Emporia State University

Procurement Policies
(Effective October 15, 2010)
# 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, printing, or 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 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 KSA 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.

Section I a  Administration of the Delegated Authority

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

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. *(See Appendix B)*  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 dramatically increasing the flexibility of the purchasing process.

The University shall communicate and collaborate with the State of Kansas Division of Purchases 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 Emporia State University 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, printing or services to be acquired by Emporia State University and any lease of real property entered into by Emporia State University and are paid for with state funds.

B. Technology Purchases

All technology purchases must conform to University standards related to the institution’s technology architecture and information security policies and procedures.

C. Promotion and Publicity

All promotion or publicity of the University requires the approval of Emporia State University Marketing and Media Relations.

D. Exclusions

These Policies do not apply to the following situations:

1. Purchases other than technology purchases (see B. above) made by Emporia State University Foundation, Inc.

2. Purchases other than technology purchases (see B. above) made by other ESU affiliated organizations with funds not on deposit with the State Treasury.
   a. Memorial Union
   b. Student Organizations/Safekeeping Organization Accounts
   c. Alumni Association

3. Non-purchasing related OOE expenditures such as travel which follow other state rules and guidelines.
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, printing or services to be acquired by Emporia State University and any lease of real property entered into by Emporia State University are bound to act in good faith. Any person employed by the University who purchases supplies, materials, equipment, goods, property, printing or 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 and all applicable ethics laws. (See Appendix A)

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. Please refer to the Emporia State University Conflict of Interest Policy located at the following link:


Please refer to the Kansas Board of Regents Policy and Procedure Manual, Chapter II, Section F (13):

(http://www.kansasregents.org/policies_procedures)
Section V  Competitive Bids

A. Competitive Bid Policy

It shall be the policy of the University to purchase all required supplies, materials, equipment, goods, property, printing or services in a manner that affords vendors a fair and equal opportunity to compete.

B. Competitive Bid Thresholds

A detailed summary of bid thresholds and related expectations is attached as item 8 of Appendix B. ESU Departments are required to purchase the best quality of goods and services at the lowest possible price.

1. Informal Bid Solicitation up to $4,999 – The ESU Controller and/or Director of Purchasing may delegate authority to campus departments for all purchases of required supplies, materials, equipment, goods, property, printing, leases of real property, services, including professional services, in accordance with the terms of this Policy document and approved purchasing procedures.

Further instructions for the Informal Bid process are listed on the ESU Purchasing web site: http://www.emporia.edu/busaff/

2. Formal Bid Solicitation $5,000 and over – Purchases of required supplies, materials, equipment, goods, property, printing, leases of real property, services, including professional services, shall be accomplished by utilizing an approved competitive solicitation type, or by an approved non-competitive 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.

Further instructions for the Formal bid process are listed on the ESU Purchasing web site: http://www.emporia.edu/busaff/

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 approved purchasing procedures.
D. **Specifications**

All bid specifications shall be developed in a manner that are 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 procedures.

F. **Evaluations and Award**

All formal competitive bid responses shall be evaluated as outlined in the competitive transaction 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.

G. **Determinations Required**

Any decision or finding required to administer the scope of the purchasing program shall be supported by a written determination prepared or approved by the ESU Controller and/or Director of Purchasing in accordance with approved purchasing procedures.
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 procedures.

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. 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. A written notice of debarment shall be sent to the vendor. The notice shall:

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.

3. 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. The ESU Controller and/or Director of Purchasing is authorized to resolve, in accordance with approved operating procedures, any protests regarding any and all purchasing matters including but not limited to:

1. Any protest concerning the 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. 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 in accordance with approved purchasing procedures.

