

SAN JOSÉ STATE UNIVERSITY
CONTRACTING AND PROCUREMENT GUIDELINES

The content of this San José State University (SJSU) Guideline is intended to serve as general guidelines for campus Contracts and Purchasing Services employees (including campus administrators, and other departmental personnel) in the conduct of campus business transactions. The CSU and the SJSU campus are committed to maintaining high standards of performance based upon fair, ethical and professional business practices. Such standards have been incorporated into this manual.

The majority of information is taken from the Contracts and Procurement section of the Integrated CSU Administrative Manual and shown in a condensed format to obtain general knowledge of its' contents and allow the user to find what is needed in more detail when the need arises.

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Introduction

The purchasing and contracting policies of the California State University (CSU) are not based upon a single statutory reference but rather are adopted to form compliance with a variety of statutory and policy provisions found in the State of California statutory codes (i.e., Education Code, Public Contract, Government Code, etc.); Title 5, California Code of Regulations; the standing orders and resolutions of the Board of Trustees; specific Trustee policy issued via Chancellor Executive Orders and administrative policy memoranda. San José State University (SJSU) is committed to a policy of promoting fair and open competition, for the acquisition of goods and services to meet its needs. In implementing its policies and procedures for the preparation and administration of purchase orders and contracts, SJSU strives to achieve this through public advertising, notification, and outreach.

The purpose and intent of this Contracts and Procurement Guideline is to provide a summary of the elements involved and the regulations that pertain to various procurement pathways (pathway being defined as a method to procure goods and services). This summary document must be used in conjunction with the primary references below.

Primary References

Integrated CSU Administrative Manual: <http://www.calstate.edu/icsuam/sections/index.shtml>

Section 5000 Contracts and Procurement: <http://www.calstate.edu/icsuam/sections/5000/>

Contracts and Procurement

Main Reference: <http://www.calstate.edu/icsuam/sections/5000/5200.0CSPICSUAMCSU.shtml>

Strategic Sourcing Options and Alternatives

SJSU and the CSU are committed to maximizing purchasing leverage through collaborative, joint, and strategic sourcing activities. The targets of the procurement program, under the direction of administrative vice presidents, and administered by the self-governing council of CSU Procurement Officers, is dedicated to the effective management of strategic sourcing and contracting in the CSU. The CSU Systemwide Contract Store is your single point of access to systemwide or multi-campus contracts. Browse the store's categories or perform a global search below for the products or services you are interested in.

Reference:

https://esw/prdp.calstate.edu/csp/faces/contractSchP?_afLoop=1677464844997059&_afWindowMode=0&_adf.ctrl-state=19mztp6xx3_4

- A. **CSU Master Pricing Agreements** establish fixed prices/rates provided by vendors for the purpose of acquiring goods and services at the vendors' best pricing. These prices/rates may be based on aggregate volume purchased and may include mutually agreed to terms and conditions for any resulting orders placed by campuses. Master Pricing Agreements may be used to establish market pricing or price reasonableness when a procurement is not subject to competition. Master Pricing Agreements are not to be used in lieu of satisfying formal competition requirements. In addition, Master Pricing Agreements may be established to assist in the meeting of legislatively mandated procurement goals for programs such as Buy Recycled Products and DVBE.
- B. **CSU Master Enabling Agreements** support the strategic sourcing efforts of two or more campuses by combining common requirements for specified goods and services. This enables the CSU to avoid

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redundant solicitations and contracts, maximize volume discounts, and reduce administrative costs. Each CSU Master Enabling Agreement may have specific conditions for its use. These conditions may include: the extent to which competition requirements have or have not been satisfied, the naming of parties that may place orders against the CSU Master Enabling Agreement, and/or instructions on how to place an order.

