



POLICY ON PURCHASING

Dated: June 22, 2015

Supersedes: PD.101 *General Purchasing Policy*, dated May 25, 2007; PD.102 *Vendor Selection Policy* dated May 23, 2007 and PD.105 *Competitive Bids Policy* dated May 23, 2007

References: *Procurement Signing Authority Policy for Goods and Services*, dated June 17, 2015; *Policy on Execution of Contracts for Employment Matters*, dated June 17, 2015; and *Policy on Execution of Contracts for Real Estate, Investments, Sponsored Research, Academic Agreements and Other Agreements*, dated June 17, 2015.

I. PURPOSE

This Policy and its accompanying procedures and processes is intended to enable New York Medical College, a member of the Touro College and University System, ("College") to acquire products and services, and to dispose of moveable and depreciable capital equipment owned by the College and the end of its useful life, in a timely and cost effective manner to efficiently run its programs, while also making sure appropriate business processes are followed, including compliance with regulations of external agencies, prevent vendor favoritism and fraud, and ensure the best value possible.

II. POLICY

It is the general policy of the College to select vendors through competitive solicitation among potential suppliers and to award contracts to the vendor that provides the Best Value to the College. Selection through other than by competitive selection may be used only when doing so is in the best interest of the College, one of the alternative purchasing methods listed in the policy is used, and a written justification is provided. Any contract not awarded to the lowest bidder must have a written justification as to why the award is in the best interest of the College.

Ethical Interactions with Suppliers.

Employees and agents of the College may not solicit or accept from any supplier or prospective supplier any item, service, favor, monies, credits, or discounts not available to others which could influence purchasing decisions, including invitations to business meals, entertainment, and hospitality, other than those that take place at conferences open to all other participants, and only when, using prudent judgment, the invitation

does not place or appears to place the recipient under any obligation and only when the venue or value of the invitation is appropriate. Vendors that offer such items may be debarred from doing business with the College.

III. SCOPE

This Policy applies to all employees (*i.e.*, faculty, staff,) whether full-time or part-time. Independent contractors and consultants do not have the authority to create commitments on behalf of The College.

IV. DEFINITIONS

Best Value: the offer to sell goods or services to the College that is in the best interest of the College in comparison to other offers, taking into account a multitude of factors, including, but not limited to, initial price, life-cycle costs, delivery capabilities, quality, past performance, training, reporting capabilities, compliance with specifications/requirements, financial stability, and other factors.

Bid: An offer from a vendor to sell their goods or services for a given price.

Blanket Orders: Blanket orders are used to document multi-year commitments. These orders do not encumber the budget. They will be used as place holders to create Purchase Orders that will encumber the current fiscal period. Blanket orders will be reviewed at the end of the fiscal year. A new purchase order will be created for the contract amount that will be paid during the current fiscal period. These orders cannot be used to create a three way match and issue payments.

Change Order: A requisition that modifies or cancels an existing Purchase Order.

Emergency Purchase: Check Requests or Purchase Orders for commodities or services, regardless of amount, where the purchase is made as a result of an unanticipated and sudden critical event that, if not corrected immediately: could result in a hazard to persons, animals, or property; involves pressing necessity for immediate repairs, reconstruction or maintenance in order to permit the safe continuation of a necessary use or function; could result in a violation of law, statute or ordinance established by governmental or regulatory authority, damage to an ongoing research project or grant; or serious detriment to the interest of the College.

Invoice: Third party demand for payment for goods or services rendered whether delivered on paper or electronically.

Potentially Hazardous Materials: controlled substances, radioactive materials and Select Agents (as defined by federal regulations) and any other material that may not be

disposed of through conventional refuse or recycling under state regulations due to its potential negative impact on the environment.

Preferred Vendor: A provider that sells or otherwise transfers goods or services to The College, or purchases or otherwise is authorized to remove College owned goods, that has been vetted by Accounts Payable Office and (if applicable) the Grants Budgeting Office, and has been listed as approved by the Purchasing Department and appears on the latter's list of Preferred Vendors. Also called "approved" vendor.

