

Foundation Board of Directors

SUBJECT (R*) Procurement	EFFECTIVE DATE (R) March 1, 2014	POLICY NUMBER TBA
RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT (R) FIU Foundation, Inc. Division Business & Finance University Park, MARC 531 Miami, Florida 33199	RESPONSIBLE UNIVERSITY OFFICER (R) Assistant Treasurer FIU Foundation, Inc.	

POLICY STATEMENT (R)

Objective

The objective of this policy is to secure supplies, goods, and services, including professional services, for the FIU Foundation in a cost-effective and responsive manner, consistent with quality requirements and specifications, in order to meet the needs of the FIU Foundation. To the extent possible, goods and services should be procured competitively to ensure reasonable prices and safeguard against favoritism or fraud. All purchases must (1) be reasonable in light of the circumstances under which the purchase is being made; (2) be intended to directly benefit the FIU Foundation and/or Florida International University, (3) not jeopardize the FIU Foundation’s tax-exempt status, (4) comply with all applicable laws and regulations; (5) comply with donor’s intent (if applicable) for the use of the funds (6) be approved by the personnel authorized by the Board of Directors to act on behalf of the FIU Foundation and (7) to work with the University in a flexible and positive manner to the University’s goals and mission.

Conflicts and Ethics

All FIU Foundation personnel directly engaged in purchasing decisions shall adhere to the standard of conduct set forth in the Code of Ethics for Public Officers and Employees, Section 112.313 of the Florida Statutes. No University or Foundation employee participating on a procurement selection committee may solicit donations from the responding vendors, unless donations or other such benefits are expressly stated in the procurement documents.

Beneficiary of Procurement

All procurements undertaken by the FIU Foundation must provide a direct benefit to the Foundation with the exception of lobbying agreements undertaken on the University’s behalf pursuant to law. Procurements where the direct beneficiary is a component of the University, including the Office of Advancement, shall be managed by the University following all applicable State and University laws, policies and procedures. All payments on contracts entered into by the Foundation shall be paid directly by the Foundation. All payments on contracts entered into by the University shall be paid by the University. In the event that Foundation funds are earmarked to support University procurement, the Foundation shall transfer to the University funds sufficient to cover the cost of payment as a reimbursement of the University’s actual costs.

Nature of Purchase and Prohibited items

The Foundation shall not purchase or procure any goods or services for the benefit of any individual or organization other than the Foundation itself or the University. Nor shall the Foundation purchase any goods to meet the personnel convenience or personal preferences of any University employee.

The Foundation is prohibited from procuring: drugs, medicines, radiological materials, hazardous chemicals, biological agents, vehicles, watercraft, aircraft, munitions, firearms, explosives, live animals, any goods or services prohibited by law or regulation or any item referenced in the Foundation's Prohibited Disbursements Policy.

No procurement shall be allowed to occur unless it is consistent with the requirements of the Internal Revenue Code and regulations thereunder.

No procurement or expenditure shall be made in support of any political campaign or on behalf of any candidate for any public office.

Authorities and Reporting Requirements

The Foundation's Chief Executive Officer is authorized to sign contracts for commitments up to \$500,000 to be calculated including all renewals and options. Contracts above \$500,000 will be approved by an officer of the board.

All leases or purchases of real property shall be reviewed and approved by the Real Estate Sub-Committee regardless of price/cost.

A list of all contracts valued over \$100,000 and executed since the last meeting of the Finance Committee shall be provided as an information item of the Finance Committee.

Exclusions

Procurement of certain goods or services is exempt from competitive procurement as completion is normally not practicable for such goods or services and/or price is not a determining factor in vendor selection. . However, this clause should not be construed to imply that competitive procurement is never appropriate for these types of goods or services. As the opening paragraph of this policy states: "(t)he purchasing objective is to secure ... goods and services, including professional services, ... in a cost-effective and responsive manner, consistent with quality requirements and specifications." These types of services should be considered for competitive procurements consistent with this policy and the needs of the Foundation whenever possible.