- C. **Campus Master Agreements** are competitively procured and negotiated contracts that can be used by campus customers. By strategically sourcing campus service, the university leverages their buying power and reduces administrative processing time and expenses.
- D. **Blanket Purchase Orders (BPO)** and Multiple Awards are primary source agreements which are designed to supply goods or services on an ongoing basis for a designated period of time. The agreement generally establishes prices, terms, conditions, and the period covered. Quantities or minimum sales are not required.
- E. **Awards** may be initiated with more than one vendor or contractor for comparable products or services. Multiple awards may be used in instances where awarding to a single provider would be impractical or fail to satisfy the overall requirements of all potential users.
- F. **Strategically Sourced Partners**
 - a. **Prison Industry Authority**

Campuses are encouraged to procure any available goods or services produced by the Prison Industry Authority (PIA). A campus may contract, without competition, with PIA for goods and services; whenever it is determined that PIA can provide the best value for the University.
 - b. **General Services Administration of the United States (GSA)**

Agreements may be used by the CSU if the GSA vendor is willing to extend the same GSA prices to the CSU, prices in the agreement have satisfied CSU's competitive solicitation process, and the terms of the agreement include the terms required by California law. <http://www.gsa.gov/portal/content/105413>
 - c. **California Multiple Award Schedule (CMAS) and State Master Agreements**

A California Multiple Award Schedule (CMAS) and State Master Agreements are agreements established between the California Department of General Services (DGS) and multiple vendors who agree to the State of California terms and conditions, and may be used by the CSU. Use of these agreements require review of being competitively solicited by the CSU. If agreement has not been competitively solicited, then the University shall obtain offers from three or more vendors including one small business, if available. If less than three offers are received, documentation of solicitation methods must be included with the contract documentation. <http://www.pd.dgs.ca.gov/cmas/default.htm>
 - d. **Cooperative and Consortium Purchasing Agreements Administered by Non-CSU Agencies**

is when a lead government agency conducts a solicitation and executes and maintains an agreement for which all members of the cooperative, may utilize and will benefit equally. Participation in cooperative and consortium agreements, administered by public or private organizations external to the State or the CSU, is permitted for acquiring goods and services if all of the following are met.

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- i. The solicitation process and the resultant contract for the goods and services are in compliance with all applicable California laws and CSU policies, including Small Business/DVBE, ADA, etc.
- ii. The agreement represents the best value for the CSU.
- iii. There is a compelling business reason to participate.

In addition, the relationship between the CSU and the consortium or the lead agency responsible for executing and maintaining the contract must be fair and equitable and provide the CSU with sufficient coverage in terms of risk and liability.

Reference: <http://www.aboutwsca.org/content.cfm/id/WSCA?CFID=526225967&CFTOKEN=28965225>

Procurement Methods

When choosing which methodology to use, a campus should consider the procurement objective; including but not limited to, the requirements of the goods or services being procured, the estimated dollar value of the resultant contract, any legislative and policy requirements, and the best interest of the CSU. If the objectives change during the process, the procurement process should be restarted using the appropriate process or formally modified through appropriate written notification to potential vendors.

The determination for award of contract must be in conformance with the evaluation process and methodology specified in the solicitation document. Only responsible and responsive firms may be awarded a contract.

All bids/proposals may be rejected in any case where the campus determines that the bids/proposals received are not in the best interests of the CSU.

Emergency Transactions

When an emergency involving the public health, welfare or safety, or the protection of State property or programs requires the immediate issuance of a purchase order, standard agreement, or service order without a formal issuance of bid invitations, a statement regarding the nature of the emergency will be attached to the requisition, and be signed by both the requestor and the campus procurement officer. Such statement shall include an attestation that an immediate threat to the public health, welfare or safety or damage to State property exists.

Low-Value Purchases

The development of methods for reducing the costs of executing low-value purchases through expedited order processing, the use of procurement credit cards (ProCard and GoCard), and/or the issuance of low-value purchase authorizations shall be encouraged. Available Programs: Direct Pay, P-Card, Go-Card <http://www.sjsu.edu/finance/financeconnect/resources/pathways/index.html>

Informal Solicitation

The CSU has determined a threshold of under \$50,000 for informal solicitations. Competition is not required for goods or services on transactions of an amount less than \$50,000 unless the Contracts and Procurement Department determines that competition is necessary to develop sources, validate prices, or for other sound business reasons. The attainment of the standard of “fair and reasonable” may be determined by obtaining three price quotations or Informal solicitation process.

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Formal Solicitation

Thresholds must be adhered to as related to the procurement of Goods, Services, and IT. Refer to the appropriate sections within this guideline for bid thresholds. Such acquisitions must be in accordance with campuses' policies and procedures for informal solicitations.

