. Honesty in sales representation, whether offered by verbal or written statement, an advertisement, or a sample of the product, is demanded.
5. Business is conducted with potential and current suppliers in an atmosphere of good faith, devoid of intentional misrepresentation.
6. Consent from the originator of proprietary ideas and designs is received before using them for competitive purchasing purposes.
7. Personal and institutional gifts or gratuities are not accepted.

## 7. RESPONSIBILITY AND ETHICS

It is each employee's responsibility to:

- Ensure that purchase costs are reasonable. Employees must take whatever action is necessary to ensure the reasonableness of costs, including, as a minimum, the comparison of pricing from more than one vendor.
- Obtain purchase order, contract and change order authorization from Procurement Services **before** committing the University
- Adhere to the Principles of Public Notice (where applicable), including responsiveness (satisfying the objectives and policies of the University while promoting community understanding of purchasing procedures and requirements), accountability, fairness and openness to all firms or individuals seeking economic business opportunities at the University.
- Protection of public funds as if they are your own. All purchases are subject to public scrutiny and audits by authorities.
- Maintain records for audit.
- Report inappropriate purchase or contracting activities to the Contracting Officer.
- Comply with the University's Right to Know Policy
- Adhere to General Ethical Standards, which include:
  - No attempt to realize personal gain
  - Avoid conflict of interest (or appearance of same)
  - No improper use of confidential information
  - Cannot require use of a particular surety company, agency

Please contact Monique Baylor, Director of Procurement Services (x2343) if there are any questions regarding this policy and required practices.