

**EMPORIA STATE UNIVERSITY**

# **Procurement Policies**

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Effective Date  
October 1, 2014

# Emporia State University Procurement Policies

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## **Section I**

### **Authority and Delegation**

K.S.A. 76-769 grants authority to the Kansas Board of Regents to adopt policies regarding the acquisition of any supplies, materials, equipment, goods, property or services, including professional services, to be acquired by a state educational institution and any lease of real property entered into by a state education institution.

The Board of Regents has granted the authority to the President of Emporia State University (the University or ESU) as the Chief Executive Officer of one of the state universities to develop and implement the policies required to administer and operate with all terms, conditions and requirements detailed in K.S.A. 76-769 and Board Policies.

The President of Emporia State University may delegate the administration of the policies and procedures developed to the appropriate staff and departments on the campus at his/her sole discretion.

These policies conform to the Kansas Board of Regents policies regarding procurement.

### **Section Ia**

#### **Administration of the Delegated Authority**

Upon the effective date of these Procurement Policies, the President of Emporia State University delegates all purchasing authority to the Emporia State University Controller and/or Director of Purchasing. The Emporia State University Controller and/or Director of Purchasing may further delegate their authority to persons within University departments for the efficient operation of the University in accordance with the terms of this Emporia State University Procurement Policies document.

Consistent with the provisions of this Policy document, the ESU Controller and/or Director of Purchasing may adopt operational procedures governing the internal purchasing functions of the University, including purchases at the department level.

## **Section II**

### **Purpose**

The Emporia State University Procurement Policies document is intended to establish the parameters of a purchasing program that is specifically designed to support and facilitate the instructional, research, and public service missions of the University by applying the best methods and best business practices when the University is acquiring supplies, materials, equipment, goods, property, or services, including professional services (see Appendix A).

Within the context of the University environment, these Policies are intended to promote the development and use of purchasing processes that promote the pursuit of excellence and the best interests of the University while maintaining the highest possible integrity, broad based competition, fair and equal treatment of the business community, and increased economies and efficiencies in the purchasing process. Examples include seeking higher education pricing in lieu of governmental pricing, utilizing procurement process and procedures that allow shorter processing times, developing specifications that are University specific, and increasing the flexibility of the purchasing process.

The University shall communicate and collaborate with the State of Kansas Office of Procurement and Contracts and other state universities to ensure that all procurement opportunities where mutual benefit can be obtained are achieved. Examples include participating in state sponsored contract development meetings, utilizing state contracts when they meet the needs of the University, and allowing state agencies and other state universities to access contracts and pricing agreements entered into by the University whenever possible.

The ESU Controller and/or Director of Purchasing and members of the ESU Purchasing Office shall work collaboratively with the University Internal Auditor as operating procedures and reporting mechanisms are developed and audits of individual departments are conducted to ensure adherence to proper purchasing procedures.

## **Section III Applicability**

- A. General Applicability. These Policies apply to the acquisition of all supplies, materials, equipment, goods, property or services, including professional services to be acquired by ESU and any lease of real property entered into by the University and are paid for with state funds (see Appendix A).
  
- B. Technology Purchases. All technology purchases must conform to University standards related to the institution's technology architecture and information security policies and procedures. Additionally, all technology purchases must be approved by IT (see Appendix A, Item 1.b).
  
- C. Promotion and Publicity. All promotion or publicity purchases must conform to ESU Marketing and Media Relations standards/guidelines related to titles, names, logos, and trade/service marks. Additionally, all promotion or publicity must be approved by ESU Marketing and Media Relations (see Appendix A, Item 1.c).
  
- D. Exclusions. These Policies do not apply to the following purchases:
  - 1. Purchases other than technology purchases and promotion and publicity (see B. and C. above) made by ESU affiliated organizations with funds not on deposit with the State Treasury;
  - 2. Memorial Union Corporation;
  - 3. Student Organizations/Safekeeping Organization Accounts;
  - 4. Alumni Association of Emporia State University; and
  - 5. Emporia State University Foundation, Inc.

