

STATE OF MISSOURI
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT
UNIVERSITY PROCUREMENT AUTHORITY DELEGATION AND PROCEDURES

EFFECTIVE March 14, 2002

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I. LOCAL PROCUREMENT AUTHORITY DELEGATED

- A. Pursuant to 34.100 RSMo, local procurement authority is hereby granted by the Commissioner of Administration to those State of Missouri universities and colleges (universities) that are governed by Chapter 34 RSMo. This delegation applies to the following:

Harris-Stowe State College - St. Louis
Missouri Southern State University - Joplin
Missouri Western State University - St. Joseph
Northwest Missouri State University - Maryville
Southeast Missouri State University - Cape Girardeau

This delegation does not apply to the following that are exempt from the requirement of Chapter 34 RSMo:

Central Missouri State University - Warrensburg
Lincoln University - Jefferson City
Linn State Technical College - Linn
Southwest Missouri State University - Springfield
Truman State University - Kirksville
University of Missouri - all locations

- B. By accepting this delegation, the university acknowledges its ability and agreement to fulfill the requirements of Chapter 34 RSMo as well as the rules and regulations that are delineated in 1 CSR 40-1.010 through 1 CSR 40.1080.
- C. Acceptance of this delegation of local procurement authority shall not preclude the university from submitting any procurement to the Office of Administration, Division of Purchasing and Materials Management (DPMM) for processing.
- D. The authority delegated herein shall be applied to the procurement of supplies in accordance with the requirements of Chapter 34 RSMo and the procedures described in this document.

As defined in 34.010 RSMo, the term "supplies" means: "supplies, materials, equipment, contractual services, and any and all articles or things, except for utility services regulated under Chapter 393 RSMo..."

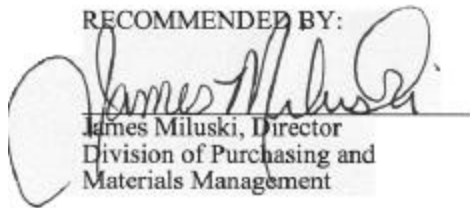
- E. This procurement authority shall not be used for procurements listed below. These procurements must be referred to the DPMM for processing.
1. Supplies available on current statewide contracts unless specifically allowed by the contract terms.
 2. Vehicles
 3. Property and liability insurance
 4. Telecommunication equipment and services with a value of \$25,000 or more.

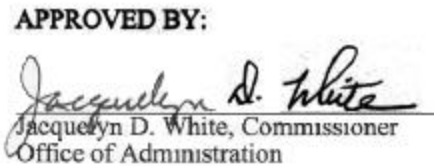
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- F. The university may delegate all or part of its local procurement authority to its departments. However, any department or employee assigned responsibility to conduct procurement activities must be furnished with a copy of this document or a university procedure that stipulates the same requirements.
- G. This delegation is subject to random compliance reviews by representatives of the DPMM. The authority granted may be rescinded at any time, in whole or in part, for any individual university that fails to correct deficiencies noted during the compliance review.
- H. This procedure may be amended or rescinded, as a whole or in part, by the DPMM at any time. When conditions and circumstance permit, the universities shall be provided with a 30-day advance written notice of any change in this procedure.
- I. Nothing stated in this delegation and procedures shall be construed to confer authority for any purpose or reason contrary to any state law, appropriation, or executive order.

This delegation and procedure is hereby authorized effective March 14, 2002, to remain in effect until rescinded or amended in writing.

RECOMMENDED BY:

James Miluski, Director
Division of Purchasing and
Materials Management

APPROVED BY:

Jacquelyn D. White, Commissioner
Office of Administration

I hereby accept this delegation of authority on behalf of the university and acknowledge the university's ability and agreement to abide by the requirements herein.

SIGNATURE _____
NAME _____
TITLE _____
INSTITUTION _____
DATE _____

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II. REQUIREMENTS and PROCEDURES

In application of the local procurement authority granted in Section I of this document, the university must comply with the requirements and procedures outlined in this section.

A. Special Approvals Required

Certain supplies, as indicated below, require review and approval by a resource manager **prior** to procurement. The approval number must be included in the university's documentation for all procurements.

Insurance: All procurements for insurance and surety bond premiums, except health and life policies, require approval from the Office of Administration, Risk Management Unit (573-751-4044).

Missouri Vocational Enterprises: All equipment, supplies, and services provided by MVE must be obtained from them unless MVE certifies that such items are not currently available. Contact MVE at 573-751-6663 to determine availability. (34.090 and 217.575 RSMo)

Printing and Copying Equipment: Requirements for the purchase, lease, or rental of any equipment that falls within the types listed below requires approval from Office of Administration, Forms Management Unit (573-751-2232) prior to initiation of the procurement process. (37.350 RSMo)

- All printing equipment
- Copiers capable of full four-color reproduction
- Copiers producing in excess of 60 copies per minute
- Special application copiers

Copiers available from a statewide contract do not require pre-approval unless otherwise noted on the notice of statewide contract.