Exclusions from competitive procurement are:

- a) artistic services
- b) art conservation services
- c) advertisements
- d) subscriptions for professional periodicals and newspapers

- e) dues and membership in trade and professional organizations;
- f) postage
- g) employee or other travel and training reimbursement
- h) lectures
- i) lobbying
- j) audit and accounting services
- k) health services
- l) legal services
- m) speaking engagements
- n) registration fees for workshops, seminars, and conferences
- o) goods or services provided by the University or other direct support organizations of the University
- p) due diligence costs associated with real estate transactions
- q) utility services
- r) venues for fundraising and other special events

This policy does not cover employment or salaries.

This policy also does not cover business travel, business expense reimbursement (including gifts and awards) and employee meal reimbursement. These are addressed in separate policies and procedures adopted by the Foundation Board and available at <http://foundation.fiu.edu/Pages/Policies-and-Procedures.aspx>.

Coordinated Review

All insurance procurements shall be reviewed by the University's Office of Risk Management.

Information Technology and/or Telecommunications equipment purchased by the FIU Foundation shall be reviewed by the University IT department when there is applicable need to ensure system compatibility (with University IT system) and compliance with any applicable security requirements if there is impact on or use of University systems. This will be based on location of each specific FIU Foundation operation and applicable if University IT platform or phone system is to be utilized.

Procurements involving any design-related or construction services shall be coordinated with the University's Facilities Management Department.

All procurements involving legal services shall be coordinated by FIU's Office of the General Counsel, in consultation with the Foundation's President and CEO.

Legal Review and Compliance

All contracts, including leases that depart from templates approved by the Office of the General Counsel require

legal review.

The FIU Foundation shall make all purchases in compliance with applicable State of Florida and federal law,

including without limitation, laws governing the financial relationships among individuals and or entities in a position to refer or receive referrals for items or services covered by State insurance programs or commercial insurers.

REASON FOR POLICY (O*)

The purpose of this policy is to set forth the objectives and standards applicable to the procurement of goods and services by the FIU Foundation and the procedures to be utilized by the FIU Foundation. This policy shall only apply to the procurement of goods and services for the direct benefit or use of the FIU Foundation. This policy shall also establish clear lines of authority and accountability.

RELATED INFORMATION (O)

The FIU Foundation is a 501(c) 3 corporation with a sole purpose to support the mission of the FIU by encouraging, soliciting, receiving and administering gifts for the scientific, educational and charitable purposes for the advancement of Florida International University and its objectives.

CONTACTS (R)

Administrative Office’s Address	Telephone Number	Fax Number
FIU Foundation, Inc. Assistant Treasurer MARC 531 11200 SW 8 th Street Miami, Florida 33199	305-348-4762	305-348-3824

DEFINITION (R)

Authorized Officer – means any Florida International University or FIU Foundation employee authorized by the Board of Directors of the FIU Foundation to approve purchases made in accordance with this policy.

Goods - Goods are items that can be seen and touched, such as books, pens, salt, shoes, hats, and folders.

Invitation to Bid (ITB) – is a formal competitive solicitation, which is sometimes referred to as a "sealed bid". An ITB is used when price as well as specification requests, are major considerations in the award process.

Invitation to Negotiate (ITN) – is a competitive solicitation, for goods or services, where factors other than price are to be considered in the award determination. These factors may include such items as vendor experience, project plan, and design features of the product(s) offered. An ITN is used when the award decision cannot be made on lowest price alone, and procurement needs must be negotiated with the responding vendors. Examples of procurement needs for this format include a major software purchase or acquiring consultants for a “design-build” project.

Procurement – means buying, purchasing, renting, leasing, or otherwise acquiring any supplies or services within the scope of the policy. It also includes all functions that pertain to the obtaining of any supply or service including description of requirements, selection, and solicitation of services, preparation and award by contract, and all phases of contract administration.

Request for Proposal (RFP) – is a competitive solicitation, for goods or services, where factors, other than price are to be considered in the award determination. These factors may include such items as vendor experience, project plan, and design features of the product(s) offered. An RFP is used when the award decision cannot be made on lowest price alone.

Services – means the furnishing of labor, time, or effort by a contractor.

Specifications – means any description of the physical or functional characteristics, or the nature of a supply or service.

PROCEDURES (O)

The following procedures shall specifically apply to FIU Foundation procurements.

If contracts for goods or services let by the University; any State of Florida agency or department; or the federal government match the needs of the Foundation, the Foundation may waive competitive solicitation if the vendor honors the price and specifications in the state or federal contracts.