## **Section IV**

### **Ethics and Conflict of Interest**

- A. Code of Ethics. All parties involved in the negotiation, performance, or administration of the acquisition of any supplies, materials, equipment, goods, property or services, including professional services to be acquired by ESU and any lease of real property entered into by the University are bound to act in good faith. Any person employed by the University who purchases supplies, materials, equipment, goods, property or services, including professional services, to be acquired by a state educational institution and any lease of real property entered into by a state education institution, or is involved in the purchasing process for the University, shall be held to the highest degree of trust and shall be bound to the Emporia State University Procurement Code of Ethics (see Appendix B).
- B. Conflict of Interest. Emporia State University “Conflict of Interest” policy defines the processes to be followed in articulating and resolving conflicts of interest at the University. When the ESU Controller and/or Director of Purchasing has reason to believe that a conflict of interest may exist in the acquisition of goods and services, he/she will direct the affected department to comply with the procedures described in this policy. The Emporia State University Conflict of Interest Policy is located at the following link:

<http://www.emporia.edu/acadaff/pdf/EmployeePolicyManual.pdf>

## Section V Competitive Bids

- A. Competitive Bid Policy. It shall be the policy of the University to purchase required supplies, materials, equipment, goods, property or services, including professional services, in a manner that affords vendors a fair and equal opportunity to compete.
- B. Competitive Bid Thresholds. The following bid thresholds shall apply to all purchases (see also Appendix C and Appendix D), with the exception of Grant funded purchases (see Employee Tab). All IT and Marketing standards must be met regardless of purchase price (see Section III B and C).
1. **Purchases of \$4,999 or less** – Goods and services in this purchase price range are not subject to any bidding process.
  2. **Informal Bid Solicitation from \$5,000 to \$9,999** – The ESU Controller and/or Director of Purchasing may delegate authority to campus departments for all purchases of supplies, materials, equipment, goods, property or services, including professional services, and leases of real property, in accordance with applicable Kansas law and approved purchasing procedures.
  3. **Formal Bid Solicitation \$ 10,000 and over** – Purchases of supplies, materials, equipment, goods, property or services, including professional services, and leases of real property shall be accomplished by utilizing an approved competitive solicitation type, or by an approved noncompetitive process as determined by the ESU Controller and/or Director of Purchasing in accordance with the terms of this Policy document and approved purchasing procedures.
- C. Competitive Bid Notification. All competitive formal bid transactions, regardless of type of competitive solicitation utilized, shall be advertised in a manner that provides reasonable notice to the public of the competitive bid opportunity. Reasonable notice may include, but is not limited to, electronic bulletin boards, posting of hard copy documents in a public location, publication in appropriate newspapers and trade journals, and other means as deemed appropriate by the ESU Controller and/or Director of Purchasing in accordance with the terms of this Policy document and approved purchasing procedures.
- D. Specifications. All bid specifications shall be developed in a manner that is not unduly restrictive while recognizing the purpose of these Policies as detailed in Section II of this document.
- E. Competitive Bid Openings. Formal competitive transaction bid openings shall be open to the public in accordance with approved purchasing bid document language.

- F. Evaluations and Award. All formal competitive bid responses shall be evaluated as outlined in the competitive bid documents. The ESU Controller and/or Director of Purchasing shall ensure the award decision treats all vendors equitably and is made in accordance with the specifications, terms and conditions utilized for the competitive transaction as well as the terms of this policy document and approved purchasing procedures. Unless otherwise specified in approved purchasing procedures and in the specific bid documents governing a transaction, the criteria for award shall be on the basis of lowest responsible bidder meeting the specifications, terms and conditions established in the bid documents. Any change in this criteria shall be supported by a written determination prepared or approved by the ESU Controller and/or Director of Purchasing.

## **Section VI Vendor Suspension**

The ESU Controller and/or Director of Purchasing may issue a written determination to suspend a vendor from doing business with the University pending an investigation to determine whether cause exists for debarment in accordance with approved policies based on K.S.A. 75-37,103.

A written notice of the suspension, including a copy of the determination, shall be sent to the suspended vendor with a copy to the Vice President of Administration and Fiscal Affairs.

The suspension period will be effective upon issuance of the notice of suspension.

## **Section VII Vendor Debarment**

- A. Reasons for Debarment. A vendor may be debarred for any of the following reasons:
1. Conviction of a criminal offense in relation to obtaining or attempting to obtain a University contract or in the performance of such contract;
  2. Conviction under State of Kansas or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records or receiving stolen property;
  3. Conviction under State of Kansas or Federal antitrust statutes arising out of the submission of bids or proposals;
  4. Failure to perform in accordance with the terms of one or more contracts following notice of such failure, or a history of failure to perform, or of unsatisfactory performance on one or more contracts;
  5. The vendor is currently under debarment by any other governmental entity that is based upon a settlement agreement or a final administrative or judicial determination issued by a Federal, state or local governmental entity.

Following completion of the investigation to determine whether a vendor has engaged in activities that are cause for debarment, the ESU Controller and/or Director of Purchasing may debar the vendor for a period of time commensurate with the seriousness of the findings.

