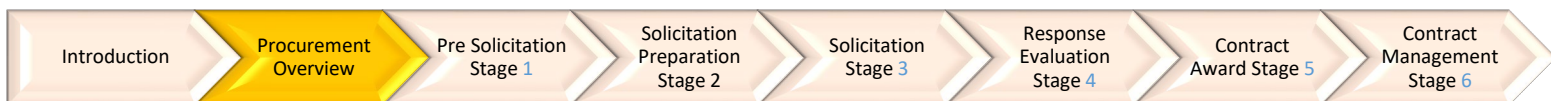




Procurement Services  
Office of the Controller

# Procurement Manual



Updated 9/2022

Replaces Purchasing Services Procedure Manual

## **TABLE OF CONTENTS**

### **SIX STAGES OF PUBLIC PROCUREMENT**

<b><i>I. Introduction .....</i></b>	<b><i>1</i></b>
I.1 Introduction to the Manual .....	1
I.1.1 Purpose and Application .....	3
I.1.2 Organization.....	3
I.2. General Overview .....	5
I.2.1 Procurement Services .....	5
I.2.1.1 Mission .....	6
I.2.1.2 Staff.....	6
I.2.2 Authority .....	6
I.2.2.1 Florida Board of Governors Procurement Related Regulations.....	7
I.2.2.2 Board of Trustees Procurement Related Regulations .....	8
I.2.2.3 FIU Procurement Related Policies and Procedures.....	9
I.2.2.4 Florida State Procurement Related Statutes .....	13
I. Resources .....	14
<b><i>II. Procurement Overview .....</i></b>	<b><i>15</i></b>
II.1 Identify the Procurement Need .....	15
II.2 Develop a Procurement Strategy.....	15
II.3 Define the Procurement Method .....	16
II.3.1 Emergency Purchases .....	16
II.3.2 Sole Source Purchases.....	17
II.3.2.1 Sole Source Purchases \$74,999 or less .....	17
II.3.2.2 Sole Source Purchases \$75,000 or more .....	18
II.3.3 Exempt Purchases.....	19
II.3.4 Exceptional Purchases.....	21
II.3.5 Alternate Purchases/Cooperative/Piggy-back Contracts .....	21
II.3.6 Competitive Solicitations .....	22
II.3.6.1 Informal Competitive Process .....	22
II.3.6.2 Formal Competitive Process .....	23
II.3.7 Procurement Decision Tree .....	24

II.4	Unauthorized Purchases.....	27
II.4.1	Purchases for Individuals.....	27
II.4.2	Non-Conforming Purchase .....	27
II.4.3	Splitting of Orders.....	28
II.4.4	Purchases of a Personal Nature .....	28
II.4.5	Purchases of Food and Non-Alcoholic Beverages.....	29
II.5	Special Approvals or Restrictions.....	29
II.5.1	Equipment on Trial or Loan Basis.....	29
II.5.2	Leases: Installment-Sales Acquisitions of Equipment.....	29
II.5.3	Leases of Property .....	30
II.5.4	Special Hazard Materials .....	30
II.5.4.1	Hazardous Materials and Scientific Equipment .....	31
II.5.4.2	Human Cadavers, Skin, Blood, Bones and Tissue .....	31
II.5.4.3	Animals .....	31
II.5.5	Export Controls.....	32
II.6	Payment Mechanisms.....	33
II.6.1	Departmental Card.....	33
II.6.2	Gift Card .....	34
II.6.3	Allowable Unencumbered Payment for Services.....	35
II.6.4	PantherSoft eProcurement Purchase Orders.....	36
II.6.4.1	Blanket Purchase Orders.....	36
II.6.4.2	Change Orders .....	37
II.6.4.3	Special Request Requisitions (non-market) .....	38
II.6.4.4	myFIUmarket.....	38
II.7	Training .....	39
II.8	Minor Construction and Alteration Projects.....	41
II.9	Motor Vehicles, Watercraft or Aircraft.....	41
II.9.1	Types of Equipment.....	42
II.9.2	Procedures for Vehicles .....	42
II.10	Information Technology Resource Equipment .....	43
II.11	Communications Equipment .....	43
II.12	Moving Allowance .....	44
II.13	Purchase of Insurance .....	44

II.14 Furniture and Furnishing .....	45
II.15 Year-End Procedures .....	45
II.15.1 Department Responsibilities .....	45
II. Resources .....	46
<b>1.0 Stage One: Pre-Solicitation Process .....</b>	<b>48</b>
1.1 Identify Scope of Need and Corresponding Stakeholders.....	48
1.2 Request Information from Suppliers .....	49
1.2.1 Request for Information (RFI).....	49
1.2.2 Pre-Solicitation Conferences/Presentations .....	49
1.3 Identify the Correct Competitive Solicitation Method .....	50
1.3.1 Spend Threshold .....	50
1.3.2 Request for Quotations (RFQ) .....	51
1.3.3 Request for Responses (RFR).....	52
1.3.4 Invitation to Bid (ITB) .....	52
1.3.5 Invitation to Negotiate (ITN) .....	52
1.3.6 Request for Proposals (RFP) .....	53
<b>2.0 Stage Two: Solicitation Preparation Process.....</b>	<b>54</b>
2.1 Introduction to the Solicitation Preparation Process .....	54
2.1.1 The Procurement Professional.....	55
2.1.2 The Procurement File .....	55
2.1.3 Stakeholders (Using Department) .....	55
2.1.4 Third Party Consultants .....	56
2.2 Action Taken Based on Solicitation Method .....	56
2.2.1 Invitation to Bid (ITB) .....	56
2.2.1.1 Stakeholders/Using Department Responsibility.....	56
2.2.1.2 Procurement Professional Responsibility.....	57
2.2.1.3 Award and Contract Process.....	58
2.2.2 Invitation to Negotiate (ITN) .....	58
2.2.2.1 Stakeholders/Using Department Responsibility.....	58
2.2.2.2 Procurement Professional Responsibility.....	59
2.2.2.3 Evaluation Requirements .....	59
2.2.2.4 Evaluation Process .....	60
2.2.2.5 Award and Contract Process.....	60

2.2.3	Request for Responses (RFR) from Awarded Suppliers of a Competitively Advertised Solicitation .....	60
2.2.3.1	Stakeholders/Using Department Responsibility.....	60
2.2.4	Request for Proposals (RFP) .....	61
III.	Resources .....	62
<b>3.0</b>	<b>Stage Three: Solicitation Process.....</b>	<b>63</b>
3.1	Introduction to the Solicitation Process .....	63
3.2	Release Competitive Solicitation .....	63
3.2.1	Electronic Solicitation .....	64
3.3	Manage Questions and Answers.....	64
3.3.1	Conducting Pre-Solicitation Conference .....	64
3.3.1.1	Discussion .....	65
3.3.1.2	Mandatory versus Non-Mandatory.....	65
3.3.2	Issue Question and Answer Addendum.....	65
3.4	Issue Addendum .....	66
3.5	Receiving Responses from Suppliers.....	66
3.6	Protest Proceedings .....	67
3.7	Closing Solicitation .....	67
<b>4.0</b>	<b>Stage Four: Response Evaluation Process.....</b>	<b>68</b>
4.1	Introduction to the Response Evaluation Process .....	68
4.2	Review for Responsiveness .....	68
4.2.1	Invitation to Bid .....	69
4.2.2	Invitation to Negotiate and Request for Proposals .....	69
4.3	Evaluate the Responses .....	69
4.3.1	Invitation to Negotiate.....	70
4.3.2	Request for Proposals.....	71
4.4	Negotiate the Contract .....	72
4.4.1	Develop a Negotiating Strategy.....	72
4.4.2	Arrange Negotiation Sessions .....	74
4.4.2.1	Planning Negotiations .....	74
4.4.2.2	Negotiation Committee Roles .....	74
4.4.3	Conduct Negotiation Sessions .....	75
4.4.3.1	Negotiation Impasses .....	76

4.5 Make Committee Decision Recommendation .....	76
<b>5.0 Stage Five: Contract Award Process.....</b>	<b>78</b>
5.1 Introduction to the Contract Award Process .....	78
5.2 Post the Decision .....	78
5.2.1 Intent to Award and Protest Proceedings .....	78
5.2.2 Rejection of Solicitations.....	79
5.3 Prepare Draft Contract .....	79
5.3.1 Invitation to Bid .....	79
5.3.2 Invitation to Negotiate and Request for Proposals .....	79
5.4 Review Draft Contract.....	80
5.5 Execute Final Contract .....	80
5.5.1 Invitation to Bid Contract.....	80
5.5.2 Invitation to Negotiate Contract and Request for Proposal .....	80
5.6 Issue Purchase Order.....	80
IV. Resources .....	81
<b>6.0 Stage Six: Contract Process and Management .....</b>	<b>82</b>
6.0 Contract Review and Determination of Contract Value.....	82
6.1 Multi-Term Contracts .....	83
6.2 University Contracts .....	83
6.3 State of Florida Contracts .....	83
6.4 Cooperative/Piggy-back Purchasing Contracts.....	84
6.5 Department Initiated Contract for the Purchase of Goods or Services...	84
6.5.1 FIU Contract Templates for the Purchase of Goods or Services	85
6.5.1.1 Service/Entertainment/Performance Agreement One Time Payment .....	86
6.5.1.2 Independent Contractor Agreement .....	86
6.5.2 Supplier's Contract .....	86
6.6 Contracts valued at an Amount Greater than \$75,000 .....	87
6.7 Contracts valued at an Amount Less than \$75,000 .....	87
6.8 Click-Thru Agreements.....	88
6.9 Contract Management Process.....	89
6.10 Manage the Contract.....	90
6.10.1 Receive Goods and Contractual Services.....	90

6.10.2 Review Before Payment .....	90
6.10.3 Disputes.....	90
6.10.3.1 Address and Resolve Problems with Contract .....	90
6.10.4 Manage Changes to the Contract.....	91
6.10.4.1 Amendments .....	91
6.10.4.2 Renewals .....	91
6.10.4.3 Extensions .....	91
6.10.4.4 Contract Close Out .....	92
V. Resources .....	92
<b>VI. Maintenance and Revision .....</b>	<b>94</b>
<b>VII. Record of Changes .....</b>	<b>95</b>

## I. Introduction

### Six Stages of Public Procurement



This chapter introduces the organization of this manual of Procurement Services and fundamentals for individuals procuring goods and services.

#### I.1 Introduction to the Manual

Welcome to the official procurement manual for FIU. The *Procurement Manual* is a source for all procurement regulations issued by the Florida Board of Governors (BOG) and Florida International University (FIU) Board of Trustees (BOT). Procurement Services governs purchases made by FIU faculty and staff. The Procurement Manual serves as a resource for both faculty and staff, plus suppliers desiring to do business with FIU. In addition to identifying procurement regulations, policies and procedures, the Procurement Manual presents a roadmap of the competitive solicitation process as well as key information concerning the electronic procurement systems utilized by Procurement Services which include the following:

- PantherSoft eProcurement, known as ePro, is the module that requesters will access to create requisitions and begin their shopping and where buyers issue Purchase Orders.
- myFIUmarket is accessed through PantherSoft ePro and is the marketplace where all catalogs for University-wide contracts are available. The goods and services found in the catalogs have been competitively solicited and provide the best value for the University.
- Jaggaer provides services to the University for Sourcing Director which includes electronic competitive solicitation request form, electronic solicitation notification, electronic solicitation response submission, evaluation, and award notification. Suppliers are notified of the opportunity, and they can submit offers electronically for the University's ITBs, RFPs and ITNs. GovSpend Quotes and RFQs provides services to the University for electronic quotes and suppliers are notified of quote opportunities.



- Jaggaer provides services to the University for Total Contract Manager (TCM) solution. TCM is FIU's online contract management tool used for all Procurement Contracts. TCM is used to execute, manage, and view all Procurement Contracts, utilizing DocuSign for electronic signatures.
- Should you require access to TCM as a Contract Manager, Contract Approver, or Contract Viewer or access to Sourcing Director, you may request it via the Total Contract Manager (TCM) and Electronic Solicitation Access Request Form which can be found by clicking [here](https://imagenowweb.fiu.edu/imagenowforms/fs?form=TCMForm) (<https://imagenowweb.fiu.edu/imagenowforms/fs?form=TCMForm> ).
  - You will have to login with your FIU Username and Password
  - Once submitted, the form will automatically route to your HR Supervisor (and Expense Manager for the College of Business) for approval before Procurement Services receives notification of your request

Questions or comments concerning the Procurement Manual may be addressed to Procurement Services using the following contact information:

<b><u>PROCUREMENT SERVICES</u></b>	
Contact Information	
Contact	Procurement Services Campus Support Complex-4 <sup>th</sup> floor 11200 SW 8 <sup>th</sup> Street Miami, FL 33199
Phone Number	305-348-2161
Email Address	contracts@fiu.edu
Web	<a href="https://controller.fiu.edu/departments/procurement">https://controller.fiu.edu/departments/procurement</a>

For the purposes of this document definitions are as follows:

- Procurement Professional indicates individuals in the Procurement Services Department responsible for procuring goods and services for the University.
- The terms Using Departments, Requesting Departments, Stakeholders, and FIU Entities are equivalent and indicate FIU staff, faculty and FIU departments requiring goods and/or services utilizing the services of the Procurement Services Department.

### I.1.1 Purpose and Application

The purpose of the Procurement Manual is to officially publish the procurement procedures issued by Procurement Services. The procedures provided in this manual govern purchasing activities for FIU. It is the intent of the University to acquire quality goods and services within reasonable or required time frames, while promoting fair and open competition in the public procurement process.

These procurement procedures are intended to support the following purposes:

- Establish uniform procedures consistent with the authority and responsibilities granted by the Board of Governors to the Florida International University Board of Trustees and the President towards the establishment of an effective purchasing program for the acquisition of goods and services.
- Simplify and clarify the laws, regulations and policies governing FIU procurements.
- Increase public confidence in the procurement and contract procedures utilized at the University while fostering effective competition in the marketplace.
- Increase savings in FIU procurement activities and fully maximize to the extent possible the purchasing value of FIU's funds.
- Provide safeguards for the maintenance, quality, and integrity of the procurement systems.

**NOTE:** This manual supersedes the *Office of the Controller Procurement Services Procedures Manual*. This manual governs all purchases made and all solicitations publicly posted on or after the publication date of this manual. Please see Section VII. Record of Changes that provides the date, section, and summary of change.

### I.1.2 Organization

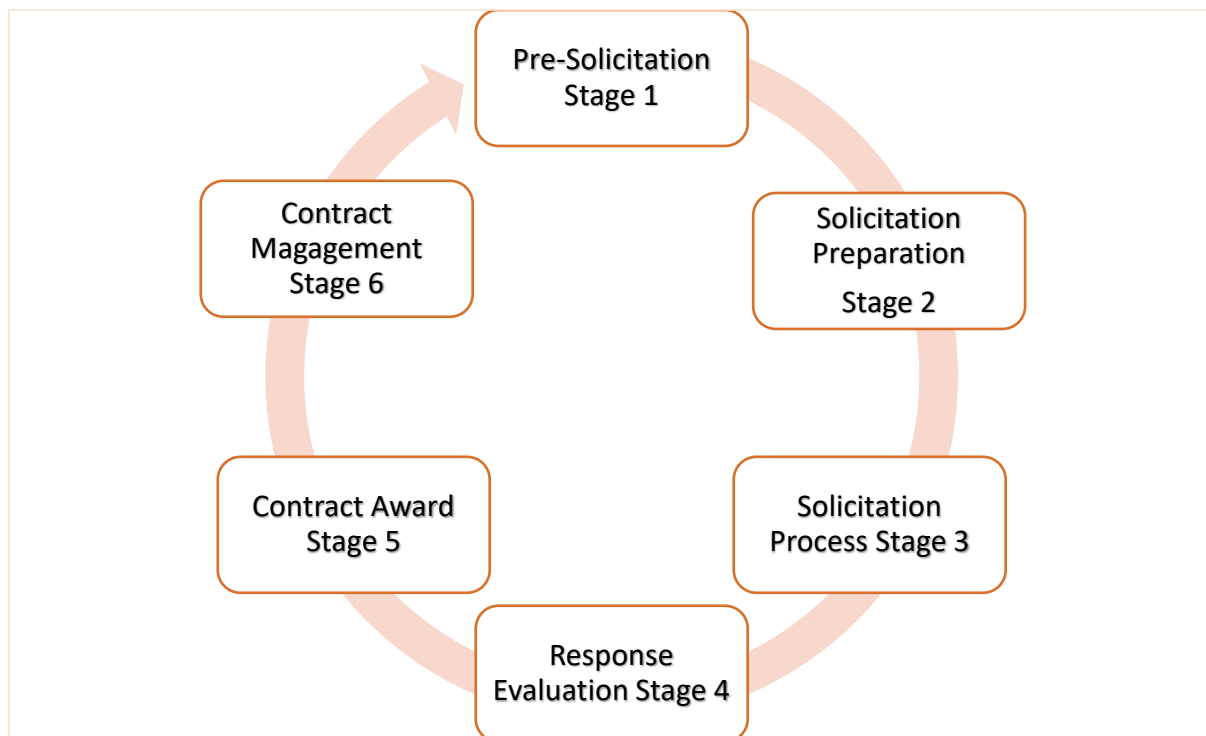
The Procurement Manual is organized based on Procurement Services' *Six Stages of Procurement Methodology* with individual chapters dedicated to each of the six stages of procurement plus an Introduction chapter and a Procurement Overview chapter. The *Six Stages of Procurement Methodology* organizes the procurement process into a series of steps from the time the entity first identifies a needed good or service through contract award and contract administration. It is organized so that all applicable procedures, forms, links, and information pertaining to each given stage is outlined within the section for that stage.

Public Procurement process is the methodical approach by which public entities, in this case FIU performs the acquisition of goods or services that are vital to completing their assigned missions and mandates. It can be broken down into six distinct process stages:

- Stage One: Pre-Solicitation Strategy Process
- Stage Two: Solicitation Preparation Process
- Stage Three: Solicitation Process
- Stage Four: Response Evaluation Process
- Stage Five: Contract Award Process
- Stage Six: Contract Management Process

Together, these six stages form a conceptual framework for guiding the methods by which entities create and manage contracts, allowing for the purchase of goods and contractual services that meet their needs with a minimum of administrative effort.

The following graphic illustrates the six stages of procurement that make up the *Six Stages of Procurement Methodology*.



This graphic and its variations will be the primary organizational cue (visual indication to the reader) in all chapters based on this methodology and its stages. Each of these methodology-based chapters will show the variation of this graphic with the specific stage highlighted, followed by a text description of the stage.

## **I.2. General Overview**

---

This section introduces Procurement Services' procurement authority.

### **I.2.1 Procurement Services**

Procurement Services supports the mission, purpose, and goals of FIU by assisting with the purchase of quality goods and services at competitive prices. Purchasing involves the acquisition, sale, lease, license of goods and services, including but not limited to:

- Equipment
- Furnishings
- Supplies
- Facility improvement services
- Preventive maintenance services
- Software licenses
- Contractual services
- Leases of real and personal property
- Construction for the University within pre-established budgetary constraints

Procurement Services also provides assistance with the planning and preparation of competitive solicitation specifications; initiating formal quotations; proposals, and bids; conducting public competitive solicitation openings, when applicable; assisting with evaluation of competitive solicitation responses and awarding and administering contracts until final completion or termination.

Except as otherwise delegated by the President or defined by other FIU Manuals, Procurement Services is the only University department authorized to commit funds

for the acquisition of goods or services and is the initial point of contact for service contracts and agreements prior to any obligation or commitment by the University.

#### **I.2.1.1 Mission**

Procurement Services mission is to be strategic procurement experts who deliver best in class, total cost reduction solutions while providing outstanding customer service and process efficiencies while complying with statutory and regulatory requirements.

#### **I.2.1.2 Staff**

Procurement Services is part of the Office of the Controller in the Division of Finance.

##### **Organizational Chart – Office of the Controller**

<https://controller.fiu.edu/wp-content/uploads/sites/24/2020/10/OrganizationalChart.pdf>

##### **Organizational Chart – Procurement Services**

<https://controller.fiu.edu/wp-content/uploads/sites/24/2020/10/OrganizationalChart.pdf>

##### **Contact and Responsibilities Listing – Procurement Services**

<https://controller.fiu.edu/directory>

#### **I.2.2 Authority**

This manual reflects statutory requirements of the State of Florida, regulations and directives established by the Board of Governors, the Florida International University Board of Trustees, and standard, best practices in the state university system of Florida and public procurement, as applicable. The requirements stated herein shall apply to all purchases of goods and services regardless of funding source unless otherwise stated.

### **I.2.2.1 Florida Board of Governors Procurement Related Regulations**

(<https://www.flbog.edu/regulations/active-regulations/>)

- BOG Chapter 1, Section 1.001 Grants the Board of Trustees the authority to acquire real and personal property and contract for the sale and disposal of same and approve and execute contracts for the acquisition of goods and services. The acquisition may include purchase by installment or lease-purchase. Such contracts may provide for payment of interest on the unpaid portion of the purchase price.

The University President is responsible for all operations of the University. Section 1001.75(5), F.S. authorizes the University President to approve, execute, and administer contracts for and on behalf of the Board of Trustees, provided such contracts are within law and rules of the State Board of Education and in conformance with policies of the University Board of Trustees, and are for the implementation of approved programs of the University. The University Board of Trustees (BOT) also approves the Resolution on the President's Powers and Duties which reflects the BOT's delegations of authority from the BOT to the President. The BOT reporting and approval requirements for contract for the purchase, sale, lease license, or acquisition of commodities, goods, equipment and other types of personal property, software, and contractual services, including private attorney services are defined in the Resolution. The most current Resolution can be obtained from the General Counsel's Office, see <https://generalcounsel.fiu.edu/wp-content/uploads/sites/26/2020/09/Presidents-Powers-Duties.pdf>.

.

The President has delegated signature authority to only certain individuals who are listed on the Office of General Counsel's website at <https://generalcounsel.fiu.edu/delegated-authority/>. These individuals are duly authorized signatories with authority to bind the University to agreements for the purchase of goods and services. Contracts, including electronic agreements, (e.g. click-through) signed and/or accepted by other than individuals with signature authority shall not be binding on the University.