Sole Source/Brand Acquisitions

Sole brand and sole source are two procurement methods that limit competition. Any decision to limit competition may also have the effect of limiting the CSU's ability to minimize costs, negotiate favorable terms and conditions, and allow for alternate courses of action during disputes. These methods should be used only when it has been determined that other competitive procurement methods will not fulfill the requirements of the CSU.

- Campus sole brand requests must be approved by the Contracts & Purchasing Services Manager.
- Campus sole source requests for acquisitions \$100,000 or more must be approved by a campus authority no lower than Vice President for Administration/Finance.
- A sole source of \$250,000 or greater, a copy of the requisition, the justification, and other pertinent documentation must be forwarded to the Chancellor's Office CS&P for review and final approval.

The sole source or sole brand request must include a written justification explaining why the sole source/brand is necessary to satisfy the needs of the CSU. The Sole Source, Sole Brand guidelines and form can be found at: http://www.sjsu.edu/pass/docs/pur/forms/sole_brand_source_just.pdf

Transactions which are not required to be competitively bid and do not require a sole source approval:

1. Emergency contracts which are necessary for the immediate preservation of the public health, welfare, or safety, or the protection of CSU property and programs;
2. Contracts for the work or services of a state, local or federal agency, the University of California, a California community college, a foundation or auxiliary organization incorporated to support the CSU, or a Joint Powers Authority of which the CSU is a member;
3. Contracts for which only per diem and travel expenses are paid and there is no payment for services rendered;
4. Contracts for the express purposes of obtaining non-CSU legal counsel or obtaining expert witnesses for litigation (both of these must be submitted to the Office of General Counsel for approval);
5. Contracts with business entities operating Community Rehabilitation Program workshops as specified in Policy Section 219;
6. Equipment maintenance contracts for which there is only one authorized or qualified source required by the equipment manufacturer for the preservation of equipment warranty;
7. Proprietary software maintenance, annual license renewals, and/or upgrade contracts;
8. Utilities contracts for which there is no competition because of sole authorization to provide service to the geographical area;
9. Public entertainment contracts for campus-sponsored fairs, expositions, exhibitions, plays and concerts;

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10. Contracts for conference or meeting facilities, including room accommodations for conference attendees;
11. Educational materials and information access resources related to campus library services as specified in Policy Section 303.04;
12. Personal property acquisitions as specified in Policy Section 301A, Bid Thresholds for Personal Property;
13. Procurement of Services as specified in Policy Section 401A, Bid Thresholds for Services;
14. General Services Administration Pricing Schedules in accordance with Policy 204D;
15. California Department of General Services Multiple Award Schedules exempted by DGS and listed at <http://www.documents.dgs.ca.gov/pd/masters/checklist.pdf>;
16. Contract amendments for time extensions, with no additional dollars being added;
17. Contract amendments to exercise options that were part of the original contract or that were part of a previously approved amendment to the contract;
18. Contract amendments that are within the scope of or incidental to the original contract scope of work;
19. Approved Sole Brand procurements where there is only one brand for that product;
20. Contracts for professional examinations and memberships;
21. Contracts for goods or services produced by Prison Industry Authority.

Reference Form: http://www.sjsu.edu/finance/docs/sole_brand_source_just.pdf

Multi-Year Contracts

A contract for goods or services may be entered into for any period of time deemed to be in the best interests of the CSU provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation. A multi-year contract is authorized where:

- estimated requirements cover the period of the contract and are reasonably firm and continuing; and
- such a contract will serve the best interests of the CSU by encouraging effective competition or otherwise promoting economies in CSU procurement

Procurement of Goods

<http://www.calstate.edu/icsuam/sections/5000/5300.0CSPICSUAMCSU.shtml>

Bid Thresholds for Goods

- A. **Acquisitions Less than \$50,000:** Competitive bidding is not required for goods in an amount less than \$50,000, unless the campus determines that competition is necessary to develop sources, validate prices, or for other sound business reasons. In this instance bids would be obtained via an informal process with three (3) written quotes.
- B. **Acquisitions Equal to or Greater than \$50,000:** Acquisition of goods that are estimated to be greater than \$50,000 shall be the result of a formal solicitation process that includes advertising in the California Contracts Register (BidSync). Solicitation for services must attempt to secure at least three competitive bids or proposals. An exception may be made in cases when it has been determined that only one source will properly meet the needs of the campus, utilizing the Sole Source process.
- C. **Acquisitions that are Estimated to be Greater than \$50,000 and Less than \$250,000 Utilizing Small Business or DVBE Vendors:** A campus may utilize an informal bid process when soliciting

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a minimum of two (2) or more informal quotes from either a Certified Small Business or DVBE vendors.