Purchase Order: Documented and approved demand for goods or services on behalf of the College.

Purchase Requisition: Documented request to purchase goods or services on behalf of the College.

Purchase: acceptance of goods or services in exchange for payment or commitment to pay at some future date

Reverse Auction: A reverse auction is a live competitive bid which takes place at a predetermined date and time on the Internet, among qualified vendors, who are pre-selected and have a specified period of time to place a bid price against their competitors' bid price without knowing whom they are bidding against. Vendors may submit more than one price during the bidding period, with the award going to the vendor with the lowest price at the end of the bid period.

Standing Purchase Orders: Standing orders are issued to cover anticipated expenses where the unit cost cannot be isolated. This method would be used in the form of a blank order, and the amount of the commitment will be shown, but the unit cost will not be uniquely defined. Invoices are submitted against the blanket order as they are received. The standing order is encumbered as a whole at the time of its approval. Standing orders will be reviewed at the end of the fiscal year; if the order is still needed it will be rolled over and approved for continuation to the next fiscal year.

V. PROCEDURE

- A. **Vendor and Product Standards.** The College may set additional standards of price, performance, value and availability, in order to promote the broader values of the institution. Departments making purchasing decisions must take such standards into account, along with any requirements of grantors, when grant funding is used for purchasing.

B. **Special Products and Services.** The following items require approval from, or compliance with additional policies of, the indicated departments prior to the issuance of a purchase order, contract or check request:

1. Potentially Hazardous Materials (Department of Environmental Health and Safety).
2. Electrical or electronic laboratory equipment (Department of Facilities).
3. Telephony, computer and related technologies, including, but not limited to, cell phones and accessories, desktop and laptop computers, mobile devices (such as tablets), monitors, projectors, sound systems, wall mounted monitors, software, including software-as-a-service (Department of Information Technology).
4. All purchases requiring contracts (General Counsel's Office).
5. Food (Purchasing Department).
6. Contracts for construction projects which change the physical structure of external landscape (University Vice President of Real Estate).
7. Purchases funded by Federal Grant Funds (Office of the Comptroller, Restricted Funds)
8. Animals (Department of Comparative Medicine)

C. **Documentation and Processing of Purchases:** All purchases must be documented using a standard purchase requisition prior to approval and payment.

1. Travel expenses must be documented in accordance with the College's Travel Policy.
2. Contracts must be accompanied by an approved purchase order prior to be final execution.
3. All contracts, supplier justification forms, quotations, proposals, and other documentation related to and/or supporting the purchase must be attached and stored with the contract and purchase order.
4. All Purchases and Invoices will be processed from a central location(s) through an electronic purchasing system.
5. All invoices will be matched with a Purchase Order or Check Request and line item acknowledgement of receipt of the goods or services before being paid.
6. Change orders are required when the invoice amount exceeds the purchase order amount by the lesser of either 5% of the purchase order amount or \$200. Regardless of the amount of the variance, if the difference in the invoice amount is due to changes in quantity, unit price, or scope, a change order is required.

