

## Kean University Operating Rules and Procedures for Procurement

Applies: University-Wide

Issuing Authority: Chief Financial Officer

Responsible Officer: Associate Vice President for University Procurement & Business Services

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### **1. Purpose**

To the maximum extent possible, the procurement of goods and services for Kean University will be conducted in an open and competitive environment to ensure that prices paid by Kean for those goods and services are fair and reasonable, and that procurements for Kean follow best in class ethical business practices. Procurements of goods and services for Kean must conform to the standards identified in these rules and procedures that reflect applicable Federal and State laws and regulations where necessary. These Operating Rules & Procedures shall replace prior procedures on this topic. To the extent that these rules and procedures conflict with any policy set by the Kean University Board of Trustees, the policy of the Kean Board of Trustees will govern.

To assure that University purchases and payments are properly authorized, and:

- a. Obtain the best value for the University by striving for best practices whenever possible and determined by University Procurement & Business Services (UPBS);
- b. Follow fair and ethical business practices; and
- c. Adhere to all State and Federal Laws as they relate to procurement and the expenditure of public funds; and
- d. Reflect appropriate stewardship of University resources.
- e. To educate employees and suppliers about the University's procurement rules and procedures.

### **2. Accountability**

Pursuant to Resolution #22-03-07-2636, the Kean University Board of Trustees delegated the authority to establish, and amend as necessary, standing operating rules and procedures for the purchase of all equipment, material supplies and services in accordance with the requirements of N.J.S.A. 18A:64O-1 et seq. At the direction of the Chief Financial Officer (CFO), the Associate Vice President of UPBS shall implement these rules and procedures and the deans, department chairs, department directors and users of the purchasing system shall ensure compliance.

### **3. Applicability**

These rules and procedures apply to all authorized University departments and personnel who accept responsibility for using the purchasing system, which may only be used in accordance with the rules and procedures described below.

#### 3.1. Resources & Relevant Kean Policies

- [Kean University Operating Rules & Procedures for Contracts](#)
- [Kean University Operating Rules & Procedures for State Contracts, GSA Schedules, State Cooperatives, and National Cooperatives](#)
- [Kean University Travel Manual](#)
- [Kean University Supplemental Ethics Code](#)
- [State of New Jersey Ethics Code](#)
- [New Jersey Conflicts of Interest Law](#)
- [Plain Language Guide](#)

#### 4. Definitions

- Bid: The formal submission of an offered price for the goods or services being sought by the University. A bid is submitted to the University in response to public advertisement and in the format advertised to the public as part of a fair and open process. A bid is opened in an advertised time, manner, and place. Contracts are awarded to the responsible bidder, whose bid, conforming to the invitation for bids, will be most advantageous to Kean University, price and other factors considered.
- Bid Threshold: Bid threshold means the dollar limit placed on Kean University pursuant to N.J.S.A 18A:64O-9 to establish when public advertisement of bids is required. Kean Board of Trustee Resolution #22-03-07-26367 the bid threshold to \$100,000.00.
- Bid Waiver: A statutorily created category of items that may be purchased without a formal advertising of a public bid.
- Blanket Order: A blanket purchase order is an encumbrance for a set amount of money for recurring purchases for which compliance has already been obtained. A blanket order is set up by the requesting Department for convenience at the discretion of UPBS, so a requisition does not have to be completed for every purchase.
- Confirming Order: A confirming order is a purchase order retroactively approved by UPBS for an unauthorized purchase. Confirming orders must be requested by the Senior Vice President in charge of the requesting department or the President and requires approval by the CFO.
- Contract: A binding legal agreement between Kean and a supplier of goods and services which includes pricing, terms of service, and other contractual obligations mutually agreed to by the respective parties governing the performance of work or procurement of services, materials or supplies. For the purposes of these rules and procedures, this definition does not include agreements of employment.
- Cooperative: a type of cooperative arrangement, among public entities, to agree to aggregate demand to get lower prices from selected suppliers. It is often used by government agencies to reduce costs of procurement.
- Extraordinary Unspecifiable Services: Services or products which cannot be reasonably described by written specifications.
- Information Technology: Telecommunication goods and services, including, but not limited to software, hardware and systems implementation, and support for voice, data and video.
- Materials: Includes goods, apparatus or any other tangible thing. Does not include real property or an interest in real property.