Thresholds for Quotes and Competitive Solicitation

Except for the types of goods or services identified in the Exclusions section of the accompanying policy, the following thresholds apply for the solicitation of competitive proposals from vendors.

Orders shall not be split to avoid the competitive solicitation threshold.

Lack of time is not an excuse to avoid adherence to this policy.

Thresholds:

For goods or services with total cost of \$25,000 or less, one written quote or proposal is required. The threshold of \$25,000 was set to provide flexibility in Foundation procurements; however, it is recognized that this is a high threshold. Therefore, although it is not required, purchasers should endeavor to get two written quotes for procurements above \$5,000 and below \$25,000, when the inherent flexibility of the Foundation is not needed for operational requirements.

For goods and services above 25,000 and 75,000 or less, two written quotes or proposals are needed. Purchaser may select between the two quotes based on price. The submitted quotes must be for identically specified items or scope of services. Submit both quotes with a cover sheet indicating selected vendor to Foundation office.

For goods and services above 75,000 and 125,000 or less, three written quotes must be obtained. The written quotes must clearly be quotes for identically specified items or scope of services. Purchaser may select between

the three quotes based on price. Submit all three quotes with a cover sheet indicating selected vendor to Foundation office.

For goods or services above \$125,000 use an ITN, ITB, or RFP to initiate a competitive solicitation.

Competitive Solicitation:

Procurement via ITN, ITB or RFP will be considered a competitive procurement. All responses will be formally evaluated by a committee with at least three members for ITN and RFP. The evaluation will be based on pre-determined measures or dimensions of responsiveness to the Foundations invitation or request to prospective vendors. The invitation or request shall include: project information/nature of the project, specifications, scope of services, delivery or performance schedule, contract terms, reference requirements, and submission requirements. It may require the submission of bid samples, descriptive literature, technical data or other materials. The FIU Foundation may request oral presentations to assist in evaluating a bidder's written submissions. The FIU Foundation may negotiate all terms including price, business and legal terms and location of delivery. References of current users will be requested. In addition, the FIU Foundation may request a site visit(s) or a demonstration on or off site to view or evaluate real-time operations.

If only one response is received to a competitive solicitation, the Foundation may review the solicitation responses to determine if a second call for a competitive solicitation is in the best interest of the Foundation. If it is determined that a second call would not serve a useful purpose, the Foundation may proceed with the acquisition. In its sole discretion, the Foundation may reject or cancel any competitive solicitation when determined to be in the best interest of the Foundation.

Sole Source Selection

Sole source selections for any procurement above \$25,000 must be justified via memorandum. Appropriate criteria for sole source selections must provide proof of uniqueness of offering (e.g. protected intellectual property, special location, etc.).

Emergency Procurement

Emergency procurement, defined as procuring goods or services without multiple quotes or competitive solicitation when required by thresholds, may only be used in cases of imminent threat to life or limb or in cases of imminent significant damage to real property owned by the Foundation or University.

Written Contracts

Except for goods and services listed as eligible for direct payment in the Exclusion sections of the accompanying policy, all successful procurements must result in a written agreement or contract. Payments shall not be made to vendors without written, executed agreements or contracts. All purchases must have a written justification suitable for auditing purposes and approved by the Foundation Chief Executive Officer, detailing the FIU Foundation's business purpose for the expenditure.

Records

The FIU Foundation shall be responsible for maintenance of centralized record-keeping related to vendor bid

materials, vendor justification forms, contracts and all contract management functions. The University may exercise its right to inspection of all records upon request.

Vendors

All vendors shall submit a Vendor Application to the University's Purchasing Department, along with any other documentation as the Office of the Controller may require to process and pay approved invoices.

No vendor debarred or suspended by the University's Director of Purchasing shall be used by the Foundation.

Funding and Budgets

The FIU Foundation's Chief Executive Officer or his or her designee is responsible for ensuring that there are sufficient funds and budget authority available to cover disbursements.

RESPONSIBILITIES (O)

The purchasing policy requires that all parties involved in the negotiation, performance or administration of procurement of goods and services, and contracts, to act in good faith.

HISTORY

June 9, 2018 – Policy Amended

FORMS/ONLINE PROCESSES (O)

<http://foundation.fiu.edu/Pages/Policies-and-Procedures.aspx>

***R = Required**

***O = Optional**