

OREGON INSTITUTE OF TECHNOLOGY
PURCHASING AND CONTRACTS FOR PERSONAL OR PROFESSIONAL
SERVICES AND GOODS AND SERVICES 580-062
06/15/2015

-Important Note: Any reference to Oregon University System or OUS refers instead to the Oregon Institute of Technology -

580-062-0000

Definitions

All capitalized terms in chapter 580, division 62 have the meanings set forth in OAR 580-061-0010 unless the context requires otherwise or except as stated.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-062-0005

Procurement and Contracting Procedures

The procedures set out in OAR 580-061-0000 through 580-061-0160 will be used for the procurement of personal or professional services or goods and services.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08

580-062-0010

Procurement Card

The Chancellor's Office may maintain procurement card services for the benefit of the Public Universities. The Controller's Office of the Chancellor's Office will publish policies governing use of the procurement card.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08; OUS 3-2013(Temp), f. & cert. ef. 4-10-13 thru 9-30-13; OUS 7-2013, f. & cert. ef. 11-1-13

580-062-0015

Personal/Professional Services, Goods, and Services Contract Procurement Thresholds

(1) When procuring personal or professional services, goods, or services, not including services from Professional Consultants as defined in chapter 580, division 63, Public Universities will conduct the procurement in accordance with the Direct Procurement, Informal Procurement, or

Formal Procurement method, unless another method is applicable, based on the anticipated contract price, including consultant fees, reimbursable expenses, and all amendments contemplated by the parties. Multiple Contracts, purchase orders, or purchasing requisitions will not be issued separately with the intent to circumvent these rules. Public Universities may establish lower procurement thresholds for specific procurements or as a Public University policy or procedure.

(a) \$25,000 or less — Direct Procurement or other method of procurement that the Public University deems beneficial to the procurement.

(b) \$25,000.01 to \$150,000 — Informal Procurement, Formal Procurement, or other method of procurement, except the Direct Procurement method, that the Public University deems beneficial to the procurement.

(c) Greater than \$150,000 — Formal Procurement or other method of procurement, except the Direct Procurement or Informal Procurement methods, that the Public University deems beneficial to the procurement.

(2) Notwithstanding subsection (1), if the source of the funding for the procurement requires a different procurement method, the Public University may comply with the procurement method required by the funding source.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08; OUS 3-2013(Temp), f. & cert. ef. 4-10-13 thru 9-30-13; OUS 7-2013, f. & cert. ef. 11-1-13

580-062-0020

Methods of Procurement

Public Universities will use the following methods of procurement when procuring personal or professional services or goods and services.

(1) Direct Procurement. A process where the Public University negotiates directly with a single Entity to provide personal or professional services or goods and services.

(2) Informal Procurement. A Competitive Process where the Public University posts an advertisement of the opportunity on the OUS procurement website for a reasonable time necessary to obtain at least three (3) Solicitation Responses. The Public University may also directly contact prospective Offerors. If the notice has been posted for a reasonable time period and fewer than three Solicitation Responses have been submitted, the Public University may enter into a Contract with a Responsible Offeror based on the Specifications contained in the Solicitation Document.

(3) Formal Procurement. A Competitive Process where the Public University:

(a) Creates a Solicitation Document that contains the procurement procedures and necessary Specifications.

(b) Publishes a notice of the procurement on the OUS procurement website and, at the discretion of the Public University, in a trade periodical, newspaper of general circulation, or other historically underrepresented business-targeted periodicals, Public University website, or other medium for advertising. The notice must specify when and where the Solicitation Document may be obtained and the Closing Date/Time. The notice must be published for a duration reasonable under the circumstances for the procurement.

(c) Conducts the procurement in accordance with chapter 580, division 61, section 0000 through 0160.

(4) Emergency Procurement. The Chancellor, Vice Chancellor of Finance and Administration, President, or Vice President of Finance and Administration, or designee may declare an Emergency when such a declaration is deemed appropriate. The reasons for the declaration will be documented and will include justifications for the procedure used to select the Entity for a Contract within the scope of the Emergency declaration. After the President, Chancellor, or designee has declared an Emergency, the Public University may negotiate a Contract with any qualified Entity for services included in the scope of the Emergency. The Public University will maintain appropriate records of negotiations carried out as part of the contracting process.

(5) Retainer. Public Universities may conduct a Formal Procurement to enter into Retainer Contracts with multiple Entities to provide personal or professional services or goods and services at contracted rates of compensation or based on pre-qualifications.

(6) Alternative Processes. Notwithstanding the foregoing procedures, the Public University Contract Officer may authorize alternative procurement methods that provide a Competitive Process to two or more Entities to contract with the Public University and meet the following objectives:

(a) Responds to innovative business and market methods; or

(b) Contributes to Public University productivity improvement and process redesign; or

(c) Results in comprehensive cost-effectiveness and productivity for the Public University.

(7) Exempt. Public Universities need not follow, regardless of value, a Competitive Process when seeking or acquiring or paying for the following goods and services:

(a) Educational services.

(b) Advertising and media services, excluding consulting services.

(c) Price-regulated goods and services, including utilities, where the rate or price for the goods or services being purchased is established by federal, state, or local regulatory authority.