Formal Solicitation for Goods

- A. **Public Notice:** The Campus shall advertise its formal solicitations in the California State Contracts Register (BidSync) for a minimum of two (2) weeks. Interested suppliers are furnished with instructions to download an electronic copy of the solicitation via the PlanetBids (BidsOnline) website at: <http://www.planetbids.com/hub/hub.cfm>. An exemption to advertising in the California State Contracts Register (BidSync) may be granted if it is determined to be in the best interest of the University.
- B. **Public Opening of Bids:** Sealed bids, for goods, shall be publicly opened and read at the date and time specified in the bid solicitation if so requested by any bidder. The total dollar amount of each bid and the name of the bidder must be read aloud.
- C. **Evaluation of Bids:** As soon as practical after the bid opening, Contracts & Purchasing Services shall begin the evaluation process to determine the lowest responsive and responsible bidder in accordance with the criteria for evaluation as stated in the solicitation.
- D. **Rejection of Bid(s):** If the apparent lowest bid does not comply with the bid requirements, it must be rejected as non-responsive and shall not be eligible for award. The university may reject any or all bids at any time prior to the award if it's in their best interest to do so.
- E. **Received Solicitation(s):** Any solicitation that has received less than three bids or proposals shall be documented in a manner prescribed by the procedures of the campus, the firms or individuals it solicited for bids or proposals.
- F. **Notice of Intent to Award:** The Intent to Award notice will be posted on BidsOnline for five (5) business days. This period of time allows participating bidders an opportunity to submit a written letter of protest if they choose to do so. If no protest is received, within the five (5) day period the bid may be awarded.
- G. **Protest:** The bid document must contain provisions for resolution of protests and disputes. In the event that a written protest is received, the bid award cannot move forward until it has been resolved. The campus decision on a protest is final. Reference Policy Section 212.
- H. **Conflict of Interest and Confidentiality:** No public official at any level of state or local government shall make, participate in making or in any way attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a financial interest. This prohibition applies to all CSU Employees. This would be considered a violation of the CSU Conflict of Interest Code.

Prior to participating in the solicitation process, all CSU employees involved in the solicitation process must complete a Conflict of Interest and Confidentiality Statement, CRL057. The completed statements should be retained as part of the contract file.

- H **Contract Award Report (CAR):** Contracts over \$5,000, (does not include purchase orders) the Campus shall complete the State Standard Form 16. The completed forms are submitted quarterly to the Department of Fair Employment and Housing, Office of Compliance Programs.

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Special Purchasing Requirements

- A. **Vehicles, New and Used:** Campuses shall submit annual reports on their motor vehicle procurement to the Office of the Chancellor in accordance with the due date specified at: <http://www.calstate.edu/CSP/reports.shtml>.
- B. **Hazardous Materials:** The Hazardous Substances Information and Training Act in the California Labor Code specifies that purchase orders for chemicals, solvents, or other products that may contain any kind of hazardous material include a vendor requirement to furnish a Material Safety Data Sheet (MSDS) for the commodity being purchased.
- C. **Hazardous Materials Removal Services Contracts** (These services include all labor, packaging, material tools, vehicles, placards, labels/markings, equipment including personal protective equipment and safety equipment, expertise, and other means necessary and required to provide services for the pickup, transportation and disposal of hazardous wastes. Contracts involving the handling, removal or disposal of hazardous materials shall comply with all State Federal requirements and may be developed using the CSU's model contract for hazardous material removal serving as a guide.