- Professional Services: Services rendered or performed by a person authorized by law to practice a recognized profession and whose practice is regulated by law and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services also means services rendered in the performance of work that is original and creative in character in a recognized field of artistic endeavor.
- Purchase Order: After the completion of the requisition process, a document known as the purchase order is issued to the requesting University department and the selected vendor. The purchase order is a formal document detailing specifically what is to be purchased, University terms and conditions, the supplier, ship to information, and other relevant data. In absence of an additional contract document between the University and the vendor, a University purchase order is a legally binding contract. A purchase order must be issued before hiring a vendor.
- Purchase: The transfer of goods and services by the University from a vendor under the terms and conditions of a contract for payment of money or other consideration.
- Quotation: The offering of a price for goods or services being sought by the University. A quote must be written and may be rescinded by the vendor before acceptance of a contract. As opposed to a bid, requesting a quotation is an informal procedure.
- Requisition: A requisition is the form request of approval by UPBS via the Ellucian purchasing system to procure goods and/or services. The requisition must contain all pertinent data needed by a vendor and required by UPBS to fill the department's request. Requisitions can be for purchase orders or blanket purchase orders. A requisition must be submitted and approved prior to issuance of a purchase order.
- Unauthorized Purchase: A purchase for goods and services by a University Department or employee not made in accordance with University procurement procedures.
- Vendor: A person or entity that is the source of goods and services procured by the University.
- Work: Includes services and any other activity of a tangible or intangible nature performed pursuant to a contract or agreement with the University.

## **5. Rules and Procedures**

UPBS is under the supervision of the CFO. The CFO has designated immediate supervision to the Associate Vice President of University Procurement & Business Services, who has day-to-day responsibility for all University purchasing and contracting.

- 5.1. University UPBS rules and procedures do not permit University employees to order equipment, materials, or services without an approved purchase order in accordance with these rules and procedures, with limited exceptions.
- 5.2. Expenditures made without required approvals, or in violation of these rules and procedures, are unauthorized purchases. Documents will not be processed and will be returned to the employee responsible.

- 5.3. In addition, employees may be held personally liable for payment of unauthorized purchases unless they can provide a letter of justification signed by the Senior Vice President of their Division stating why the purchase was made in violation of the process. Employees may also be subject to disciplinary action, up to and including termination, in accordance with applicable policies for violations.
- 5.4. All University purchasing will comply with State and Federal applicable laws and regulations in effect at the time of the purchase.

## 6. **Competitive Bidding**

### Quotations for Purchases Under the Current Bid Threshold

Purchases, contracts, or agreements for equipment, materials, supplies and services that do not exceed the bid threshold in the aggregate for the University system as a whole in any fiscal year may be made, negotiated, and awarded by soliciting written quotes from vendors without formal public advertising for bids.

The following requirements apply to the various bid threshold categories:

- a. \$0.00 - \$15,000.00: New Jersey Business Registration Certificate Not Required
- b. \$0.00 – \$25,000.00: No competition required.
- c. \$25,000.01 – \$100,000.00: Three (3) written quotes are required. Quotes are not required for Professional Service Agreements or for other goods and services as determined by the Associate Vice President of University Procurement & Business Services. Departments must submit quotes along with the [Competitive Quote Form](#).
- d. \$100,000.01 or Greater: Formal advertised bid will be coordinated through the UPBS or a Bid Waiver will be required with an approved Board of Trustees Resolution (see Section 9 below).
- e. Notwithstanding the above thresholds, UPBS reserves the right to seek additional information and/or price competition on all purchasing requests.

## 7. **Purchases in Excess of Current Bid Threshold**

A purchase, contract, or agreement exceeding the Bid Threshold requires public advertisement of bids, unless it is exempt from public bidding pursuant to Section 9 of these rules and procedures.

## 8. **Awarding of Contracts**

- 8.1. Standard of Contract Awards. The standard for awarding all contracts is to award to the “responsible bidder, whose bid, conforming to the invitation for bids, will be most

advantageous to the State University, price and other factors considered.” Bids not responsive to requirements will be declared void.

- 8.2. Award of Contracts. As a matter of course, Departments should try and award contracts to the lowest responsible bidder. However, circumstances may warrant awarding a contract to a responsible bidder who submitted a higher bid. In those circumstances, the Department must provide a written justification including specific factors considered other than price. The Associate Vice President of Procurement & Business Services or designee may approve the award of contract.

