

MISSISSIPPI STATE UNIVERSITY

PROCUREMENT AND CONTRACTS

MANUAL



September 2016

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PURCHASING

1) Background

- i) The purchasing function promotes the objectives of the University by providing administrators, faculty, and staff member's necessary supplies, equipment and services. This function is carried out by the Procurement and Contracts Department (610 McArthur Hall, telephone 662-325-2550) and is centralized under the Office of the Vice President for Budget and Planning. The management of this department is the responsibility of the Director of Procurement and Contracts who is accountable to the Vice President for Budget and Planning.
- ii) The basic objective of Procurement and Contracts is to obtain supplies, equipment, and services efficiently and effectively – that is, in the right quality and quantity, at the right price, from the right source, and in a timely and organized manner which will provide for essential accountability of University expenditures.
- iii) Completion of the purchasing process involves the joint efforts of Procurement and Contracts, user departments, and vendors (sellers). However, Procurement and Contracts has the final authority to conduct and conclude agreements concerning prices and conditions of sale. Institutional commitments are made by Procurement and Contracts in accordance with requisitioning and ordering procedures. This department also provides a control function by acting as the legal agent of all departments within the University in dealing with every firm, which supplies or aspires to supply materials, equipment, and services.

2) Official Policy Statement

- a) Procurement and Contracts has the sole authority to order supplies, materials, and equipment, and to obligate the University for contractual services with the exception of books purchased by the Library and merchandise purchased for resale by the Bookstore. Without definite and particular permission of Procurement and Contracts, no University department may order directly by letter, telephone, or in any other manner. The University will assume no obligations except on previously issued and duly authorized purchase orders, a signed contract, or goods and services procured utilizing the procurement card system.
- b) Procurement and Contracts will conduct all activities in accordance with the following code of ethics
 - i) Give first consideration to the objectives and policies of my institution.
 - ii) Strive to obtain the maximum value for each dollar of expenditure.
 - iii) Decline personal gifts, gratuities or any other gift of value unless accepted on behalf of Mississippi State University.
 - iv) Grant all competitive offers equal consideration insofar as the established policies of my institution permit, and regard each transaction on its own merits.
 - v) Conduct business with potential and current suppliers in an atmosphere of mutual confidence and integrity, void of intentional misrepresentation.
 - vi) Demand honesty in sales representation whether offered through the medium of a verbal or written statement, an advertisement, or a sample of the product.
 - vii) Use only by consent, original ideas and designs devised by one vendor for competitive purchasing purposes.

- viii) Be willing to submit any major controversies to arbitration or other third party review, insofar as the established policies of my institution permit.
- ix) Accord a prompt and courteous reception insofar as conditions permit to all who call on legitimate business missions.
- x) Cooperate with trade and industrial association and governmental and private agencies engaged in the promotion and development of sound business methods.
- xi) Foster fair, ethical and legal trade practices.
- xii) Counsel and cooperate with members of NAEP, NIGP, NASPO and MAGPPA, and promote a spirit of unity among them

3) Public Procurement Requirements

- a) Public Procurement requirements in the State of Mississippi are based upon the laws of the State as well as the policies and procedures established by several state agencies. In addition MSU Procurement requirements are dictated by IHL policy and MSU policy. While there are many laws and policies that impact the procedures, the basic public purchasing law for commodities, supplies, construction, and printing is set forth in Section 31-7-1 to 31-7-13 of the Mississippi Code. <http://michie.com/mississippi/lpext.dll?f=templates&fn=main-h.htm&cp=>
- b) In addition to the law, most purchases must be in compliance with the policies and procedures set forth by the Office of Purchasing, Travel and Fleet Management. <http://www.procurement.msstate.edu/pdf/FleetManagementGuidelines.pdf>
- c) If an item is on a competitive bid state contract, the item should be purchased from the contract vendor. If the product will not meet the need of the department a justification must be submitted to request approval to purchase from another source. Contact Procurement and Contracts for instructions on how to process this request. <http://www.dfa.ms.gov/dfa-offices/purchasing-travel-and-fleet-management/purchasing-and-travel/competitive-contracts/>
- d) If an item is on a negotiated state contract the item should be purchased from one of the contract vendors. Departments are urged to negotiate with the vendor to obtain prices lower than the state contract. <http://www.dfa.ms.gov/dfa-offices/purchasing-travel-and-fleet-management/purchasing-and-travel/negotiated-contracts/>

If the products on the negotiated contracts will not meet the need of the department, the department should follow the statutory bidding process described in section e.