C. 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 KSA 45-215 through KSA 45-223:

([http://www.kslegislature.org/legsry-statutes/index.do](http://www.kslegislature.org/legsry-statutes/index.do))

Also, see the following website:


Procurement records shall be retained and disposed of in accordance with applicable records retention policies of the State of Kansas and Emporia State University. For records related to purchasing, contact the Custodian of Records for Emporia State University who is the Director of Human Resources.
Appendix A

Emporia State University Procurement Code of Ethics

The conduct of all persons involved in the procurement process at Emporia State University 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;
- refuse conflict, or the appearance of conflict, between personal and institutional interests; 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 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
April 15, 1993
Appendix B

Emporia State University Purchasing Outline

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, Emporia State University’s goal for purchasing goods and services is to obtain the best quality of goods and services at the lowest possible price. Emporia State University 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.

All awarded bids or excepted purchases resulting in a contract, including click through agreements, must be reviewed and signed by an ESU official with contractual signature authority for the University. 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. While retaining general contractual signature authority, the University President has delegated general contractual signature authority to the Vice President for Administration & Fiscal Affairs and the Associate Vice President for Fiscal Affairs. Other similar or limited contract signature delegations by the President may also be in effect if properly authorized. Unless otherwise delegated, or excepted by law or University policy, the department head should complete a contract approval form, [http://www.emporia.edu/busaff/](http://www.emporia.edu/busaff/), and forward along with the contract or a copy of any Terms and Conditions that contractually bind the University, to the Associate Vice President for Fiscal Affairs/Budget Director for review and processing. 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, it should be attached to a purchase order and submitted to Purchasing.
Listed below are guidelines to follow beginning July 1, 2010, when ESU becomes exempt from certain purchasing regulations imposed by the State of Kansas. A thorough understanding of these guidelines is essential for all parties. A summary of purchasing thresholds and related documentation can be found in item 8.

1. The following processes for purchases and the University procedures to attain goods and services remain unchanged:

a. For purposes of being in conformance with University standards related to the Institution’s technology architecture and information security policies and procedures, all computers, printers, parts, and software are processed through a Digital Purchase Order Form and routed through TCS for approval before orders are placed. Orders that are paid with the BPC should note in the “Description” column that this order is to be paid with the BPC. After obtaining the approvals, the form will be routed back to the Department for processing with the BPC. Sole source boxed software, software maintenance and software licensing must also be processed in this manner.

Before any technology-related orders are sent to the vendors, regardless of purchasing method, TCS will need to review and approve purchases for conformance with University standards related to the institution’s technology architecture and information security policies and procedures. TCS 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.

b. The Dean, Chair or Director has the authority to allow single expenditures under $1,000 to be approved by the Administrative Assistant. Expenditures from $1,000 to $4,999.99 require the approval of the Dean, Chair or Director. All expenditures $5,000 and over require the signature of the Dean or Vice-President of that unit.

c. All promotion or publicity of the University requires the approval of Emporia State University Marketing and Media Relations and must have the request processed through ESU Marketing and Media Relations before the order is placed. This includes but is not limited to the following: ESU designs, institutional names, logos, marks, advertising and printing.

d. All current ESU established contracts are in effect until renegotiated or expired, i.e., food service, bookstore and snack vending beverage contracts. Check the purchasing website for a listing of exclusive use vendors.

e. State Use items such as toner cartridges, binders, and other selected office supplies must be purchased from designated state use vendors.

f. Professional and consultant service contracts costing $5,000 and above shall be bid by the University Purchasing Office unless determined to be a sole source.
g. The University retains the ability to use State central purchasing 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. Please see a complete list of State contracts at http://www.emporia.edu/busaff/ 

h. Travel transactions, including registration, lodging, airfare, etc. follow established guidelines.

i. Subscriptions, memberships, and other non-commodity items follow established guidelines.

j. The BPC will be used for purchases. Documentation is necessary if the vendor does not accept credit cards. Technology purchases must be approved prior to using the BPC. See item a. A note in the “Description” column will identify the BPC order for routing back to the Department.

k. 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 amended Senate KSA 76-769.

2. 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.

3. The University Purchasing Program does not include capital improvement, renovation, new construction, or any other project that currently requires review by the Department of Facilities Management, a department within the Department of Administration. This also includes major IT projects requiring review by the Kansas Information Technology Office (KITO).