- B. Notice of Debarment. A written notice of debarment shall be sent to the vendor containing the following information:
1. State the debarment period; and
  2. Inform the debarred vendor that any person(s) representing the debarred vendor during the debarment period may conduct no business with the University and that any solicitation responses received from the debarred vendor during the debarment period shall not be considered.
- C. Effective Date of Debarment. The debarment period will be effective the date of the written notice being sent to the debarred vendor and all University departments.

## **Section VIII Dispute Resolution**

- A. Authority. The ESU Controller and/or Director of Purchasing is authorized to resolve, in accordance with approved policies, any protests regarding any and all purchasing matters including but not limited to:
1. Any protest concerning the bid solicitation or award of a contract or purchase order; and
  2. Any controversy arising between the University and a contractor by virtue of a contract or purchase order between them, including, without limitation, controversies based upon breach of contract, mistake, misrepresentation, or any other cause for contract modification or rescission.
- B. Decision. The ESU Controller and/or Director of Purchasing shall render a written decision regarding the protest within seven (7) working days after the protest and/or any subsequently submitted information is received. The ESU Controller and/or Director of Purchasing shall furnish a copy of the decision to the protestor in writing.
- C. Appeal. The protesting party may appeal the written determination of the ESU Controller and/or Director of Purchasing. If the protesting party desires to appeal, he/she must submit his/her written request for appeal to the ESU Vice President of Administration and Fiscal Affairs within seven (7) calendar days after receipt of the written determination of the ESU Controller and/or Director of Purchasing. The decision of the Vice President of Administration and Fiscal Affairs shall constitute the Final Agency Order regarding the matter, which shall be conveyed in the decision.

## **Section IX Procurement Records**

Procurement records are subject to disclosure pursuant to the provisions of the Kansas Open Records Act. The terms of this act may be found in K.S.A. 45-215 through K.S.A. 45-223: <http://www.kslegislature.org/>

Also, see the following website:

<http://www.emporia.edu/acadaff/pdf/EmployeePolicyManual.pdf>

Procurement records shall be retained and disposed of in accordance with applicable records retention policies of the State of Kansas and ESU. For records related to purchasing, contact the Custodian of Records for ESU, who is the University General Counsel.

## **Appendix A**

# **Emporia State University Purchasing Guidelines**

Listed below are the ESU purchasing guidelines effective as of October 1, 2014.

The Kansas Board of Regents (KBOR) has stated that each State University shall develop and be guided by procurement policies and procedures that:

- Focus on the stewardship of public funds;
- Advance and support the mission of the institution;
- Promote a competitive and fair procurement environment; and
- Are open and transparent, including adherence to the Kansas Open Records Act.

KBOR encourages state universities “to engage in cooperative purchasing opportunities with other public universities or other state agencies to achieve the lowest competitive price, including purchasing from current State central purchasing contracts, state travel services, and products pursuant to the Prison Made Goods Act, if it is in the best interest of the state university.”

In keeping with KBOR policy, ESU’s goal for purchasing goods and services is to obtain the best quality of goods and services at the lowest possible price. ESU is entrusted with public funds and as such the spending of these funds is done with the idea of being fiscally responsible with public and private funds. Competition should be sought whenever possible and the purchase made from the responsible vendor with the low bid meeting specifications.

ESU Controller/Director of Purchasing has as its primary goal to help departments conserve financial resources while maintaining the highest possible integrity, broad based competition, and fair and equal treatment of the business community.

### **1. General Purchasing Guidelines**

- a) All current ESU established contracts are in effect until renegotiated or expired, i.e., food service, bookstore, banking, snack vending, and beverage contracts. Check the State purchasing website for a listing of exclusive use vendors.
- b) The purchase, lease, and/or license of computers, printers, scanners, cameras, other devices containing internal memory or memory cards or other devices, all related equipment, peripherals, hardware, software, and other information technology must be approved by the ESU IT Department on a purchase requisition to ensure the item is in compliance with and can be supported by ESU’s technology architecture and information security policies and procedures. The IT Department may from time to time publish lists of pre-approved items that can be relied upon when purchasing, leasing, and/or licensing information technology. IT policies and procedures can be found at <http://www.emporia.edu/it/about/policies.html>.