- i) Purchasing a contract item from a vendor not listed on the contract: For orders not more than \$5,000, a department may purchase the contract item from any vendor provided they receive pricing that is equal to, or lower than state contract. For orders over \$5,000, a department will be required to obtain at least two quotes and purchase from the low quote, provided the low quote must be at or below the state contract price.
- e) If an item is not on any state contract, the following thresholds shall apply:
 - i) \$0 to \$5,000 – no competition required. Departments are urged to consider seeking a second or third price to ensure obtaining the right product at a good price.
 - ii) \$5,000.01 to \$50,000 – two quotes are required. The quotes must either be signed by an authorized representative of the quoting company or must be accompanied by an email that clearly indicates the name and contact information for the individual submitting the quote.
 - (1) Quotes must be for equal quality products
 - (2) Quotes should include any shipping charges

- (3) Quotes should include any other applicable charges (installation, training, etc.)
- iii) \$50,000.01 and up – MSU must develop specifications, terms and conditions, and an Invitation to Bid document. MSU must advertised the solicitation and receive formal bids.

f) Services do not fall under these bid thresholds.

4) Functions of Procurement and Contracts

a) The functions of Procurement and Contracts are to:

- i) Prepare, with the cooperation of the academic and administrative user departments, the Mississippi Agricultural and Forestry Experiment Station (MAFES), and all Branch Experiment Stations, the Mississippi Cooperative Extension Service (MCES), the State Chemical Laboratory, the quality and quantity specifications for items and services to be purchased and establish delivery schedules.
- ii) Provide user departments/units/schools or divisions with current information on new products and services, alternative materials, and costs.
- iii) Encourage competition among vendors through competitive bidding and contract buying.
- iv) Ensure that purchase orders and contracts contain all necessary conditions, such as guarantees, warranties, governmental regulations, shipping instructions, F.O.B. points, and credit terms and discounts allowed.
- v) Develop records as needed to determine requirements of the institution for supplies, equipment, and services.
- vi) Maintain adequate records and files of requisitions, purchase orders, vendors, state contracts, product information, and prices.
- vii) Arrange for the disposal of surplus equipment.
- viii) Encourage the use of standard specifications for items performing the same functions in the various divisions of the institution.
- ix) Verify the specifications approved by Facilities Management for the academic and administrative, Mississippi Agricultural, Forestry Experiment Station Repair, and renovation projects; verify that the requests for furniture and equipment purchased with Office of Buildings and Grounds funds conform to the purchasing regulations for the State of Mississippi.
- x) Purchase license plates for all academic and administrative departmental vehicles.
- xi) Research the sources of supply, study the adequacy of specifications, analyze commodities in relation to specifications, analyze substitute materials, and forecast market trends.
- xii) Review and approve all contracts, agreements, memorandum of understanding or any other obligations or commitments to which the University will be held, with the exception of contracts administered by Sponsored Programs. This shall include but not be limited to: maintenance agreements, equipment rentals, lease of space, all rental contracts, individual

contracting agreements, consulting contracts, performance contracts, software contracts, personal service contracts, etc.