4. When vendors contact ESU staff about their products, please remember that state employees must comply with applicable ethics laws, Kansas Ethics Commission opinions and guidance, ESU and KBOR policy by not accepting gifts.

5. The University may be required to report the savings to the Kansas Board of Regents. Documentation of bid results must be submitted to the Controller/Director of Purchasing for reporting potential savings.

6. 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.

7. Purchases from State central purchasing contracts or other existing University contracts are not subject to additional competitive bid requirements.
8. In keeping with Kansas Board of Regents policy and the additional flexibility allowed to the Universities by the Kansas Legislature, the KBOR procurement policy states that Universities will be guided by the following:

- 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.

To maintain that flexibility allowed to the Universities by statute, to enhance the University’s ability to purchase the best quality of goods and services at the lowest possible price and to help departments conserve financial resources, the following guidelines have been established:

a. **All Purchases** – Items that are purchased from State contracts do not require additional documentation. If an item is available from a State contract but is purchased elsewhere, then documentation must be submitted to support the off-contract purchase. Other purchases may be subject to bidding requirements as noted in section b and c.

b. **Up to $4,999.99** – ESU Departments are required to purchase the best quality of goods and services at the lowest possible price. It is strongly recommended that the informal bid process be followed to assure the best quality of goods and services are being purchased at the lowest possible price. This will help document savings for reporting to the Board of Regents.

Further instructions for the Informal Bid process are listed on the ESU Purchasing web site: [http://www.emporia.edu/busaff/](http://www.emporia.edu/busaff/)

**EXCEPTION:** Any technology purchases must first be reviewed by TCS to assure that the purchase meets University standards related to the institution’s enterprise architecture and information security policies and procedures.

c. **$5,000 and above** – ESU Departments are required to go through a Formal Bid process for goods and services that are $5,000 and above. Bids with an anticipated total of up to $25,000 will need to be posted to the ESU website for three (3) business days. Bids with an anticipated total of $25,000 and above will need to be posted to the ESU website for seven (7) business days. This process takes approximately two weeks for bids less than $25,000 and approximately three weeks for bids of $25,000 or more.

Further instructions for the Formal bid process are listed on the ESU Purchasing web site: [http://www.emporia.edu/busaff/](http://www.emporia.edu/busaff/)

d. **All Contract Purchases** – All contracts for purchases must meet certain terms and conditions as outlined by State of Kansas standards, including incorporation and attachment of State of Kansas Form DA-146a. Signature on these documents by any individual other than authorized signatories may result in their personal risk and liability.
The University President may delegate and modify contractual signature authority in writing with appropriate notice. While the President retains general contractual signature authority, general contractual signature authority has been delegated to the Vice President for Administration & Fiscal Affairs and the Associate Vice President for Fiscal Affairs/Budget Director. Other similar or limited contract signature delegations by the President may also be in effect if properly authorized. Certain contracts may also require external review and authorization. Legal review of purchasing issues and contracts is provided and coordinated by the University General Counsel.

9. Those involved with purchasing must be familiar with these policies. Attendance at training sessions is required for all those providing purchasing support for departments.

10. The University will work with any vendor willing/wanting to do business. The vendor must understand that the University is only going to do business with those that provide the best quality at the lowest price. Comparison to current State contracts will be completed for each vendor offer to ensure the University is getting the best price for comparable products.

   a. Vendors wishing to do business with the University will be asked to provide up-to-date price lists of items such as office supplies, plumbing supplies, auto parts and supplies and electrical supplies to name a few.

   b. Vendors will be asked to provide contact information including name, address, phone numbers, individuals, etc., for use when informal bids are required.

11. Vendors will be provided information on how and where to access information concerning informal and formal bids i.e., the ESU Purchasing website, the Kansas Register or local media.

12. The University reserves the right to modify these policies and procedures.

Note: Regardless of other policies and limitations, the University should seek competition in bidding whenever possible.