- c) All promotion and publicity of the University requires the approval of ESU Marketing and Media Relations on a purchase requisition to ensure compliance with the required standards/guidelines. It is ESU Marketing and Media Relations' responsibility to establish and maintain the required standards/guidelines for the use in promotion, publicity, and/or marketing materials of ESU trademarks and service marks, institutional names, designs, logos, graphics, video files, audio files, text, photographs, and other materials. Promotion or publicity of a specific school, college, department, or organization (including Recognized Student Organizations "RSOs") must comply with these standards/guidelines for all promotion, publicity, and/or marketing of the respective school, college, department, or organization. All promotion, publicity, and/or marketing of the University shall have final approval by ESU Marketing and Media Relations. Standards/Guidelines can be found at <https://www.emporia.edu/marketing/styleguide>.
- d) State use items such as toner cartridges, binders, and other selected office supplies must be purchased from designated state use vendors.
- e) Professional and consultant service contracts costing \$10,000 and above shall be bid by the University Purchasing Office unless determined to be a sole source.
- f) The University retains the ability to use State contracts for any and all purchases. The University should use such contracts if it provides the desired quality of goods at the lowest possible price. A complete list of State contracts can be found at <http://www.admin.ks.gov/>.
- g) Travel transactions, including registration, lodging, airfare, etc. follow established guidelines, per the Travel Expense Reimbursement Handbook located at [www.da.ks.gov/ar/](http://www.da.ks.gov/ar/).
- h) Subscriptions, memberships, and other non-commodity items follow established guidelines.
- i) The Business Procurement Card (BPC) can be used for purchases. Technology as well as promotion, publicity, and/or marketing purchases must be approved prior to using the BPC. Indication of a BPC order can be made on the PR by checking the applicable box.
- j) Lease of Real Property between a state educational institution and any other party for vacant space that is less than 10,000 square feet or between a state educational institution and any other party for a term not to exceed 24 months should be executed in accordance with K.S.A. 76-769. See Section 4 for additional information.
- k) Certain departments within the Physical Plant, including grounds operations, plumbers, electricians, motor pool, and carpenters will be responsible for purchasing within that trade or department and maintaining an inventory of regularly purchased items to satisfy the daily needs of the staff within the particular trade.

- l) The University Purchasing Program does not include capital improvement, renovation, new construction, or any other project that currently requires review by the Office of Facilities and Procurement Management, a department within the Department of Administration.
- m) IT projects may also require review by the Kansas Information Technology Office (KITO) as outlined in the Kansas Statutes.
- n) When vendors contact ESU staff about their products, state employees must comply with applicable ethics laws, Kansas Ethics Commission opinions and guidance, ESU and KBOR policy by not accepting gifts.
- o) Documentation of informal bid results must be submitted to the Controller/Director of Purchasing for reporting potential savings. The University may be required to report the savings to the Kansas Board of Regents.
- p) Vendors will be provided information on how and where to access information concerning formal bids i.e., the ESU Purchasing website, the Kansas Register, or local media.
- q) The University reserves the right to modify these policies and procedures.

## 2. **Guidelines Based on Dollar Amount of Purchase**

### a) **All Purchases of any Dollar Amount**

Items purchased from State of Kansas and/or ESU contracts can be purchased pursuant to the terms of the applicable contract. Consortium agreements that have been approved through the Purchasing Office, such as E & I, MHEC, NJPA, etc., are considered ESU contracts. If an item is available from a State of Kansas and/or ESU contract but is purchased from another source, a prior authorization form must be submitted to support the off-contract purchase. ESU requires a minimum savings of \$100 for off-contract purchases.

### b) **Purchases totaling \$0 to \$4,999**

Goods and services that have a total purchase price of \$4,999 or less, are not subject to any bidding process. "Total purchase price" means the total of all installment payments or a lump sum payment. Splitting a purchase into two or more transactions in order to keep the "total purchase price" at or below \$4,999 is a violation of Emporia State University Procurement Policies.

### c) **Purchases totaling \$5,000 to \$9,999**

Goods and services that have a total purchase price of \$5,000 to \$9,999 are subject to the informal bidding process (see Appendix C). "Total purchase price" means the total of all installment payments or a lump sum payment. Splitting a purchase into two or more transactions in order to keep the "total purchase price" within the \$5,000 to \$9,999 range is a violation of Emporia State University Procurement Policies.

### d) **Purchases totaling \$10,000 and over**

Goods and services that have a total purchase price of \$10,000 and over are subject to the formal bidding process (see Appendix D). "Total purchase price" means the total of all installment payments or a lump sum payment. Splitting a purchase into two or more transactions in order to keep the "total purchase price" at or below \$9,999 is a violation of Emporia State University Procurement Policies.

## 3. **Signature Authority on Purchases**

All signature delegations must be on file with the ESU Business Office (see Appendix E for sample delegation form).

