UNIVERSITY OF SOUTH FLORIDA SYSTEM

REGULATION

✓USF System ☐USF ☐USFSP ☐USFSM

Number: USF4.02010
Title: Procurement of Commodities, Contractual Services, Motor Vehicles, and Licenses
Responsible Office: Business and Finance

Date of Origin: 3-9-17 **Date Last Amended:** **Date Last Reviewed:**

I. STATEMENT OF REGULATION:

In order to meet the University of South Florida System's (USF System) mission, Purchasing Services administers and provides management and oversight of the competitive solicitation requirements and contracting process necessary to acquire quality commodities and contractual services that is free from favoritism, promotes fair and open competition, and preserves the integrity of public purchasing and contracting. Responsible Purchasing officials shall be protected from improper pressures of external political or business interests while carrying out their duties. Purchasing Services administers and provides management and oversight for this USF System Regulation.

II. AUTHORITY:

In accordance with Florida Board of Governors Regulations 1.001, 18.001 and 18.003, the following Regulation applies to all institutions of the USF System.

III. DEFINITIONS OF TERMS:

Please see Regulation 4.02000: Procurement – General for the list of defined terms.

IV. PROCESS STEPS/SPECIFIC PROVISIONS:

A. Competitive Solicitation Requirements:

1. PURCHASING SERVICES PROVIDE MANAGEMENT AND OVERSIGHT OF THE COMPETITIVE SOLICITATION PROCESS FOR THE USF SYSTEM EXCEPT WHERE NOTED.

a. The purchase of commodities or contractual services exceeding $75,000 shall be awarded pursuant to a competitive solicitation, unless otherwise authorized.

b. When only one response is received to a competitive solicitation for commodities or contractual services exceeding $75,000, the USF System has the option to review the solicitation to determine if a second call for a competitive solicitation is in the best interest of the USF System. If it is determined that a second call would not serve a useful purpose, the USF System can proceed with the acquisition.

c. When multiple responses that are equal in all respects are received to a competitive solicitation, the USF System will give preference, in the following order of priority, to the responses: Responses that include commodities manufactured in the State of Florida, responses from Florida businesses, responses from businesses with a drug-free workplace program, responses from foreign manufacturers located in the State of Florida, in order to award. If the use of these preferences does not result in a determination of who should be awarded the contract, the toss of the coin shall be used to award the contract.

d. The purchase of commodities and contractual services shall not be divided to avoid the requirement of competitive solicitation.

e. The award of a competitive solicitation shall be publicly posted by Purchasing Services, located at the Tampa campus, for 72 hours excluding Saturdays, Sundays or Florida State University System holidays.

f. Formal written price quotes are not required for the purchase of commodities, goods, or services amounting to less than $5,000. However, verbal quotes must be documented.

g. The purchase of commodities, goods or services with a value greater than or equal to $5,000 and less than $25,000 must have quotations either verbal or written; verbal quotes must be documented in requisition. At least two (2) quotes are required.

h. The purchase of commodities, goods or services with a value greater than or equal to $25,000 and less than $75,000 requires at least three (3) written quotations.

i. Public notice of issuance of a competitive solicitation or any committee meetings related to such competitive solicitation will be posted on the Tampa campus Purchasing Department's public bulletin board located outside of the Purchasing Department. The notice will be posted on the USF Purchasing Department's website, and State of Florida Vendor Bid System.

2. Purchasing actions that are not subject to the competitive solicitation process include:

a. Emergency Purchases. When the USF System President or designee determines, in writing, that a delay due to the competitive solicitation process would pose an immediate danger to public health or safety or the welfare of the USF System, including USF System tangible and/or intangible assets, or would otherwise cause significant injury or harm, the

USF System may proceed with an emergency purchase. The emergency purchase is limited to the purchase of only the type of items and quantities of items necessary and for only the time period necessary to meet the immediate need.

b. Sole Source Purchases. Commodities or contractual services available from a single source are exempt from the competitive solicitation process. Sole Source document shall be publicly posted by Purchasing Services at the Tampa campus for 72 hours, excluding Saturdays, Sundays and Florida State University System holidays.

c. Purchases from Contracts, that are entered into after public and open competitive solicitation, and Negotiated Annual Price Agreements established by the State of Florida, other governmental entities, other universities in the State University System, or other independent colleges and universities.