The President has delegated procurement authority to the Director of Libraries to approve and execute purchase orders for the acquisition of copyrighted and single source instruction materials, tapes, publications, manuscripts, films, and personal library collections acquired from the Library's operating capital outlay funds. Procurement Services does not manage this procurement process, it is managed independently by the Library.

- BOG Chapter 14 Outlines the construction program requirements for the University and authorizes the University to enter into a "Continuing Contract for Professional Services", in accordance with Regulations 14.004 and 14.005

The FIU construction program and Continuing Contracts are administered and managed by FIU Facilities Management and are also subject to Section 287.055, F.S. Detailed information about this program may be obtained on the Facilities Management website at: [facilities.fiu.edu](http://facilities.fiu.edu).

- BOG Chapter 17, Section 17.001 Authorizes the Board of Trustees or its designee to enter into leases for space in a building or any part of a building for use by a University or University direct-support organization, including those leases in a research and development park with which the University is affiliated. Leases subject to Section 1010.62 F.S. must be approved by the Board of Governors, in accordance with the Board of Governors Debt Management Guidelines.
- BOG Chapter 18, Section 18.001 Authorizes each University Board of Trustees to adopt regulations establishing basic criteria related to procurement, including procedures and practices to be used in acquiring goods and contractual services, oversight of suppliers, utilization of negotiated competitive contracts let by the University or other governmental entities, not-for-profit cooperatives or consortia, or any college or university, and prohibits the University from soliciting donations from responding suppliers during the selection process, except for donations or other benefits expressly stated in the procurement document.
- BOG Chapter 18, Section 18.002 Protests arising from all University contract procurement processes for the purchase of goods, services, leases and for construction-related competitive solicitations shall be handled in accordance with BOG Regulation 18.002
- BOG Chapter 18, Section 18.003 Addresses bonding requirements and allows for a certified, cashier's or treasurer's check, bank draft, bank official check or bid bond as a condition for participating in a competitive solicitation.

#### **I.2.2.2 Board of Trustees Procurement Related Regulations**

<http://regulations.fiu.edu/regulation>

- FIU 2201 Purchasing. Supplemental regulations to Chapter 18 of the Florida Board of Governors' Purchasing regulations. It provides a statement of intent and defines:

Procurement Services' duties, competitive solicitation process, purchasing actions that are not subject to the competitive solicitation process, Code of Ethics, and the contract process. It also establishes the competitive solicitation threshold. When the BOG and BOT approves increases to these thresholds or makes changes to the procurement regulations, it will automatically apply to Procurement Service's Procurement Manual and procurement processes. FIU 2201 authorizes the establishment of coordinated procurement policies, procedures, and practices to be used in acquiring goods and services required by the University. It authorizes Procurement Services to carry out the duties outlined herein.

- FIU 2202 Prompt Payment. States that documentation authorizing payment of an invoice shall be approved for payment no later than forty (40) days after receipt of a proper invoice and receipt, inspection, and approval of the goods or services, except that in the case of a bona fide dispute, the payment voucher shall contain a statement of the dispute and authorize payment only in the amount not disputed. Only if payment of an invoice is not issued within forty (40) days after receipt of a proper invoice and receipt, inspection, and approval of goods and services, will the University pay an interest penalty.
- FIU 2203 Authority to Debar and Suspend Vendors. Authorizes the Executive Director of Procurement Services to suspend or debar vendors/suppliers. Debarment or suspension shall be based on substantial competent evidence. Debarment and suspension shall be imposed to protect the interest FIU. Any supplier suspended or debarred may not conduct business with the University.

### **I.2.2.3 FIU Procurement Related Policies and Procedures**

<https://policies.fiu.edu/search/?subject=40>

FIU maintains a Policies and Procedures Library ("the Library"), which is the official repository of all approved University policies and procedures. The Office of University Compliance & Integrity is responsible for the design, implementation and maintenance of the Compliance and Ethics Program at FIU, including maintaining the Library. The Library is a valuable tool to gain greater knowledge and understanding regarding the University's Procurement related policies. Any questions regarding a specific policy should be directed to the administrative



oversight office listed on the policy abstract. Some key procurement related policies are noted below:

- 140.105 Ethics in Purchasing and Gift Policy

<https://policies.fiu.edu/policy/598>

. All Florida International University employees who are engaged in doing business with the University, or on behalf of a business entity, must conduct business dealings in an unbiased manner that is above reproach in all respects. When doing business with the University, or on behalf of a business entity, FIU employees have the responsibility and duty to conduct business in compliance with the highest ethical standards.

FIU employees are prohibited from corruptly using or attempting to use their positions to obtain special benefits or privileges for themselves or others.

(a) All individuals participating in the procurement process are bound by the State of Florida Code of Ethics for Public Employees, Chapter 112, Part 3, F.S., and the University's policies, including but not limited to, policies on conflicts of interest, gifts and ethics in Procurement.

(b) All individuals taking part in the development or selection of criteria for evaluation, the evaluation process, and the contract award process in any purchase shall be independent of, and have no conflict of interest in the entities evaluated and selected. University employees and University direct support organization employees participating on a procurement selection committee for commodities or services are prohibited from soliciting donations from responding vendors during the selection process, except for donations or other benefits expressly stated in the procurement document.

(c) It shall be a breach of ethical standards for any employee of the University to accept, solicit, or agree to accept a gratuity of any kind, form or type in connection with any contract for commodities or services. It shall also be a breach of ethical standards for any potential contractor to offer an employee of the University a gratuity of any kind, form or type to influence the development of a contract or potential contract for commodities or services.

- 150.105 Contracts Review Policy

<https://policies.fiu.edu/policy/550>

The Office of General Counsel (OGC) states that OGC is to review, revise, and approve all purchasing contracts, as to form and legal sufficiency, if valued at an amount greater than \$75,000 or for IT software. Procurement Services and OGC manages the contract process utilizing Total Contract Manager (TCM), which is a robust tool for creating, maintaining, and managing procurement contracts. Information about contracts can be tracked within TCM and contract documents managed as attachments. This contracting tool will assist Procurement Services and OGC to eliminate inefficient contract management practices and increase contract accessibility across the University. TCM interfaces with an eSignature application, DocuSign, where University signatories and Suppliers can seamlessly execute their procurement contracts. More information on TCM and Contract Management can be found at <https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/TotalContractManager.pdf> , <https://generalcounsel.fiu.edu/faqs/> and herein under Stage 6, Contract Management Process.

- 1710.075 Conflict of Interest  
<https://policies.fiu.edu/policy/106>

Conflict of interests, including those arising from University or outside activities are prohibited. Employees are responsible for resolving such conflicts of interest, working in conjunction with their supervisors and other University officials.

Any University employee considering outside activity/interest is required to complete the Report of Outside Activity Form prior to engaging in such activity and may not engage in such activity until the outside activity has been approved.

- 1930.005 Application Software Resources: Purchasing, Licensing & Use  
<https://policies.fiu.edu/policy/556>

This policy ensures that the University Community understands that only legally owned software can be used on University-owned computers, servers, or networks. The list of software licenses available at FIU can be found at: <https://panthertech.fiu.edu/software>

When purchasing a third-party solution, Departments are strongly encouraged to complete the vendor risk questionnaire found at <https://library.educause.edu/resources/2020/4/higher-education-community-vendor-assessment-toolkit> as this Higher Education Communication Vendor Assessment (HECVAT) will facilitate the evaluation of process to rate the level of risk for all vendors.

- 2350.75 Sponsored Research Purchasing Exemption  
<https://policies.fiu.edu/files/354.pdf>

All purchases on a sponsored project must be made in accordance with the policies and procedures of the University. However, upon certification that it is necessary for the efficient or expeditious execution of a research project, a purchase on that project for material, supplies, equipment, or services for research purposes may be exempted from the general purchasing requirements. A Sponsored Research Purchase Exemption Request found at: <http://research.fiu.edu/documents/forms/award-management/PurchaseExemptionForm.docx> or a Sole Source Request found at: <https://controller.fiu.edu/wp-content/uploads/sites/24/2021/03/SoleSourceRequest.pdf> will need to be completed and approved if a competitive solicitation is not conducted and exemptions do not apply. FIU must follow the Uniform Guidance, 2CFR, 200 for sponsored activities. A Sole Source Request form should be used when the commodities/services are unique, and that the vendor is the only one who can provide the commodities/services and adequate number of quotes cannot be obtained. The Sponsored Research Purchase Exemption should be used for the following:

- Noncompetitive purchase specifically approved by sponsor with written approval from sponsor (i.e. email/proposal/budget justification).
  - Competition determined inadequate after solicitation of several vendors with documentation of solicitation efforts.
  - Emergency Purchase.
  - Upon certification that it is necessary for the efficient or expeditious execution of a research project, a purchase on that project for material, supplies, equipment, or services for research purposes may be exempted from the general purchasing requirements.
- 2370.010 Export Control  
<https://policies.fiu.edu/policy/896>  
Any federally funded research project of Florida International University shall be conducted in accordance with applicable export control regulations.
  - Signature Delegation  
<https://generalcounsel.fiu.edu/delegated-authority/>

Only the individuals listed on the Signature Delegation page of the Office of General Counsel website and as delegated by the University President, under the authority of Section 1001.75(5), F.S are duly authorized signatories with authority to bind the University to agreements for the purchase of goods and services.

Additionally, only such individuals have authority to accept electronic (e.g. click-through) agreements on behalf of the University. Contracts, including electronic agreements, signed and/or accepted by other employees or agents of the University shall not be binding on the University. Those individuals with signature authority may only sign contracts that have been reviewed and revised per the contract review processes outlined herein and for the purposes delegated to them, within the dollar limits delegated.

#### **I.2.2.4 Florida State Procurement Related Statutes**

- Chapter 287 Procurement of Personal Property and Services  
[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0200-0299/0287/0287ContentsIndex.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0200-0299/0287/0287ContentsIndex.html)

Defines the effective and ethical procurement of goods and contractual services through a system of uniform procedures to be utilized by state agencies in managing and procuring goods and contractual services; that detailed justification of agency decisions in the procurement of goods and contractual services be maintained; and that adherence by the agency and the vendor to specific ethical considerations be required. The definition of agency in 287 does not include the university or college boards of trustees or the state universities and colleges, except for certain subsections of 287 that specifically include the university or college boards of trustees or state universities and colleges.

- Chapter 286 Public Business: Miscellaneous Provisions  
[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0200-0299/0286/0286ContentsIndex.html&StatuteYear=2015&Title=%2D%3E2015%2D%3EChapter%20286](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0200-0299/0286/0286ContentsIndex.html&StatuteYear=2015&Title=%2D%3E2015%2D%3EChapter%20286)

Regarding competitive solicitations, any portion of an evaluation or negotiation team meeting where negotiation strategies are discussed, are exempt from SS 286.011, Public Meeting and Records. Meetings must be recorded and solicitation documents along with the meeting notes and recordings must be made available to the public 30 days from solicitation opening of final replies or recommendation of award whichever occurs first, per SS 119.071, Public Records. If the University decides to reject all solicitations and concurrently provides notice of intent to resolicit, the recording(s) of any exempt meeting(s) and all solicitation documents remain exempt for twelve months.

## I. Resources

Form/Template Name/Description	Web Site/Link
<b>Office of the Controller – Organizational Chart</b>	<a href="https://controller.fiu.edu/wp-content/uploads/sites/24/2020/10/OrganizationalChart.pdf">https://controller.fiu.edu/wp-content/uploads/sites/24/2020/10/OrganizationalChart.pdf</a>
<b>Procurement Services – Contact and Responsibilities Listing</b>	<a href="https://controller.fiu.edu/directory">https://controller.fiu.edu/directory</a>
<b>FIU Board of Governors Regulations</b>	<a href="https://www.flbog.edu/regulations/active-regulations/">https://www.flbog.edu/regulations/active-regulations/</a>
<b>FIU Board of Trustees Regulation</b>	<a href="http://regulations.fiu.edu/regulation">http://regulations.fiu.edu/regulation</a>
<b>FIU Policies and Procedure</b>	<a href="https://policies.fiu.edu/search?subject=40">https://policies.fiu.edu/search?subject=40</a>
<b>FIU Signature Delegation</b>	<a href="https://generalcounsel.fiu.edu/delegated-authority/">https://generalcounsel.fiu.edu/delegated-authority/</a>
<b>FIU Code of Ethics and Standard of Conduct Policy</b>	<a href="https://policies.fiu.edu/policy/598">https://policies.fiu.edu/policy/598</a>
<b>Sponsored Research Purchasing Bid Exemption</b>	<a href="https://policies.fiu.edu/files/354.pdf">https://policies.fiu.edu/files/354.pdf</a>
<b>Florida State Statutes</b>	<a href="https://www.flsenate.gov/Laws/Statutes">https://www.flsenate.gov/Laws/Statutes</a>

## II. Procurement Overview

### Six Stages of Public Procurement



To assist the Stakeholders/Using Departments in performing their roles in the procurement process, the procurement overview chapter's goal is to detail these processes in one easy chapter.

#### II.1 Identify the Procurement Need

The procurement process begins with the identification of a procurement need. A procurement need is a situation where a department must purchase either a good or service to fulfill its mission.

Whatever the procurement need, there are a few critical preliminary steps that must be completed.

#### II.2 Develop a Procurement Strategy

Once the choice has been made to purchase the goods or services identified as a procurement need the next key question is: "Which procurement method is the most appropriate?" By answering this key question, the appropriate activities needed to develop a strategy for how the procurement need will be met can be established.

You will need to review the materials of this chapter to answer the following key questions, which will help determine what steps to take next to fulfill the purchasing need:

- Is the needed good/service exempt from competitive solicitation per BOG 18.001?
- What form of procurement method should be followed?

- Can the needed good/service be satisfied using an existing contract that was already competitively solicited?
- Is special approval necessary?
- What forms need to be completed?
- Does the good/service have to be obtained through a competitive solicitation process? Which competitive process do you have to utilize?
- What is the total amount to be spent on the prospective purchase (initial contract cost with all renewal costs)?

Departments are encouraged to contact [Procurement Services](#), visit [myFIUmarket](#), and the Procurement Services [Shopping Guide](#) to learn about the sources for goods and/or services that are readily available. Engaging Procurement Services from the beginning is a time-saving step that can help meet departmental needs promptly and avoid unnecessary work.

### **II.3 Define the Procurement Method**

The purchase of goods and services may fall into several categories of procurement methods:

- Emergency
- Sole Source
- Exempt
- Exceptional
- Piggy-back
- Competitive Solicitation

#### **II.3.1 Emergency Purchases**

When the University President or his designee declares an emergency in writing no Request for Emergency Purchase form is required; however, keep a copy of the Emergency Declaration for your files, prepare a special request requisition in PantherSoft and attach a copy of the Emergency Declaration. A contract and/or purchase order will be issued, if needed.

When a Department believes there isn't sufficient time to follow the competitive solicitation process due to an emergency as defined by BOT Policy FIU-2201, you can proceed with an emergency purchase by following the directions below:

- The initiating authority must secure the Dean or Department Head Signature stating an emergency.

- The department must submit a completed Request for Emergency Purchase Form to the Executive Director of Procurement Services. If a purchase order is needed a special request requisition should be entered in PantherSoft and attach a copy of the emergency request form.
- The Emergency Request Form is located at: <https://controller.fiu.edu/wp-content/uploads/sites/24/2021/03/RequestEmergencyPurchaseForm.pdf>
- The Executive Director of Procurement Services will make a recommendation based on the facts presented and forward to the University President or designee for consideration.
- Upon approval from the President or his designee, the executed copy of the request will be forward to the Executive Director of Procurement Services. At that time a purchase order can be dispatched for the purchase.

### **II.3.2 Sole Source Purchases**

Goods and/or contractual services available from a single source, may be exempted from issuing a bid or quotation once the University certifies that there is only one source of supply capable of meeting the University's requirements.

The Annual Certification for Sole Source/Exceptional Purchases lists can be utilized to purchase sole source and/or non-competitive commodities and services that are identified on that list. Please review the categories that have been approved in the Annual Certification for Sole Source/Exceptional Purchases prior to requesting a sole source purchase at <https://controller.fiu.edu/wp-content/uploads/sites/24/2020/10/AnnualCertificationMemo.pdf> and the BOG regulations (Exempt Purchases & Exceptional Purchases) listed below. Any purchase from a category on these lists should have a comment on the requisition and justification to utilize the exemption.

Procurement Services will research each Sole Source request by performing additional market analysis to determine if there is only one source which meets the specifications. This may take up to 7 working days to complete. If it appears as if more than one supplier can provide the goods or services, a competitive solicitation may be required.

#### **II.3.2.1 Sole Source Purchases \$74,999 or less**

When Departments want to request waiving the requirement of obtaining two or more quotes for purchases of goods and services for an amount greater than \$9,999 and less than \$75,000 (including all renewals), then the using department is required to perform the following:



- Enter a requisition in PantherSoft Financials.
- Attach a completed Sole Source Request form located at: <https://controller.fiu.edu/wp-content/uploads/sites/24/2021/03/SoleSourceRequest.pdf> and a letter from the supplier certifying the good or service is not available from another source.
- A purchase order will be issued for the non-competitive items(s) between \$10,000 and \$29,999, when the Sole Source Request form is approved by the Procurement Professional and when the procurement is between \$30,000 and \$74,999 and approved by the Executive Director of Procurement Services.
- The approved Sole Source Request form and the letter from the supplier must be attached to the requisition before a PO can be issued.

### **II.3.2.2 Sole Source Purchases \$75,000 or more**

For goods and services purchased for any amount for \$75,000 or more (including all renewals) that the using department deems a sole source, then the using department is required to perform the following:

- Enter a requisition in PantherSoft Financials.
- Attach a completed Sole Source Request form located at: <https://controller.fiu.edu/wp-content/uploads/sites/24/2021/03/SoleSourceRequest.pdf> and a letter from the supplier certifying the good or service is not available from another source.
- A purchase order will be issued for the non-competitive items(s) between \$75,000 and \$100,000, when the Sole Source Request form is approved by the Executive Director of Procurement Services and the CFO or Provost.
- A Sole Source Request form for purchases exceeding \$100,000 must be approved by the Executive Director of Procurement Services, the CFO or Provost and the President or the President's designee.
- If no other possible supplier is identified, for purchases for \$75,000 or more and the Sole Source Request is approved, Procurement Services will post the decision to declare the purchase a sole source for 72 hours, not counting weekends or State or University holidays. After the 72-hour period, if there is no protest, Procurement Services will issue a purchase order or prepare a contract if a contract is required.

- If the sole source is tied to a contract that is not fully executed, then the PO is detained until the contract is fully executed. The approved Sole Source Request form and the letter from the supplier must be attached to the requisition before a PO can be issued.
- Procurement Services will forward a copy of the purchase order and contract to the using department once all is completed.
- The Procurement Professional records and updates the Sole Source log with the PO number.

### **II.3.3 Exempt Purchases**

The following listed goods and services are not subject to the competitive solicitation requirements per Section 6(d) of BOG Purchasing Regulation 18.001. Please see a complete and updated listing at: <https://www.flbog.edu/regulations/active-regulations/> Chapter 18 Purchasing Regulation 18.001.

1. Artistic services;
2. Academic reviews;
3. Lectures;
4. Auditing services;
5. Legal services, including attorney, paralegal, expert witness, appraisal, arbitrator, or mediator services;
6. Health services, involving examination, diagnosis, treatment, prevention, medical consultation or administration. Prescriptive assistive devices for medical, developmental or vocational rehabilitation including, but not limited to prosthetics, orthotics, wheelchairs and other related equipment and supplies, provided they are purchased on the basis of an established fee schedule or by a method that ensures the best price, taking into consideration the needs of the client;
7. Services provided to persons with mental or physical disabilities by not-for-profit corporations organized under the provisions of s. 501(c)(3) of the Internal Revenue Code or services governed by the provisions of 2 CFR 230;
8. Medicaid services delivered to an eligible Medicaid recipient by a health care provider who has not previously applied for and received a Medicaid provider number from the Department of Children and Family Services. This exception will be valid for a period not to exceed 90 days after the date of delivery to the Medicaid recipient and shall not be renewed;
9. Family placement services;

10. Training and education services;
11. Advertising, except for media placement services;
12. Services or commodities provided by governmental agencies, another University in the State University System, direct support organizations of the university, political subdivisions, or other independent colleges and universities;
13. Programs, conferences, workshops, continuing education events or other University programs that are offered to the public for which fees are collected to pay all expenses associated with the event or program;
14. Purchases from firms or individuals that are prescribed by state or federal law or specified by a granting agency;
15. Regulated utilities and government franchised services;
16. Regulated public communications, except long distance telecommunication services or facilities;
17. Purchases from the Annual Certification List for Sole Sources and/or Non-Competitive goods or services. Found at: <https://controller.fiu.edu/wp-content/uploads/sites/24/2020/10/AnnualCertificationMemo.pdf> ;
18. Purchases for resale;
19. Accounting Services;
20. Contracts or services provided by not-for-profit support and affiliate organizations of the University, direct support organizations, health support organizations, and faculty practice plans;
21. Implementation/programming/training services available from owner of copyrighted software or its contracted vendor; or
22. Purchases of materials, supplies, equipment, or services for instructional or sponsored research purposes when a director of sponsored research or designee certifies that, in a particular instance, it is necessary for the efficient or expeditious prosecution of a research project in accordance with sponsored research procedures or to attain the instructional objective.

Any purchase that falls into one of the categories above should reference the appropriate exemption on the relevant documentation. If a requisition is required, the exemption must be listed as a comment on the requisition in PantherSoft. If a department is uncertain about whether a purchase falls under one of these exemptions, please contact Procurement Services for assistance.

While competitive solicitation is not required, the exemption pertaining to certain goods and contractual services does not prohibit a department from electing to procure them through the competitive process at their discretion.

### II.3.4 Exceptional Purchases

FIU is authorized to make exceptional purchases per BOG 18.001 (4) for the following goods and contractual services in which a competitive solicitation is not required, but could be used for the procurement if it's determined to be in the best interest of FIU:

1. Purchase of Product with Recycled Content and postconsumer recovered material.
2. Purchase of Private Attorney Services.
3. Purchase of Insurance.
4. Purchase of Printing. If it's determined that a competitive solicitation process would be in the best interest to FIU, then the preference provision of BOG18.001 (3)(b) shall apply, except if sponsored funds are used.