### a) **Purchases totaling \$0 to \$4,999**

The Vice President, Dean, Chair, or Director can delegate signature authority for single expenditures.

### b) **Purchases totaling \$5,000 to \$9,999**

Requires the signature of the Vice President, Dean, Chair, or Director.

### c) **Purchases totaling \$10,000 and over**

Requires the signature of the Dean or Vice-President of that unit.

**4. Lease/Rental of Space**

All space that is to be rented must go through the contracting process. A formal bid process must be done.

“Lease of real property” means an agreement to lease real property: (a) between the University and any of its affiliated corporations; (b) between the University and a municipality; (c) between the University and any other party for vacant space that is less than 10,000 square feet; or (d) between the University and any other party for a term not to exceed 24 months. The term, “lease of real property” also includes any agreement to lease real property from the University and any agreement to lease real property to a University.

Any lease of real property may be entered into by the University in accordance with policies adopted by the Board of Regents and shall not be subject to K.S.A. 75-1005 [when division of printing must print paperwork], 75-3737a through 75-3741b [director of purchases], 75-3742 through 75-3744 [execution and approval of contracts], and 75-37,130 through 75-37,134 [procurement of professional services]. The applicable policies of the Board of Regents are at Board Policy Manual, Section II.E.11.a.i-v; and Section II.E.11.e.i-iii.

**5. Purchases Requiring ESU Contract**

It is anticipated that the University may initiate purchasing agreements/contracts that would specify a particular vendor for specific products and/or services for an established period of time. For purposes of this policy, a “contract” is any agreement or promise which purports to obligate the University to perform some responsibility or to take some specific action(s).

All University contracts must be in writing and must be in the name of Emporia State University. Colleges, individual schools, division and departments do not have authority to enter into contracts. As set forth in the Kansas Board of Regents Policy, additional requirements or requirements that conflict with this section may be required for contracts that purport to sell, lease, or purchase real property, contracts between the University and other state agencies, or contracts that require the expenditure or transfer of an amount greater than one million dollars (\$1,000,000).

The President, the Vice President for Administration and Fiscal Affairs, and the Associate Vice President for Fiscal Affairs are the only individuals authorized to contractually bind the University by the execution of a contract. Contracts made on behalf of the Emporia State University Foundation shall not be binding on ESU. The President, the Vice President for Administration and Fiscal Affairs, or the Associate Vice President for Fiscal Affairs may further delegate authority to execute contracts (and thereby legally commit) on behalf of the University. A list of additional parties authorized to execute contracts on behalf of the University can be obtained from the Vice President for Administration and Fiscal Affairs.

Authorized signatories may delegate their authority at their discretion. Any such delegation must be in writing and must state: to whom authority is being delegated; any limitations on the delegated authority; the term during which the delegated authority shall be effective; and, signed by the official delegating their authority (see Appendix E). Any official delegating his/her authority is responsible for the delegate's exercise of the delegated authority. All persons to whom contract authority is delegated must be a full time employee of ESU who is subordinate to the official delegating the contract authority.

All officials are responsible for the exercise of contract authority by their subordinates, whether the subordinate has actual or delegated contract authority.

The following contracts shall be reviewed by the University's General Counsel prior to their execution:

- a) Contracts involving an expenditure of funds, either by or to the University, in the amount of \$5,000 or more;
- b) Any contract that may expose ESU to a greater than normal risk of liability;
- c) Any contract that agrees to the laws or jurisdiction of another state; or
- d) Any contract where ESU agrees to take on, limit, or waive the liability of another party (a/k/a indemnification, waiver, or limitation of liability clauses).

**6. Memorandum of Understanding (MOU); and Memorandum of Agreement (MOA)**

As ordinarily used by ESU and its affiliated entities, both MOU's and MOA's are contracts (with rare exceptions) pursuant to Kansas contract law. However, these agreements/understandings are not typically used for the purpose of purchasing goods and services. Instead, they are used to describe collaboration between the parties, which often includes student internships. MOU's and MOA's are subject to Appendix A, Number 5 above. In addition, any agreement made for the purpose of creating a student internship, regardless of the format of the agreement, is subject to Appendix A, Number 5 above.

**7. Notice of Appointment (NOA)**

Notices of Appointment are used by Emporia State University to confirm the employment of both faculty and staff. Notices of Appointment are not covered by these Procurement Policies.