B. Disposal of Surplus Property

Disposal of surplus property is within the authority and responsibility of the DPMM. Any exceptions require specific prior approval.

If disposing of state property via trade-in allowance or any other method other than taking the property to Surplus Property, a Report of State-Owned Surplus Property (SS-1), MO 300-1249, must be processed and approved by the State Agency for Surplus Property (573-751-3415).

C. Data Processing Equipment and Services

The Office of Information Technology (573-526-7741) is available for consultation concerning needs in the area of data processing.

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D. Telecommunication Equipment and Services

The OA, Division of Information Services (573-751-1559), is available for consultation concerning needs in the area of telecommunications.

E. Annual Wage Orders

All bids for construction, maintenance, and repair must comply with the requirements for Annual Wage Orders as stipulated in Chapter 290 RSMo. A copy of the Annual Wage Order must be attached to the solicitation document. Annual Wage Orders may be obtained from the Department of Labor and Industrial Relations, Division of Labor Standards at 573-751-3403. Pursuant to 107.170 RSMo, all public works with a cost estimated to exceed \$25,000 require a surety bond.

F. Competition

The university must solicit competitive bids for each local procurement requirement valued at over \$3,000. The university must, when possible, obtain a minimum of three (3) competitive bids:

1. The phrase "solicit competitive bids" means that the university must provide legitimate opportunity for prospective vendors to compete. Pursuant to 34.065 RSMo, when it is impractical to solicit all potential bidders, requests for bids must be sent to different vendors on a rotational basis.
2. The act of only identifying prospective vendors for documentation purposes without actually providing those vendors the opportunity to compete by soliciting prices and bid information does not constitute a solicitation of competitive bids.
3. A "no bid" response from a vendor may be counted towards the requirement for three (3) competitive bids provided that all "no bid" vendors could have reasonably been expected to submit a bid.
4. For procurements valued at \$25,000 or more, the university must comply with requirements for public notice, solicitation and advertising as stipulated in 34.040 or 34.042 RSMo.

G. Methods of Solicitation

The university may utilize any procurement method allowed by Chapter 34 RSMo such as:

Request for Proposal (RFP)
Invitation for Bid (IFB)
Request for Quotation (RFQ)
Fax bids
Telephone bids
Catalog comparison

1. The university may utilize the Local Purchase Order Bid Record, #MO300-0162, for the recording of bids and no-bids solicited and received.
2. The university may also utilize the Request for Quotation Form #MO300-1224.

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3. If all bids obtained by the university are unacceptable and time or other circumstances prevent rebidding, the university may negotiate in accordance with 34.040 RSMo.
4. When competitive bidding is either not practicable or not advantageous, the university may procure supplies through the use of competitive proposals and negotiation in accordance with 34.042 RSMo.

H. Advertisements

Any procurement, including single feasible source procurements, valued at \$25,000 or more must be posted and advertised in at least two daily newspapers at least five days before the bids are to be opened.

1. Newspapers selected should be in places most likely to reach prospective bidders.
2. Universities may advertise in at least two minority newspapers.
3. Universities may provide bid information through an electronic medium.

I. Specifications

Pursuant to 34.060 RSMo, specifications must be described with generic or functional terminology.

1. Specifications may be based upon brand name descriptions if generic or functional specifications are not possible provided that the phrase "or functional equivalent" is added as an inherent part of the description. If possible, the university must identify two or more brands equal to the specifications.
2. Specifications, delivery dates, vendor location, etc., shall not be manipulated in order to restrict competition.

In the event the evaluation of bids will be based on subjective criteria in conjunction with price, the subjective criteria and relative weights must be stipulated in the solicitation document.

J. Minority Vendor Participation

The university must comply with all applicable laws, regulations, and executive orders affecting equal opportunity and nondiscrimination in the selection of contractors.

1. Affirmative action must be taken by the university to assure that minority-owned and women-owned businesses that are certified by the Office of Administration, Office of Equal Opportunity (OEO) are provided an equitable and fair opportunity to submit bids and proposals and to receive an award. Executive Order 98-21 establishes a goal of awarding at least 10 percent of procurements to minority-owned businesses and 5 percent to women-owned businesses.
2. A minority-owned business must be at least fifty-one percent (51%) owned and controlled by one or more persons who are United States citizens and members of one of the following racial minority groups: Black, American Indian, Hispanic, Asian American, or other similar racial minority group.