### II.3.5 Alternate Purchases/Cooperative/Piggy-back Contracts

Purchases from an alternate purchase/cooperative/piggy-back contract may eliminate the need for a competitive solicitation over \$75,000. A piggy-back contract is a contract awarded through a competitive process which allows FIU to purchase the same services or goods at the same contracted terms.

Contracting utilizing piggy-back contracts is subject to internal and external review and must be consistent with the policies and regulations of FIU. Procurement Services examines and weighs multiple factors to determine the appropriateness of piggybacking as a preferred methodology of procurement.

Where practical and available, FIU should implement the use of existing State University System (SUS) Shared Initiatives contracts, unless the Executive Director of Procurement Services or designee documents that such use is not in the best interest of the university.

Departments should take the necessary action noted in the Piggy-back Contract Guidelines found at <https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/PiggybackContractGuidelines.pdf> . Complete the Piggy-back Agreement Checklist and submit all requested documentation to Procurement Services at [contracts@fiu.edu](mailto:contracts@fiu.edu) to process.

Once the requested information is received, Procurement Services, with the assistance of the Office of the General Counsel when needed, will determine whether the request to piggy-back is approved or denied. The department will be notified of the determination via e-mail. This process may take between 10 and 21 working days to complete.

- If denied, Procurement Services will assist the department to find an alternative contract or develop an FIU solicitation.
- If approved, the department enters a requisition referencing the Contract Number and Contracting Entity and attached all documentation listed above.

Procurement Services will process any needed contract documentation (such as participating addendum of piggy-back cover agreement), issue the purchase order and send all necessary documentation to the Supplier and copies of such to the department.

### **II.3.6 Competitive Solicitations**

A Competitive Solicitation involves openly inviting all interested suppliers to submit a quotation, bid or proposal to supply the procurement need of the University. Competitive Solicitation is a fair and open method of procuring goods and contractual services that serves to ensure transparency, best value, reduces the appearance and opportunity for favoritism, and inspires public confidence in the entire procurement process.

Once you determine the total amount to be spent on the prospective purchase (initial contract cost with all renewal costs) and that it does not qualify as exceptional, exempt, sole source or emergency purchases, then you need to determine what type of competitive solicitation must be conducted. You may not split reasonably foreseeable or related purchases into two or more transactions for the purpose of circumventing the competitive solicitation requirement for purchases over \$75,000 which should include initial contract cost with all renewal costs. Appropriate action should be taken to obtain the most economical purchase. Departments must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out different items to obtain a more economical purchase.

#### **II.3.6.1 Informal Competitive Process**

Purchases with a total cost under \$75,000 can be obtained through an informal competitive process by obtaining:

- One quote for micro-purchases under \$10,000,
- When purchases are not exempt under any of the above-mentioned exemptions or another procurement method is not utilized, quotes must be obtained utilizing GovSpend Quotes and RFQs with a minimum of two quotes for purchases from \$10,000 up to and including \$74,999. The Executive Director of Procurement Services can waive the two-quote requirement if proof is provided via GovSpend's audit link that identifies that a significant number of suppliers were notified of the quote and only one quote was received in GovSpend. When posting a Quote on GovSpend

it should be set up to post to the public by selecting “all companies selected within the categories selected” under the heading Notify.

- The Executive Director of Procurement Services can approve the request to award to other than the low quote, when two or more quotes are received if the low quote(s) is not the most responsible, responsive quote and/or waive the *GovSpend Quotes and RFQs requirement if justification is provided via e-mail that support the recommended award. The Executive Director will consider* maximum value for money spent by awarding quotes or bids to the most responsible, responsive supplier, taking into consideration quality, performance, support, delivery schedule, experience, previous performance, business location, and other relevant factors.

Departments must utilize GovSpend Quotes and RFQs to obtain electronic quotes from at least two suppliers and one quote should be from an MBE/SBE suppliers, if available. Use of GovSpend Quotes & RFQs is mandatory for purchases between \$10,000 to \$74,999, unless another procurement method is used, the purchase is exempt, a sole source or you are piggybacking off an existing contract awarded as a result of a competitive solicitation. For more information, please visit [the GovSpend Help Center](#). Should you require access to GovSpend Quotes and RFQs, you may request it via [StartUp FIU Procurement](#).

Please refer to [Stage 1](#), Pre-Solicitation Process, for more information.

### II.3.6.2 Formal Competitive Process

Purchases of goods, services, or deferred payments contracts more than \$75,000 shall be obtained through a formal competitive process unless otherwise exempt. The Executive Director of Procurement Services will determine the competitive process to be used. Invitation to Bid (ITB), Invitation to Negotiate (ITN), and Request for Proposals (RFP) are the formal competitive solicitation types.

If you have a procurement need that is equal to or over \$75,000, contact [bids@fiu.edu](mailto:bids@fiu.edu) to determine an appropriate procurement method. If it is determined that a competitive solicitation is required, you will need access to Sourcing Director via myFIUmarket to complete a Sourcing Event Request Form. Please follow the directions on the [Sourcing Event Request Form SOP](#).

Should you require access to Sourcing Director, you may request it via the Total Contract Manager (TCM) and Electronic Solicitation Access Request Form which can be found by clicking [here](#) or located at

(<https://imagenowweb.fiu.edu/imagenowforms/fs?form=TCMForm>).

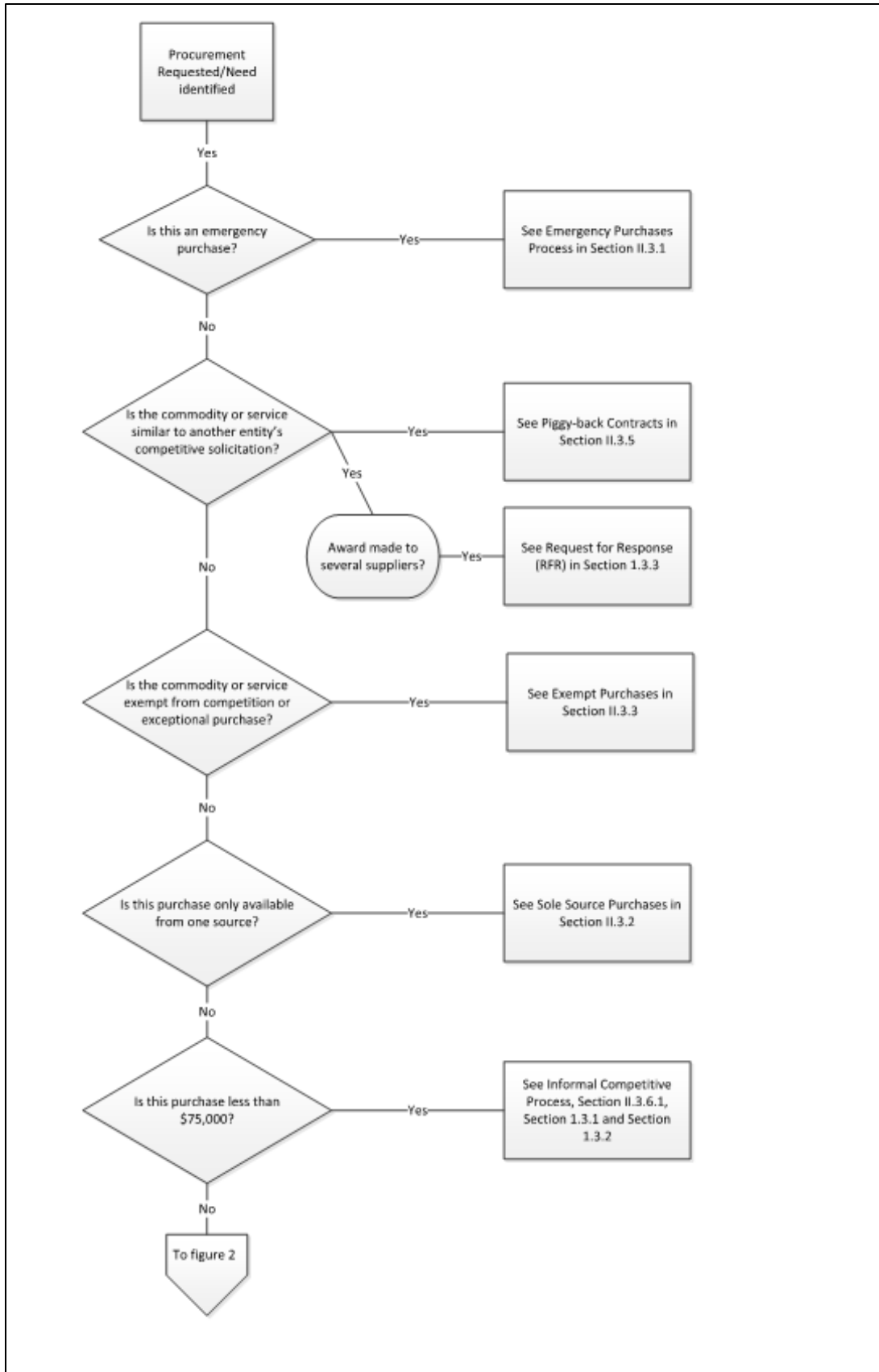
- You will have to login with your FIU Username and Password
- Once submitted, the form will automatically route to your HR Supervisor (and Expense Manager for the College of Business) for approval before Procurement Services receives notification of your request

Please refer to [Stage 1](#), Pre-Solicitation Process, in this manual for more information.

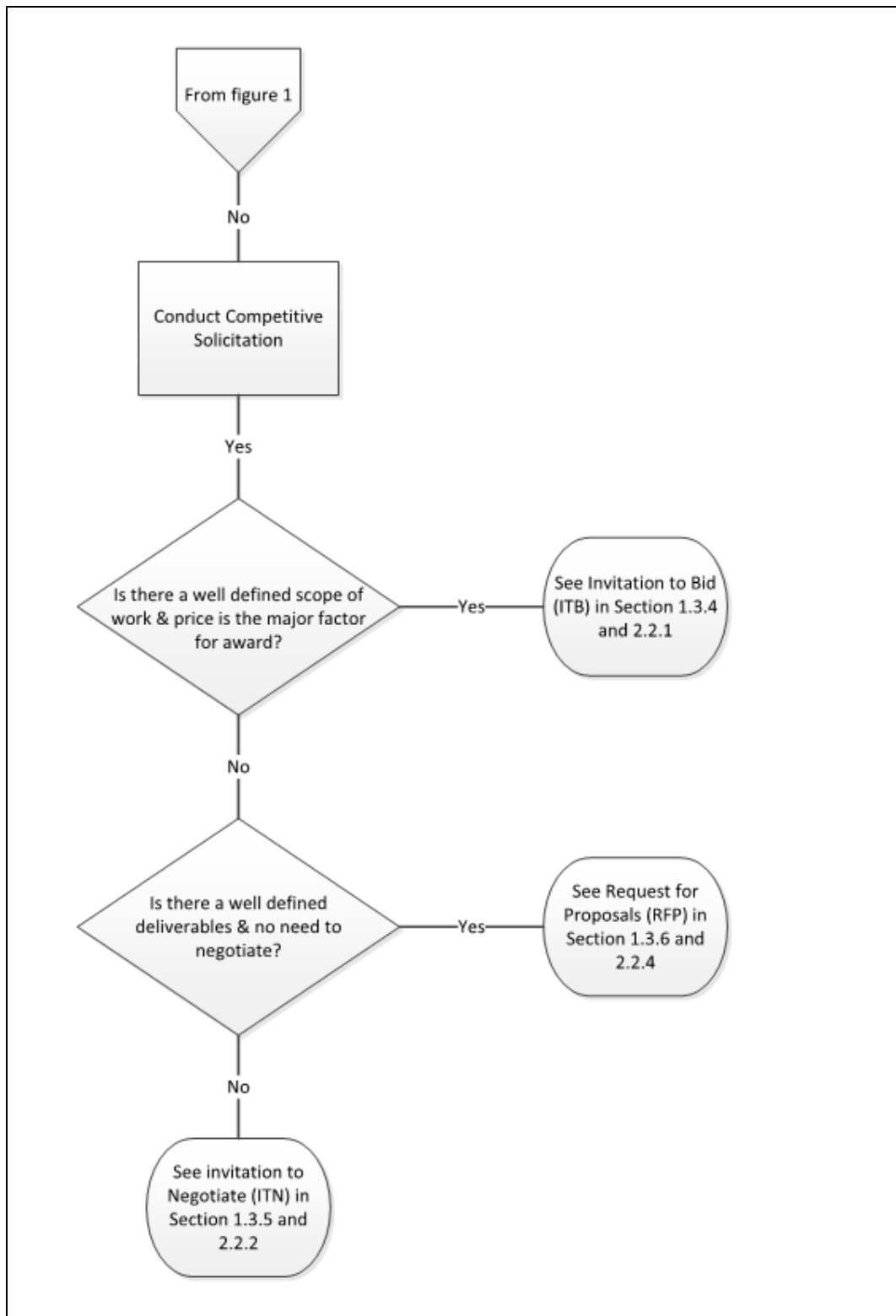
### **II.3.7 Procurement Decision Tree**

To assist in determining which method is most appropriate to answer an identified procurement need, the Procurement Decision Tree has been developed.

The Procurement Decision Tree is a multi-page flow chart found on the following pages to provide guidance in the Procurement process.







## **II.4 Unauthorized Purchases**

### **II.4.1 Purchases for Individuals**

FIU entities are not authorized to make purchases for any individual or non-University organization.

### **II.4.2 Non-Conforming Purchase**

FIU entities are not authorized to place orders directly with suppliers for goods or services for which a purchase order is required. Procurement Services is the only authorized purchasing agent for the University. If an FIU entity has an immediate need, Procurement Services may issue a purchase order with a supplier after the proper procurement method has been selected and executed. In the event that goods or services are received prior to a purchase order being issued or payment cannot be made with a PCard or is not an allowable unencumbered payment purchase, a Non-Conforming Purchase Justification form must be completed which is located at <https://imagenowweb.fiu.edu/imagenowforms/fs?form=Non-ConformingPurchaseJustificationForm>.

Unauthorized purchasing actions could be serious violations of FIU policies and state laws that could have detrimental consequences to the University's resources and reputation. Violators may be directed to pay the supplier with personal funds, and disciplinary action may be taken against the employee. The Non-Conforming Purchase Justification form must be completed for payment to be processed. The appropriate immediate supervisor for the non-conforming staff and the Expense Manager of the Business Unit must approve all forms, in addition to the Executive Director of Procurement Services. The Business Unit Head for the non-conforming staff will be required to approve any Non-Conforming Purchase Justification form that are over \$5,000 or if this is a third offense for purchases under \$5,000.

The Provost or the CFO will approve the Non-Conforming Purchase Justification form if they are the non-conforming staff, the immediate supervisor of the non-conforming staff, or if they are the Business Unit Head for a non-conforming staff. The Executive Director of Procurement Services will periodically provide the CFO and Provost a Non-Conforming Purchase Justification List.

The President will only approve the Non-Conforming Purchase Justification form if the non-conforming staff is the Provost, CFO, or any of his direct reports or if the President is the Business Unit Head for a non-conforming staff.

The Office of Research and Economic Development will be required to approve any Non-Conforming Purchase Justification form equal to or greater than \$10,000 paid from sponsored project funds. If the transaction does not meet a bona fide exemption as specified in II.3.3 above, the purchase will not be an allowable charge on the sponsored project and will need to be paid from other funding source.

Once the completed Non-Conforming Purchase Justification form is approved by the appropriate parties, it will be considered a non-conforming purchase and payment can be processed via the unencumbered payment form.

There may be unique situations that arise because of distinct and logistically complex activities that require alternate payment methods for purchases that follow the proper procurement methods. This alternate payment method includes paying for goods or services received without a PO if an authorize signature authorizes the purchase and payment will be through the unencumbered payment process without requiring a Non-conforming Purchase Justification form. In an effort to address these purchasing challenges, while still maintaining adequate internal controls over the propriety of these purchases, the Controller shall have the discretion to evaluate and determine if a particular event may warrant the use of alternate payment method and for such instances, will review for approval the alternate payment method with the Executive Director of Procurement Services to ensure there are satisfactory controls over its related purchases and the proper procurement method is followed.

### **II.4.3 Splitting of Orders**

The deliberate attempt to split orders, where the purpose is keeping the total cost of each order below bid or quote limits, and failure to combine orders when practical for the interest of economy, is an evasion of the Florida Statutes and University Purchasing Directives. The splitting of orders is a prohibited activity. Any related needs that are known or should have been reasonably known at the time of the requirement should be combined into one coherent request for procurement.

### **II.4.4 Purchases of a Personal Nature**

The University has adopted the guidelines from the Florida Department of Financial Services Rule 69I-40.103, F.A.C., for expenditures from State funds. The purchase of items, using University funds is prohibited unless “expressly provided by law” or a clear business purpose exists. Please see Payment Services Expenditure Guide at:

<https://controller.fiu.edu/wp-content/uploads/sites/24/2020/07/ExpenditureGuide.xls> for more information on the types of items that may or may not be purchased with the different funds.

#### **II.4.5 Purchases of Food and Non-Alcoholic Beverages**

The purchase of food and non-alcoholic beverages is restricted to only those FIU funds which allow for food purchases and all such purchases must have a clear and documented business purpose. E&G funds may not be used for this purpose. The only exception to this rule would be for the purchase of food items that are considered lab supplies (i.e. food items used as part of an experiment or that are used to feed lab animals). The University departmental card may be used for these expenditures. Please refer to the Departmental Card Guideline for additional information at:

[https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/DC\\_GuidelinesProcedures.pdf](https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/DC_GuidelinesProcedures.pdf)

Employee meals when traveling and recruitment are allowed with T&E card program. Please refer to T&E Card program website for additional information at:

[https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/TE\\_Card\\_Manual.pdf](https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/TE_Card_Manual.pdf)

### **II.5 Special Approvals or Restrictions**

#### **II.5.1 Equipment on Trial or Loan Basis**

Equipment placed on campus on a trial or loan basis by a vendor must have prior approval from the Executive Director of Procurement Services. University Departments must complete the Equipment Evaluation Agreement Form located at: <https://controller.fiu.edu/wp-content/uploads/sites/24/2021/03/EquipmentEvaluationAgreement.pdf> and submit it electronically to Procurement Services at [contracts@fiu.edu](mailto:contracts@fiu.edu) for review and approval prior to accepting any equipment.

#### **II.5.2 Leases: Installment-Sales Acquisitions of Equipment**

Leases of equipment are subject to competitive solicitation requirements, if over \$75,000 annually. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. All leases and financing shall be in accordance with deferred-purchase provisions in FS Chapter 287.064(1) and the Consolidated Equipment Financing Program (CEFP). Financing must include overall term, extensions renewals or financing, hereof, and does not exceed five years or the estimated useful life of the equipment, whichever, is shorter. Please refer to the website for additional information at: <https://www.myfloridacfo.com/division/aa/state-agencies>

### II.5.3 Leases of Property

Leases of property for 5,000 square feet or more of space in a privately owned building shall be competitively solicited when required and in accordance with BOG 17.001. Please see the website for additional information at: [www.flbog.edu](http://www.flbog.edu). Please see OGC website at: <https://generalcounsel.fiu.edu/contract-forms/> for leases of property for 5,000 square feet or less of space.

### II.5.4 Special Hazard Materials

Procurement Services will comply with all University policies, procedures and approved operating guidelines, and any applicable federal, state or local regulations that govern the purchase, delivery, use and disposal of certain restricted items – hereafter described as Special Hazard Materials (SHM). All solicitations and purchases for Special Hazard Materials will be conducted in accordance with Environmental Health & Safety approval and oversight. Please contact EH&S at 305-348-2621 or visit their website at <http://ehs.fiu.edu> for additional information for all of the following:

- Select Agents
- DEA Controlled Substances
- Radioactive Materials & Equipment & Devices Containing Radioactive Sources
- Lasers
- Hazardous Materials, Chemicals and Scientific Equipment
- Biological Agents/Materials

FIU has partnered with Fisher Scientific to provide site support service for FIU's Research Lab Supply Store and Hazardous Chemical Tracking Management. Faculty and staff at MMC will have immediate access to the top 100 most used lab supply items. You can either pick up at the store or Scientific Receiving will deliver the items from the store for order's placed online at <https://www.fishersci.com/us/en/home.html> or myFIUmarket for MMC orders.

Fisher Scientific will barcode and enter all hazardous chemicals into the EHS Assistant program at all three FIU university campuses. To help ensure that all hazardous chemicals are entered into EH&S Assistant program, hazardous chemical orders can only be shipped/delivered to the assigned barcoding areas at:

**MMC:** Scientific Receiving, CP 193 Receiving Dock

**BBC:** Central Receiving, S01

**EC:** College of Engineering- EC 2854

**Torrey Pines:** 121 and 238

**Largo:** 1<sup>st</sup> Floor Receiving Office

The EH&S Barcoding of Hazardous Chemicals Quick Guide located at [https://ehs.fiu.edu/\\_assets/docs/chemical/ehs-doc609.00-ehs-barcoding-hazardous-chemicals-quick-guide.pdf](https://ehs.fiu.edu/_assets/docs/chemical/ehs-doc609.00-ehs-barcoding-hazardous-chemicals-quick-guide.pdf) will go over general requirements for hazardous chemical ordering, picking up, barcoding and removal from the PIs chemical inventory in EHS Assistant program.

#### **II.5.4.1 Hazardous Materials and Scientific Equipment**

All Special Hazards Materials and scientific equipment containing hazardous materials are controlled by EH&S and must be approved by them prior to submitting a requisition to Procurement Services. A list of these materials and equipment may be obtained from EH&S.

#### **II.5.4.2 Human Cadavers, Skin, Blood, Bones and Tissue**

The FIU Biosafety Office is responsible to authorize the purchase of Human Cadavers, Skin, Blood, Bone and Tissue. Please contact the EH&S Biosafety Office at: 348-0489 for more information.

#### **II.5.4.3 Animals**

The U.S. Department of Agriculture requires that all animals must be bought under the supervision and assistance of a qualified veterinarian. Purchase and use of animals must also be approved by the FIU Institutional Animal Care & Use Committee (IACUC). Please refer to the EH&S website and the FIU IACUC website at: <https://research.fiu.edu/iacuc/> for additional guidelines, forms and procedures.