## **Appendix B**

# **Emporia State University Procurement Code of Ethics**

Institutions of higher education are entrusted by society with great resources and commensurately great responsibilities for creation, dissemination, and preservation of knowledge. The Business Office and Procurement Office play a key role in assuring that high standards of ethical practice attend to the custody and use of these resources. These individual's personal and professional conduct reflects on his or her institution, collective profession, and on higher education enterprise at large. To guide these individuals in setting and practicing high standards of ethical conduct, the National Association of College and University Business Officers (NACUBO) has devised the following Code of Ethics. NACUBO embraces the values expressed in this Code and advocates their observance by its members.

The Business Officer's and Procurement Officer's conduct should be characterized by integrity and dignity, and he or she should expect and encourage such conduct by others.

All persons should adopt and be faithful to personal values that

- accord respect to self and others;
- preserve honesty in actions and utterances;
- give fair and just treatment to all;
- accept intellectual and moral responsibility;
- aspire to achieve quality;
- avoid conflicts of interest, or the appearance of conflicts of interest, among personal and institutional interests, and the interests of campus groups and disclose such potential conflicts when they may exist; and,
- engender forthright expression of one's own views and tolerance for the views of others.

All persons should act with competence and should strive to advance competence, both in self and in others.

All persons should understand and support his or her institution's objectives and policies, should be capable of interpreting them within and beyond the institution, and should contribute constructively to their ongoing evaluation and reformulation.

All persons will evaluate all campus programs with reference to their impacts on their achievement of the institution's mission.

All persons should communicate to institutional colleagues the content of this Code of Ethics and should strive to ensure that the standards of professional conduct contained therein are met.

In discharging his or her duties in accordance with this Code of Ethics, all persons should enjoy the following rights:

- the right to work in a professional and supportive environment;
- the right to have a clear, written statement of the conditions of his or her employment, procedures for professional review, and a job description outlining duties and responsibilities;
- within the scope of his or her authority and policy, the right to exercise judgment and perform duties without disruption or harassment; and,
- freedom of conscience and the right to refuse to engage in actions that violate the ethical principles contained in this Code or provisions of law.

NACUBO Code of Ethics w/ modifications  
November 17, 2007

## **Appendix C**

### **Informal Bid Guidelines**

1. Purchases with a total price between \$5,000 and \$9,999, including shipping and handling, for an item or any given project (i.e., furniture for a room, promotional items needed for the semester, etc.) must be bid using the informal bid process.
2. Purchases from State and ESU contracts are exempt from bid procedures.
3. Forms required for the informal bid process can be obtained from the Purchasing Office, ext. 5145 or from the following website: <http://www.emporia.edu/busaff/>.
4. A prior authorization shall accompany the Purchase Requisition (PR) if a State and/or ESU contract exists and is not utilized, allowing ESU to document the extent to which savings are occurring. ESU requires a minimum savings of \$100 for off-contract purchases.
5. Orders shall not be split to avoid the \$5,000 to \$9,999 competitive bid process. Order splitting is a violation of state law and University purchasing policies.
6. It is required that the department notifies a minimum of three vendors of the Informal Bid Quotation. Vendors must submit bids on the IBQ form via mail or email to the requesting department by the closing date and time listed on the IBQ form. Late bids will not be considered. If the item is on a State and/or ESU contract, include a contract vendor as one of the bidders.
7. All technology-related orders will need to be reviewed and approved by IT for conformance with University standards related to the institution's technology architecture and information security policies and procedures. IT will be able to assist departments with specifications, support issues, product recommendations and quotes. Technology-related items include but are not limited to the following: computer hardware, software, printers, scanners, Netbooks, iPads, cameras and related equipment or peripherals. It is recommended that IT be contacted prior to starting the bid process.
8. All promotion, publicity, and/or marketing orders will need to be reviewed and approved by Marketing and Media Relations for conformance with University standards/guidelines. Marketing and Media Relations will be able to assist departments with creating artwork and design. Only a LRG licensed vendor approved to produce Emporia State University products prior to bid closing will be considered. A list of LRG licensed vendors approved to produce ESU products can be found at <http://lrgusa.com/>. It is recommended that Marketing and Media Relations be contacted prior to the start of the bid process.
9. Include a quotation number on the IBQ form. Departments should use their org number, fiscal year and sequential number for this purpose, i.e., 6040-1101.
10. NEVER disclose a vendor's quoted price to another vendor, even after the bid has been awarded. Information regarding the bid results can only be given to the vendors by the Purchasing Office once the bid has been awarded. Vendors can obtain additional information by submitting a written request to Purchasing.
11. Do not establish specifications in a manner to effectively exclude any responsible bidder offering comparable supplies, materials, equipment, or contractual services.