Procurement of Services

<http://www.calstate.edu/icsuam/sections/5000/5400.OCSPICSUAMCSU.shtml>

Services governed by this section include but are not limited to:

- A. **Service Orders** - A Service Order may be used to obtain various kinds of services on an informal basis (Purchase Order) whenever it is determined that there is no need to require both parties to sign a formal agreement, or where timing or circumstances make it impractical to employ a formal agreement (such as emergency repair needs).
- B. **Service Agreements** - An Agreement is a formal contract, signed by all parties who are to be bound legally by its terms and conditions. Its scope of work may not be modified as a means to circumvent competitive solicitation requirements. Additional work may be added to an existing Service Agreement if it is the same type of work that was specified in the base contract or work that is incidental to the work specified in the base contract and is necessary for the completion of the work intended to be performed in the base contract.
- C. **Independent Contractor/Consulting services** - A Consulting Services Agreement is defined with an independent contractor to have work performed that is advisory in nature, provides a recommended course of action or personal expertise, and results in an end product that is basically a transmittal of information in written format. Contracts & Purchasing Services requires a Scope of Work and a signed Vendor's Proposal for each request. CSU employees that work as a consultant are to be paid through Human Resources. Refer to the Independent Contractor versus Employee Worksheet on the Finance website at: http://www.sjsu.edu/finance/docs/contractor_vs_employee.pdf

This section does not apply to Public Works project agreements, public works maintenance contracts, nor Professional Service agreements in connection with a public works project (such as contracts for architectural or engineering services).

Solicitation Thresholds for Services

No person shall willfully split a single transaction into a series of transactions for the purpose of evading bidding requirements as is prescribed in law, regulations or CSU Policy. All transactions made under the

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CSU procurement authority shall be designed to encourage active competition among contractors wishing to become providers of services furnished to the CSU. Efforts shall be made to meet the goals established for small businesses and disabled veteran business enterprises as set forth in section 215, DVBE.

- A. **Acquisitions Less than \$50,000:** Competition is not required for services on transactions of an amount less than \$50,000 unless the campus determines that competition is necessary to develop sources, validate prices, or for other sound business reasons. Contracts and Purchasing Services may solicit three informal quotations for these acquisitions.
- B. **Acquisitions Equal to or Greater than \$50,000:** Acquisition of services estimated to be greater than \$50,000 shall be the result of a formal solicitation process that includes advertising in the California Contracts Register (BidSync). Solicitation for services must attempt to secure at least three competitive bids or proposals. An exception may be made in cases when it has been determined that only one source will properly meet the needs of the campus, utilizing the Sole Source process.

Acquisition that are estimated to be equal to or greater than \$50,000, and \$500,000 or less may be the result of an informal solicitation process that includes advertising in the California Contracts Register.

- C. **Acquisitions greater than \$50,000 and less than \$250,000 Utilizing Certified Small Business DVBE Vendors:** A campus may utilize an informal bid process when soliciting a minimum of two (2) or more informal quotes from either a Certified Small Business or DVBE vendor without the need of advertising, as referenced in Government Code Section 14838.5.

Formal Solicitation for Services

- A. **Public Notice:** The University shall advertise its formal solicitations in the California State Contracts Register (BidSync) for a minimum of two (2) weeks. Interested suppliers are furnished with instructions to download an electronic copy of the solicitation via PlanetBids website at <http://www.planetbids.com/hub/hub.cfm>. An exemption to advertising in the California State Contracts Register (BidSync) may be granted if it is determined to be in the best interest of the University.
- B. **Public Opening of Proposals:** Sealed proposals shall be publicly opened at the date and time specified in the solicitation (if it so requires or if requested by any of the Proposers). Only the names of the proposing firms shall be read at the time of opening.
- C. **Evaluation of Proposals:** As soon as practical after the public opening of proposals, the Evaluation Committee shall begin the evaluation process to determine which vendor can provide the best value to the University based on the evaluation criteria stated in the solicitation. Vendors who submit the highest ranked proposals will be finalists and may be invited to make a presentation to the evaluation committee. Upon completion of the evaluation process the top ranked vendor will be contacted to enter into contract negotiations, at which time the proposals from other vendors will be held in abeyance until successful contract negotiations have been completed.
- D. **Rejection of Proposal(s):** If the proposal offering the best value does not comply with the solicitation requirements it will be rejected. The University may reject any or all proposals if it's in the University's best interest by doing so.