#### **II.5.4.4 FIU Board of Trustees approval for certain value transactions**

Pursuant to the Delegations of Authority from the Florida International University Board of Trustees to the University President, as reflected in the Resolution on the President's Powers and Duties approved by the Board of Trustees, available at <https://generalcounsel.fiu.edu/wp-content/uploads/sites/26/2020/09/Presidents-Powers-Duties.pdf>. Contracts for the purchase, sale, lease, license, or acquisition of commodities, goods, equipment and other types of personal property, software and contractual services, including private attorney services, greater than or equal to \$1,000,000, require the prior approval of the Finance Committee of FIU Board of Trustees. Any such transaction greater than or equal to \$3,000,000, requires the prior approval of the full FIU Board of Trustees. Therefore, the departments are responsible for planning accordingly and in advance any transaction that is subject to the aforementioned approval. Please contact [contracts@fiu.edu](mailto:contracts@fiu.edu) as early as possible to obtain the necessary forms and guidance if the transaction is estimated to meet the thresholds mentioned above.

The requirements stated above does not apply to contracts that obligate only funds

that derive from sources that are external to the University, i.e., direct funds and indirect funds also known as Facilities and Administrative, or F&A, funds from sponsored projects ("Sponsored Project Contracts"). All Sponsored Project Contracts that are executed in an amount greater than or equal to \$500,000 shall be reported after-the-fact on a quarterly basis to the Finance Committee. The Research Funding Certification Form shall be executed for Sponsored Project Contracts greater than or equal to \$1,000,000 that obligate only F&A funds.

### II.5.5 Export Controls

As ITAR inventory is restricted from foreign national access absent Directorate of Defense Trade Controls (DDTC) authorization, even where intended for use in fundamental research, it is important for Procurement to notify the Export Control Administrator of any International Traffic in Arms Regulations (ITAR) items that are the subject of a purchase transaction that they know or become aware of through notification by suppliers.

Items being purchased for general research purposes which may be Export Administration Regulations (EAR) controlled do not require classification and the FIU Export Administrator's approval, as access to them will generally be governed under the EAR's Fundamental Research Exclusion. However, there are two important exceptions: 1) where the vendor is also providing proprietary technical information (typically through a Non-Disclosure or Confidentiality Agreement) about the item and this information is identified as export controlled; and 2) in the event that Procurement becomes aware that such items will be used strictly for proprietary (non-FRE governed) research or fabrication purposes: in both of these situations, the Export Administrator in conjunction with the affected parties will have to classify such items being used under these agreements to determine the export control ramifications.

Where an item is identified by a supplier as being governed by ITAR (or where Procurement has independent information that the item is ITAR-governed), or if the noted exceptions to the EAR appear to be applicable, Procurement shall immediately notify Export Control Administrator of such intended procurement, enabling the Administrator to determine whether, in fact, the department or laboratory is equipped to restrict such item as necessary under the governing regulations. The procurement process of such controlled items may not be completed until such time as the Administrator has approved of the procurement. In some cases, the vendor may require FIU to certify that the items will be managed in accordance with U.S. export control regulations: in this case, such certification request shall be forwarded to the Export Administrator for review and resolution. Finally, where an international vendor requests that FIU sign an "End Use" statement about how the item is being used, such "End Use" statement shall likewise be forwarded to the Export Control Administrator for resolution.

## II.6 Payment Mechanisms

There are several Payment Mechanisms available to departments for the acquisition of goods and or contractual services. The purchase of goods and contractual services may be procured using the following mechanisms:

- Departmental Card
- Gift Cards
- Unencumbered Payment
- Purchase Orders

### II.6.1 Departmental Card

Departmental Cards are used to improve purchasing efficiencies. The intent of the departmental card is to reduce the time and paperwork required for small and some large dollar purchases and reimbursements currently processed through the University's financial system. All transactions placed on these cards must comply with the Credit Card Solutions Program procedures, the purchasing requirements outlined herein, and must benefit and support the University's mission of education, research and public service. Departments are encouraged to use cards to facilitate purchases and payments for the following:

- Academic Reviews
- Accreditation Fee
- All Catering Services
- Materials and supplies
- Travel expenses and registration fees for College Fairs, Seminars, Workshops, Conferences and Conventions
- Rentals (non-contractual)

For additional listing of allowed goods and services please refer to Departmental Card Guidelines & Procedure Manual information at: [https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/DC\\_GuidelinesProcedures.pdf](https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/DC_GuidelinesProcedures.pdf) page 22, for additional information.

Purchases from suppliers found at myFIUmarket cannot be procured with a Departmental Card unless the following conditions apply: expedited orders, a supplier's website has FIU contracted pricing, price matching or furniture requiring installation (non-accountable (non-OCO) property) is needed.

- If there is a need for an expedited order, suppliers must be contracted via phone or email to ensure contract rates are adhered to by suppliers.



- If there is a need to expedite your order with Airgas outside of myFIUmarket, call 305-470-8933 and provide your ship to account number and pay with your Departmental Card.
- If there is a need to expedite your orders with Fisher outside of myFIUmarket, log in at <https://www.fishersci.com/us/en/home.html> using your FIU account number and pay with your Departmental Card.
- If there is a need for Office Depot to price match or purchase furniture requiring installation (non-OCO) please contact the Office Depot Sales representative. Once the price match order number or the furniture order number is received, please call 1-888-777-4044 and provide the order number, plus the Departmental Card number.

### II.6.2 Gift Card

The University often conducts research where there is a requirement to obtain participation and/or collect information from participants. Researchers frequently find it necessary to offer incentives to obtain sufficient participation. Gift cards may be used within the established guidelines <https://controller.fiu.edu/resources/policies-procedures/> to facilitate making payments to participants in research studies. These incentives are subject to Internal Revenue tax laws and there are specific rules that must be followed for the University to remain in compliance.

Gift Cards are for the sole purpose of participant payments and cannot be used to pay trade suppliers for goods and/or services received and/or rendered or pay any type of wages for services rendered.

#### Process to Purchase Gift Cards

Following is the approved list of suppliers for the purchase of gift cards.

- |            |             |
|------------|-------------|
| • Publix   | • Target    |
| • Wal-Mart | • Starbucks |
| • Amazon   |             |

1. The Principal Investigator (PI) or designee will complete a [Gift Card Request for Research Subjects](#) and will submit to the Division of Research for approval. If the funding source is not a Project ID, the Office of the Controller [Gift Card Request Form](#) can be submitted along with a copy of the IRB protocol document.

2. A requisition will need to be set up in PantherSoft to include: (a) a detailed item description, (b) participant payments category code 95703, (c) detailed business purpose for the gift card request, (c) a scanned copy of the IRB protocol document and an approved Gift Card Request Form. Gift cards should be requested to cover disbursements for a 30-day period to avoid excess gift cards at the end of the program period.

3. Procurement Services will review the order to ensure all applicable approvals and background checks are completed before moving forward with the processing of a purchase order.
4. The Procurement Agent will place the order to be shipped to Procurement Services and will pay for the gift cards with his/her Departmental Card to expedite the ordering process. Suppliers do not ship out gift cards until payment is received.

### II.6.3 Allowable Unencumbered Payment for Services

An unencumbered payment is used as a purchasing and payment mechanism if the goods and/or services being purchased are under \$75,000 and are on the Allowable Unencumbered Payment List. Refer to the website at:

<https://controller.fiu.edu/wp-content/uploads/sites/24/2020/09/UnencumberedAllowableList.pdf> for the list and <https://controller.fiu.edu/wp-content/uploads/sites/24/2020/09/UnencumberedInstructions.pdf> for the Unencumbered Payment Form Instructional Guide. Most of these services are identified under BOG Exemption 18.001(6) (d) and can be paid utilizing this process. There may be unique events that arise that because of their distinct and logistically complex activities may require the use of an unencumbered payment as an alternate payment method for event related purchases that follow the proper procurement methods but are not included on the Allowable Unencumbered Payment List. For an event the Controller determines in advance warrants the use of the unencumbered payment process, payments for event related purchases will be processed as unencumbered payments without requiring a Non-conforming Purchase Justification form. Any request for consideration of an event for the use of alternate payment method, must be sent in advance to be reviewed and approved by the Controller, along with the Executive Director of Procurement Services to ensure there are satisfactory controls over its related purchases and the proper procurement method is followed.

- Services/Entertainment/Performance requiring a single payment if the value of the services being provided is under \$5,000 and an agreement is not needed by either party, follow this process:
  - Obtain a quote with a scope of service, location and time of service, compensation, name of payee, equipment and personnel that will need to be provided by FIU, if applicable.
  - Ensure supplier is registered with FIU and has a vendor ID.
  - After services are rendered obtain an invoice with an invoice date and number.

- Make payment via the electronic unencumbered payment form – <https://imagenowweb.fiu.edu/imagenowforms/fs?form=UnencumberedVoucherFormV3> .
- If the value of the Services/Entertainment/Performance being provided is over \$5,000 and/or an agreement is needed the same process as stated above shall be followed plus the additional procedures:
  - Complete the Service/Entertainment/Performance Agreement prior to services being rendered with all necessary signatures other than the Executive Director of Procurement
  - Submit the completed agreement to [contracts@fiu.edu](mailto:contracts@fiu.edu)
  - Procurement Services will review and obtain the Executive Director of Procurement Service's signature
  - Procurement Services will email the signed agreement to the contract person

Goods and or Services provided by Foreign vendors can NOT be paid unencumbered unless specifically required to do so by tax compliance.

#### **II.6.4 PantherSoft eProcurement Purchase Orders**

If the purchase cannot be made using a departmental card or an unencumbered payment method, then the remaining option is a purchase order. A purchase order is a type of contract as it binds the supplier to provide goods or services at a specific price and binds FIU to pay said cost. A purchase order must be obtained before receiving goods and/or services.

FIU's eProcurement (ePro) is the business-to-business sale and purchase of goods and services via the internet and PantherSoft Financials. PantherSoft's ePro provides requesters with a central place to manage and track their purchase from creation of the requisition all the way to payment

The Requisition and Purchase Order cycle begins when the using department enters and approves a requisition in PantherSoft. The issuance of a special request purchase order requires approximately five (5) working days from the time a valid and fully completed requisition is received by Procurement Services, this does not include additional time needed if a contract or quotes are required. Purchase orders processed through myFIUmarket bypass Procurement Services and are dispatched within a few hours after the requisition is approved.

The competitive solicitation process for goods and some services requires approximately three to six months from the time the solicitation is advertised to the issuance of a purchase order and/or contract. Solicitations for complex services or software can take longer than six months.

##### **II.6.4.1 Blanket Purchase Orders**

Blanket Purchase Orders should be requested at the beginning of each fiscal year for suppliers from which multiple purchases of goods or services will be made throughout the year and the supplier is not on myFIUmarket; however, blanket purchase orders may be requested anytime throughout the fiscal year. Requisitions for Blanket Purchase Orders are prepared by the requesting ~~using~~ department and must contain the following information:

- Requisition Origin should be set to "BPO."
- *Item Description* should read, "Blanket Purchase Order for [Insert detailed description of goods or services] for the period of 7/01/20XX – 6/30/20XX." Qty should be 1, and the Price should be the total for the BPO period.
- A comment listing the names of individuals authorized to use the Blanket Purchase Order.
- Two (2) or more quotes for purchases over \$9,999 and a competitive solicitation for purchases over \$74,999

Please refer to the [Purchasing through eProcurement](#) manual for instructions on how to properly set up a blanket purchase order. Blanket Purchase Orders may be increased by the requesting department by submitting a Change Order Requisition. All non-E&G funded Blanket Purchase Orders are automatically closed on June 30. Blanket purchase orders may not be used to purchase operating capital outlay (OCO) items.

#### **II.6.4.2 Change Orders**

Departments may initiate requests for Change Orders against special request purchase orders with a requisition noting only those items being added or changed. Change order requisitions must contain origin "CO" and the description must include a reference to the purchase order number you need to increase. Decreases may be requested by email to the Procurement Agent listed on your purchase order.

Request for Change Orders should be submitted for any of the following:

- Increase in quantities
- Increase in Blanket Purchase Order amount
- Substitute comparable acceptable items to original
- Substantial changes that will result in a cost differential

Request for Change Orders should not be submitted for the following transactions as PantherSoft Financials will automatically process:

- Invoice is not more than 10% of the item(s) or in no case more than \$100
- When the total cost on the invoice is less than the purchase order cost
- Freight bill costs when FOB block on purchase order indicates it is set to DESTINATION/ADD

- Additionally, change orders should not be submitted for the following transactions and you must send an e-mail to Procurement Services with your request:
  - Termination of the contract/purchase order

Modifications to myFIUmarket purchase order

Please refer to the [Purchasing through eProcurement](#) manual for instructions on how to properly set up a change order requisition.

### II.6.4.3 Special Request Requisitions (non-market)

The Requisition is a critical component of the purchasing cycle. It provides the information required to initiate the purchasing transaction. The Requisition process is used to request purchases of goods and services. Requesters should always check myFIUmarket and search for the items in the marketplace first before choosing Special Requests. If the purchase cannot be made through myFIUmarket then a Special Request Requisition must be entered, along with the appropriate quote information or you can request Procurement Services to obtain the quotes.

The following information, along with any attachments must be completed on the requisition to ensure prompt issuance of the purchase order:

Detailed Item Description	Price	Quantity	Unit of Measure
Category Code	Supplier ID	Supplier Location	Supplier Name
Ship to Location	Attention To:	Activity/Project Number	Comments/Attachments

The requisition will be processed through PantherSoft workflow, and the appropriate approvals must be obtained before the requisition is sourced over to Procurement Services.

If a vendor requires a signed contract in addition to a purchase order or the department determines that a signed contract is in the best interest of the University, then a purchase order with an executed contract must be issued prior to receiving the goods and/or services. All contracts will require you to create a special request requisition. The contract processes in [Stage 6, Contract Management Process](#), should be followed.

### II.6.4.4 myFIUmarket

myFIUmarket is a central marketplace where requesters can search for goods and services already under contract by the University, compare specifications and pricing between items and services, and shop directly from catalogs and contracts. New

suppliers with competitively priced contracts will be added to myFIUmarket based on University wide need. Shoppers can go to myFIUmarket to compare products, add them to favorites and then assign a cart to another individual or check out. Most of the information needed to complete a requisition is prepopulated from the marketplace.

eProcurement automates internal approvals of purchase requests to improve the purchasing process and expedite orders. Orders are processed within hours through the user-friendly online marketplace.

## II.7 Training

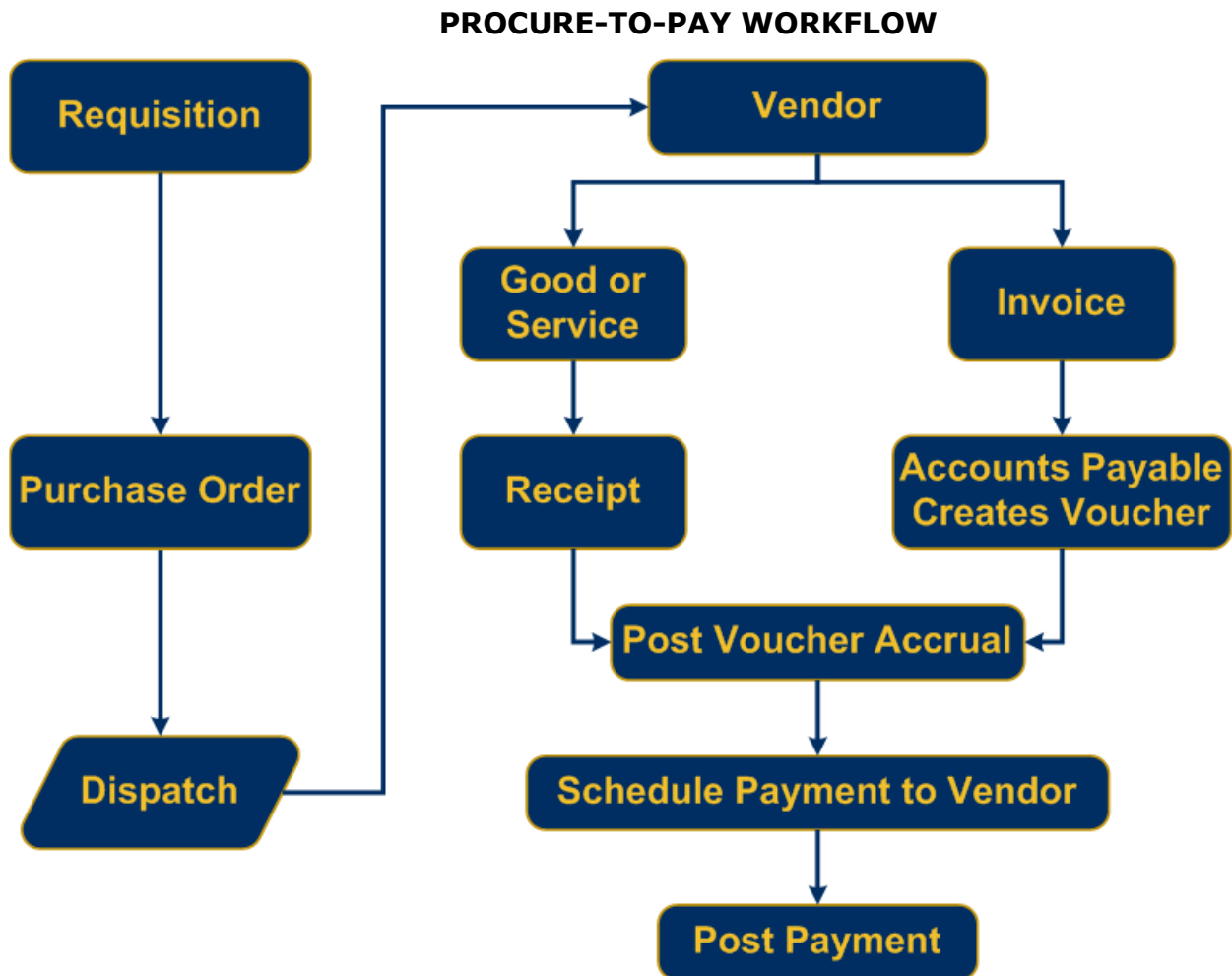
Training for faculty and staff is available through courses offered by Financial Systems and Support Services team. To register for classroom style courses please navigate to the [Training Registration Site](#). Attending the Procure to Pay course is necessary if your job duties require you to either process or approve requisitions. Reviewing the Procurement 101 presentation is also necessary which is located at: [https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/P2P\\_myFIUmarketHandout.pdf](https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/P2P_myFIUmarketHandout.pdf) . Attending the Total Contract Manager course is necessary if your job duties require you process or approve Procurement Contracts. Reviewing the Procurement Contracts presentation is also necessary which is located at: <https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/ProcurementContractsTraining.pdf> . A trainer can also visit your department, please call **(305) 348 - 7200** for an appointment. PCs with internet connection and overhead projector for presentation is required at the training location.

In addition, there are online guides, tutorials, and User Productivity Kit (UPK) training. The Financials System UPKs are found at <https://panthersoft.fiu.edu/online-training/>.

The end user who has a need to purchase or enter requisitions or approve requisitions should attend training, so they know how to:

- Shop using eProcurement
- Understand “shopper”, “assign a cart” and “place order” options.
- Create favorites and templates for frequently purchased items.
- Understand the process for myFIUmarket and Special Request purchase orders.
- Distinguish processes for initiating Change Orders.
- Analyze the Lifespan of the Requisition (workflow).
- Receive both ePro and myFIUmarket items.

The Procure to Pay Manual which provides directions for processing special request requisitions and myFIUmarket purchases is available at:  
[https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/P2P\\_myFIUmarketHandout.pdf](https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/P2P_myFIUmarketHandout.pdf)



## II.8 Minor Construction and Alteration Projects

Minor Construction projects include any repairs, alterations, renovations, improvements, demolition, and replacement of facilities less than 10,000 gross square feet. These projects are not to exceed \$2,000,000.

- Payment and Performance Bonds are required by state statute for any construction projects more than \$100,000. The surety insurer must be authorized to do business in the State of Florida.
- For construction projects where labor costs exceed \$500 (is this the right amount?), a Contractor's Affidavit and Certificate of Payment Request must be included with each payment application.

## II.9 Motor Vehicles, Watercraft or Aircraft



The University follows State and Federal guidelines of the Department of Energy's State (DOE) & Alternative Fuel Provider Fleet Program for the purchase of University Vehicles. All acquisitions of motor vehicles, watercraft or aircraft through purchase, lease, lease purchase, or transfer from another agency requires prior written approval.

### II.9.1 Types of Equipment

The term "University Vehicles" includes, without limitation, the following examples of motor vehicles, watercraft, and aircraft designed primarily for transporting people and construction vehicles:

- Automobiles
- Trucks
- Sport Utility Vehicles
- Vans
- Buses
- Mobile homes and offices
- All types of watercrafts
- All types of aircraft
- All types of tractors
- Utility vehicles, gas or electric, golf carts, all-terrain vehicles, motorcycles, forklifts, street sweepers, motor graders
- Draglines, cranes, compaction, and roller equipment
- Wheel and crawler loaders
- Refuse collection vehicles
- All types of trailers
- PTO operated mowers

### II.9.2 Procedures for Vehicles

- When initiating a University Vehicle Procurement request, departments must follow **Policy 540.005 ACQUISITION, ASSIGNMENT AND USE OF UNIVERSITY VEHICLES** <https://policies.fiu.edu/files/569.pdf>.
- All vehicle acquisitions must be routed through the University Fleet Manager.
- A University Vehicle Justification Form must be completed by the requesting department and approved by the Fleet Manager, Department Head, and Dean or Vice President, and the CFO or Provost.
- The FIU Vehicle Justification Form is located at: <https://shop.fiu.edu/wp-content/uploads/sites/2/2020/03/vehicle-justification-form.pdf>.
- Submit approved Vehicle Justification Form along with current estimates, and/or contract information to Procurement Services and complete the requisition in Panther Soft Financial System.

## II.10 Information Technology Resource Equipment

Information Technology (IT) Equipment is computer equipment which includes microcomputers; minicomputers, mainframes, stand-alone systems, or those integrated into any part of computer equipment and peripherals for the above listed equipment.

