



## **PURCHASING POLICY**

### **PURPOSE**

The purpose of this purchasing policy is to ensure that sound business judgement is utilized in all purchasing transactions, that supplies, equipment, construction, and services are obtained efficiently and economically and in compliance with applicable federal and state law and executive orders, and that all purchasing transactions are conducted in a manner that provides full and open competition.

### **APPLICATION**

This policy applies to the purchasing of all supplies, equipment, construction, and services of and for Upper Iowa University (UIU or University), including purchasing that involves federal program funding. In regard to any such federal programs, all purchasing will be done in accordance with 2 CFR Part 200.

### **POLICY**

#### **CONFLICT OF INTEREST**

It is UIU's policy to prevent any real or apparent conflict of interest by its employees and Trustees.

##### **A. Definitions –**

1. Transact(s) University business – the purchase of real or personal property, goods, services, and the entry into contracts of any kind or nature by the University. (This does not apply to the hiring or retention of University employees).
2. Family member – the employee or Trustee and a spouse, child, parent, brother or sister of the employee or Trustee.
3. Entity in which the employee or Trustee has an interest – a corporation, partnership, or other form of business enterprise in which any family member owns, in whole or in part, an interest (this does not include a corporation whose stock is traded publicly).

##### **B. Specific Conflicts Prohibited – No University employee or Trustee shall approve, transact, or attempt to influence the decision to transact, University business with any entity in which the employee or Trustee has an interest, or with any family member of the employee or Trustee. This applies to any University employee or Trustee who, in whole or in part:**

1. Is designated by University policy or job description to transact, or approve transaction of, University business,
2. Reviews or is responsible for review of the business transaction,
3. Supervises an employee described above in B1 or B2,
4. Attempts to influence the decision to transact the business in question.

**This prohibition applies regardless of whether or not the business transaction requires the approval of the University Board of Trustees or supervisory personnel.**

After full, written disclosure by any employee or Trustee of a personal interest that would preclude a particular business transaction, the University may determine that it is beneficial to the University to waive the prohibition and enter into the transaction. When such a waiver occurs, the employee or Trustee making the disclosure shall suffer neither penalty nor discipline.

- C. Gifts and Gratuities – To comply with IRS regulations, all University employees and Trustees are prohibited from accepting any gift, gratuity or service, greater in value than fifty dollars (\$50.00) (except textbooks and examination copies), from any person or entity which transacts or seeks to transact University business, if the employee or Trustee occupies or would occupy one of the positions previously described in B1, 2, or 3 above.
- D. Violations and Discipline – Any University employees who violate one or more parts of B above are subject to disciplinary action up to and including termination of employment.
- E. Certification – University employees who have any purchasing-related responsibilities on behalf of the University shall certify on written forms provided by the University that they have received, read and understand the provisions of this policy including the potential disciplinary action for violation of the policy.
- F. Independent Contractors – This policy does not apply to independent contractors who maintain a business or professional relationship with the University but who are not University employees or Trustees.

## **METHODS OF PURCHASING**

Purchasing under grants shall be made by one of the following methods, as described herein: (a) small purchase procedures; (b) sealed bids (formal advertising); (c) competitive proposals; (d) noncompetitive proposals.

- A. Small purchase procedures are relatively simple and informal purchasing methods that are sound and appropriate for the purchasing of services, supplies, or other property, costing in aggregate not more than \$100,000 (\$150,000 for federal programs). If small purchase procedures are used for purchasing under a grant, price or rate quotations shall be obtained from an adequate number of qualified sources.
- B. In sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for purchasing construction.
  - 1. In order for sealed bidding to be feasible, appropriate conditions must be present, including, at a minimum, the following:
    - (a) A complete, adequate, and realistic specification or purchase description is available;
    - (b) Two or more responsible bidders are willing and able to compete effectively for UIU business; and
    - (c) The purchasing lends itself to a firm-fixed-price contract, and the selection of the successful bidder can be made principally on the basis of price.
  - 2. When sealed bids are used for a purchasing under a grant, the following requirements apply:
    - (a) A sufficient time prior to the date set for opening of bids, bids shall be solicited (publically advertised) from an adequate number of known suppliers;
    - (b) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation for bids;
    - (c) All bids shall be opened publicly at the time and place stated in the invitation for bids;
    - (d) A firm-fixed-contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine low bid when prior experience of UIU indicates that such discounts are generally taken advantage of; and
    - (e) Any or all bids may be rejected if there are sound documented business reasons.
- C. Purchasing by competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement contract is awarded, as appropriate. Competitive

proposals are generally used when conditions are not appropriate for the use of sealed bids. If the competitive proposals method is used for a purchasing under a grant, the following requirements apply:

1. Requests for Proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be considered to the maximum extent practical;
  2. Requests for Proposals shall be solicited from an adequate number of qualified sources;
  3. UIU shall have a written method for conducting evaluations of the proposals received and for selecting awardees;
  4. Awards will be made to the responsible bidder whose proposal will be most advantageous to UIU, with price (other than architectural/engineering) and other factors considered. Unsuccessful bidders will be promptly notified in writing; and
  5. UIU may use competitive proposal procedures for qualifications-based purchasing of architectural/engineering (A/E) professional services, whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in the purchasing of A/E professional services. It cannot be used to procure other types of services (e.g., administration professional services) even though A/E firms are a potential source to perform the proposed effort.
- D. Purchasing by noncompetitive proposals is purchasing through solicitation of a proposal from only one source. Circumstances under which a contract may be awarded by noncompetitive proposals are limited to one or more of the following:
1. The item is available from only a single source;
  2. After solicitation of a number of sources, competition is determined inadequate;
  3. A public exigency or emergency exists when the urgency for the requirement will not permit a delay incident to competitive solicitation; or
  4. The awarding agency authorizes noncompetitive proposals.
- E. UIU will take affirmative steps to assure, to the greatest extent possible, that contracts are awarded to qualified small and minority firms, women's business enterprises, and labor surplus area firms whenever they are potential sources.
- These affirmative steps must include:
1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in E1 through 5 above.

#### **CONTRACT PRICING**

- A. The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used.

- B. UIU shall perform some form of cost/price analysis for every purchasing action, including modifications, amendments or change orders. UIU shall make an independent estimate prior to receiving a bid or proposal.
- C. UIU shall negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. In determining a fair and reasonable profit, UIU must consider the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and the industry profit rates in the surrounding geographical area.

#### **PURCHASING RECORDS**

UIU shall maintain records sufficient to detail the significant history of a purchasing, including the rationale for the method of purchasing, selection of contract type, contractor selection or rejection, and the basis for the contract price.

#### **AWARDED CONTRACTS**

- A. UIU will not award a contract to a party listed as debarred, suspended, or otherwise excluded in the System for Award Management (SAM).
- B. Any contracts awarded that involve federal program funding shall comply with 2 CFR 200.326 and Appendix II to Part 200.

Approved and adopted this 8th day of August, 2018.