5) Requisitions

The purchasing cycle involves determining requirements by the user department/unit/school or division; communicating requirements to the Procurement and Contracts Department; processing the orders, conducting competitive bidding and contract buying, and selecting sources of supplies; issuing purchase orders or contracts; and receiving materials.

a) Determining Requirements

- i) The user department/unit/school or division determines its needs and initiates the request for purchase by completing the requisition form (Banner). Assistance will be provided by Procurement and Contracts when needed to ensure that one's needs are being met and the "right" item purchased. Procurement and Contracts is responsible for weighing all the factors involved in a purchase by bringing together the experience and judgment of all who are concerned. This will help ensure achieving the basic objective of obtaining the right quality and quantity, at the right price, from the right source, and at the right time.
- ii) The Department Head and/or Budget Manager approves the purchase request in Banner and obtains appropriate departmental approvals (also in Banner) before submitting the request (via Banner) to Procurement and Contracts.
- iii) It should be noted that purchases of less than \$5,000 can most often be made more efficiently and economically by utilizing the MSU approved Procurement Card. It has been shown that the manpower, paper, postage, etc. required to produce a Purchase Order can often exceed \$100 while the costs to process a P-card purchase are probably less than \$25. To spend \$100 to purchase an item with a cost of less than \$5,000 may not be a good use of public funds.

b) Communicating Requirements

- i) Information about requirements of a user department/unit/school or division is communicated to Procurement and Contracts by issuance of a requisition on which the requirements are clearly stated.
- ii) Once the requisition prints in Procurement and Contracts, it is distributed to the proper Purchasing Manager and then one of the following happens:
 - (1) Processed immediately and a purchase order number assigned.
 - (2) Quotations are reviewed. If adequate quotes are not provided by the department, Procurement and Contracts may solicit additional quotations (\$5,000.01 through \$50,000).
 - (3) Advertised and sealed bids are received on the items requested (\$50,000.01 and over)
 - (4) Given to the State Contract Specialist who checks prices, terms, and discounts to ensure compliance with the State contract regulations

6) Processing the Orders, Conducting Competitive Bidding, Contract Buying, and Selecting Sources of Supplies

a) Orders that are processed immediately:

- i) Items totaling not more than \$5,000.00.
- ii) Resale items.
- iii) Books and films in any amount.

b) *Emergency or Rush Orders*

- i) Emergency or rush orders for not more than \$5,000.00 that do not require price quotations or bids are handled immediately. The Purchasing Manager will place the emergency order by telephone, fax or e-mail to the vendor.
- ii) For emergency or rush orders greater than \$5,000.00, contact your Purchasing Manager for instructions.

c) *Requisitions Requiring Quotes (\$5,000.01 to \$50,000)*

If a requisition is received for item(s) totaling \$5,000.01 to \$50,000, the department should also submit at least two quotes.

d) *Requisitions Requiring Bids (\$50,000.01 and Over)*

If a requisition is received for item(s) totaling \$50,000.01 or more, an advertisement is placed in the news media once a week for two consecutive weeks with sealed bids being opened not less than seven working days following the second advertisement.

- i) Bid requests should be submitted via encumbered requisition with Word specifications for any item that takes more than a few lines to describe. Contact either the Bid Specialist or your Purchasing Manager for detailed instructions.
- ii) Brand names may not be used in bid specifications without prior approval from the Office of Purchasing and Travel. If a brand name is required, submit a justification with your requisition and Procurement and Contracts will obtain the approval.
- iii) Once bids are received, the Bid Specialist electronically submits the bids, spreadsheet, other applicable documents/information, and the Bid Approval Document to the department requesting item(s) to ensure placing the order with the lowest and best bidder according to specifications. If the department does not accept the low bid, the department must write a letter justifying why they are not taking the low bid. If the Purchasing Manager determines the justification appears valid the request is sent to the Office of Purchasing, Travel and Fleet Management for final review and approval or denial.

e) *Requisitions For State Contract Items*

Requisitions received by the State Contract Specialist are checked against the applicable state contract(s) for current prices, terms, F.O.B., and quantity discounts. The requisitions are then sent to the Order Room to be entered into the computer, printed and mailed, faxed or e-mailed to the vendors. Sole-source items, trade-ins, and sales of state-owned property are sent to the Office of Purchasing, Travel and Fleet Management for approval.

f) *Paying with Federal Funds*

When using any Federal Funds, the department must ensure compliance with OMB Circular A-110, Sections 40-48 http://www.whitehouse.gov/omb/circulars_a110. Mississippi State University will continue to follow the procurement requirement of OMB Circular A-110 and will utilize the grace period deadline of July 1, 2017 per 2 CFR 200.317-326.