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3. A women-owned business must be at least fifty-one percent (51%) owned and controlled by women who are United States citizens.
4. The university must utilize the Certified Minority-Owned Business Enterprise Directory and the Certified Women-Owned Business Directory as a source for identification of potential bidders. The directories are available on the Internet at www.oa.state.mo.us/oeo/Supplier_Diversity_Program.html.
5. Certified minority and women-owned businesses must be utilized for a portion of non-bid business whenever economically feasible. Records of such utilization must be maintained by the university.
6. Universities should document that bids were sent to or awarded to minority (MBE) and women-owned (WBE) businesses. This information may be requested by DPMM during a Quality Assurance Review of the university. Documenting the resources used to locate MBEs/WBEs and identifying those product/service areas where MBEs/WBEs are not available is beneficial for the OEO in managing the Supplier Diversity Program. The university may utilize the services and assistance of the OEO (573-751-8130) to further identify and quality prospective minority and women-owned businesses.
7. The university must ensure proper dissemination of the requirements for minority and women vendor participation to all sub-department locations who exercise a procurement responsibility pursuant to this delegation of authority.

K. Non-Discrimination and Affirmative Action

Pursuant to Executive Order No. 94-03, the following statement must appear on all contracts or purchase orders:

"In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program that shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

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If discrimination by a contractor is found to exist, the state shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, removal from all bidders lists until corrective action is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate."

L. Americans with Disabilities Act

The university must ensure that all procurements require compliance with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

M. Buy American Preference

In accordance with 34.353 RSMo, all procurements with a value of \$25,000 or more for the purchase or lease of manufactured goods or commodities, or for construction, alteration, repair, or maintenance shall contain a provision that any manufactured goods or commodities used or supplied shall be manufactured or produced in the United States.

The bidder must certify that the goods or commodities are manufactured or produced in the United States, in order to receive a preference for such products. Form #MO300-1102 may be utilized for such certification.

Buy American preference will not be required for any procurement estimated to be less than \$25,000. Buy American preference is also not required for services or software procurements regardless of dollar value.

N. Buy Missouri Preferences

Pursuant to 34.070, 34.073, 34.076, and 34.080 RSMo, preferences must be given to Missouri products and firms.

Pursuant to 34.060 RSMo, all bid requests must contain the following language:

"By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the state of Missouri."

O. Organizations for the Blind and Sheltered Workshops

Pursuant to 34.165 RSMo, a five-bonus point bidding preference must be applied to bids for those products and/or services manufactured, produced or assembled by nonprofit organizations for the blind and to sheltered workshops that are certified by Department of Elementary and Secondary Education.

Qualified organizations for the blind that are located in Missouri are AlphaPointe Association for the Blind in Kansas City and Lighthouse for the Blind in St. Louis. This preference also applies to qualified organizations for the blind located outside the State of Missouri.

A listing of certified sheltered workshops can be found on the Internet at:
<http://www.dese.state.mo.us/divspeced/shelteredworkshops/swindex.html>.

P. Recycled and CFC Products

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Pursuant to 34.031-34.032 RSMo, universities must seek to increase recycling and the utilization of products made from recovered materials, and to eliminate the purchase of products made with halogenated chlorofluorocarbon (CFC). Specific attainment goals are stipulated in 34.031 RSMo and 34.032 RSMo.

1. Products that utilize recovered materials of a price equal to and quality comparable to products made from virgin materials must be sought and purchased, with particular emphasis on recycled oil, retread tires, compost materials, and recycled paper products.
2. For more information on recycling and products made from recovered materials contact the DPMM State Recycling Coordinator at 573-751-3384.

Q. Confidentiality of Bids

The university must not reveal the price(s) or data quoted by any bidder to any other bidder or to any other person until after all quotations are received. Bidders are prohibited from changing quotations or submitting quotations once prices are revealed.

For procurements involving negotiations, the records shall not be available for review by the public until after the award of the contract.

R. Evaluation of Bids

The university may utilize subjective criteria in the evaluation of the bids they receive. If subjective criteria is utilized, the criteria and the relative weight of each criteria must be stipulated in the solicitation document.

The university must include minority representation on every committee utilized for evaluating bids. Committees of five people or less must have at least one minority member. Committees of more than five people must have at least two minority members. Assistance in recruiting minorities for the role of evaluator may be obtained by contacting the Office of Administration/Office of Equal Opportunity at 573-751-8130.

S. Awards

Pursuant to 34.040 RSMo, all procurements must be awarded to the lowest and best bid.

1. For any procurement containing a value of \$3,000 or more, the university must establish a purchase order.
2. Local purchase orders must not be split by issuing two or more orders to the same vendor or to multiple vendors in order to circumvent dollar limitations as stipulated by statute.