3. Types of commodities and contractual services that are not subject to the competitive solicitation process include:

a. Artistic services.

b. Academic reviews.

c. Lectures.

d. Auditing services.

e. Legal services, including attorney, paralegal, expert witness, appraisal, arbitrator or mediator services.

f. Health services involving examination, diagnosis, treatment, prevention, medical consultation or administration. Prescriptive assistive devices for medical, developmental or vocational rehabilitation including, but not limited to prosthetics, orthotics, wheelchairs and other related equipment and supplies, and provided such devices are purchased on the basis of an established fee schedule or by a method that ensures the best price, taking into consideration the needs of the client.

g. Services provided to persons with mental or physical disabilities by not-for-profit corporations organized under the provisions of s. 501(c)(3) of the Internal Revenue Code or services governed by the provisions of the Office of Management and Budget Circular A-122.

h. Medicaid services delivered to an eligible Medicaid recipient by a health care provider who has not previously applied for and received a Medicaid provider number from the Department of Children and Family Services. This exception will be valid for a period not to exceed 90 days after the date of delivery to the Medicaid recipient and shall not be

renewed.

i. Family placement services.

j. Training and education services.

k. Advertising, except for media placement services.

l. Commodities or contractual services provided by governmental agencies, another university in the State University System, direct support and affiliate organizations of the USF System, political subdivisions, or other independent colleges or universities and health support organizations and faculty practice plans.

m. Programs, Conferences, Workshops, or Continuing Education events or other USF System programs that are offered to the general public, for which fees have been collected to pay all expenses associated with the program or event.

n. Programs, conferences or events that have been specified by a grant, can include, but are not limited to items such as lodging, meeting rooms, services and food.

o. Purchases from firms or individuals that are prescribed by state or federal law or specified by granting agency.

p. Regulated utilities and governmental franchised services.

q. Purchases from the Annual Certification List.

r. Purchases for resale.

s. Accountant Services.

t. Implementation/programming/training services available from owner of copyrighted software or its contracted vendor.

u. Purchases of materials, supplies, equipment, or services for instructional or sponsored research purposes when a director of sponsored research or designee certifies that, in a particular instance, it is necessary for the efficient or expeditious prosecution of a research project in accordance with sponsored research procedures or to attain the instructional objective.

4. Bond Requirements:

a. Solicitation Security. A certified, cashier's or treasurer's check, bank draft, bank official check or bid bond may be required as a condition for participating in a competitive solicitation.

b. Payment and Performance Bonds.

1) Any contractor contracting with the University of South Florida System (USF System) to provide services or commodities which include installation may be required to furnish a payment and performance bond, with good and sufficient securities, to the USF System prior to the issuance of the contract.

2) The bond or security must be in an amount equal to 100% of the response submitted to the competitive solicitation.

c. Solicitation Protest Bond. Any entity filing an action protesting a decision or intended decision pertaining to a competitive solicitation shall, at the time of filing of the formal protest, post with the USF System, a bond payable to the USF System in an amount equal to: 10% of the estimated value of the protestor's bid or proposal; 10% of the estimated expenditure during the contract term; $10,000; or whichever is less. The bond shall be conditioned upon the payment of all costs which may be adjudged against the entity filing the protest action. In lieu of a bond, the USF System may accept a cashier's check or money order in the amount of the bond. Failure of the protesting entity to file the required bond, cashier's check, bank official check or money order at the time of filing the formal protest shall result in the denial of the protest.

B. Contract Guidelines:

1. Contracts for commodities or contractual services or licenses shall consist of a purchase order or bilateral agreement entered into by the University of South Florida Board of Trustees and signed by the University of South Florida System (USF System) President or designee prior to the commodities being delivered or contractual services being rendered or in unusual circumstances, within thirty (30) days of the commodities being delivered or contractual services being rendered by the vendor.

2. Extension of a contract, entered into as a result of a competitive solicitation, shall be for a period not to exceed 12 months or until completion of the competitive solicitation and award or protest, whichever is longer, shall be in writing, shall be signed by both parties prior to the expiration date, and shall be subject to the same terms and conditions set forth in the initial contract. There shall be only one extension of a contract permitted.