7) *Issuing Purchase Orders or Contracts*

- a) Once a purchase order or contract has been approved by the Purchasing Manager, the Requisition Control Assistants enter the purchase order in the computer. Funds are encumbered when the order is entered. The original is mailed, faxed or e-mailed to the vendor by Procurement and Contracts. The initiating department receives an electronic copy of the purchase order. Procurement and Contracts prints one copy, which is forwarded to the appropriate

Accounts Payable Specialist. A copy of the Purchase Order is electronically sent to the Receiving Department.

8) Invoices

Invoices for purchases are received from vendors by Procurement and Contracts. The Accounts Payable Specialist enters the invoice into Banner and sends the department an email notifying the department the invoice is ready to be reviewed and approved. The department should verify receipt and acceptance of the product or service and the accuracy of the invoice prior to approval in Banner. After approval by the department the Accounts Payable Specialist processes the invoice for payment.

- i. If an original invoice is sent by a vendor to a department, it should immediately be forwarded to Procurement and Contracts.
- ii. Establishing Date for Payment of Invoices
 - a. Section 31-7-305, of the Mississippi Code, requires that suppliers be paid within forty-five (45) days of receipt of goods in good condition or receipt of invoice, whichever is later. Disputed invoices may have a longer period if the reasons are documented, but amounts not in dispute must be paid on time. An interest penalty of one and one-half percent (1½%) per month is required to be added on all invoices, which are not paid within the forty-five (45) period. Any penalty for late payments will be charged to the department responsible for delay.
 - b. It is necessary to establish a date to begin counting the 45-day period. The date used as the beginning of the 45-day period is the day the invoice is received by Procurement and Contracts and entered into Banner. If the goods are damaged or the invoice is priced incorrectly or there are other problems or concerns, the department should contact Procurement and Contracts immediately for assistance in properly handling and documenting the problems. As soon as the issues are resolved, the department should approve the invoice for payment.

9) Receiving Materials

- a) Ordered materials are received by the University Receiving Station. The Receiving Station is managed by a supervisor who reports to the Property Officer. The Property Officer is responsible for both the receiving of materials and property control functions.
- b) Purchases are delivered to the appropriate department by the Receiving Station personnel. Large or heavy pieces of equipment may be delivered by a truck line at the direction of the Receiving Station. Deliveries are made daily. The Receiving Station personnel do not open and check the contents of packages.
- c) Someone in the department/unit/school or division who is accountable for purchase orders is to immediately inspect the shipment upon receipt.
- d) ***Partial Shipment***
For partial shipments on University orders, complete a partial payment in Banner.
- e) ***Damaged Shipment***
The Receiving Station personnel are responsible for checking cartons for damage when they are received. If a carton is torn and the receiving clerk suspects there may be concealed damage, this

information is noted on the Freight Bill and the freight line representative is asked to sign the bill acknowledging that the carton is damaged. If a department receives a damage shipment, the carton must be retained and Procurement and Contracts notified. Procurement and Contracts will then contact receiving to pick up the damaged shipment. The Receiving Station will file a damage report with the freight line and request an inspection. Once the inspection is made, the Receiving Station will file a freight claim with the carrier or they will notify the vendor to file a claim. On shipments that are F.O.B. Mississippi State (i.e., destination), the vendor is responsible for the goods until they are received at Mississippi State University in good condition. In the event the shipment is damaged, the vendor should file the claim and promptly replace the damaged items. On shipments that are F.O.B. shipping point, the buyer (i.e., M.S.U.) is responsible for the shipments and must file the freight claim.