7. Order requires additional financial approval for the purpose of correcting or revising the pricing, account being used, quantity, or existing scope already on the Purchase Order.
- D. **Terms and Conditions:** Terms are set forth by the College's legal, finance, and purchasing departments. Individuals are not allowed to negotiate payment terms. If the supplier has terms, that are different from the College standard business practices, Requestors must contact the Purchasing Department for additional guidance.
- E. **Vendor Selection.** Vendors are selected using one of the following methods, unless it is determined that an alternative method is in the best interest of The College.
1. Preferred Vendor Lists. A purchase in any amount may be made from a vendor on the College's Approved Vendor List, which includes Vendors with pre-negotiated prices by Touro College, the College, government agencies and cooperative purchasing. Where more than one source for an item is available from Approved Vendors, purchasers should seek the item that provides the Best Value to the College.
 2. For purchases of goods or services that are not available from the College's Approved Vendor List, or for professional services contracts, one of the following methods is required. If the Purchasing Department determines that it is in the best interest of the College to add the selected Vendor to the Approved List, the purchase may proceed.
 - a. For purchases valued at less than \$10,000, competitive bidding is encouraged but not required
 - b. Except as described in section 7, for requisitions valued at \$10,000 or more, and less than \$50,000, competitive bidding is required. The College requires a minimum of three formal quotations (bids) or proposals. The award will be made to the bidder/proposer that provides the Best Value to the College. No verbal bids will be accepted. The Purchasing Department is responsible for vetting potential bidders and actively soliciting bids, proposals or quotations. Staff and Faculty are not authorized to directly solicit bids; however they may be requested to assist in the competitive bid process by providing technical requirements and specifications for the solicitation of competitive bids.
 3. Except as described in Section 7, for requisitions valued at \$50,000 and over, a minimum of three (3) sealed written bids (or electronically formatted) must be obtained by way of a Request for Quote (RFQ) or Request for Proposals (RFP) sent by the Purchasing Department to

potential vendors. If less than three (3) bids are received, the Purchasing Department will follow up with the vendors to ascertain why they failed to submit a bid.

F. **General Provisions for Competitive Bidding**

1. Whenever possible, competitive bids from vendors handling the same or similar goods and services will be secured based on Best Value. In some cases, the vendor of a product of equal or similar items that meets the purchase requirements may be selected based on availability or vendor proximity.
2. The breaking up of a purchase into individual requisitions of less than one of the above thresholds to avoid the bid process (“pyramiding”) is prohibited.
3. The College must consider annual or total multi-year spending for products or services needed on a regular or repetitive basis to determine whether a bid needs to be performed.
4. When choosing between a Request for Quote and a Request for Proposals, Departments and Schools should consider:
 - a. If the purchase is for goods or services that can be described on the basis of a list and description of materials, supplies, and equipment specifications and can be evaluated primarily on the basis of price and the ability of the Vendor to meet those specifications then an RFQ is the most appropriate approach.
 - b. If the transaction is more complex than providing a standard good or commodity, and price is not the primary determinant and the award will be based on a combination of cost and technical factors (best value), then a Request for Proposals is more appropriate. Through its proposal, the bidder offers a solution to the objectives, problem, or need specified in the RFP, and defines how it intends to meet (or exceed) the RFP requirements. The RFP process is more complex than a simple request for bids and requires advance planning and coordination with the Purchasing Department well in advance of the procurement.
5. A reverse auction is considered a form of competitive bidding and may be chosen by the Purchasing Department as an alternative to traditional forms without special approval.
6. Except as otherwise provided in the RFQ or the RFP, bids shall be opened within (5) five days after the due date. Sealed bids shall be opened by Purchasing and the Compliance representative. When necessary, an impartial third party may be present at the bid opening to interpret bids

of a technical nature. Each witness shall initial and date the Bid Summary Sheet.

7. The College reserves the right in its sole discretion to cancel or withdraw the RFQ or RFP, in whole or in part, reject any and all bids without explanation and select a bid regardless of price determined to provide Best Value to the College.

G. **Alternative Procurement Methods**

1. **Sole Source.** A Sole Source procurement can be used when it can be substantiated that at least one of the following circumstances are true:
 - a. Only one vendor or contractor has exclusive rights (e.g., rights to data, patent or copyrights, proprietary interests or secret processes) to the manufacturing, sale, or servicing of the product or service,
 - b. There is no comparable competitive product,
 - c. The vendor is uniquely qualified to meet the department/school's procurement objective and the product or service must match or be compatible with current equipment or services,
 - d. There is a need for a component or replacement part for which there is no commercially available substitute and which can be obtained only from the manufacturer,
 - e. The product or service needed is specifically required for use in conjunction with a grant or contract,
 - f. The service needed is controlled/mandated by the local utility or government,
 - g. The purchase is a membership in professional organizations or subscription to professional publications that are typically only available directly from a group or publisher,
 - h. The purchase is for published course materials, license fees, or advertisements.
 - i. Standing and Blanket Orders that meets any of the above conditions.