3. A contract may be renewed. If the commodity or contractual service is purchased as a result of a competitive solicitation, for a period that may not exceed 5 years or twice the term of the original contract, whichever is longer. The cost of any contemplated renewal must be included in the competitive solicitation. All contract renewals are subject to sufficient annual appropriations, and a renewal shall be signed by both parties prior to the expiration of the initial contract. This provision is not intended to apply retroactively; existing contracts

entered into prior to January 1, 2017, including any specified renewal period(s) may continue in accordance with the existing contract terms.

4. The USF System President or designee has the authority to enter into contracts with the Consolidated Equipment Financing Program.

5. In order to promote cost-effective procurement of commodities, contractual services or licenses, the USF System has the authority to enter into contracts that limit the liability of a vendor consistent with Section 672.719, Florida Statues.

6. The total value of a contract is the value of the initial term plus the value of all renewal terms.

7. Any contract entered into for a period in excess of one (1) fiscal year shall include an express statement indicating that the USF System's performance and obligation to pay under the contract is contingent upon an annual appropriation by the legislature of the State of Florida.

8. All bilateral agreements for goods and/or services shall be written and:

   a. Specify a term and/or provide dates of services.

   b. Provide payment terms, including rates and fees.

   c. Indicate the USF System's ability to unilaterally cancel or terminate the contract.

   d. Specify the ability to renew and set forth renewal terms, if any.

   e. If travel is contemplated, reference the Travel statute in Chapter 112, Florida Statutes and USF System procedures.

   f. Provide units of deliverables, if any.
   Require contractor to submit invoices prior to receiving payment and in sufficient detail to identify the purchase order number, products ordered, and expenses for which compensation is sought, as applicable.

   g. Shall not require the USF System to indemnify the vendor or any person, party or entity.

   h. Shall be approved for legality and form by the Office of the General Counsel.

   i. Shall contain the signature of the USF System President or designee and contractor.

9. In lieu of a written bilateral agreement for services, the USF System has the option to issue a purchase order that includes the above items 1-8.

B. Purchase of Commodities or Contractual Services:

1. Purchase of Products with Recycled Content. The USF System may establish a program to

encourage the purchase and use of products and materials with recycled content and postconsumer recovered material.

2. Purchase of Insurance. The USF System has the authority to purchase insurance as deemed necessary and appropriate for the operation and educational mission of the USF System. All such purchases require the approval of Purchasing Services.

C. Purchase, Maintenance, and Disposition of Motor Vehicles:

1. The USF System has authority to:

   a. Establish standard classes of motor vehicles to be leased, purchased or used by USF System personnel.

   b. Obtain the most effective and efficient use of motor vehicles for USF System purposes.

   c. Establish and operate facilities for the acquisition, disposal, operation, maintenance, repair, storage, control and regulation of USF System owned motor vehicles. Acquisition can be by purchase, lease, installment-purchase, loan or by any other legal means and can include a trade-in. All motor vehicles purchased or leased shall be of a class that will safely transport USF System personnel and adequately meet the requirements of the USF System.

   d. Contract for specialized maintenance services.

2. Motor vehicles owned, leased or operated by the USF System shall be used for official USF System business only.

D. Procurement Limitations and Ethical Obligations:

1. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids, invitation to negotiate and/or requests for proposals shall be excluded from competing for such procurements.

2. Individuals taking part in the development of criteria for evaluation, the evaluation process or the award of the contract for any purchase shall be independent of and have no conflict of interest in the entities evaluated and awarded the contract. The USF System has the option to require the individuals to attest to such in writing.

3. Items requested that are of a personal nature or for personal convenience of employees shall not be purchased. Examples are: fans, heaters, coffee pots, mugs, refrigerators, microwaves, picture frames, wall hangings, smoke/air filters and various decorative items.

4. Purchases from Contractors Convicted of Public Entity Crimes. The USF System shall not

accept a competitive solicitation from or purchase commodities or contractual services from a person or affiliate who has been convicted of a public entity crime and has been placed on the State of Florida's convicted vendor list for a period of 36 months from the date of being added to the convicted vendor list.

Authority: Art. IX, Sec. 7, Fla. Constitution, Fla. Board of Governors Regulations, 1.001, 18.001, and 18.003.

History: New (BOT approval) 3-9-17.

Certification: The USF System certifies that it has followed the Florida Board of Governors Regulation Development Procedure and has a record of written notices, comments, summaries and responses as required.