T. Emergency Procurement

Although an emergency procurement requires immediate action, in accordance with 34.045 RSMo, emergency procurements must be made with as much competition as is practicable under the circumstances.

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An emergency condition is statutorily defined as a situation in which "there exists a threat to life, property, public health or public safety or when immediate expenditure is necessary for repairs to state property in order to protect against further loss of, or damage to, state property, to prevent or minimize serious disruption in state services or to ensure the integrity of state records".

A situation shall not warrant an emergency procurement unless the resolution of the condition receives priority over routine operations of the university. Lack of planning does not constitute an emergency condition.

U. Single Feasible Source Procurement

As defined in 34.044, a single feasible source procurement exists when:

- (1) Supplies are proprietary and only available from the manufacturer or a single distributor; or
- (2) Based on past procurement experience, it is determined that only one distributor services the region in which the supplies are needed; or
- (3) Supplies are available at a discount from a single distributor for a limited period of time.

Single feasible source procurements may be processed by the university in accordance with the following:

1. All single feasible source procurements valued at \$5,000 or more must be posted. The posting should include: title, description, contract period, renewal options, supplier, buyer, phone number, and posting date.
2. Any single feasible source procurement valued at \$25,000 or more must also be advertised in at least two daily newspapers at least five days before the contract is let.
3. The file must be documented to explain how the procurement meets the legal definition of a single feasible source, the functionality of the supply that makes it a single feasible source and why the functionality is the only one that will meet the needs of the university, and documentation from the vendor.

V. Contracting with a Governmental Entity

Pursuant to 34.046 RSMo, universities may contract directly with other state universities, state agencies, or governmental entities for supplies or services provided directly by such entity without conducting a competitive bid process.

Governmental entities are those who derive their funding from a public tax base; i.e., federal agencies, cities, counties, public school districts, colleges, etc. Quasi-public governmental bodies as defined in 610.010 (4) RSMo are not included in this definition.

W. Cooperative Purchasing, Other Governmental Entity

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The university may participate in, sponsor, conduct or administer a cooperative purchasing agreement to procure supplies or services in accordance with a contract established by another governmental entity.

X. Documentation Required

All documentation related to each procurement must be maintained in a centralized manner so that there is a clear audit path linking the solicitation process, evaluation, award, and payment.

1. Pursuant to 34.120 RSMo, the documentation must be preserved as an official public record for a period of five years unless directed otherwise by the DPMM, whichever is longer. The documentation should include the following:
 - a. Copy of signed procurement authorization.
 - b. Copy of signed purchase order.
 - c. Copy of solicitation document.
 - d. Copy of advertisements.
 - e. List of vendors solicited.
 - f. Copies of all bids received.
 - g. Bid tabulation summary sheet.
 - h. Correspondence concerning the procurement.
 - i. A written record of any phone conversations.
 - j. Evaluation report.
 - k. A written explanation if the order is awarded to anyone other than the low bidder.
 - l. Written justification for the use of a restrictive, proprietary, brand name, or no substitution specification.
 - m. Written documentation describing the emergency condition that existed if bids are not obtained due to emergency conditions.
 - n. Written documentation describing the single feasible source procurement that existed.
2. All documentation related to each procurement must be made available to the public for inspection and review in accordance with 610.021 RSMo.

Y. Technical Assistance

The DPMM will provide technical assistance and additional information, if requested, to the university, such as: names of potential bidders, managerial review, and consultation on procurement and evaluation methods, procedures, and records maintenance.

Technical assistance may be obtained by contacting the DPMM buyer assigned to a particular type of procurement, as well as from the university liaison.

Z. Training

The university must ensure that professionalism is obtained and maintained by its procurement staff through an ongoing training program. A training plan must be developed for each member of the university's procurement staff to keep them knowledgeable of current procurement standards and requirements.

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Upon request, the DPMM will provide training to satisfy the individual needs of the university. Training seminars are also available through various not-for-profit organizations. To obtain information or request training, contact the DPMM Program Review Coordinator at 573-751-1108.

AA. Liability for Violations

Pursuant to 34.150 RSMo, certain state employees may be personally liable for the cost of any supplies, materials, equipment, or contractual services purchased contrary to the provisions of Chapter 34 RSMo or the rules and regulations made thereunder.

BB. Special Delegations and Acknowledgments

If the university believes that special circumstances exist that require the use of a different process than those identified herein, the university may request a program specific delegation of authority, an acknowledgment of grant authority, or the establishment of an expenditure registration.

Such alternative processing authorities must be requested and approved **prior** to entering into contracts or agreements with vendors. The university must provide DPMM with full documentation and justification for their request.