(d) Goods or services under federal contracts. When the price of goods and services has been established by a contract with an agency of the federal government pursuant to a federal contract award, Public Universities may purchase the goods and services in accordance with the federal contract. In addition, Public Universities may purchase specific equipment that is only available from one source or use specific Entities that are expressly required under the terms of the contract.

- (e) Copyrighted materials. Copyrighted materials covered by this exemption may include, but are not limited to, textbooks, workbooks, curriculum kits, reference materials, software, periodicals, library books, library materials, and audio, visual, and electronic media.
- (f) Investment contracts and retirement plan services, excluding consulting services.
- (g) Food and food-related products.
- (h) Maintenance services directly from the contractor providing the goods.
- (i) Used personal property.
- (j) Goods purchased for resale to outside entities.
- (k) Goods or services related to intercollegiate athletic programs.
- (L) Cadavers or cadaveric organs.
- (m) Hotel sites for large conferences and workshops.
- (n) Dues, registrations, and membership fees.
- (o) Gasoline, diesel fuel, heating oil, lubricants, natural gas, electricity, and similar commodities and products and the transportation thereof.
- (p) Supplies, maintenance, and services for ocean-going vessels when they are in other than home port.
- (q) Repair and overhaul of goods or equipment.
- (r) Goods or services purchased in foreign countries.
- (s) Insurance and insurance-related contracts, not including consulting or brokerage contracts.
- (t) Grants, including Grant applications and proposals.
- (u) Contracts for legal services, including professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which a Public University is or may become interested.
- (v) Contracts entered into, issued, or established in connection with:
 - (A) The incurring of debt by a Public University, including but not limited to the issuance of bonds, certificates of participation, and other debt repayment obligations, and any associated Contracts, regardless of whether the obligations that the Contracts establish are general, special, or limited;

(B) The making of program loans and similar extensions or advances of funds, aid, or assistance by a Public University to a public or private body for the purpose of carrying out, promoting, or sustaining activities or programs authorized by law; or

(C) The investment of funds by a Public University as authorized by law and other financial transactions of a Public University that by their character cannot practically be established under the Competitive Process.

(D) Grant-funded projects where professional or personal service providers are named in Grant or identified in the Grant budget, unless Public University determines it is in its best interest to require a Competitive Process.

(w) Contracts for employee benefit plans as authorized by law.

(x) Services provided by those in the medical community including, but not limited to, doctors, physicians, psychologists, nurses, veterinarians, and those with specific license to administer treatments for the health and well-being of people or animals.

(y) Artists, performers, photographers, graphic designers, website design, and speakers.

(z) Sponsorship agreements for Public University events or facilities.

(8) Sole Source. A process where the President, the Chancellor or designee has made a Written determination that due to special needs or qualifications, only a Single Seller is reasonably available to provide such personal or professional services or goods or services. Sole source procurement will be avoided except when no reasonably available alternative source exists.

(a) Each Public University will provide public notice of its determination that the person or professional services or goods or services are only available from a Single Seller. Public notice may be provided on the OUS procurement website. The public notice will describe the personal or professional services or goods or services to be acquired from the Single Seller, identify the prospective Contractor, and include the date, time and place that protests are due. The Public University shall give Entities at least seven (7) Days from the date of notice publication to protest the sole source determination.

(b) An Entity may protest the Public University's determination that the personal or professional services or goods or services are available from a Single Seller in accordance with OAR 580-061-0145.

(c) On an annual basis, Presidents, or their designees will submit a report to the Board summarizing approved sole source procurements for the Public University for the prior fiscal year. The report will be made available for public inspection.

(9) Special Entity.

(a) Public Universities may purchase goods or services, without using a Competitive Process, if purchasing from a federal, state, local governmental agency, public corporation (including, but not limited to, OHSU), or a state Qualified Rehabilitation Facility certified by the Oregon Department of Human Services or the Oregon State Procurement Office.

(b) Public Universities may participate in cooperative procurements with other contracting agencies or Entities or utilize other public contracts or cooperatively-procured contracts if it is determined, in Writing, that the solicitation and award process used to award that Contract was reasonably equivalent to the respective processes established in these rules, including notice during solicitation process that the contract resulting from the procurement may be utilized by other entities. Determinations regarding equivalency and adequacy of processes for cooperating procurements will be made by Public University Contract Officer.

(10) Special Procurement. A special procurement is an exemption from competitive procedures that the Finance and Administration Committee of the Board determines is appropriate because it:

(A) Is reasonably expected to result in substantial cost savings to the Public University or to the public; or

(B) Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with others processes described in this rule.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351

Hist.: OSSHE 5-2008(Temp), f. & cert. ef. 2-19-08 thru 8-16-08; OSSHE 9-2008, f. & cert. ef. 7-21-08; OUS 6-2011(Temp), f. & cert. ef. 11-10-11 thru 5-7-12; Administrative correction, 5-25-12; OUS 11-2012, f. & cert. ef. 6-18-12; OUS 3-2013(Temp), f. & cert. ef. 4-10-13 thru 9-30-13; OUS 7-2013, f. & cert. ef. 11-1-13