10) Corresponding With Vendors

- i) If there is a need to contact a vendor pertaining to an order, for example, an unusually long delay before delivery, please notify the Accounts Payable Specialist at Procurement and Contracts. All letters or calls to vendors regarding purchase orders and deliveries are to be made by Procurement and Contracts. In addition, all changes and substitutions must be approved by Procurement and Contracts and communicated by them to the vendor in written or verbal format.

11) Maintenance Agreements

- i) All maintenance agreements are to be signed by Procurement and Contracts. They should be attached to a signed requisition and sent to Procurement and Contracts.

12) State Sales and Federal Excise Taxes

- i) Mississippi state sales taxes and federal excise taxes are not paid on purchases for the academic and administrative departments, MAFES, MCES, State Chemical Laboratory, or Forest Products Utilization Laboratory. Tax exemption certificate is available at <http://www.procurement.msstate.edu/forms/taxform.pdf>.

13) License Plates

- i) Upon receipt of an invoice and Title Application for the purchase of a vehicle, Procurement and Contracts processes the paperwork for the purchase of license plates for all academic administrative departmental vehicles.

14) Computers and Telecommunications Equipment

- i) The Mississippi Department of Information Technology Services (ITS) has given the university an exemption on the purchase of computers and telecommunications equipment of \$250,000.00 and less. The purchase of computer and telecommunications equipment below these levels do not require ITS approval but must comply with State purchasing laws. The purchase of computer and telecommunications equipment with 100% Federal funds for any dollar amount are exempt from ITS approval, but must comply with State purchasing laws. For additional information, contact the Procurement and Contracts Department.
- ii) Any IT purchase over \$5000.00 requires either quotes/bid or sole source approval.

15) Postage and Postal Supplies/Services

- i) All postage and postal supplies/services can be paid for using the procurement card.

16) Renting or Leasing Equipment

- i) All rental or lease agreements must be signed by Procurement and Contracts.

17) Procurement Card

- a) Purchases made using the Procurement Card must be in compliance with the guidelines set forth in the Procurement Card Users Guide.
<http://www.procurement.msstate.edu/procurement/procard/procardguide.pdf>

18) Contract Guidelines

Sponsored program contracts shall not fall under these guidelines. All other contracts, agreements, memorandum of understanding or any other obligations or commitments to which the University will be held shall be entered into only after full compliance with these guidelines.

- a) Authority to sign contracts has been delegated by the President to the Division of Budget and Planning; specifically, to the Director of Procurement and Contracts. No one else is authorized to sign a contract unless they have a letter from the President.
- b) A contract is "an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law". Black's Law Dictionary, Seventh Edition. With that background, all documents to be executed on behalf of MSU and any of its subunits, whether the subunits are referred to as a Center, a Department, a College, or otherwise, and which will result in a "contract" between MSU and a third party, must be handled consistently and must contain terms and conditions that are consistent with all applicable State laws, MSU policies, and Board of Trustees policies.
- c) A letter from the President authorizing an individual to enter into a contract does not act as an exemption to the process set forth below.
- d) See our Contract Guidelines for help with processing the various contracts including revenue generating contracts.
<http://www.procurement.msstate.edu/pdf/ContractGuidelines.pdf>

19) IHL Approval

IHL Board approval is required for all contracts of more than \$250,000. Upon completion of an acceptable contract P&C will obtain a completed agenda item from the department and forward the agenda item to the President's office for inclusion on the IHL Board agenda. Note that the lead-time on obtaining IHL approval is usually about one month or more so departments are urged to start early.

20) HRM Forms

a. Contracting Services of Individuals, Sole Proprietors, and Nonresident Aliens

In order to avoid issues in meeting agreed upon payment terms, we strongly recommend that all required paperwork and forms be obtained at the time the contract is being negotiated. Fees paid for services to individuals require that an HRM 323 (Classification Checklist Form) and HRM 322 (Consultant Services Cover Sheet) (<http://www.msstate.edu/dept/audit/PDF/6504A.pdf>) be completed prior to the individuals' performance of said services. If the individual is a PERS (Public Employees' Retirement System) Service Retiree, then the Department of Human Resource Management must be contacted and further paperwork will need to be processed through the PERS office in Jackson. Nonresident aliens need to complete an IRS Form 8233 [Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual]. Nonresident alien teachers and researchers must also file a

statement along with Form 8233 (see Appendix B of IRS Publication 519). Once the form and statement is received by Accounts Payable it must then be properly sent via mail to the IRS and no payment can be made until ten days after the mailing.