When two or more quotations or bids of equal amounts are the lowest quotations or bids submitted by responsible parties, the University may award the contract to any one of such parties as, in its discretion, it may determine it is in the best interest of the University.

- 8.3. Notification of the State Comptroller. Pursuant to N.J.S.A 52:15C-10(a), the Associate Vice President of University Procurement & Business Service shall notify the Office of the State Comptroller of contracts that meet or exceed the below thresholds as follows:
  - 1) For contracts involving consideration or an expenditure of more than \$2,500,000 but less than \$12,500,000, no later than 20 business days after the contract award;
  - 2) For contracts involving consideration or an expenditure of \$12,500,000 or more, not less than 30 days prior to public advertisement or other public or private solicitation; and
  - 3) For contracts issued pursuant to an emergency or public exigency involving consideration or an expenditure of more than \$2,500,000, no later than 30 business days after the award of a contract.

## **9. Exceptions to Requirement of Public Bidding**

- 9.1. Waiver of Bidding Procedures. Pursuant to N.J.S.A. 18A:64O-9, the Kean University Board of Trustees may waive public bidding procedures for purchases over the Bid Threshold under certain circumstances. This is considered a “Bid Waiver”. The Associate Vice President of University Procurement & Business Services may determine that it is in the best interest of the University to forgo the Bid Waiver process and conduct a formal public bid to ensure transparency, competition and best pricing.

Bid Waiver requests must meet defined conditions as identified in Section 9.2 below. If all conditions are met, a request must be made to UPBS through the requisition process and if the request exceeds the Bid Threshold, it must be submitted for approval by resolution of the Board of Trustees. The three (3) broad categories of Bid Waivers are those that pertain to: 1) certain goods and services; 2) contracts or agreements with other public entities; and 3) public bids that have failed to produce a viable outcome for the University.

Departments requesting the waiving of public bidding must submit the [Bid Waiver Form](#) with supporting documentation to the Office of the University Counsel.

- 9.2. Certain Goods and Services. The following items may be purchased without the solicitation of bids if, in the judgment of the CFO and Associate Vice President of Procurement &

Business Services, the vendor recommended on the requisition appears to be offering satisfactory material or services at a reasonable price. A University purchase order, when required, shall be approved by UPBS. These items include:

- a. Professional services; or
- b. Extraordinary unspecifiable services and products which cannot reasonably be described by written specifications, subject, however, to procedures consistent with open public bidding whenever possible; or
- c. Materials or supplies which are not available from more than one potential bidder, including without limitation materials or supplies which are patented or copyrighted; or
- d. The doing of any work by employees of the State University; or
- e. The printing of all legal notices and legal briefs, records and appendices to be used in any legal proceeding to which the State University may be party and the use of electronic data or media services, including the internet, for the printing of these legal notices and legal briefs, records and appendices; or
- f. Textbooks, copyrighted materials, student produced publications and services incidental thereto, library materials including without limitation books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials and specialized library services, including electronic databases and digital formats; or
- g. Food supplies and services, including food supplies and management contracts for student centers, dining rooms and cafeterias; or
- h. The supplying of any product or the rendering of any service by the public utility which is subject to the jurisdiction of the Board of Public Utilities, in accordance with tariffs and schedules of charges made, charged and exacted, filed with that board; or
- i. Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with the services; or
- j. Specialized machinery or equipment of a technical nature which will not reasonably permit the drawing of specifications, and the procurement thereof without advertising is in the public interest; or
- k. Insurance, including the purchase of insurance coverage and consulting services, which exceptions shall be in accordance with the requirements for extraordinary unspecifiable services; or
- l. Publishing of legal notices in newspapers as required by law and the use of electronic data or media services, including the internet, for the publication of the legal notices; or
- m. The acquisition of artifacts or other items of unique intrinsic, artistic or historic character; or
- n. The collection of amounts due on student loans, including without limitation loans guaranteed by or made with funds of the United States of America, and