PantherSoft is programed to send requisitions to the appropriate IT approver in the IT division based on the commodity code entered by the requesting department or assigned by myFIUmarket for the purchase of IT equipment.

The Chief Operation Officer and Vice President has the authority to approve and execute all contracts for IT services up to \$250,000. Chief Operation Officer and Vice President has authority to approve and execute all amendments, addenda and related changes to master agreements that have been signed by the Provost or his delegate even when exceeding the \$250,000 authority previously delegated by the Provost.

The contract procedures stated in Stage 6 must be followed for IT equipment including legal review by the Office of General Counsel.

## II.11 Communications Equipment

Communications Technology Resources are subject to the same rules and regulations as Information Technology Resources equipment. Communications equipment shall be approved by FIU Telecommunications Department. The Telecommunications Department will secure all necessary approvals for telephones and communication lines.

The University has been delegated to acquire, lease, and use broadcast communications equipment, facilities, and services by FCC licensed broadcast stations.

Communication Equipment includes, but is not limited to the following:

- Cellular Telephones
- Antennae
- Closed Circuit Television Equipment
- TV cameras, Recorders, and Monitors
- Facsimile Communications Equipment
- Intercom Systems
- Pagers (paging receivers)
- Radios (2-way, Portable or Vehicular)
- Security Systems
- Telephones and Telephone Equipment

Equipment not classified as Communication Equipment are: Audio Visual Equipment, such as projectors, classroom record players, small tape recorders, etc.

## II.12 Moving Allowance

The University may provide an allowance to assist in paying for moving expenses and out of pocket relocation costs. The allowance is not a reimbursement, and, as such, FIU does not require receipts. The allowance is a one-time payment which will be reported as income and will be subject to employment taxes. The employee receiving an allowance will assume the burden of working with a tax advisor to determine the income tax impacts of the moving allowance.

For more detail information please visit [FIU Human Resources](#). A list of moving suppliers are located at:

<https://controller.fiu.edu/departments/procurement/procure/shopping-guide/moving/>

Please refer to the following Official University Policies and Procedures for additional guidance on Eligibility, Permissible Expenses, Reimbursement and Allowance Limits, Minimum Terms of Service, and Taxable Income related topics under these policies and procedures:

- [University Moving and Relocation Policy](#)
- [University Moving and Relocation Procedure](#)

When FIU property or new labs need to be moved, the requestor may select one of the moving suppliers for a quotation. Multiple quotations are not required. It is the responsibility of the requestor to submit the requisition. A purchase order will be issued upon receipt of approved requisition from the expense manager and sent to the selected carrier.

## II.13 Purchase of Insurance

Under the authority of Rule No. 6C8-7.030(5)(b), of the Florida Administration Code, the University has the authority to purchase insurance as deemed necessary and appropriate for the operation and educational mission of the University. The following are examples of insurance coverage that may be acquired by the University:

- Insurance coverage for damage/loss to University vehicles and boats
- Liability insurance for space leased by University Departments
- Event insurance
- Camp insurance
- Fine Arts insurance
- Insurance coverage for damage/loss of equipment\* (owned and leased)

- Insurance coverage for mobile equipment and equipment in transit
- Insurance required as part of an agreement/contract or because of an awarded grant
- Liability insurance for students involved in off-site internships

\*The list of equipment that can be insured is endless. Here are a few examples of the type of equipment insured in the past: golf carts, musical equipment, scientific equipment, computer equipment, all types of electronic equipment, drones, etc.

## **II.14 Furniture and Furnishing**

To secure durable, high quality office furniture at the best available price and the lowest furniture maintenance cost. Contact the appropriate Procurement Professional for information on the various contracts available and suppliers for flexibility in the selection of dimension and style.

## **II.15 Year-End Procedures**

A memorandum will be issued every year around the end of March establishing the final dates for submittals of requisitions, requests for exceptions, change orders, competitive solicitations, contracts, and sole source purchases. This memo will also include the shutdown dates for eProcurement Requisition Page. All blanket purchase orders that are not E&G funded will be closed at fiscal year-end.

### **II.15.1 Department Responsibilities**

Departments must plan and submit requisitions by the deadline stated in the memo to cover a 30-day supply of any goods or services anticipated needed during the system shutdown period.

myFIUmarket expedited orders can be placed on the Departmental Card, additionally, any purchase allowed per the departmental card guidelines can also be processed during the eProcurement system downtime.

Requests for exceptions to submit a requisition will only be considered on a case-by-case basis based on criterion that it was a reasonably unforeseeable need that will cause financial loss, a life-threatening condition or impact to academic instruction. All requests must be approved by the Executive Director of Procurement Services. Requests must be sent by email with all pertinent information and as noted above in section II.6.4.3.

All Change Orders on outstanding encumbrances must be entered and approved prior to the date set by the year-end memo.

Departments requiring a formal solicitation or as sole source using the current fiscal year funding must contact Procurement Services as early as possible, but not later than early March to determine the time frame.

## II. Resources

Form/Template Name/Description	Web Site/Link
<b>Expenditure Guide</b>	<a href="https://controller.fiu.edu/wp-content/uploads/sites/24/2020/07/ExpenditureGuide.xls">https://controller.fiu.edu/wp-content/uploads/sites/24/2020/07/ExpenditureGuide.xls</a>
<b>Leases of Equipment</b>	<a href="https://www.myfloridacfo.com/division/aa/state-agencies">https://www.myfloridacfo.com/division/aa/state-agencies</a>
<b>Leases of Property</b>	<a href="http://www.flbog.edu">www.flbog.edu</a>
<b>Special Hazard Materials</b>	<a href="https://ehs.fiu.edu/safety-programs/chemical/hazard-communication/index.html">https://ehs.fiu.edu/safety-programs/chemical/hazard-communication/index.html</a>
<b>Departmental Card</b>	<a href="https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/DC_GuidelinesProcedures.pdf">https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/DC_GuidelinesProcedures.pdf</a>
<b>Gift Card</b>	<a href="https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/GiftCardProcedures.pdf">https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/GiftCardProcedures.pdf</a>
<b>Allowable Unencumbered Payment List</b>	<a href="https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/GiftCardRequestForm.pdf">https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/GiftCardRequestForm.pdf</a> <a href="https://controller.fiu.edu/wp-content/uploads/sites/24/2020/09/UnencumberedAllowableList.pdf">https://controller.fiu.edu/wp-content/uploads/sites/24/2020/09/UnencumberedAllowableList.pdf</a>
<b>Unencumbered Payment Process</b>	<a href="https://controller.fiu.edu/wp-content/uploads/sites/24/2020/09/UnencumberedInstructions.pdf">https://controller.fiu.edu/wp-content/uploads/sites/24/2020/09/UnencumberedInstructions.pdf</a> <a href="https://controller.fiu.edu/wp-content/uploads/sites/24/2020/10/AnnualCertificationMemo.pdf">https://controller.fiu.edu/wp-content/uploads/sites/24/2020/10/AnnualCertificationMemo.pdf</a>
<b>Annual Certification</b>	
<b>Hazardous Chemicals</b>	<a href="https://ehs.fiu.edu/_assets/docs/chemical/ehs-doc609.00-ehs-barcoding-hazardous-chemicals-quick-guide.pdf">https://ehs.fiu.edu/_assets/docs/chemical/ehs-doc609.00-ehs-barcoding-hazardous-chemicals-quick-guide.pdf</a>
<b>Emergency Request Form</b>	<a href="https://controller.fiu.edu/wp-content/uploads/sites/24/2021/03/RequestEmergencyPurchaseForm.pdf">https://controller.fiu.edu/wp-content/uploads/sites/24/2021/03/RequestEmergencyPurchaseForm.p df</a>

<b>Procure to Pay Manual</b>	<a href="https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/P2P_myFIUmarketHandout.pdf">https://controller.fiu.edu/wp-content/uploads/sites/24/2020/08/P2P_myFIUmarketHandout.pdf</a>
<b>Vehicle Justification</b>	<a href="https://shop.fiu.edu/wp-content/uploads/sites/2/2020/03/vehicle-justification-form.pdf">https://shop.fiu.edu/wp-content/uploads/sites/2/2020/03/vehicle-justification-form.pdf</a>
<b>User Productivity Kit</b>	<a href="https://panthersoft.fiu.edu/online-training/">https://panthersoft.fiu.edu/online-training/</a>
<b>Unencumbered Payment Form</b>	<a href="https://imagenowweb.fiu.edu/imagenowforms/fs?form=UnencumberedVoucherFormV3">https://imagenowweb.fiu.edu/imagenowforms/fs?form=UnencumberedVoucherFormV3</a>
<b>FIU Moving Expenses Guide</b>	<a href="https://controller.fiu.edu/departments/procurement/procure/shopping-guide/moving/">https://controller.fiu.edu/departments/procurement/procure/shopping-guide/moving/</a>

## 1.0 Stage One: Pre-Solicitation Process

### Six Stages of Public Procurement



The goal of Stage One is to thoroughly develop the background information which is essential for a successful competitive solicitation and to decide which of the competitive solicitation methods is the most appropriate for a particular procurement.

### 1.1 Identify Scope of Need and Corresponding Stakeholders

To begin the process of analyzing the purchasing need, it is critical to both understand the scope of the need as well as identify stakeholders (i.e., individuals from the using department that are subject matter experts who have an interest in the needed goods or services). Correctly identifying the scope of the need and corresponding stakeholders is essential to ensure the solicitation process will result in a contract which matches the needs of the University.

The scope of the need refers to the factors defining the range or span of the purchase. For example, is this a reoccurring need such as ongoing janitorial services which are needed on a frequent or continuous basis? As another example, is this a good that is only needed by one individual within the University or a good that is needed by several departments? Procurement Services must work to identify the scope of the need by consulting with identified stakeholders as well as reviewing the University's historical purchases or usage of the identified goods or services.

This analysis will assist in identifying all stakeholders. A market analysis should also be performed to find available goods, services, and sources of supply and to help in developing a solicitation that is not biased in favor of a single source of supply. Some market analysis informational resources are:

- The Internet
- Industry or Trade Organizations
- Consultant or Expert Reviews
- Advertisements
- Industry Publications

The Procurement Professional will assist the stakeholder in performing the analysis (i.e. estimated costs; scope of the need, availability; etc.) in order to confirm the stakeholders needs and for the stakeholders to determine whether the requested goods or services may be acquired for the budgeted amount.

For purposes of this chapter, stakeholders will assist in the identification of critical business requirements. Stakeholders will also assist in developing the solicitation

and serving as evaluators and/or negotiators during the solicitation process, as needed. Likewise, the Procurement Professional will use data gathered during analysis of the scope of need to develop the solicitation and evaluation requirements.

## **1.2 Request Information from Suppliers**

As potential suppliers are identified, the Procurement Professional may contact potential suppliers directly to request information. The Procurement Professional may contact suppliers informally such as by e-mail or phone or a more formal method such as the Request for Information.

In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, Invitations to Bid, Request for Proposals and/or Invitations to Negotiate shall be excluded from competing for such procurements.

### **1.2.1 Request for Information (RFI)**

A Request for Information (RFI) is a semi-formal method for requesting information from suppliers who have knowledge or information about an industry, goods, or services. The Procurement Professional will work with the department to use this method if there is not enough information or knowledge about the services needed to develop a statement of work or for goods where product specification and knowledge is needed for a solicitation. The very reason for conducting an RFI is that all information collected may be used in compiling the solicitation without precluding any supplier who responded to the RFI from later responding to the competitive solicitation or being awarded a contract.

The RFI should, at a minimum, generally describe the needs, identify what information is desired from the suppliers, and provide the method for receiving the requested information. The RFI should be posted on the University's web site for any period deemed desirable by the Procurement Professional.

The RFI is not a competitive solicitation and as a result, does not satisfy the requirement for competitive bidding. The RFI is only a method for information gathering which may or may not be used in the competitive solicitation process.

Suppliers are not required to respond to the RFI and a supplier's failure to respond does not preclude him from bidding.

### **1.2.2 Pre-Solicitation Conferences/Presentations**

Another source to consider is a pre-solicitation conference/presentation. These conferences are held before posting a competitive solicitation and allows the supplier community to provide feedback that may lead to developing a solicitation. This conference shall be advertised on the University web site. The pre-solicitation conference may be used in conjunction with the Request for Information (RFI)



process or independently. This is a public meeting and should be recorded or high-level minutes must be taken.

### **1.3 Identify the Correct Competitive Solicitation Method**

Once the stakeholders and scope of need have been identified, solicitation team has been formed, and market analysis has been conducted, the next decision is which competitive solicitation method is most appropriate to fulfill your procurement needs. In this step Procurement Services must identify the best solicitation method. Solicitations are used to solicit offers from suppliers to sell goods or services. A solicitation may be cancelled by Procurement Services at any time and should not be construed as an order for any University departments to make any purchase or other commitment.

Approved solicitation methods are limited to:

- Request for Quotations
- Request for Responses (RFR)
- Invitation to Bid (ITB)
- Invitation to Negotiate (ITN)
- Request for Proposals (RFP)

All methods of formal solicitation can be done electronically utilizing our web-based service provider Jaggaer and Request for Quotations can be done utilizing GovSpend. To learn more about conducting an electronic solicitation contact [contracts@fiu.edu](mailto:contracts@fiu.edu). Except for Request for Quotations and Request for Responses, all solicitation methods are conducted through a formal sealed solicitation process. In the formal sealed solicitation process, suppliers' submitted offers are kept confidential and not opened until after the solicitation has closed. Each one of the solicitation methods has specific strengths and weaknesses that are discussed in the following sections. The Procurement Decision Tree in Procurement Overview is also provided to assist in identifying the most appropriate solicitation method. Stages Two through Six in this Procurement Manual further defines the steps for conducting formal competitive solicitations.

#### **1.3.1 Spend Threshold**

To determine if a quote or a formal sealed solicitation process is required, the total amount that will be spent on the prospective purchase for the term of the contract must be considered, not just the first year.

To determine the total cost of a purchase, consider the following:

- For goods it's the total cost of all goods to be purchased from the supplier to meet the need, including any anticipated future goods that will be needed from said supplier.

- For services it's the total cost including all payments for services and reimbursements to be paid to a supplier for the services needed. This should include current and anticipated future needs; initial contract term costs and all potential future renewal contract costs should be considered.
- \$0 to \$9,999: At least a single written quotation must be obtained from a supplier and attached to the requisition in PantherSoft. Though not a requirement, Procurement Services recommends obtaining additional quotations whenever possible to ensure that the best value is being obtained by the University. Specifically, if the goods or services are being purchased by the department for the first time, an additional quotation is valuable, as it will serve as a benchmark to ensure that best value is obtained. All quotations should be referenced and attached to the requisition in PantherSoft.
- \$10,000 to \$74,999: Quotes must be obtained from an adequate number of qualified sources, which is a minimum of two quotations, one quote should be from an SBE/MBE, if available in GovSpend Quotes and RFQs. Attach the GovSpend's audit link to the requisition in PantherSoft; the selected quotation will be incorporated into the Purchase Order by Procurement Services. Use of GovSpend Quotes & RFQs is mandatory for purchases between \$10,000 to \$74,999, unless another Procurement Method is utilized, or the purchase is exempt, or you are piggybacking off an existing contract awarded as a result of a competitive solicitation, or the Executive Director of Procurement Services or designee provides an exemption.
- Over \$75,000: A formal sealed solicitation must be obtained, unless another approved Procurement Method is utilized, or the procurement is exempt, or you are piggybacking off an existing contract awarded as a result of a competitive solicitation. Contact Procurement Services and complete the Sourcing Event Request Form located at <https://solutions.sciquest.com/apps/Router/SAMLAAuth/FIU>

### **1.3.2 Request for Quotations (RFQ)**

An RFQ is used when the specifications are exact, and price is the major consideration in the award process and the total amount of the purchase is under \$75,000. Procurement Services may assist the using departments with obtaining quotations for goods or services. A RFQ should be prepared and processed using a web-based procurement solution (GovSpend Quotes and RFQs) or via e-mail when approved by the Executive Director of Procurement Services. The RFQ should identify the lowest, priced responsive, responsible supplier(s) for award. The Executive Director of Procurement Services can approve the award other than the low quote when justification is provided.

### **1.3.3 Request for Responses (RFR)**

This solicitation method is used with Alternate Purchases/Piggy-back Contracts. When a governmental entity has competitively awarded a contract to several suppliers, RFR may be used to ascertain the best price for the goods or services. A RFR will be issued to the awarded suppliers, from a competitive solicitation, requesting the "best and final offer" BOFO. For example, a RFR may be used with GSA awarded suppliers.

### **1.3.4 Invitation to Bid (ITB)**

The ITB is a formal competitive solicitation method used when the total cost of the goods and/or services required exceeds \$75,000, there is clear, precise and accurate specifications and the objective of the solicitation is to identify the responsive and responsible supplier who can provide the required specifications at the lowest cost to the University.

In an ITB, suppliers may be asked to submit pass/fail qualifying information, such as licenses, references, and manufacturer's certifications, but are compared to each other only according to prices, discounts, rebates etc. Discussion following receipt of bids are either not conducted or are limited to seeking clarification of some aspect of the bid otherwise there is a danger of appearance of negotiation. The ITB process identifies the responsive and responsible bidder(s) offering the best overall value for contract award; provided, however, no contract award will be made to the bidder with the best value if Procurement Services determines the best value bidder cannot clearly perform the contract requirements.

Examples of procurement needs for this format would be purchase of basic services (i.e. disposal of waste materials) and purchase of specific goods (i.e. paper products).

### **1.3.5 Invitation to Negotiate (ITN)**

This solicitation method is a competitive solicitation for goods and or services, where factors other than price are to be considered in the award determination. These factors may include such items as supplier experience, project plan, design features of the product(s) offered and scope of services. An ITN is used when the total cost of the goods or services will exceed \$75,000, and there is a broad scope or goal. An ITN is used to determine the best method for achieving a specific goal or solving a particular problem and to identify one or more responsive suppliers with which the University can negotiate to receive the best value. ITNs are used when the Procurement Professional believes that best value will be obtained by holding discussions and negotiations with top respondents or where the University would benefit from giving respondents the opportunity to improve their offers, or were modifying the University's initial requirements to more closely match the offerings and capabilities of respondents is most advantageous.

This method allows both parties to more easily correct errors during the process, consider innovative solutions and adjust requirements and offers to best meet the goals and provide the best value.

Examples of procurement needs for this format would be major software purchase or acquiring consultants or professional services or any time negotiations with suppliers may be needed to obtain the best value.

### **1.3.6 Request for Proposals (RFP)**

This solicitation method is used for the acquisition of goods and or services when factors other than price are to be considered in the award determination. These factors may include such items as supplier experience, project plan, design features of the product(s) offered, and scope of services. Negotiations are limited in this process and may only take place with the recommended supplier(s). Price and clarifications as outlined in the RFP document are normally the only factors negotiated with the number one ranked supplier.

Examples of procurement needs for this format would be software purchases and acquiring consultants where multiple rounds of negotiations with multiple suppliers will not be needed.

## 2.0 Stage Two: Solicitation Preparation Process

### Six Stages of Public Procurement



The goal of Stage Two is to prepare and review the competitive solicitation before it is released to the supplier community.

### 2.1 Introduction to the Solicitation Preparation Process

The Procurement Professional has identified the stakeholders, identified the suppliers, conducted market analysis, and selected the best formal solicitation method (ITB, ITN, RFR, RFP) to acquire the needed goods/services. The Procurement Professional, with assistance from the stakeholders, will construct the solicitation, develop the evaluation criteria, and contract template as applicable working with the evaluation team as needed. The solicitation process is a lengthy one, generally requiring multiple reviews and fine tuning of language. As such, Stage Two through Stage Six of the process can take four to six months prior to the potential contract's anticipated effective date, depending on the procurement method and complexity of the solicitation. Work may not begin, or goods delivered until final execution of a contract.

The Procurement Professional can assist with your Sourcing Event Request. If you have a procurement need that is over \$75,000, contact [bids@fiu.edu](mailto:bids@fiu.edu) to determine an appropriate procurement method. If it is determined that a competitive solicitation is required, you will need access to the Sourcing Tool via myFIUmarket to complete a Sourcing Event Request Form.

To access the Sourcing Tool via myFIUmarket, you will need to click [here](#) and following the below-listed steps:

- You will have to login with your FIU Username and Password
- Request the Sourcing Requester role to create and submit a Sourcing Event Request Form
- Once submitted, the form will automatically route to your HR Supervisor for approval before Procurement Services receives notification of your request.

Once you have access to myFIUmarket, you may complete the Sourcing Event Request Form, which is accessible through the following website: <https://solutions.scquest.com/apps/Router/SAMLAUTH/FIU>

Each solicitation will contain an objective, scope of work or goal, general instructions to the supplier regarding the supplier's preparation and submission of its response,

as well as the selection process for award of a contract. No work may begin, or goods received prior to final execution of a contract.

At a minimum all competitive solicitations must identify:

- The Solicitation Title and Number
- Statement of Objective
- The Authorized FIU Procurement Representative
- Calendar of Events
- Solicitation Response Instructions, Due Date and Time, and Location for delivery and/or public opening (if applicable)
- Evaluation Criteria (if applicable)
- Terms and applicable Renewals
- Scope of Work, Specifications and Deliverables or FIU Goal
- Selection Process
- Supplier List
- Price Sheet

### **2.1.1 The Procurement Professional**

The Procurement Professional serves as the sole point of contact for potential respondents from the issuance of the competitive solicitation until contract award. The Procurement Professional is knowledgeable with the procurement process and capable of answering general questions regarding the competitive solicitation while relying on subject matter experts to assist with answering technical questions about the goods or services being procured.

### **2.1.2 The Procurement File**

When the solicitation process begins a procurement, a file is created and maintained in Procurement Services. This file contains information related to the procurement project, including the research and documentation created and collected during the Pre-Solicitation Process, and information developed through the subsequent stages regarding the selection criteria and process leading to a contract, being executed, if needed.

### **2.1.3 Stakeholders (Using Department)**

As mentioned in Stage One, stakeholders are individuals who have an interest in the goods or services identified in a procurement need. Stakeholders have first-hand knowledge of how a good or service will be purchased and used by the department. Successful solicitations and contracts are written with as much input from the stakeholders as is feasible. Stakeholders are normally the subject matter expert and should be included as evaluators and members of the negotiation team, when applicable.