21) Available Tools

a. *Single Source*

<http://www.procurement.msstate.edu/optrequests>

This form is to be used if there is only one item that can meet the needs of the department and there is only one supplier of the item. Again, the form provides the questions that must be answered, in detail, so that the decision makers can clearly see why we must by-pass the statutory requirements of the competitive process. If your justification was printed on the front page of the newspaper, what would be the reaction of the everyday taxpayer? Provide enough information that there will be no question.

b. *Emergency Approval*

<http://www.procurement.msstate.edu/optrequests.php>

This form is to be used when there is a true emergency situation that requires bypassing the statutory requirements for competition. Once again, telling the complete story will aid in this process.

c. *Request For Payment For Association Dues Or Fees*

<http://www.procurement.msstate.edu/forms/dues.pdf>

The Attorney General has determined that there are certain occasions when it is acceptable for MSU to pay association dues or fees. Completion of this form will ensure that the department and MSU are in full compliance with the guidelines.

d. *Food Purchase Form*

<http://www.procurement.msstate.edu/forms/foodpurchase.pdf>

Any time we are purchasing food for individuals or a group this form must be completed. Once again, this process ensures that we have the appropriate information to substantiate the expenditure.

e. *Hotel Charges Form*

<http://www.procurement.msstate.edu/procard/forms/hotelcharges.pdf>

Any time we are purchasing rooms for individuals or a group this form must be completed. Once again, this process ensures that we have the appropriate information to substantiate the expenditure.

f. *Mandatory Addendum*

<http://www.procurement.msstate.edu/contracts/mandatoryaddendum.pdf>

Any time a vendor will not accept our standard service contract we require that this addendum be made a part of the contract. The addendum has been reviewed by our legal team and ensures compliance with the laws and policies of the State and the Institution.

g. *Rental Agreement For Equipment*

http://www.procurement.msstate.edu/contracts/equipment_rental.pdf

This contract can be used when renting equipment. While it was specifically designed for the rental of copiers, it can be adapted to other types of equipment by including an addendum. Once again, it contains all of the clauses and protections, which we require.

22) Term Contracts

- a) This is a contract whereby a source of supply is established for a specified period of time for specified services or supplies. These contracts allow the University to complete the bidding process one time and then purchase the identical item or services repeatedly over the term of the contract. These contracts can increase efficiency by reducing the number of times bids are solicited and by speeding up the time from need recognition to acquisition. In addition, these contracts can provide better prices by aggregating the needs of the entire university over the term of the contract.
- b) The department should determine the items or services they will need on a reoccurring basis. The requisition should include the list of the items or services as well as estimated quantities of each. The P&C staff will work with the department to ensure the appropriate clauses and conditions are included in the IFB or RFP. Some of the issues that must be determined in the development of the solicitation would include:
 - i) Should it be awarded all to one vendor or line-by-line?
 - ii) Can one product/service or group of products/services meet the needs of the majority of departments on campus?

23) Location, Address, Phone and Hours of Operation

- a) **Office Location**
 - i) McArthur Hall, 5th Floor
- b) **Mailing Address**
 - i) Mississippi State University
Procurement and Contracts
PO Box 5307
Mississippi State, MS 39762
- c) **Hours of Operation**
 - i) M-F 8:00 am to 5:00 pm
- d) **Phone**
 - i) Director (662) 325-2861
 - ii) Department (662)325-2550
- e) **Fax**
 - i) Director (662) 325-2135
 - ii) Department (662) 325-8640

27) Staff Information

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