12. Verify the shipping, set up charges, other charges, and payment terms. If a vendor bids "FOB Origin," ask if it is "Freight Paid" or "Prepay and Add Freight to Invoice." Either way, make sure that the vendor has included all freight costs and all other charges in the bid or made you aware of freight costs and all other charges.
13. The department shall submit the Informal Bid Quotation spreadsheet, including vendor and bid information, along with the Informal Bid Quotation bid results and other supporting documentation to Purchasing. The department will indicate on the spreadsheet whether low bid is accepted or provide justification for bid selection. Upon completion of the review process, Purchasing will notify the department when the order can be placed.
14. If the total cost exceeds \$9,999.99, the bid will need to be posted in accordance with the formal bid process. The specifications will be used to publicly post a bid on the ESU Purchasing website. If a vendor provided the department with an IBQ bid, the vendor must submit their final bid to ESU Purchasing by the bid closing date. Purchasing will email bid results in an Excel spreadsheet to the department for review. The department will respond to the results, indicating whether they accept the low bid or provide a justification for bid selection. Purchasing will notify the department when the order can be placed.
15. If the awarded vendor accepts the BPC, the cardholder's name listed on the Informal Bid Quotation spreadsheet will have their BPC limit increased if indicated as such. The Purchasing Office will communicate the increase to Accounts Payable. Use of the BPC is highly encouraged. An OnBase Purchase Requisition will be completed for BPC technology and marketing purchases. Once approvals are obtained, the PO will be returned to the department for ordering with the BPC. The Purchase Order number will need to be referenced on the BPC log in the PO# field.
16. If the awarded vendor does not accept a VISA credit card, a Purchase Requisition still needs to be submitted. After approval of the PR by the Controller, the order will be faxed to the awarded vendor.
17. All awarded bids or accepted purchases resulting in a contract, including click-through agreements, must be reviewed and signed by the appropriate ESU official (see Appendix A, Section 3). Certain contracts may also require external review and authorization. The University President is the authorized signatory for University contracts and may delegate this authority in writing with appropriate notice through the University General Counsel's Office to the State of Kansas and the General Counsel of the Kansas Board of Regents. The University Office of General Counsel is responsible for coordination and provision of the legal review of contracts and purchasing related issues. Once the contract has been properly executed, a purchase requisition can be submitted to Purchasing.
18. If the Informal Bid process has taken place but an order will not be placed, documentation must still be submitted to the Purchasing Office to allow appropriate responses to vendor inquiries.
19. The invoice/receipt is sent to Accounts Payable.
20. The Informal Bid Process can be waived for purchases such as sole source with approval of the Controller's Office. A "Prior Authorization Form" must be completed and submitted to the Controller's Office. The approved "Prior Authorization Form" must accompany the purchase requisition.
21. Contact the Purchasing Office with any questions.

## **Appendix D**

### **Formal Bid Guidelines**

1. Purchases with a total price of \$10,000 and over, including shipping and handling, for an item or any given project (i.e., furniture for a room, promotional items needed for the semester, etc.) must be bid using the formal bid process. One of the following processes will be used to seek competitive bids: Request for Quote (RFQ), Invitation for Bid (IFB), or Request for Proposal (RFP) (see definitions in item 16 below).
2. Purchases from State and ESU contracts are exempt from bid procedures.
3. Orders shall not be split to avoid the \$10,000 formal bid process. Order splitting is a violation of state law and University purchasing policies.
4. All technology-related orders will need to be reviewed and approved by IT for conformance with University standards related to the institution's technology architecture and information security policies and procedures. IT will be able to assist departments with specifications, support issues, product recommendations and quotes. Technology-related items include but are not limited to the following: computer hardware, software, printers, scanners, Netbooks, iPads, cameras and related equipment or peripherals. It is recommended that IT be contacted prior to starting the bid process.
5. All promotion, publicity, and/or marketing orders will need to be reviewed and approved by Marketing and Media Relations for conformance with University standards/guidelines. Marketing and Media Relations will be able to assist departments with creating artwork and design. It is recommended that Marketing and Media Relations be contacted prior to starting the bid process.
6. Specifications along with a minimum of 3 vendors to contact should be sent to Purchasing as a word document.
7. The specifications will be used to publicly post a bid on the ESU Purchasing web site at <http://www.emporia.edu/busaff/>. If a vendor provided the department with a quote prior to the bid, the vendor must submit their final bid to the ESU Purchasing Office by the bid closing date and time.
8. Bids with an anticipated total between \$10,000 and \$25,000 will need to be posted to the ESU website for 3 business days. Bids with an anticipated total of \$25,000 and above will need to be posted to the ESU website for 7 business days. Please allow the Purchasing Office a minimum lead time of three weeks for bid submission \$10,000 and above.
9. After the bid closes, the Purchasing Office will send the bid responses in an Excel spreadsheet to the department for review. When necessary, a Procurement Negotiation Committee (PNC) will evaluate bid results.
10. NEVER disclose a vendor's quoted price to another vendor, even after the bid has been awarded. Information regarding the bid results can only be given to the vendors by the Purchasing Office once the bid has been awarded or a fully executed contract has been obtained. Additional information can be obtained by submitting a written request per instructions within the bid document.