### 2.1.4 Third Party Consultants

Solicitations which have highly technical or complex requirements may require additional support from a third-party consultant to assist in the development of the solicitation. A *third-party consultant* is an individual or company that is contracted by FIU to develop or draft specifications, or requirements for utilization in a solicitation. Third party consultant may also serve in a consultative role during evaluations and/or negotiations.

Where a third-party consultant is utilized, Procurement Services conducts the solicitation process and remains as the facilitator.

Any third-party consultant who develops or drafts specifications or requirements for a solicitation is prohibited from submitting a proposal in response to that solicitation. They are prohibited from working on any contract or subcontract directly resulting from the solicitation.

## 2.2 Action Taken Based on Solicitation Method

Once the Procurement Professional has determined the formal competitive solicitation method (ITB, ITN, RFR, or RFP), the solicitation documents will be developed utilizing the appropriate template in the Sourcing Library and the necessary action will be taken.

### 2.2.1 Invitation to Bid (ITB)

An ITB may be used where detailed specifications and requirements are outlined with price being the major consideration for determining award.

#### 2.2.1.1 Stakeholders/Using Department Responsibility

The using department is responsible for the following information with the assistance of the Procurement Professional, as needed:

- Submit Special Request Requisition in PantherSoft
- Submit Sourcing Event Request Form in myFIUmarktet
  - Develop the statement of objective, scope of work, deliverables and specifications for goods or services including the price sheet
  - Develop initial calendar of events, including possible pre-conference requirements
  - Develop a list of potential suppliers
  - Review the Sourcing Event Request Form with the Procurement Professional
- Review the bid tabulation once the ITB closes
- Review the Procurement Professional's suggested recommendation of the most responsive, responsible bidder with the lowest price and approve award recommendation.

### 2.2.1.2 Procurement Professional Responsibility

The Procurement Professional is responsible for the following:

- Work with the using department identifying the minimum good and or/service requirements which may be one or more of the following: performance specifications; technical specifications; design specifications; minimum specifications; brand names.
  - Performance Specifications are based on the expected result, or performance of a product or service or the minimum acceptable level of performance.
  - Technical Specifications may include a description of the functional requirements of the end user. Neither the manufacturing process nor product composition is specified but is left to the supplier to decide the best way to meet or exceed the requirements. This type of specification assures compliance with requirements and in case of failure, the responsibility lies with the contractor. In addition, if specified in the solicitation, it assures inclusion of all applicable new product developments.
  - Design Specifications focus on how a product is made rather than what it does. Design specifications frequently use physical dimensions to describe the product. When at all possible, group terms (such as type, grade, class, & composition) should be used to designate items, and if further clarification is needed, then specify classifications (such as style, color, form, weight, and size) suitable for reference. Design specifications tends to restrict competition, and in cases of failure, the responsibility lies with the University. In addition, the cost of inspection to assure compliance, may be costly.
  - Brand or Trade Name Specifications designates a specific product of a manufacturer as an example of quality level of materials and workmanship desired and/or functionality needed. When used, the brand name specifications should indicate that the brand is used merely as a reference and not as a statement of a preference for the specific product cited. The phrase "approved equal" after the reference brand name and model number should always be inserted to indicate that items equivalent in quality to the specified brand names will be acceptable.
  - All specifications shall include deliverables, and/or timeline; special requirements; miscellaneous terms, i.e. samples, warranties, etc.
- Finalize calendar of events and ITB requirements
- Schedule pre-proposal conference, if applicable
- Finalize the ITB document for the sourcing tool and for advertisement
- Assist using department with potential supplier list
- Advertise the solicitation and post on e-bidding web sites
- Schedule ITB opening
- Conduct e-bid acceptance
- Review bids to ensure responsiveness of the bids and responsibility of bidders
- Prepare bid tabulation



- Suggest the most responsive, responsible bidder to the using department for recommendation of award
- Prepare and post the Intent to Award for 72 hours
- Take the necessary action to get the contract fully executed and the PO issued.

### **2.2.1.3 Award and Contract Process**

The Intent to Award is posted for 72 hours. The contract is reviewed by the Office of the General Counsel (OCG) and then entered into Total Contract Manager (TCM) with the designated FIU signatory and supplier executing the contract via DocuSign once the contract has gone through workflow approval in TCM. The fully executed contract can be found in TCM. Please refer to Stage 5, Contract Award Process, Section 5.2 for additional information.

### **2.2.2 Invitation to Negotiate (ITN)**

The ITN is a solicitation method which is intended to determine the best way for achieving a specific goal or need or solving a particular problem and identifies one or more responsive suppliers with which the University may negotiate in order to receive the best value. Factors that may be used to determine the best method may include supplier experience, project plan, design features of the product(s) offered, scope of services, etc. Extensive negotiations, with the shortlist of suppliers may be part of the ITN process, along with revised proposals based on negotiations.

#### **2.2.2.1 Stakeholders/Using Department Responsibility**

The using department is responsible for the following information with assistance from the Procurement Professional, as needed:

- Submit a Special Request Requisition in PantherSoft
- Submit Sourcing Event Request Form in myFIUmarketet
  - Develop the statement of objective, scope of work, deliverables and specifications for goods or services including the price sheet. Determine what information the suppliers will need to supply to evaluate and then develop the questions.
    - Develop initial calendar of events, including pre-proposal conference if needed
    - Develop and define evaluation criteria to be utilize in the evaluation process
    - Develop a list of potential suppliers
- Review the Sourcing Event Request Form with the Procurement Professional
- Establish members for the evaluation committee and committee chairman as well as the negotiation committee
- Obtain approval from the designated signatory of the makeup of the evaluation and negotiation committees as well as who will be the decision maker.

### **2.2.2.2 Procurement Professional Responsibility**

The Procurement Professional is responsible for the following:

- Work with the using department to finalize calendar of events and ITN requirements
- Schedule pre-proposal conference, if applicable
- Finalize the ITN document for the sourcing tool and for advertisement
- Advertise the solicitation and post on e-bidding web sites
- Schedule pre-solicitation conference (if needed), evaluation committee meetings and negotiation committee meetings
- Preliminary review for responsiveness and responsibility of supplier's proposals
- Facilitate and record all meetings
- Manage the negotiation process including the analyses, negotiation strategy outline, coordination of OGC involvement, etc.
- Prepare an Award Summary based on the decision from the Evaluation Committee and obtain designated signatory approval, if required
- Prepare and post the Intent to Award for 72 hours
- Take the necessary action to get the contract fully executed in TCM and PO issued in PeopleSoft.

### **2.2.2.3 Evaluation Requirements**

- Evaluation and negotiation committee meetings are closed to the public per FS Chapter 119.07(1), unless the Executive Director of Procurement Services deems a closed meeting should be open to the public.
- The evaluation committee should be comprised of a minimum of three (3) members and a maximum of seven (7) members and should be approved by the Executive Director of Procurement Services and signatory authority prior to the ITN being posted.
- The Procurement Professional will facilitate the evaluation and negotiation process.
- High level timeline of anticipated meetings should be included in the ITN with a disclaimer it's subjected to change without notice.
- All meetings must be recorded. Recordings become public record upon award or thirty days from final replies whichever occurs first.
- The committee chair assigns a minute-taker to be present at each evaluation and negotiation committee meetings to provide high level minutes of each meeting using the appropriate meeting minute's

template available at: <https://controller.fiu.edu/resources/policies-procedures/> .

- Minutes of the meetings should include the agenda and working documents/ spreadsheets that show strengths and weaknesses of suppliers' responses (original and revised proposals) and action taken (i.e. negotiation strategy or evaluation committee discussion summary).

#### **2.2.2.4 Evaluation Process**

The evaluation process consists of recorded meetings with the evaluation committee and the negotiation committee. Supplier's proposals are ranked based on the proposal criteria. A consensus is taken, and suppliers are shortlisted. Negotiations may be conducted with the shortlisted suppliers and revised proposals and/or a "best and final offer" (BAFO) may be requested. The evaluation committee will rank the short-listed suppliers based on BAFO, plus all documentation received during the solicitation process and make a final award decision. Please refer to Stage 4, Response Evaluation Process, Section 4.3.1 for more information.

#### **2.2.2.5 Award and Contract Process**

The intended award shall be publicly posted by the University for 72 hours which is interpreted as three working days excluding Saturdays, Sundays, and State and University Holidays. After the 72-hour posting is completed and no protests are received, the contract will be executed in TCM. Please refer to Stage 6, Contract Award Process for more information.

#### **2.2.3 Request for Responses (RFR) from Awarded Suppliers of a Competitively Advertised Solicitation**

A RFR is used with Alternate Purchases/Piggy-back Contracts that have already gone through the formal competitive solicitation process and where the University solicits (BAFOs) from the already awarded suppliers.

##### **2.2.3.1 Stakeholders/Using Department Responsibility**

The using department is responsible for the following information:

- Submit purchase requisition with the following documents:
  - Entity's executed contract with awarded supplier with any extensions
  - Awarded Supplier's response to the solicitation
  - Entity's solicitation and any addendums
  - Continue with the Piggy-back Contract process found in the Procurement Overview.

### **2.2.4 Request for Proposals (RFP)**

A Request for Proposal is used when the purposes and uses for which the good or services being sought can be defined and the user department can identify necessary deliverables. RFPs should only be used if negotiations will not be needed to help determine the final scope of work/deliverables or to obtain the best value.

The ITN process will be followed except for the following:

- Weighted criteria will be defined in the solicitation document
- Limited negotiation can only be conducted with the #1 ranked supplier.

### III. Resources

Form/Template Name/Description	Web Site/Link
<b>Competitive Solicitation Request Form</b>	<a href="https://controller.fiu.edu/resources/forms-templates/">https://controller.fiu.edu/resources/forms-templates/</a>

### 3.0 Stage Three: Solicitation Process

#### Six Stages of Public Procurement



The goal of Stage Three activities is to release and manage a competitive solicitation. Stage Three activities involve posting the actual solicitation document(s), responding to supplier questions, managing addendum(s) to the solicitation document(s), and closing the solicitation document(s).

#### 3.1 Introduction to the Solicitation Process

The purpose of Stage Three is to publicly release the competitive solicitation to the supplier community and collect responses that are submitted by the date and time listed in the solicitation Calendar of Events.

During Stage Three, the Procurement Professional will serve as the sole point of contact for the solicitation. The Procurement Professional may host a pre- solicitation conference that will serve as the first opportunity for potential respondents to ask questions about the solicitation. Suppliers could have the opportunity to submit questions in writing to the Procurement Professional via the Q&A Board to seek clarifications about the instructions or request changes to the content of the solicitation documents. If any revisions to the solicitation documents are required after the solicitation is released, the Procurement Professional will draft and post an addendum to the solicitation to notice all changes or clarification to the solicitation.

#### 3.2 Release Competitive Solicitation

The solicitation process begins when the Procurement Professional posts the public notice of a competitive solicitation. In order to give every potential respondent an equal opportunity to submit responses to competitive solicitations, all formal competitive solicitations must be publicly advertised FIU typically advertises on the University's website via our electronic solicitation (e-bidding) service provider ([www.Jaggaer.com](http://www.Jaggaer.com)) and Department of Management Services (DMS) <https://www.dms.myflorida.com/>. Construction solicitations of \$200,000 or more must be publicly noticed in the Florida Administrative Weekly. The posting announcement shall provide the specifics of the solicitation, including dates and times of a pre-solicitation conference if applicable, questions and answer period, solicitation closing date and time. The actual solicitation documents will be available on the University's third-party e-bidding service provider's website.

### 3.2.1 Electronic Solicitation

Procurement Services uses Jaggaer's Sourcing Director for electronic solicitation, which is an easy-to-use online bid tracking, procurement management tool that efficiently connects FIU to a comprehensive list of suppliers. All formal solicitations and related notices are posted in Jaggaer at:

<https://bids.sciquest.com/apps/Router/PublicEvent?CustomerOrg=FIU>

Sourcing Director is for competitive solicitations and facilitates the following:

- Automatically notifies suppliers of FIU's solicitations
- Distributes and receives solicitations online
- Tracks all solicitation activity
- Verifies suppliers have received solicitation documents and addenda

Sourcing Director is administered by Jaggaer and are available by telephone 800-233-1121, option 2 or <https://www.jaggaer.com/service-support/supplier-support/> to answer any supplier's questions or to provide suppliers with assistance when needed in responding to solicitations. Please follow the Electronic Submission Instructions located in the prerequisite section of the solicitation.

## 3.3 Manage Questions and Answers

Activities in Stage Three help ensure supplier understanding of the requirements for responding to a solicitation, both procedural and contextual based on FIU's needs. The activities also can serve to clarify aspects of the competitive solicitation that may be unclear or bring attention to elements that may require a revision of requirements.

The two methods used to ensure this is:

- Pre-Solicitation Conference
- Question and Answer Period

### 3.3.1 Conducting Pre-Solicitation Conference

A Pre-Solicitation Conference is a face-to-face and/or online meeting and/or telephone call-in public meeting with members of the supplier community and the public where Procurement Services and the using department may present details related to the solicitation. Some essential details that may be shared with suppliers at the conference include:

- Calendar of Event
- Requirements and Deadline
- Special Instructions
- Scope of Work
- Deliverables
- Instructions or input on completing the required document
- Background information as to the need
- Award Process.

### **3.3.1.1 Discussion**

A Pre-Solicitation Conference may include an open and informal discussion of the final desired outcome for a given solicitation, a goal of this conference is to promote supplier understanding. Informed suppliers can provide the goods and services sought by the using-department in the most comprehensive manner and can often suggest solutions to problems that are industry leading or cutting edge. Emphasis should be placed on the fact that all discussions that occur during this conference are considered informal and are not binding on the University. Suppliers who wish an official researched and binding response from the University must submit questions for the Procurement Professional to answer in writing.

### **3.3.1.2 Mandatory versus Non-Mandatory**

Pre-Solicitation Conferences can be either Mandatory or Non-Mandatory. In the case of a Mandatory Pre-Solicitation Conference, those suppliers who attend are the only suppliers that will be included in future activities related to the solicitation and will subsequently be eligible for contract award. In a Mandatory conference, those suppliers who wish to participate in the solicitation must be given a way to document attendance. Any supplier not in attendance will not be eligible to participate in the solicitation. In a Non-Mandatory conference, attendance is optional, and attendees register their attendance if they desire, but they are not required to do so to submit a proposal or be considered for award.

### **3.3.2 Issue Question and Answer Addendum**

The second method to ensure supplier understanding is a written Question and Answer Period. All formal questions posed to the Procurement Professional by suppliers should come from the supplier in writing via the Q&A Board in the sourcing tool. All questions submitted by suppliers should be addressed to the Procurement Professional who the single point of contact for the solicitation is, as outlined in the solicitation document.

The Procurement Professional will e-mail the using department representative all specification questions received with a request for answers to be provided in a timely manner.

Once all questions have been collected, and after the Question Submission Deadline, the Procurement Professional should collate and systematically answer each question as fully as possible, as the purpose is to promote supplier understanding of a particular solicitation's requirements.



All potential answers should be thoroughly reviewed by Procurement Service's review process and compiled into a single document for release. This document is called an Addendum to the competitive solicitation, lists all written questions received from the supplier community as well as the Procurement Professional's official binding and researched answers.

### 3.4 Issue Addendum

While managing the Stage Four process, the Procurement Professional may need to modify the solicitation as there may be unclear instructions in the solicitation, inaccuracies in the specifications or scope of work, or the timeline may need to be altered due to unforeseen circumstances. To make needed revisions to the solicitation documents, the Procurement Professional will amend the information and requirements in the competitive solicitation by issuing an addendum through the sourcing tool. The addendum is a formal written clarification or revision that amends the requirements or instructions in the competitive solicitation and thereby becomes part of the solicitation document.

When drafting a new addendum, the Procurement Professional should only include the sections of the solicitation documents that are being revised in the addendum and should clearly identify the changes that are being made within each section. Changes within each section should be highlighted with underlined or in **bold** text to draw attention to the new or revised information in the amended language.

If an entire section is being replaced, the Procurement Professional should clearly state so within the addendum; typically stating that the "following section is replaced in its entirety" so that it is clear to the reader that the language formerly contained within that section is no longer applicable and that the new language is replacing it.

Remember, the issuance of each new addendum opens a new point of entry or protest period within the competitive solicitation. Therefore, changes to the solicitation documents should be carefully considered and should be clearly written in the addendum so that additional addenda are not needed to clarify a prior addendum that was issued.

Depending on when the addendum is issued and the magnitude of the addendum, the Procurement Professional may need to extend the closing date in order to provide the supplier community an opportunity to respond to the addendum, such extension of the timeline would be addressed in the addendum.

### 3.5 Receiving Responses from Suppliers

Supplier's responses to the solicitation must be received on or before the closing date and time to be considered for contract award. All responses must remain sealed until the closing date and time. Those responses received after the closing date and time may be rejected.

Jaggaer.com e-bidding supports the sealed bidding process by only releasing to FIU the submitted supplier's responses upon the closing date and time. Jaggaer.com will not allow submission of late responses.

### **3.6 Protest Proceedings**

A supplier must file a notice of intent to protest the content of the solicitation document or any subsequent addendum within 72 hours from the University's electronic posting of a competitive solicitation. A formal protest and a protest bond must be filed within 10 days from the date the notice of intent to protest was filed. The protest must be in accordance with the Florida Board of Governors' regulation 18.002 and 18.003.

### **3.7 Closing Solicitation**

The solicitation closes upon the expiration of the date and time identified in the solicitation as the "solicitation Response Due Date" which is the deadline for suppliers to submit responses. Your submission must be uploaded prior to the due date and time as indicated in the Calendar of Events. We strongly recommend that you give yourself sufficient time and at least one business day before Closing Time to begin the uploading process and to finalize your submission. However, in the event of an emergency where the University will be closed and unable to receive the suppliers' responses, the Procurement Professional will extend the closing date for a minimum of forty-eight (48) hours or until such time as the University is expected to reopen.

A public opening at the close of the solicitation will be held for construction or public works projects. The Procurement Professional will read the suppliers' names and the total amount of the response for each response received. The responses remain exempt from public record for thirty days or recommendation of award whichever occurs first in accordance with FS Chapter 119.071. The opening of ITNs and RFPs are closed meetings and are not open to the public. No information will be release until notice of a decision or 30 days after opening final replies, whichever occurs first, in accordance with FS Chapter 119.071.

## 4.0 Stage Four: Response Evaluation Process

### Six Stages of Public Procurement



The goal of Stage Four is to open the responses to a competitive solicitation, review those responses to determine responsiveness, evaluate the responses using the criteria included in the solicitation document(s), negotiate with respondents if appropriate, and submit the award decision to the Executive Director of Procurement Services.

#### 4.1 Introduction to the Response Evaluation Process

The purpose of Stage Four begins after the closing of the solicitation responses. Once responses have been opened, the responses must be evaluated against the evaluation criteria outlined in the competitive solicitation, use the evaluations to determine which supplier(s) should be engaged further and as appropriate, negotiate a final contract. Awarding contracts to multiple suppliers, is aloud, if it is determined to be in the best interest of the University. Such awards may be on a university, regional or State University System-wide basis and the contracts may be for multiple years. The type of competitive solicitation issued determines which phases of Response Evaluation Process must be completed.

#### 4.2 Review for Responsiveness

Once a competitive solicitation has been opened, the Procurement Professional must review the response in detail to determine responsiveness.

- A responsive bid or proposal submitted by a responsive and responsible supplier is a bid or proposal that conforms in all material respects to the solicitation.

The supplier's response must be considered responsive to be eligible for status as a qualified contractor in the event of an award. The Procurement Professional is permitted to waive minor informalities if in the best interest of the University. In the event a supplier's response is determined to deviate from the requirements, the Procurement Professional must determine whether the deviation is material. A material deviation will be cause for rejection of that response. An in-material deviation will be processed as if no deviation had occurred. If a supplier is determined to be non-responsive, this determination must be made in writing and documented in the Procurement File.

Procurement Professional must also review the response in detail to determine responsibility of the supplier.

- A responsible supplier has appropriate legal authority to do business in Florida, a satisfactory record of integrity, appropriate financial, organizational, and operational capacity and controls, and acceptable performance on previous contracts.
- FIU can bar any vendor from doing business with the University for demonstrated cause, including previous unsatisfactory performance.
- FIU shall not accept a competitive solicitation from or purchase commodities or contractual services from a person or affiliate who has been convicted of a public entity crime and has been placed on the State of Florida's convicted vendor list for a period of 36 months from the date of being added to the convicted vendor list.

A supplier must be considered responsible to be eligible for status as a qualified contractor in the event of an award. If a supplier is determined to be non-responsible, this determination must be made in writing and documented in the Procurement File.

#### **4.2.1 Invitation to Bid**

- Once all bids received have been determined to be responsive and the suppliers responsible, the Procurement Professional should complete a bid tabulation sheet and select the suggested lowest, responsive, responsible bidder to the using department. The Procurement Professional will forward the suggested recommendation for award, bid tabulations and copies of all the responses submitted to the using department for review by the appropriate individuals in the user department, Subject Matter Expert (SME) and the authorized signatory.
- Once the review is complete, the Procurement Professional and the using department should proceed to Stage Five, Award Process.

#### **4.2.2 Invitation to Negotiate and Request for Proposals**

Once a proposal has been determined to be responsive, the Procurement Professional should compile the proposal of each responsive, responsible respondent and forward to each evaluation committee member as part of the evaluation package as outlined below.

### **4.3 Evaluate the Responses**

When fewer than two responsive offers are received in response to a competitive solicitation exceeding the competitive solicitation threshold, the Executive Director of Procurement Services, or a designee, shall review the circumstances surrounding the solicitation to determine if it is in the best interest of the University to proceed. If it is determined that a second competitive solicitation is not in the best interests of the University, the University may proceed with the acquisition based on the one responsive offer received or may proceed to negotiate with any other possible source

including the sole responder. All evaluation and negotiation processes should be followed.

When multiple solicitation responses are found to be equal in all aspects after evaluations and rankings are performed, the University will give preference to solicitation responses in the following order: responses that include commodities manufactured in Florida, Florida businesses, businesses with a drug-free workplace program, and/or out-of-state manufacturers located in the state of Florida, to determine the contract award or if the above conditions do not exist or are equivalent between two or more responses, award will be determined by the toss of a coin.