- amounts due on other financial obligations to the University, including but not limited to, the amounts due on tuition and fees and room and board; or
- o. Professional consulting services; or
  - p. Entertainment, including without limitation theatrical presentations, band and other concerts, movies and other audiovisual productions; or
  - q. Contracts employing funds created by student activities fees charged to students or otherwise raised by students and expended by student organizations; or
  - r. Printing, including without limitation catalogs, yearbooks and course announcements and the production and reproduction of such material in electronic and digital formats, including compact discs; or
  - s. Information technology; or
  - t. Personnel recruitment and advertising, including without limitation advertising seeking student enrollment; or
  - u. Educational supplies, books, articles of clothing and other miscellaneous articles purchased by a University or University for resale to University students and employees; or
  - v. Purchase or rental of graduation caps and gowns and award certificates or plaques; or
  - w. Items available from vendors at costs below State contract pricing for the same product or service, which meets or exceeds the State contract terms or conditions; or
  - x. Management contracts for bookstores, performing arts centers, residence halls, parking facilities and building operations; or
  - y. Consulting services involving information technology, curricular or programmatic review, fund raising, transportation, safety or security; or
  - z. Construction management services for construction, alteration or repair of any building or improvement; or
  - aa. Purchase or rental of equipment of a technical nature when the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest.
  - bb. Banking and investment services.
  - cc. Energy supply, such as electric and gas, from a third-party supplier.
  - dd. Hazardous waste collection and disposal services.
  - ee. Supplies and services for the administration of study abroad or remote programs.
  - ff. Transportation services.
  - gg. Vehicle maintenance.
  - hh. Vending services.
  - ii. Medical testing.
  - jj. Those exceptions contained in N.J.S.A 52:34-9 and N.J.S.A 52:34-10.

9.3. Contracts or Agreements with Other Public Entities. The Board of Trustees may award without public bidding a contract with the United States of America, the State of New

Jersey, a county, municipality, or any board, body or officer, agency, University or authority, or any other state or subdivision thereof.

9.4. Public Bids Fail to Produce a Viable Outcome. The Kean University Board of Trustees may award a contract if it has advertised for bids on two occasions and:

- a. The University receives no bids on both occasions; or
- b. The University has rejected the bids on two occasions because the University has determined the price is not reasonable on the basis of cost estimates prepared prior to the advertising; or
- c. On one occasion no bids were received pursuant to (a) and on one occasion all bids were rejected pursuant to (b), in whatever sequence.

Any contract or agreement awarded under pursuant to this section may then be negotiated by a two-thirds affirmative vote of the authorized membership of the Board of Trustees authorizing the contract or agreement.

9.5. Other Exceptions to Public Bidding. The University, without advertising for bids, or after having rejected publicly advertised bids, may purchase any materials, supplies, goods, services or equipment utilizing contract or contracts entered into on behalf of the following entities, pursuant to the *Kean University Operating Rules & Procedures for the use of State Contracts, GSA Schedules, State Cooperatives, and National Cooperatives*:

- a. Contracts for goods and services entered into on behalf of the State by the Division of Purchase and Property. These are commonly referred to as "State Contracts".
- b. Contracts for goods and services entered into on behalf of any municipality or county in the State of New Jersey.
- c. Federal Supply Schedules of the General Services Administration or schedules from other federal procurement programs.
- d. Cooperative pricing system established pursuant to the laws of New Jersey.
- e. A nationally recognized and accepted cooperative purchasing agreement approved by the New Jersey Department of Treasury.

## **10. Contract**

The maximum contract term for University contracts may be five (5) years. A longer term may be permitted with the approval of the CFO if deemed to be in the best interests of the University. Contracts shall be issued pursuant to the *Kean University Operating Rules and Procedures for Contracts*.

## **11. Emergency Purchases over the Bid Threshold**

An emergency condition may be defined as the need for immediate procurement of goods and/or services necessary for the protection of University property and occupants or continual operation of the University where time does not permit using purchasing procedures.

Emergency orders must be approved by the CFO or designee. A written request has to be forwarded to the CFO describing the nature of the emergency, time of occurrence, and need to invoke emergency procedures. The CFO will make the decision to declare the situation an emergency and authorize the award of a contract. A requisition should be done by the appropriate department.

A report will be forwarded to the Board of Trustees at the next public meeting. The report will include:

- a. the nature of the emergency;
- b. the need for immediate action;
- c. the cost of the goods and/or services;
- d. the name of the vendor.

## **12. Miscellaneous**

- 12.1. The University will evaluate existing policies as well as these rules and procedures on a regular basis to be in conformity with the laws and regulations of the State of New Jersey.
- 12.2. The University reserves the right to amend these rules and procedures as necessary.