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- E. **Received Solicitation(s):** Any solicitation that has received less than three bids or proposals shall be documented in a manner prescribed by the procedures of the campus, the firms or individuals it solicited for bids or proposals.
- F. **Notice of Intent to Award:** The intent to Award notice will be posted on BidsOnline for five (5) business days. This period of time allows participating proposers an opportunity to submit a written letter of protest if they choose to do so. If no protest is received, within the five (5) day period the agreement may be awarded.
- G. **Protest:** The bid document must contain provisions for resolution of protests and disputes. In the event that a written protest is received, the bid award cannot move forward until it has been resolved. The campus decision on a protest is final. Reference Policy Section 212.
- H. **Conflict of Interest and Confidentiality:** No public official at any level of state or local government shall make, participate in making or in any way attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a financial interest. This prohibition applies to all CSU Employees. This would be considered a violation of the CSU Conflict of Interest Code. Prior to participating in the solicitation process, all University employees involved in the solicitation process must complete a Conflict of Interest and Confidentiality Statement, CRL057. The completed statements should be retained as part of the contract file.
- I. **Contract Award Report (CAR):** Contracts over \$5,000 (does not include purchase orders) the Campus shall complete the State Standard Form 16. The completed forms are submitted quarterly to the Department of Fair Employment and Housing, Office of Compliance Programs.

Information Technology Resources (ITR) Procurement Policy

<http://www.calstate.edu/icsuam/sections/5000/5500.OCSPICSUAMCSU.shtml>

Information Technology is defined to include, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

Solicitation Thresholds for ITR Goods and Services

- A. **Acquisitions less than \$50,000:** Competition is not required for services on transactions of an amount less than \$50,000 unless the campus determines that competition is necessary to develop sources, validate prices, or for other sound business reasons. Contracts & Purchasing Services may solicit three informal quotations for these acquisitions.
- B. **Acquisitions Greater than \$50,000 and less than \$100,000 Utilizing a California Certified Small Business or DVBE:** Acquisitions that are estimated to be equal to or greater than \$50,000 and less than \$100,000 may be awarded to a Certified Small Business or DVBE without advertising in California State Contracts Register (BidSync), as long as price quotations have been obtained from two or more vendors.
- C. **Acquisitions Equal to or Greater than \$50,000 and \$500,000 or less for the Acquisition of IT Goods:** These acquisitions may be the result of an informal solicitation process that includes advertising in the California Contracts Register (BidSync). An informal solicitation process may provide for submittal of written or verbal quotes from vendor. An exception may be made in

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cases when it has been determined that only one source will properly meet the needs of the campus, utilizing the Sole Source/Sole Brand process.

- D. **Solicitations Greater than \$50,000 and \$500,000 or less that Include both IT Goods and IT services:** An informal solicitation process may be used when procuring both IT goods and services in excess of \$50,000 and less than \$500,000. The informal solicitation process must include advertising in the California Contracts Register (Bid Sync) for the services portion of the solicitation. When the IT goods portion of the solicitation exceeds \$100,000, advertising is required for the combined goods and services request. Advertisement may be limited to advertising the IT service portion of the solicitation when the IT goods portion is \$100,000 or less. An exception may be made in cases when it has been determined that only one source will properly meet the needs of the campus, utilizing the Sole Source/Sole Brand process.
- E. **ITR Acquisitions with an estimated cost \$500,000 or more, Project Management:** A Solicitation Plan is required for all information technology projects that fall within the requirements of Executive Order 862 (<http://www.calstate.edu/eo/EO-862.pdf>). Any IT Projects that is neither routine nor reoccurring and has an estimated cost for procurement and implementation which is \$500,000 or more or comprises an activity that regardless of cost poses a high project risk or will have a high impact to the CSU must be reviewed and approved by the Executive Vice Chancellor and the CSU Chief Financial Officer before proceeding with the project acquisition.