When using non sponsored funds, FIU is authorized to utilize preferences per BOG 18.001(3). When using federal sponsored funds, the Uniform Guidance Procurement Standards prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences, unless the federal statutes specifically mandate or encourage geographical preferences.

#### **4.3.1 Invitation to Negotiate**

The Procurement Professional distributes the evaluation packages to the evaluators. The package shall contain the following:

- ITN including any addendums
- All responses
- Evaluation committee guidelines
- Non-conflict of interest form that must be signed and submitted by each committee member to the Procurement Professional
- Work sheet with the names of the responsive and responsible suppliers, the selection criteria, and a place to identify the strengths and weaknesses of the proposals and the ability to rank them
- Instructions for the committee from the Procurement Professional

The Procurement Professional will assist the Committee Chair throughout the evaluation and award process. Evaluators must evaluate each proposal against the evaluation criteria established in the solicitation. Evaluators must not discuss their evaluations of proposals with another member of the evaluation committee unless it is during a recorded meeting and should not discuss them with anyone else at any time. The sole point of communication regarding the competitive solicitation process should be the Procurement Professional and any clarification regarding the competitive solicitation process should be handled only by him/her.

The evaluation committee member reviews and ranks each proposal in preparation of the committee meeting. The evaluation committee then meets at a recorded meeting to discuss the supplier's strengths and weaknesses based on criteria established in the competitive solicitation and take a consensus ranking. The

committee collectively decides on which respondent(s) to short list and commence negotiations with.

Suppliers on the short list will continue in the negotiation process, which may involve supplier presentations, site visits, oral interviews, inspection of supplier's facilities, additional written information, internal staff analysis and presentations, feedback from outside consultants, discussions with the suppliers about their capabilities and plans for servicing FIU and/or any other information deemed helpful to more fully evaluate the supplier.

Shortlisted suppliers will be notified of negotiation meeting date(s) by the Procurement Professional. The non-shortlisted suppliers should be notified that "time the committee will not be conducting negotiations with them, but the University reserves the right to do so in the future if needed".

Note, all committee meetings are recorded, and all recordings are kept in the Procurement file.

After negotiations have been completed to the satisfaction of the negotiation committee, or if no negotiations are held, following the initial evaluation, the short-listed suppliers will be given a deadline for submission of a BAFO. The negotiation process will stop upon submission of the BAFO. Suppliers will only be allowed to make further adjustments to their offer when clarification from the evaluation committee, via the Procurement Professional is requested and to finalize contractual terms and conditions.

The evaluation committee reviews and evaluates the BAFO solicitation response, taking into account all information gained from revised responses, any site visits, supplier presentations, supplier management committee interviews, inspection of the supplier's facilities, and discussions with the suppliers about their capabilities and plans for servicing FIU (as applicable) or any other information obtained during the solicitation process. According to the evaluation criteria contained in the ITN, the evaluation committee will develop a final ranked order of suppliers and make a final recommendation/decision of award or may determine that it is in the best interest of FIU to reject all solicitation responses.

The Procurement Professional will assist the evaluation committee chairman in preparing the high-level evaluation committee report for the solicitation, which is a summary of the process, including minutes of the committee's meetings.

The Executive Director of Procurement Services will validate that a fair ITN process was conducted and sign off on the committee report.

#### **4.3.2 Request for Proposals**

The evaluation committee reviews and evaluates the solicitation responses according to the evaluation criteria in the RFP and develops a ranked order of suppliers.

FIU may request supplier presentations, oral interviews, additional written information, internal staff analysis and presentations, feedback from outside consultants, and/or any other information at any time during the evaluation process to more fully evaluate the supplier. The committee may decide to create a shortlist of suppliers rather than require presentations from all suppliers. At the committee's discretion, they may reevaluate the solicitation responses of all suppliers or shortlisted suppliers, taking into consideration the additional information obtained, to determine a final ranked order of suppliers. FIU reserves the right to inspect the supplier's facilities at any reasonable time after giving the supplier prior notice for purposes of evaluating the supplier.

FIU may invite the highest ranked supplier (if awarding to several suppliers, FIU will negotiate with the highest ranked suppliers) falling within the desired competitive range to enter into negotiations and will negotiate with the supplier(s) in an effort to reach a successful conclusion. FIU may request a revised offer during or following negotiations.

Note, if FIU is awarding the contract to only one supplier, and a successful conclusion cannot be reached with the highest ranked supplier, the negotiations will cease, and the committee will enter into negotiations with the second highest ranked supplier, and so on until a successful conclusion to the negotiations are reached.

The Procurement Professional will assist the evaluation committee chairman in preparing the high-level evaluation committee report for solicitation, which is a summary of the process, including minutes of the committee's meetings.

The Executive Director of Procurement Services will validate a fair RFP process was followed and sign off on the committee report.

#### **4.4 Negotiate the Contract**

Negotiations are a cyclical process by which buyers and sellers get closer to a mutually acceptable solution by progressively elaborating requirements and capabilities. For each round of negotiations, there should be objectives, timing, and format that are planned and commonly known by the negotiation committee members from both parties.

The Procurement Professional serves as the facilitator and lead coordinator for the negotiation committee. The Procurement Professional also maintains the negotiation strategy documents. Negotiation strategy meeting(s) are closed to the public but must be recorded and kept in the procurement file.

##### **4.4.1 Develop a Negotiating Strategy**

Information is a key focus when developing a solid negotiation strategy. The following sources of information should be used by the negotiation committee to attain the level of understanding necessary to be prepared for negotiations:

- Industry Reports

- Internal Studies
- Requests for Information
- Stakeholders Interviews
- Industry Literature
- Conference Speeches
- Internet Searches

The information should provide an understanding of FIU's needs and priorities and the supplier's position in the industry, giving the committee a basis for negotiating changes to the initial offer(s). The committee should establish alternative options or strategies to use when progress cannot be achieved for a particular position. The key concepts of negotiation strategies are the "Most Desirable Outcome" (MDO) and "Least Acceptable Agreement" (LAA).

The following table are high level examples of Most Desirable Outcomes (MDOs) and Least Acceptable Agreements (LAAs) more detailed MDOs and LAAs are recommended.

Most Desirable Outcome	Least Acceptable Agreement
Shortest delivery times	Acceptable delivery times
Performance exceeding specifications	Product/Services meets specifications
Superior service	Consistent service
Long time price guarantees	Pricing firm for contract period
Minimum price (deepest discounts)	Maximum price within established limits

When developing the MDO the supply, product/service/specifications, and price all need to be considered.

- For the product supply, the objective may be obtaining goods in X number of weeks and receiving X number of items per week. Some negotiation items may include delivery lead time, turnaround time, delivery frequency, transportation methods.
- For product/service/specifications the goal may be that the quality requirements are met. Potential negotiation items may be product materials/components, packaging, technical services, and product re-design.
- A pricing objective could be to obtain a specific percentage of cost reduction. Negotiation items may include discounts, item discounts, promotions, payment terms and transportation and storage costs. Other financial considerations such as revenues and incentives may be considered as well.

Review the MDO and document what the least acceptable terms are that the committee will accept. The distance between the MDO and LAA provides the committee with its strategies and negotiating range. Strategy may vary for the different short-listed suppliers depending on their initial responses.



Strategy planning is important because the committee must be prepared to know what the “walk away” conditions are and be able to build a number of variables the committee will have to work with during negotiations. Without knowing what the least acceptable position is, there is no negotiating road map.

#### **4.4.2 Arrange Negotiation Sessions**

Once the negotiation strategy for each of the shortlisted suppliers is completed the Procurement Professional will schedule the negotiation sessions with the suppliers. Negotiations should occur at the University’s location. This provides the negotiation committee the benefit of familiar surroundings, and the ability to contact any needed Subject Matter Experts at a moment’s notice. The Procurement Professional is also able to logistically schedule negotiation sessions with multiple respondents in one day.

##### **4.4.2.1 Planning Negotiations**

When planning negotiation sessions, the following questions should be considered:

- When will the negotiation sessions be held?
- Is the committee best early in the morning or just after lunch?
- What is the balance between time in negotiations and results generated?
- How many negotiation sessions should be conducted per day?
- How long should each session be?
- In what order of respondents will the negotiations be held?
- Will negotiations be held in parallel or sequentially?
- Are there categories/items that can be negotiated before others?
- What order should we negotiate in?
- Are there respondents that should be negotiated before others?

The Procurement Professional should contact the respondents as early as possible to obtain scheduling information from them, then work with the negotiation committee to reserve conference rooms and times to ensure the rooms are large enough for all participants. Make sure there is access to conference call equipment and phone lines, and access to audio visual equipment should the committee or respondent require these items during the meetings. Also ensure that the required recording equipment is accessible. Finally, notify the respondents as early as possible with the final schedule. The Procurement Professional is responsible for all communications with suppliers and no one else can talk to supplier outside of the negotiation meetings until the contract is awarded or all solicitations are rejected.

##### **4.4.2.2 Negotiation Committee Roles**

There are four different roles that are filled by the members of the negotiation committee. It is important that the committee has the knowledge and skills in purchasing processes, cost estimating, University procedure, project management,

and subject matter expertise. Some members of the committee may function in several capacities.

The roles and messages they should communicate are described below:

- Lead Negotiator: Conducts the negotiations and facilitates the negotiation process. The lead negotiator is often the “driver of change” and seeks alternative options. This may be the committee chair or another member of the negotiation committee.
- Subject Matter Expert (SME): Has thorough understanding of the end user requirements, technical needs, usage volumes, prices, analysis, and other data. The SME also has a thorough understanding of the supplier situation, supplier competition, and market forces. Also, the SME seeks common ground between suppliers and negotiation committee. There may be several SMEs for any given solicitation.
- Facilitator and Recorder: The Procurement Professional prepares the agenda(s), records and facilitates the meeting. The Minute Taker provides a high-level written narrative of the discussions, including strengths and weakness of the responses based on the evaluation criteria, and unresolved issues.
- End User Representative: Represents the final beneficiaries of the contract.

#### **4.4.3 Conduct Negotiation Sessions**

Negotiations with respondents may occur as follows:

- An initial meeting with each of the selected respondent starts the negotiation process. Topics addressed are any lack of clarity or shortcoming of the initial proposal. The outcome of this meeting(s) is a plan for the respondent to submit a revised proposal with changes tracked, for the committee’s consideration, to be followed by a follow up meeting. The outcome of the initial meeting can include issuing a clarification or amending the University’s requirements.

When beginning negotiations, the opening of the session should begin with introductions of both committees. The agenda should be distributed and read, ensuring that all agree with the plans. Then the ground rules should be communicated in advanced or during the meeting by the Procurement Professional. As part of the introduction, each committee should present a brief overview of their presentations and goals for the session. The respondent should then present its offer, clarifying any questions that are posed for technical and commercial terms.

- The purpose of the follow up negotiation meetings is to consider the respondent’s revised responses, as well as any clarifications to the

solicitation. This includes a series of revised responses and/or requirements and discussion of them. Review every section of the University's requirements and the respondent's responses, rather than only discussing noticeable issues committee members may have identified.

The committee should communicate its position, and then assess the respondent response and flexibility. Problem resolution should be addressed at this time. The committee needs to understand the position of the respondent and make any adjustment to its expectations. Adjustments should be made by restating/reshaping the committee's position and objectives as necessary during the negotiation processes, looking for alternatives. To resolve the issues, the committee should emphasize the areas where there is agreement, focusing on interests, not positions. Remember to keep options open.

- The final negotiation meeting usually consists of the committee reviewing and providing feedback on the respondents' final revised proposal, and if appropriate, the respondents amend the responses for the last time. Making sure everything is in writing before formal call for BAFO by the Procurement Professional.

Once the committee has a contract that satisfies all parties and addresses critical business requirements of the end users and presents best value to the University, or has reached an impasse with all respondents invited for negotiations, the negotiation phase of the response evaluation process is complete, and the solicitation committee should proceed to step 4.5. Competitive responses and negotiations will be confidential only to the extent permitted by Florida law.

#### **4.4.3.1 Negotiation Impasses**

If negotiations have reached an impasse with all respondents invited for negotiations, then the committee has the option to reject all solicitations and cancel the ITN, with or without naming a timeline in which the new ITN will be released. Issuing a notice of intent to reissue, after rejecting all proposals, protects the confidentiality of all previous proposals received and other committee information associated with the original ITN for not more than 12 months.

#### **4.5 Make Committee Decision Recommendation**

After members of the evaluation committee and/or negotiation committee determine that negotiations have been completed a Best and Final Offer (BAFO) should be received from the short-listed respondents. The evaluation committee must meet to review the BAFO and discuss an award decision. The Executive Director of Procurement Services will have the Procurement Professional post the intent to award after the Evaluation Committee Report has been reviewed and approved by the decision maker. The recorded meetings are the only occasion for the evaluators or negotiators to discuss their negotiation strategy and decision to award or reject.

The committee have the following options that they may recommend:

- Award a contract, (as modified in negotiations if an ITN), to the respondent(s) who provide the best value to the University
- Reject all responses and re-solicit
- Reject all responses and do not re-solicit

Once members of the evaluation committee have made their recommendation/decision, the committee chair will prepare the evaluation committee's recommendation/decision summary which will include high level minutes of the evaluation committee's decision including the strengths and weaknesses of each supplier's proposal. The Executive Director of Procurement Services will review the summary to ensure the procurement process is compliant with BOG regulations and FIU policy. If the evaluation committee is not the final decision maker, the summary will be sent to the signature designee for final decision.

## 5.0 Stage Five: Contract Award Process

### Six Stages of Public Procurement



The goal of Stage Five activities is to post the evaluation committee’s decision, draft the contract document(s), review the contract documents, and execute the final contract.

#### 5.1 Introduction to the Contract Award Process

The purpose of Stage Five is to publicly post the evaluation committee’s decision for the competitive solicitation, prepare and review the draft contract document, obtain contract signatures from the awarded supplier(s) and Office of the General Counsel, and execute the final contract.

#### 5.2 Post the Decision

Once the final award decision has been made by the appropriate decision maker regarding a contract award, the Procurement Professional must post the Intent to Award on the University’s website <http://bids.fiu.edu/Lists/Intent%20to%20Award%20Posting/Public.aspx> or via a link to Jaggaer’s website. The Executive Director of Procurement Services or designee will approve the Intent to Award document.

##### 5.2.1 Intent to Award and Protest Proceedings

The Intent to Award is the official public announcement of the intended contract award to the identified apparent successful supplier(s). The intent also may identify the amount of the intended contract award and the tabulation sheet.

The posting of intent to award must include the following statement:

“Failure to timely file a protest or failure to timely deliver the required bond or other security in accordance with the Florida Board of Governors’ regulation 18.002 and 18.003 shall constitute a waiver of proceedings”.

Once the intent to award has been posted, all documents pertaining to the solicitation are open to the public. The suppliers may review the procurement process via a public records request. The suppliers have 72 hours to file a written notice of intent to protest from the date and time of posting.

Failure to file a notice of intent to protest or failure to file a formal written protest shall constitute a waiver of proceedings under the Florida Board of Governors' regulation 18.002 and 18.003.

The potential protestor must file a formal written protest and the required Solicitation Protest Bond within 10 days after the date of the notice of intent to protest was filed in accordance with the Florida Board of Governors' regulations 18.002 and 18.003.

If a formal written protest is received no contract award will be made until the President and the Executive Director of Procurement Services or the Executive Director's designee settle or resolve the protests or aggrieved offerors and bidders concerning the solicitation or award unless the President sets forth in writing particular facts and circumstances which require the continuance of the contract award process as provided in the Florida Board of Governors' regulation 18.002 and 18.003.

### **5.2.2 Rejection of Solicitations**

If the decision maker decides to reject all responses and concurrently provides notice of intent to re-solicit, the recordings and all the solicitation documents remain exempt from public record for twelve months. The Procurement Professional will post to the University's website the rejection notice.

## **5.3 Prepare Draft Contract**

### **5.3.1 Invitation to Bid**

An Invitation to Bid (ITB), the contract document is composed of the following:

- Cover Contract
- Invitation to Bid
- Bid Response
- Any clarification document deemed necessary

When drafting the ITB the Procurement Professional should ensure the solicitation instructs the supplier that submitting a bid constitutes agreement to: (1) abide by the contract terms and conditions, and (2) fulfill the obligations of the statement of work/services. Respondents should submit bids with the knowledge that the successful supplier will become subject to the terms, conditions and obligations outlined in the competitive solicitation upon execution of a contract.

### **5.3.2 Invitation to Negotiate and Request for Proposals**

In an Invitation to Negotiate or Request for Proposals (ITN or RFP) the contract document is composed of the following:

- Cover Contract

- Invitation to Negotiate
- Initial Response and all Revised Responses
- BAFO
- Any clarification document deemed necessary

When drafting the ITN/RFP the Procurement Professional should ensure the solicitation instructs the potential suppliers that submitting a proposal constitutes agreement to: (1) negotiate and abide by the agreed contract terms and conditions, and (2) negotiate and fulfill the obligations of the final agreed upon contract.

## **5.4 Review Draft Contract**

The Procurement Professional will prepare the final draft contract and send the contract to the Office of General Counsel for review and approval as to form and legality. The terms, conditions, and specifications of the solicitation document and the award document are incorporated into any contract between the University and the supplier as a result of the solicitation. The Procurement Professional will work with OGC and the supplier to finalize all terms and conditions of the contract.

## **5.5 Execute Final Contract**

### **5.5.1 Invitation to Bid Contract**

Once the contract has been signed by all parties that have authority to sign contracts, (refer to <https://generalcounsel.fiu.edu/delegated-authority/> for FIU delegate authority), the Procurement Professional distributes the fully executed copy of the contract to the supplier and to the using department.

### **5.5.2 Invitation to Negotiate Contract and Request for Proposal**

- Once the contract is approved as to form and legality by OGC and has been signed by the supplier.
- The decision summary which contains the evaluations committee's reasons for award and the contract is presented to the designated FIU signatory for contract execution.
- After the Procurement Professional obtains the necessary signatures the fully executed copy of the contract will be distributed to the supplier and using department.

## **5.6 Issue Purchase Order**

Once the contract is fully executed Procurement Services will process the special request requisition that the User Department entered into PantherSoft and issue the purchase order. In some cases, a contract may not be executed; however, a

purchase order will always be issued unless paid by department card or allowable unencumbered payment process.

The purchase order is used for financial purposes to encumber funds. In addition, the purchase order may also be used to establish minimum contract terms when a contract is not issued.

In addition to the executed contract, additional documents may be required, (e.g. required insurance certificates, payment bonds, etc.) before the purchase order may be issued.

#### IV. Resources

Form/Template Name/Description	Web Site/Link
<b>Signature Authority for Contracts</b>	<a href="https://generalcounsel.fiu.edu/delegated-authority/">https://generalcounsel.fiu.edu/delegated-authority/</a>
<b>Intent to Award Posting</b>	<a href="http://bids.fiu.edu/Lists/Intent%20to%20Award%20Posting/Public.aspx">http://bids.fiu.edu/Lists/Intent%20to%20Award%20Posting/Public.aspx</a>
<b>Intent to Reject Posting</b>	<a href="http://bids.fiu.edu/Lists/Intent%20to%20Reject%20Competitive%20Solicitations/Public.aspx">http://bids.fiu.edu/Lists/Intent%20to%20Reject%20Competitive%20Solicitations/Public.aspx</a>



## 6.0 Stage Six: Contract Process and Management

### Six Stages of Public Procurement



The goal of Stage Six activities is to ensure the contractor performs according to the terms of the contract and that both parties properly perform their responsibilities. The contract management process facilitates successful purchases by assuring that users are receiving the specified goods or contractual services in the specified quantity, of acceptable quality, and at the correct time. The contract management process also ensures that the contractor is properly compensated for providing the specified goods and contractual services.

#### 6.0 Contract Review and Determination of Contract Value

The Office of General Counsel (OGC) is the only office that has the authority to approve the legal terms of any University contract over \$75,000. Legal review by the OGC is not required for contracts for the purchase of goods and services when the total value of the contract is less than \$75,000. For more information on contract review please visit OGC's website at <https://generalcounsel.fiu.edu/faqs/>.

The total value of a contract shall be the purchase price for the initial term plus all renewal costs.

The purchase of goods and contractual services shall not be divided to avoid the requirement of competitive solicitation.

- Work cannot be divided into multiple phases.
- A new contract cannot be entered into each year on an ongoing basis. Anticipation of renewing a contract must be factor into the cost when determining the value of the contract at the onset.

Exceptions of purchase agreements that require OGC review regardless of contract value are:

##### Sponsored Research Agreement

- Software License Agreement - When purchasing a third-party solution, Departments are strongly encouraged to complete the vendor risk questionnaire found at <https://library.educause.edu/resources/2020/4/higher-education-community-vendor-assessment-toolkit> as this Higher Education Communication Vendor Assessment (HECVAT) will facilitate the evaluation of process to rate the level of risk for all vendors.

- Master Agreement of any type
- Space Leases

All non-purchasing agreements, such as revenue agreements, academic partnership agreements or service agreements where FIU is a service provider are not routed through Procurement Services.

### **6.1 Multi-Term Contracts**

A contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the University provided that the terms of the contract and conditions of renewal or extension, if any, are included in the solicitations and funds are available to make purchases. Payment and performance obligations for the succeeding fiscal periods shall be subject to the appropriation of funds. Prior to the use of a multi-term contract, it shall be determined that:

- Estimated requirements during the effective period of the contract are reasonably firm and continuing; and,
- The contract will serve in the best interest of the University by encouraging effective competition or otherwise promoting economies in University purchasing. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the outstanding orders shall be paid only for supplies or services already received under the contract.
- All rules and regulations regarding solicitation requirements must be adhered to.

### **6.2 University Contracts**

The Procurement Services Department may establish annual contracts for enterprise wide or department specific purchases of a recurring nature if trends indicate that an annual contract would be advantageous. Information as to specifications and estimated annual usage shall be coordinated with using departments. Blanket Purchase Agreement and Blanket Maintenance Agreement purchase orders may be used to consummate purchases against these contracts. Enterprise wide contracts maybe enabled in myFIUmarket. A list of FIU Enterprise Contracts and other contracts FIU can piggy-back are located in our Shopping Guide at: <https://controller.fiu.edu/departments/procurement/procure/shopping-guide/> .