When utilizing Sole Source or Single Source procurements, the justification form must document the selection of the vendor and establish the reasonableness of the price, and include supporting documentation received directly from the vendor specifically identifying the exclusive rights they possess, if applicable.

2. **Single Source.** A Single Source procurement can be used when it can be determined that while alternate sources of supply are available, selection of these sources is not possible due to one of the following circumstances:
 - a. A particular product or service is needed for an experiment or trial,
 - b. On-going research is already utilizing a particular product or material and the introduction of alternate sourced material could have an undesired effect on results,
 - c. Quality and/or delivery problems have previously been encountered with alternate sources,
 - d. Development of an alternate source of supply would entail start-up costs making an award to such sources initially more costly, or
 - e. An emergency situation or compelling circumstance has occurred that makes the competitive bidding process impractical (see Emergency Procurement).
 - f. The College has a currently contracted for product or service, originally selected through a competitive or approved alternative process, the continued use of which is necessary to prevent or minimize disruption in the business operations of the College
 - g. Standing and Blanket Orders that meets any of the above conditions.

3. **Trials and Evaluations of Equipment.** If a vendor offers to have their equipment used on a trial basis in order to determine its usefulness to a department, the department must work with the Office of General Counsel to sign a contract and then submit a "no charge" requisition documenting the arrangement prior to receipt of the equipment. Upon conclusion of the trial period, the equipment must be returned to the vendor at no cost to The College. If a decision is made to go forward with the purchase of the equipment, a new purchase requisition must be submitted.

4. **Emergency Procurements**
 - a. Emergency procurements are not intended, and may not be used, to substitute for proper advance planning by departments for consumable supplies or other equipment that they could have anticipated purchasing through normal channels.
 - b. If an emergency situation arises, during normal business hours, the Purchasing Department must be contacted. If it is not possible to reach the Purchasing Department in advance, the requisitioning department must notify the Purchasing Department of the

Emergency Procurement by the next business day. The requisitioning department must be able to justify and document the selection of the vendor and establish the reasonableness of the price.

- c. Repeated requests for emergency procurements may result in a review of the operations of the department or school placing such orders and a refusal to continue to permit such use in the future.

5. Leasing

- a. The Finance Department, in consultation with the Purchasing Department and Office of General Counsel, may determine that it is in the best interests of the College to lease or rent, rather than purchase, certain goods, based on factors that may include but are not limited to, duration of need, purchase price, maintenance/service costs, insurance, warranties, buy-out clauses, interest rate, taxes, life expectancy of equipment, obsolescence, cash flow, interest rates, and funding source, and the ability to acquire equipment immediately when purchase funds are not available.
- b. The economic benefits of leasing versus buying (and internal financing) must be determined before entering into any lease agreement. A cost analysis comparing net present value of all payment streams for both outright purchase versus straight line lease and explaining the rationale for leasing must be performed by the lease originator must be attached to the Purchase Order associated with the lease agreement.
- c. Leases are restricted to equipment manufacturers whose companies include their own corporate leasing organization. Generally, transactions are not to occur with third party distributors of such equipment unless the equipment manufacturer is without its own corporate leasing organization. Any exceptions to this policy require the approval of the Purchasing Department.

- H. **Surplus Materials or Equipment:** The Purchasing Department shall control the disposal of moveable and depreciable capital equipment owned by the College which has been determined to be unusable elsewhere in the College. The Purchasing Department shall determine the fair market value and the means of disposal of the items that best serves the interests of the College, including obtaining the highest price for the items.

VI. EFFECTIVE DATE

This policy is effective as of date signed below.

VII. POLICY MANAGEMENT

Responsible Officer: Purchasing Manager

Responsible Executive: Vice President of Operations

Responsible Offices: Purchasing

APPROVED:



Edward C. Halperin, M.D., M.A.
Chancellor for Health Affairs and
Chief Executive Officer



Date