11. The department will respond indicating whether they accept the low bid or provide a justification for bid selection. Tax clearance must be met before a bid will be awarded. Once the awarded vendor is determined and when necessary, a fully executed contract is achieved, the department will create a Purchase Requisition to the awarded vendor, specifying the product and pricing information and route to the Purchasing Office. Once approvals are obtained the purchase order will be faxed to the vendor or returned to the department for ordering with a BPC.
12. All awarded bids or accepted purchases resulting in a contract, including click through agreements, must be reviewed and signed by the appropriate ESU official (see Appendix A, Section 3). Certain contracts may also require external review and authorization. The University President is the authorized signatory for University contracts and may delegate this authority in writing with appropriate notice through the University General Counsel's Office to the State of Kansas and the General Counsel of the Kansas Board of Regents. The University Office of General Counsel is responsible for coordination and provision of the legal review of contracts and purchasing related issues. Once the contract has been properly executed, a purchase requisition can be submitted to Purchasing.
13. The invoice is sent to Accounts Payable.
14. The Formal Bid Process can be waived for purchases such as sole source with approval of the Controller's Office. A "Prior Authorization Form" must be completed and submitted to the Controller's Office. The approved "Prior Authorization Form" must accompany the purchase requisition.
15. Contact the Purchasing Office at ext. 5145 with any questions.
16. One of the following processes will be used to seek competitive bids:
  - a) **Request for Quotation (RFQ)**. An RFQ is generally utilized when the supplies, materials, equipment, goods, property or services are to be acquired on a one-time basis and detailed specifications can be provided.
  - b) **Invitation for Bids (IFB)**. An IFB is generally utilized when the supplies, materials, equipment, goods, property and services to be acquired will be provided via contract on a recurring basis over a specified period of time. With an IFB, the price is non-negotiable and we must accept the low bid meeting specifications.
  - c) **Request for Proposals (RFP)**. An RFP is generally utilized when multiple factors exist that make it difficult or impossible to write specifications and also when terms and conditions can be prepared that will allow an evaluation for identifying the lowest responsive bid from a responsible bidder. Evaluations shall be based on the factors set forth in the RFP in order to determine which proposal(s) best meet(s) the needs of the University. A Procurement Negotiation Committee (PNC) of no less than three individuals shall evaluate all proposals received. Two of these three individuals shall be a member from the requesting department, and the Director of Purchasing shall be the third member. Requests for Proposal for University-wide contracts, including but not limited to, food service, bookstore, banking, snack vending, and beverage contracts, require the addition of the Controller and the Vice President for Administration and Fiscal Affairs or designee to the PNC.

## **Appendix E**

### **Sample Delegation of Signature Authority**

I (name of person delegating authority), (title of position of person delegating authority) hereby delegate my contract authority to (name of delegate), (title of position of delegate) with an effective date of (date delegation of authority begins). This delegation of authority will continue in full force and effect until revoked by me in writing. [Or, This delegation of authority will continue in full force and effect until (date when delegation of authority terminates) when it shall terminate at 11:59 p.m. on said date.]

Limitations on the authority delegated [write “none” or describe the limits of authority]:

I hereby verify that the person to whom I have delegated authority is a qualified and appropriate person to exercise the authority I have delegated. I understand that I am responsible for the exercise of the authority I have delegated to the above named person.

\_\_\_\_\_  
(Person delegating authority)

#### Revocation of Delegation of Signature Authority

The authority delegated above is hereby revoked. This revocation of authority is effective only when signed and dated below by the person who had originally delegated authority, or when signed by another University official with the same or superior contract authority.

\_\_\_\_\_  
(Person revoking authority)

\_\_\_\_\_  
(Date of revocation)

A signed copy of this document must be given to the person delegating authority and to the delegate. When revoked, a signed copy of the revocation must be given to the person revoking authority and to the delegate. The original document is to be maintained with the ESU Business Office.

# Appendix F

## Form DA-146a

State of Kansas  
Department of Administration  
DA-146a (Rev. 06-12)

### CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:  
"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.

3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.

12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.