### **6.3 State of Florida Contracts**

The University may acquire any good or service which is available on any contract or price agreement executed by the State Division of Purchasing when such purchase is most advantageous to the University, with price, quality, performance, and other factors considered. All state contract purchases by the University are exempt from competitive solicitation requirements. State Contracts are available online and can

be viewed at the State of Florida website at [http://www.dms.myflorida.com/business\\_operations/state\\_purchasing](http://www.dms.myflorida.com/business_operations/state_purchasing), to link to the State Purchasing website for a listing of available contracts. You may also contact the appropriate Purchasing Professional in Procurement Services for additional information and assistance. Please see [Procurement Services staff](#) listing.

#### **6.4 Cooperative/Piggy-back Purchasing Contracts**

The University can evaluate, approve, and utilize contracts that are entered into after a public and open competitive solicitation by any State of Florida agency, department, Florida state college or university, the Federal Government, other states, political subdivisions, cooperatives or consortia, or any independent college or university for the procurement of commodities and contractual services, when it is determined to be cost-effective and in the best interest of the University, to make purchases under contracts let by such entities. Procurement Services must maintain appropriate justification for the use of services contract adoption. These types of purchases are considered exceptions and are not subject to the competitive solicitation process per BOG 18.001 (6).

The University shall review existing consortia and cooperative contracts to identify potential savings and, if there is the potential for savings, enter into new consortia and cooperative contracts to achieve the savings, with the goal of achieving a five-percent savings on existing contract prices. The use of cooperative purchasing contracts is also known as piggybacking. Please refer to [Procurement Overview](#), section II.3.5 for more information on when and where to use these agreements.

#### **6.5 Department Initiated Contract for the Purchase of Goods or Services**

If a supplier will accept a purchase order in place of a signed contract, then the purchase order will serve as the contract and no contract document signed by both parties is needed. A purchase order is a contract between FIU and the supplier. The purchase order has standard terms and conditions and are located at: <https://generalcounsel.fiu.edu/wp-content/uploads/sites/26/2014/07/FIU-Standard-Terms-Conditions-1.pdf>. These terms and conditions must be shared with the supplier and their written confirmation must be attached to the requisition. Please note: if the transaction involves long term arrangement and/or complex scope and/or milestones and/or milestones and/or anticipated deliverables, a purchase order alone is not the best contract mechanism.

All contracts or purchase orders made or entered into by The Florida International University Board of Trustees or the Florida International University Foundation, which is paid in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, shall contain the terms and conditions located at: <https://generalcounsel.fiu.edu/wp-content/uploads/sites/26/2018/09/Federally-Funded-Projects-1.pdf>

As a requirement of doing business with a supplier, the supplier may require a signed contract or FIU department may deem it is in our best interest to issue a contract. The using department should first propose using FIU's contract template located at: <https://generalcounsel.fiu.edu/contract-forms/> (See 6.5.1 FIU Contract Templates) in place of the supplier's contract. If the supplier declines, then the supplier's contract may be used. The supplier's contract should be completed following the process noted below and signed by an authorized University Representative. However, if the supplier agrees then the department should use one of FIU's templates to contract with the supplier and should follow the process noted below.

All contracts for the purchase of goods or services, regardless of the value or the type of contract, are to be submitted by the Contract Manager through Total Contract Manager (TCM) for processing. **The procurement contract is not to be signed by anyone at the University until it has been routed through TCM.** The Contract Manager must properly answer the compliance questions and the appropriate approval will be obtained through workflow. The final draft contract, without signatures, and all required documentation must be entered into TCM for approval and electronic signatures should be obtained from the Authorized Signatory using DocuSign. TCM sends the executed contract to the suppliers and the Contract Manager can view all contracts in TCM. For more information on Procurement Contracts and TCM please visit OGC's website at <https://generalcounsel.fiu.edu/faqs/>.

Should you require access to TCM as a Contract Manager, Contract Approver, or Contract Viewer, you may request it via the Total Contract Manager (TCM) and Electronic Solicitation Access Request Form which is located at(<https://imagenowweb.fiu.edu/imagenowforms/fs?form=TCMForm> ).

- You will have to login with your FIU Username and Password
- Once submitted, the form will automatically route to your HR Supervisor (and Expense Manager for the College of Business) for approval before Procurement Services receives notification of your request

### 6.5.1 FIU Contract Templates for the Purchase of Goods or Services

There are two (2) FIU contract templates available for use for all service and performance purchases when a written agreement with the supplier, outlining specific details about the services being purchased is in the best interest of the University or when a contract is required. The appropriate contract which is either the Service/Entertainment/Performance Agreement or the Independent Contractor Agreement must be completed by the University department requesting the purchase and must be executed by both parties prior to the services being received. Please see the instructions and process outlined in the **Contract Templates Procedure** at: <https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/ContractTemplatesProcedures.pdf> .

### 6.5.1.1 Service/Entertainment/Performance Agreement One Time Payment

The Services/Entertainment/Performance Agreement template must be used for all service and performance purchases valued at more than \$5,000 or less than \$5,000 when a contract is required, and when a supplier is providing a one-time service that is listed on the [Allowable Unencumbered Payment List](#) Section 1, and will be paid in full upon completion of said service/performance. It may be used for a variety of services and/or performances, including but not limited to performers, entertainers, guest speakers, and lecturers. For additional information on the Allowable Unencumbered Payment Process please see documentation noted under Accounts Payable at: <https://controller.fiu.edu/resources/policies-procedures/> . This **contract template** is available on the Office of the General Counsel website at: <https://generalcounsel.fiu.edu/contract-forms/> and the detailed procedures for completing and processing are outlined in the **Contract Templates Procedure** at: <https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/ContractTemplatesProcedures.pdf> .

### 6.5.1.2 Independent Contractor Agreement

The Independent Contractor Agreement template is to be used when a supplier is providing services that are not on the [allowable unencumbered payment list](#), and when a purchase order **and** a contract are required or when it is determined to be in the best interest of the University to have a contract signed by both parties. This **contract template** is available on the Office of the General Counsel website at: <https://generalcounsel.fiu.edu/contract-forms/> and the detailed procedures for processing and completing are outlined in the **Contract Templates Procedure** at: <https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/ContractTemplatesProcedures.pdf> .

### 6.5.2 Supplier's Contract

The process for utilizing a supplier's contract is as follows for the using department:

- Review and evaluate the entire contract, negotiate with supplier, and revise business and operational provisions, terms and conditions within the contract, as needed, in order to appropriately reflect the business arrangement reached with the supplier. Refer to the [Checklist for Drafting Procurement Contracts](#).
- Attach the appropriate Supplemental Addendum which can be found at: <https://generalcounsel.fiu.edu/contract-forms>. Departments should not revise the Supplemental Addendum in any way. If the supplier is requesting changes, the department must contact Procurement Services for assistance at: [contracts@fiu.edu](mailto:contracts@fiu.edu) .
- Include referenced documents/exhibits/attachments.

- Include name and title of the appropriate FIU authorized signatory on all documents that require signatures. A list of individuals who are duly authorized signatories with authority to bind the University to agreements for the purchase of goods and services can be found at: <https://generalcounsel.fiu.edu/delegated-authority/>.
- Request initials within the document where changes were made.
- The Contract Manager will submit the contract through TCM for processing.

## **6.6 Contracts valued at an Amount Greater than \$75,000**

The process for contracts valued greater than \$75,000 (including all renewals) is as follows:

- Department reviews contract to ensure that it reflects the business deal and specifications in relation to the goods or service being provided.
- The Contract Manager submits the contract through TCM for processing.
- The Contract Manager submits the contract documents to OGC via TCM workflow for review, revisions, and approval as to form and legality.
- OGC returns revised contract documents to the Contract Manager. OGC review may take up to fifteen (15) business days so departments should plan accordingly.
- Contract Manager via TCM DocuSign obtains supplier's signature and FIU representative's signature -the FIU representative who is to sign the contract is any individual with signature delegation from the President and has supervision over the using department. Please see Signature Delegation website for more information at: <https://generalcounsel.fiu.edu/delegated-authority/>.
- Procurement Services dispatches any applicable purchase orders and TCM electronically distributes the contract.

## **6.7 Contracts valued at an Amount Less than \$75,000**

The process for contracts valued less than \$75,000 is the same process as contracts valued at more than \$75,000 except that OGC does not review such contracts, unless it is listed in FIU's policies as a purchase agreement that requires OGC review or the FIU's template or the Supplemental Addendum has been revised by the vendor. It is the department's sole responsibility to review and ensure the contract is appropriate completed as outlined in the **Checklist for Drafting Procurement Contracts** located at: <https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/DraftingProcurementContracts.pdf>. The Contract Manager and the person reviewing the contract(s) on the department's behalf should

attend TCM Training and review the Procurement Contracts Training slides. Procurement Services only spot checks contracts to ensure the process is followed.

## 6.8 Click-Thru Agreements

Click-through agreements are considered legal contracts. Since FIU is a public entity of the State of Florida, the University is precluded from agreeing to certain terms and conditions. It's common that standard click through agreements contain language and terms that are not acceptable to the University.

When encountering new computer applications, software, or other services (even "free" ones) available online, you may be required to click a button that says "yes" or "I agree" as to certain terms and conditions in order to use the application. These are "click-through" agreements. One may even receive this request to click-through when upgrading to the latest version of an existing application.

Very few FIU employees have been delegated the authority to enter into any contracts on behalf of the University (please see [Procurement Services website](https://generalcounsel.fiu.edu/delegated-authority/) for a list of all authorized signatories) <https://generalcounsel.fiu.edu/delegated-authority/>. If you click through and "accept" any such terms without seeking the proper approvals and without having the proper authority, you could be putting yourself and the University at risk. Accordingly, University employees who are not authorized signatories should NOT accept click-through agreements without following the below process.

1. If you want to use a new software application, upgrade a version of an application you are already using, or use an online service (like Google Apps), check with Procurement or Information Technology to see if a contract already exists which can be utilized for your needs.
2. If you have confirmed that the application is not already available to you through such existing agreements, then you must seek approval to proceed and utilize the product from your appropriate department head (Director, Dean or VP). This discussion may require approval from Information Technology and/or Procurement. You should read the terms and conditions being presented to you by the supplier and confirm that they are acceptable to you from an operational perspective.
3. If an agreement does not exist, and your department head agrees with your "purchase" and acceptance of the terms related to the application (even for \$0), then you should contact the supplier (either someone directly if you have an email address for a contact of the supplier, or find a relevant email address on the supplier's website) and provide them with written notice that you are not permitted to accept click-through agreements, and request that they allow us to print, review, revise and have the contract signed by both parties, per our standard contract process. If they agree, you should work with them to process the click-through like a standard supplier contract.



4. If the supplier refuses to allow us to modify the contract, or fails to respond to your request in a timely manner, then you should reconnect with the relevant department head (Director, Dean or VP), to determine whether it is still in FIU's best interest to proceed in accepting the terms.
5. If you and the relevant department head agree to proceed, then you should send the supplier another email letting them know that you are not an authorized signatory for FIU and do not have the authority to enter into agreements on behalf of the University, and the agreement is not enforceable. Please refer to the [Click-Through Agreements Standard Operating Procedure](https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/Click-ThroughSOP.pdf) document located at <https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/Click-ThroughSOP.pdf> for a sample email that you can send the supplier.
6. After waiting three (3) business days, or another time frame that is reasonable in the circumstances, if you do not receive a response from the supplier, then you may "accept" the click through terms.
7. Please keep all emails and any additional documentation on file for your records.

If you accidentally accept a click through agreement, then contact the DOIT helpdesk immediately; they will be able to determine if software was downloaded to your device or if what you accidentally agreed to is a service on the Internet. If you downloaded software to your University owned computer, the DOIT organization will assist in removing all the unwanted software. If you agreed to an online service, they will work with the appropriate University departments (legal and procurement) to contact the company and explain the situation.

## 6.9 Contract Management Process

The Contract Management Process is often the longest stage of the procurement process, as the initial term of a contract award may be several years. Many contracts include renewal terms that keep the contract active for an even longer period.

The using department(s) management designates the Contract Manager and contract administrator. Often the manager and administrator are the same person.

Examples of contract administration activities include the following:

- Ensuring all supplier deliverables are completed and delivered to FIU
- Ensuring all FIU deliverables are completed and delivered to supplier
- All deadlines are met, and timelines adhered to
- Payments are made as outlined in the contract
- Issue amendments if services exceed the term of the contract
- Exercising renewals or extensions, as needed
- Insurance certificates are maintained up-to-date and on file by department during the term of the contract



- Appropriately addressing supplier non-compliance

## **6.10 Manage the Contract**

The Contract Manager and/or Contract Administrator is responsible for the day-to-day operations of the contractual relationship, including: receiving and/or ensuring the quality of the goods and contractual services specified in the contract, certifying their performance and quality, validating and auditing contract pricing and payment, monitoring contractor performance, and managing changes to the contract.

### **6.10.1 Receive Goods and Contractual Services**

One of the primary responsibilities of a contract manager/administrator is to ensure that the University is receiving the goods and contractual services as they are specified in the contract including managing all deliverables and performance requirements.

### **6.10.2 Review Before Payment**

To ensure that the University has received the goods and contractual services specified in the contract and that a contractor is entitled to compensation, the contract manager/administrator should conduct the following activities:

- Ensure goods and services received.
- Verify that any required supporting documentation has been submitted and is accurate and complete.
- Review documentation for reasonable assurance that goods or contractual services have been satisfactorily provided within the terms of the contract.
- Create receipt in PantherSoft.

Accounts Payable receives the supplier's invoice, creates the voucher; PantherSoft matches the receipt with the voucher to ensure accuracy.

### **6.10.3 Disputes**

If receipt of goods or contractual services are in dispute the contract manager/administrator would note it when receiving in PantherSoft so Accounts Payable can address any exceptions to the invoice. However, partial, or prorated payments must be made based on deliverables validated and supported by adequate documentation.

#### **6.10.3.1 Address and Resolve Problems with Contract**

In the event of an issue with a contract, the contract manager/administrator is responsible for addressing and resolving the issue. Contract managers/administrators should work with the contractors and using departments to

ensure that the contract terms are enforced and that an equitable resolution is reached.

#### **6.10.4 Manage Changes to the Contract**

Throughout the contract life cycle, it may be necessary to document changes to the original contract terms. These changes can be minor administrative changes, such as a change of address, or they can be substantive changes affecting the delivery and pricing. All contract amendments, renewals and extensions must occur in writing and should follow the same routing and approval as the original contract using TCM. Please refer to the Renewal, Extension, and Amendment form located at: <https://generalcounsel.fiu.edu/contract-forms/> .

##### **6.10.4.1 Amendments**

A contract amendment is a change in a contractual agreement made by adding, altering, or omitting a certain part or term of the original contract. Amendment documents, when signed by all parties concerned, retain the legal validity of the original contract.

When an amendment is required a change order to the purchase order may need to be issued. Please see Operational Chapter for Change Order procedures.

##### **6.10.4.2 Renewals**

If the original contract contains a renewal provision, the contract can be renewed for a period that is stipulated in the contract. Contracts that are renewed are subject to the same terms and conditions that were specified in the original contract. For contracts that are the result of a competitive solicitation, contract pricing for the renewal must be specified in the initial competitive solicitation. The renewal must be in writing and signed by both parties and is contingent upon satisfactory performance and subject to availability of funds.

The renewal(s) of a contract, entered because of a competitive solicitation, may not exceed five (5) years or twice the term of the original contract, whichever is longer. This provision is not intended to apply retroactively; existing contracts entered prior to January 1, 2017, including any specified renewal period(s) may continue in accordance with the existing contract terms.

##### **6.10.4.3 Extensions**

Extension of a contract entered as a result of a competitive solicitation shall be for a period up to twelve (12) months or until completion of the competitive solicitation and award or protest, whichever is longer. The contract extension shall be in writing, shall be signed by both parties, and shall be subject to the same terms and conditions

set forth in the contract being extended. The Executive Director of Procurement Services will approve all extensions.

#### **6.10.4.4 Contract Close Out**

When a contract expires or goods or contractual services required by the contract are delivered and final payments are made, the contract must be closed out. The contract manager/administer must determine that all deliverables, including any reports, have been submitted and accepted; all outstanding issues have been resolved, and that the contract file contains all necessary documents.

If there is a purchase order with a remaining balance after all payments are made, contact Procurement Services to close the purchase order.

#### **6.10.4.5 Contract Termination**

Most contracts will end when the term of the contract has expired or will continue if it is renewed or extended. However, there are circumstances when a party or parties decide to terminate the contract. A contract will usually contain provisions concerning termination. Please contact the Office of the General Counsel for further guidance on how to terminate the contract.

## **V. Resources**

<b>Form/Template Name/Description</b>	<b>Web Site/Link</b>
<b>Purchase Order Std. Terms &amp; Conditions</b>	<a href="https://generalcounsel.fiu.edu/wp-content/uploads/sites/26/2021/01/FIU-Standard-Terms-Conditions.pdf">https://generalcounsel.fiu.edu/wp-content/uploads/sites/26/2021/01/FIU-Standard-Terms-Conditions.pdf</a>
<b>FIU Enterprise Contracts</b>	<a href="https://controller.fiu.edu/departments/procurement/procure/shopping-guide/">https://controller.fiu.edu/departments/procurement/procure/shopping-guide/</a>
<b>Organizational Chart – Procurement</b>	<a href="https://controller.fiu.edu/wp-content/uploads/sites/24/2020/10/OrganizationalChart.pdf">https://controller.fiu.edu/wp-content/uploads/sites/24/2020/10/OrganizationalChart.pdf</a>
<b>State of Florida Contracts</b>	<a href="http://www.dms.myflorida.com/business_operations/state_purchasing">http://www.dms.myflorida.com/business_operations/state_purchasing</a>
<b>Supplemental Addendum Form</b>	<a href="https://generalcounsel.fiu.edu/contract-forms">https://generalcounsel.fiu.edu/contract-forms</a>

<b>Signature Authority for Contracts</b>	<a href="https://generalcounsel.fiu.edu/delegated-authority/">https://generalcounsel.fiu.edu/delegated-authority/</a>
<b>Contracts valued under \$75,000 Checklist</b>	<a href="https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/DraftingProcurementContracts.pdf">https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/DraftingProcurementContracts.pdf</a>
<b>Contract Template Procedures</b>	<a href="https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/ContractTemplatesProcedures.pdf">https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/ContractTemplatesProcedures.pdf</a>
<b>Allowable Unencumbered Payment List</b>	<a href="https://controller.fiu.edu/resources/forms-templates/">https://controller.fiu.edu/resources/forms-templates/</a>
<b>Extension Agreement &amp; Amendment Agreement</b>	<a href="https://generalcounsel.fiu.edu/contract-forms/">https://generalcounsel.fiu.edu/contract-forms/</a>

## **VI. Maintenance and Revision**

The FIU Procurement Manual will be reviewed annually by the Department of Procurement Services to ensure that the manual remains consistent with applicable laws, regulations, policies, and procedures. The manual must be consistent with the following:

- Statutory requirements of the State of Florida
- Regulations and directives established by the State University System of Florida Board of Governors
- Regulations and directives established by the Florida International University Board of Trustees
- Standard and best practices in the state university system of Florida and public procurement, as applicable

The Executive Director of Procurement Services is responsible for ensuring that the manual is consistent with any changes made by the entities. Any major revisions (e.g. statutory requirements, Board of Governors regulations) made to the manual must be approved by the University Controller. Major revisions will be logged in the Record of Changes section of this manual. Minor revisions (e.g. job title changes, updating contact information) may be approved by the Executive Director of Procurement Services and do not need to be logged. Once approved, electronic copies of the final manual are made available on the internet through the FIU Office of Finance and Administration webpage (<https://controller.fiu.edu/wp-content/uploads/sites/24/2021/05/ProcurementManual.pdf> )

**VII. Record of Changes**

Date of Change	Section(s) Changed	Summary of Change
9/2016	None.	Created.
10/2017	Maintenance and Revision, Record of Changes	Previous version did not have these sections.
6/2018	I.1, II.3.2, II.3.2.1, II.3.2.2, II.3.3, II.3.4, II.3.6, II. 3.6.1, II.3.6.2, II.5.2.1, 1.3.2, 3.2, 3.2.1, 3.5, 4.3,5.2, 6.5	Incorporation of Uniform Guidance procurement requirements and replace DemandStar with Jaggaer for electronic sourcing and TCM.
9/2018	II.4.2	Changed confirming PO to non-conforming purchase and requires a Non-Conforming Purchase Justification Form to be completed before payment can be processed via unencumbered payment.
6/19	Throughout the entire Procurement Manual	Changed Procurement Director to Executive Director of Procurement Services
6/19	I.2.2.3	Updated Ethics in Purchasing Policy
6/19	II.3.3	Updated exempt purchases to reflect current BOG 18.001 Procurement Regulations
6/19	1.2	<b>Updated ability to request information from suppliers</b>
6/19	6.4	<b>Updated Cooperative Purchasing language to reflect current BOG 18.001 Procurement Regulations</b>

6/19	6.10.4.2	<b>Updated contract renewal language to reflect current BOG 18.001 Procurement Regulations</b>
6/19	6.10.4.3	<b>Updated contract extension to reflect current BOG 18.001 Procurement Regulations</b>
7/20	I.1	<b>Update use of GovQuote for quotes</b>
7/21	I.2.2.2, I.2.2.3, II.3.2.1, II.3.3, II.3.5, II.3.6.1, II.3.7, II.4.2, II.5.4, II.5.5, II.6.4.1, II.8, II.9, II.12, II.13, 1.2.2, 1.3.1, 1.3.2, 2.1, 2.2, 3.2, 3.3, 3.4, 3.7, 4.2, 4.5, 6.0, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10	<b>Updated to reflect current procedures, policies, and regulation. Provided Executive Director authority to waive quote requirement via email and award best value for quotes. Changes to the Non-Conforming process.</b>
9/22	I.2.2.3, II.3.2, II.3.2.1, II.3.3, II.3.4, II.3.6.1	<b>Updated to reflect change that FIU is considered a state entity under the Uniform Guidance, and we can follow BOG Procurement Regulations. We eliminated reference to sponsored and non-sponsored research funds. Any university funds can utilize the BOG exemptions.</b>