## **13. Cancellation and Alterations of Purchase Orders**

- 13.1. Cancelation of a Requisition. A requisition may be canceled prior to issuance of purchase order.
- 13.2. Cancelation of a Purchase Order. A purchase order may be canceled providing acceptance is not made by the vendor. As noted in the legal conditions under purchase order, a binding contract may exist and a vendor(s) may have the right to refuse acceptance of cancellation. In this situation, the Department must consult with the Associate Vice President of Procurement & Business Services or designee about the University's contractual obligations prior to canceling the purchase order.

To cancel a purchase order, the requisitioning department must (1) notify by email the vendor to cancel the order and (2) notify UPBS of the cancellation via email (giving details such as purchase order number, account number, vendor, etc.) or send Procurement a copy of the purchase order with instructions to cancel on it.

When a purchase order has been canceled and the item(s) has been received, the requisitioning department must (1) notify UPBS of the cancellation via email (giving details such as purchase order number, account number, vendor, etc.) or send Procurement a copy of the purchase order with instructions to cancel on it; and (2) advise on the location and disposition of the item(s). Additionally, a restocking fee may be levied upon the University by the vendor when a purchase order has been canceled and the items have been received.

- 13.3. Change Orders. Change orders to existing contracts, Bids, or RFP's: change orders to increase a Purchase Order must be made in writing before any additional work is started. The end user must notify UPBS by e-mail and copy the Associate Vice President for University Procurement & Business Services with an explanation. The request will not be processed unless it is submitted accordingly.
- 13.4. Change Orders Approval. All change orders shall be reviewed and approved solely at the discretion of the CFO or designee. No single, or combined change orders for a contract and/or Purchase Order may exceed 20% of the total contract/purchase order amount unless it is deemed an emergency, the result of unforeseen conditions, approval by the CFO or designee, and/or Board Approval is obtained. Any single or cumulative change order(s) totaling more than 20% of the Contract/Purchase Order must be approved by the Senior Vice President of the Division seeking the Change Order and the CFO. Such requests shall be forwarded to the Senior Vice President and CFO, describing the nature of the emergency and/or unforeseen condition, time of occurrence, and need to exceed the 20% cap for change order amounts. The Senior Vice President and CFO will make the determination if there is an emergency and/or unforeseen condition warranting the change order and authorize the change order.
- 13.5. Change Order Reporting. UPBS will provide a regular report to the CFO that will include:
- a. All purchase orders.
  - b. The requesting department and employee; and
  - c. the nature of the emergency/unforeseen condition; and
  - d. the necessity for the change order(s); and
  - e. the cost of the goods and/or services; and
  - f. the cost of the original contract and/or purchase order; and
  - g. the name of the vendor.

#### **14. Complaints Concerning Vendors**

To ensure the procurement of quality goods and services, employees are encouraged to provide feedback on service performance by vendors. Complaints concerning performance of vendors and/or the products received are to be brought to the attention of UPBS. UPBS will make comments in the vendor's file. Bids may be disqualified due to prior negative experience with a particular vendor.

#### **15. Unauthorized Purchases**

Individual faculty and staff members are not authorized to procure any goods or services on behalf of the University without following the proper procedures as outlined above. New Jersey Law states that individuals who enter into unauthorized purchases may be held personally responsible for these goods or services.

At the University's discretion, UPBS may issue a confirming purchase order for an unauthorized purchase. Employees submitting confirming purchase orders will be referred to their respective

Senior Vice Presidents and may also be subject to disciplinary action, up to and including termination, in accordance with applicable policies for violations.

**16. Criminal Liability for Fees, Commissions and Compensation Paid to Kean Employees**

Pursuant to State law, the payment of any fee, commission or compensation of any kind or the granting of any gift or gratuity of any kind, either directly or indirectly, whether or not in connection with any purchase, sale or contract, to any person employed by Kean University, having any duties or responsibilities in connection with the purchase or acquisition of any property or services by the University, by or on behalf of any seller or supplier who has made, negotiated, solicited or offered to make and contract to sell or furnish real or personal property or services to the University is prohibited. Any person offering, paying, giving, soliciting or receiving any fee, commission, compensation, gift or gratuity in violation of this section shall be guilty of a misdemeanor.

**17. Rules and Procedures Review and Distribution**

These rules and procedures shall take effect immediately and shall be posted on the University Procurement & Business Services website. They shall be reviewed and amended as necessary.