Formal Solicitation for ITR Goods and Services

Acquisitions of ITR requirements estimated to result in contracts greater than \$500,000 shall be awarded as the result of a formal solicitation process:

- A. **Public Notice:** The University shall advertise its formal solicitations in the California State Contracts Register (BidSync) for a minimum of two (2) weeks. Interested suppliers are furnished with instructions to download an electronic copy of the solicitation via PlanetBids website at <http://www.planetbids.com/hub/hub.cfm>. An exemption to advertising in the California State Contracts Register (BidSync) may be granted if it is determined to be in the best interest of the University.
- B. **Evaluation of Proposals:** As soon as practical after the public opening of proposals, the Evaluation Committee shall begin the evaluation process to determine which proposal(s) provide the best value to the University based on the evaluation criteria stated in the solicitation. Vendors who submit the highest ranked proposals will be finalists and may be invited to make a presentation to the evaluation committee. Upon completion of the evaluation process the top ranked vendor will be contacted to enter into contract negotiations, at which time the proposals from other vendors will be held in abeyance until successful contract negotiations have been completed.
- C. **Rejection of Proposal(s):** If the proposal offering the best value does not comply with the solicitation requirements it will be rejected. The University may reject any or all proposals if it's in the University's best interest by doing so.
- D. **Received Solicitation(s):** Any solicitation that has received less than three bids or proposals shall be documented in a manner prescribed by the procedures of the campus, the firms or individuals it solicited for bids or proposals.
- E. **Notice of Intent to Award:** Vendors submitting a bid or proposal will receive an Intent to Award notice which will be open for five (5) business days. This period of time allows participating

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proposers an opportunity to submit a written letter of protest if they choose to do so. If no protest is received, within the five (5) day period the bid may be awarded.

- F. **Protest:** The bid document must contain provisions for resolution of protests and disputes. In the event that a written protest is received, the bid award cannot move forward until it has been resolved. The campus decision on a protest is final. Reference Policy Section 212.
- G. **Conflict of Interest and Confidentiality:** No public official at any level of state or local government shall make, participate in making or in any way attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a financial interest. This prohibition applies to all CSU Employees. This would be considered a violation of the CSU Conflict of Interest Code. Prior to participating in the solicitation process, all University employees involved in the solicitation process must complete a Conflict of Interest and Confidentiality Statement, CRL057. The completed statements should be retained as part of the contract file.
- H. **Contract Award Report (CAR):** Contracts over \$5,000 (does not include purchase orders) the Campus shall complete the State Standard Form 16. The completed forms are submitted quarterly to the Department of Fair Employment and Housing, Office of Compliance Programs.

Exceptions to Competition

The following transactions are not required to be competitively bid and do not require a sole source approval:

- Proprietary software maintenance, annual license renewals, and/or upgrade contracts.
- IT vendors on the CSU Contract Store (comments on CSU agreements must be thoroughly examined to ensure competition requirements are met).

Competitive Solicitation Statement

It is the policy of the CSU that all transactions made under the CSU procurement authority be designed to encourage active competition among those who wish to become the suppliers of goods and services required by the campuses of the CSU. There is no single competitive procurement methodology universally suited to all categories of ITR acquisition.

Contracting with DVBE, Small Businesses, Target Areas, and Enterprise Zones

Disabled Veteran Business Enterprise (DVBE) & Small Business Participation Goals

The state has established participation goals of at least 3% with DVBE vendors, and 25% with Small Business vendors. The goal applies to the overall dollar amount expended each year by the campus, however, the participation is not required to be applied to each individual order. The overall participation goal is inclusive of all contracts, purchase orders, and procurement card orders.

The DVBE advocate will work closely with all buyers to determine the goal for each procurement. Prior to advertising a solicitation, the DVBE advocate shall be notified to perform an audit to determine availability of DVBE vendors for the commodity or service being requested. The DVBE advocate will assign a goal percentage, or may grant a waiver. A waiver may be granted when a DVBE can't be located through the search audit. Any waiver must be documented and kept on file.

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Small Business Preference

California certified small business vendors are granted a 5% preference in their formal bid/RFP price evaluation analysis by subtracting 5% from their submitted price. This is for the purpose of evaluation only. In the event their evaluation price places them as the lowest responsive bidder, they would be selected at their pre-preference price.

Target Area Preference Act (TACPA)

In accordance with Government Code Section 4530 et seq., preference must be granted to California-based companies submitting bids or proposals to the State for goods to be produced or services performed at worksites in distressed (as defined) areas by persons with a high risk of unemployment when the contract is for goods or services in excess of \$100,000. The 5% preference is applicable only to contracts awarded on the basis of lowest responsible bidder meeting specifications.

