Purchasing/Procurement Policy

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BACKGROUND
In order to ensure appropriate stewardship of Humboldt State University Sponsored Programs Foundation (HSU SPF) resources, a determination must be made to show that prices paid for goods or services are fair and reasonable. The level of analysis required will largely depend on the dollar size of the order and should take into consideration not only price, but the quality, delivery, and other factors.

PURPOSE
This policy requires that the contract of procurement of goods and services by HSU SPF complies with the Procurement Standards set forth in 2 CFR Part 200 OMB Uniform Guidance §200.318 – 200.326 and/or the applicable funder requirements. Only one of the five methods of procurement, as outlined in the following Definitions section must be used for the purchase of goods or services.

HSU SPF has chosen to adopt from the 2018 National Defense Authorization Act, the $10,000 micro-purchase and $250,000 simplified acquisition thresholds, as outlined in OMB Memorandum M-18-18, dated June 20, 2018.

Employees, officers, or agents of HSU SPF must not participate in the selection, award, or administration of a contract if they have a real or apparent conflict of interest. Contractors that assist HSU SPF with developing draft specifications, requirements, statements of work, and invitations to bid must be excluded from competing for such procurements.

Any Information Technology (IT) item must be approved by Humboldt State University Information Technology Services prior to purchase.

Please note: that the purchasing of goods and services does not include subawards. (For a definition of subawards, please see pg. 44, Subrecipient Monitoring Policy.)

DEFINITIONS
Contract: a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. Based on the contract cost, one of the following five methods of procurement must be used by HSU SPF for the contract of goods and/or services:

1. Procurement by micro-purchases: $0 - $10,000
Micro-purchases are the purchase of goods or services that do not exceed $10,000 (or $2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). Micro-purchases can be made without solicitation of competitive quotes if the price is considered reasonable.

No competitive quotes are required, but an informal solicitation/quote is recommended. A cost is considered reasonable if it does not exceed what a prudent person would pay under the circumstances at the time the cost is incurred. To the extent that is practical, micro-purchases must be spread out equitably among qualified vendors.

2. Procurement by small purchase procedures: $10,000.01 - $250,000.00
Small purchase procedures cover the acquisition of goods, services or other property that are above the micro-purchase threshold and do not exceed $250,000. Price or rate quotes must be obtained from at least two qualified sources. Price or rate quotes may include, but are not limited to: advertisements, emails, internet pricing, letters,
3. **Procurement by sealed bids: $250,000.01 and greater**

Sealed bids are formally advertised, publicly solicited, firmly fixed amount contracts. The sealed bid method is preferred method for procuring construction if the following characteristics are present:

- A complete adequate and realistic specification is available.
- Two or more responsible bidders are willing and able to compete effectively for the contract.
- The contract lends itself to a firm fixed price contract and the selection of the winning bidder can be made primarily on the basis of price.

If sealed bids are used the following apply:

- The invitation for bids will be publicly advertised and **must** be solicited from at least two known vendors, providing them sufficient time to respond to the date set for opening the bids.
- The invitation for bids will include any pertinent specifications and attachments and **must** define the items or services to allow the bidder to properly respond.
- All bids will be opened publicly at the time and place prescribed in the invitation for bids.
- A firm fixed price contract award will be made in writing to the lowest qualified bidder. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs **must** be considered in determining which bid is lowest.
- Any or all bids may be rejected if there is a sound documented reason.

A cost/price analysis **must** be made that includes independent estimates, prior to receiving bids or proposals. Bids are awarded to the lowest bidder that conforms to the material terms and conditions of the solicitation.

4. **Procurement by competitive proposals: $250,000.01 and greater**

Competitive proposals are generally used when the conditions for sealed bids are not appropriate. Either a fixed amount or cost reimbursement type of contract is awarded. Independent estimates **must** be made prior to receiving bids or proposals. If this method is used, then the following apply:

- Requests for proposals (RFP) **must** be publicized and identify all factors to be evaluated and their relative importance. Any response to publicized RFP **must** be considered to the maximum extent practical.
- Proposals **must** be solicited from at least two qualified sources.
- HSU SPF **must** have and use a written method for conducting technical evaluations and selection of the proposals received.
- Contracts **must** be awarded to the responsible firm whose proposal is most advantageous for the program, with consideration given to price and other factors.
- A cost/price analysis **must** be made that includes independent estimates, prior to receiving bids or proposals.

5. **Procurement by noncompetitive proposals: $10,000.01 and greater**

A noncompetitive proposal, or, sole source contracting, is the solicitation of a proposal from only one source. This method may only be used when one or more of the following apply:

- The item is available from only one source.
- The public exigency or emergency for the requirement will not permit a delay that would result from competitive solicitation.
- The Federal awarding agency, or HSU SPF expressly authorize noncompetitive proposals in response to a written request.
- After solicitation of a number of sources, competition is determined to be insufficient. (Note: Independent estimates **must** be made prior to receiving bids or proposals.)
• If the cost will exceed $250,000 (the Simple Acquisition Threshold), then a cost/price analysis must be made that includes independent estimates, prior to receiving bids or proposals.

**ROLES AND RESPONSIBILITIES**

HSU SPF must only award contracts to vendors that are capable of performing successfully under the terms and conditions of the proposed procurement. Consider such factors as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Principal Investigators and Grant Analysts must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

Potential bidders must not be precluded from qualification during the solicitation period. Prequalified lists of persons, firms, or products must be current and include enough qualified sources to allow maximum competition. In the course of procuring goods and services, all parties with spending authority must avoid the purchase of unnecessary or duplicative items. Geographical preferences must not be imposed on federally funded procurement actions, except where explicitly mandated or encouraged by federal statute.

HSU SPF must maintain records sufficient to detail the history of procurement. These records are to include, but are not limited to:

- The rationale for the method of procurement;
- Selection of contract type;
- Contractor selection or rejection; and
- The basis for the contract price.

HSU SPF and its agents with spending authority must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus firms are used when possible. 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 paragraphs (1) through (5) of this section.

Solicitations must be written with a clear and accurate description of technical requirements of the item to be procured and must not contain features which unduly restrict competition. When necessary, the solicitation must establish the minimum essential characteristics and standards to which the material, product or service must conform to meet its intended use. A “brand name or equivalent” description may be used only when it is impractical or uneconomical to clearly and accurately describe the technical requirements. The specific features of the named brand which must be met, by offers must be clearly stated and identify all requirements which must be fulfilled and all other factors to be used in evaluating bids or proposals.

*Time and material* contracts may only be used when it is determined that no other contract is suitable. If used, each
contract must set a ceiling price that the contractor exceeds at their own risk. A high degree of oversight must be asserted in order to obtain reasonable assurance efficient methods and effective cost controls. The cost plus a percentage of cost and percentage of construction costs methods must not be used for federally funded procurements.

RELATED DOCUMENTS
2 CFR Part 200 OMB Uniform Guidance
HSU SPF Post-Award and Compliance Desk Procedures related to Purchasing/Procurement Procedures