Enterprise Zone Act (EZA)

Business may be granted preferences when bidding on state contracts of \$100,000 or more for goods and services (excludes construction contracts) if the business site is located within one of 34 "Enterprise Zones" located throughout California, as designated by the California State Trade and Commerce Agency. Enterprise Zones are designated to encourage job-producing business development in designated sections of cities or counties. A 5% preference is applicable only to contracts awarded on the basis of lowest responsible bidder meeting specifications.

Community Rehabilitation Programs and Workshops

Any State agency, including the CSU, may acquire commodities and services from a public or private nonprofit California corporation operating a community rehabilitation program or workshop serving persons with disabilities without posting a public notice or soliciting competitive bids, provided that the acquisitions are documented to meet specified needs of the campus, are obtained at a fair market price, and are made convenient to the campus to obtain. Such acquisitions must be accompanied by a signed certification that the program is qualified under the provisions of Welfare and Institutions Code Sections 19403 and 19404.

Insurance Requirements

Insurance requirements are governed by CSU Office of Risk Management. The insurance limits and hold harmless provisions are specified in the CSU Insurance Requirements Technical Letter:

http://www.calstate.edu/risk_management/rm/documents/RM2012-01.pdf

Contracts & Purchasing Services (Buyer) is responsible for procuring the certificate of insurance (COI) when required. Buyer shall include insurance language on appropriate formal bids, RFP, and purchase orders. Copies of all received COI are maintained in the office. Before requesting a COI, buyer will check the office file for a current certificate/endorsement. Buyer shall confirm COI has appropriate limits, coverages, term, carrier rating, additional insured statement, and includes the additional insured endorsement. Only the campus Risk Manager shall have the authority to revise the stated insurance requirements

A current certificate of insurance (COI) and additional insured endorsement shall be required for all service work performed on the campus, such as; annual blanket purchase orders and agreements, one-time service purchase orders, public work agreements, Auxiliary Operating agreements, leases, and special one-time events. Risk analysis for special events shall be evaluated by the campus Risk Manager. Each contract should be reviewed to determine the proper insurance provisions to mitigate CSU risks. Risk analysis for special events shall be evaluated by the campus Risk Manager.

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Accessible Technology Initiative (ATI)

It is the policy of the CSU to make information technology resources and services accessible to all CSU students, faculty, staff and the general public regardless of disability. Through the ATI, Section 508 Standards constitute an additional set of requirements to be evaluated and considered among all other procurement requirements in reaching an award decision for E&IT purchases. Our campus ATI procurement policies and processes are based on CSU ATI policy. Reference http://www.calstate.edu/Accessibility/EIT_Procurement/

CSU Buy Recycled Products Campaign

Campuses shall establish purchasing practices that assure, to the maximum extent economically feasible, the purchase of materials, goods, and supplies that are recycled or have recycled material within their content. Fitness and quality being equal, purchase preference shall be given to recycled products whenever such products are available and the cost of such products is no greater than that of their non-recycled counterparts. Reference the campus program at: http://www.sjsu.edu/finance/docs/epp_guide.pdf

Commencement of Work

Except in cases of emergency to protect human health, welfare, safety or State property, work shall not commence on any contract until the appropriate procurement authority has approved the contract. Work performed without benefit of a PO shall be considered voluntary in nature and at the vendor's expense.

Progress Payments

Progress payment is defined as any partial payment of the contract price during the progress of the work. If a provision in the contract calls for progress payments to be made, they shall be made at clearly identifiable stages of progress, and be based upon written progress reports submitted with the contractor's invoices. Progress payments shall not be made in advance of services rendered.

Sale, Lease, License, and Disposal of CSU Personal Property and Sale of CSU Services

<http://www.calstate.edu/icsuam/sections/5000/5600.0CSPICSUAMCSU.shtml>

Release of CSU-Owned Goods

CSU-owned tangible goods, supplies, equipment, or materials that have been determined to be surplus to CSU's needs may be sold or released in a manner that will best serve the interest of the CSU. Such sales must be for a fair market price. Sale methods include, but are not limited to, auction or other competitive bidding or transfer to other governmental entities. Such property may, however, be scrapped or otherwise disposed of and surveyed from CSU property records whenever the property is documented to have no remaining market value or practical use to the CSU. Refer to the campus program at: <http://www.sjsu.edu/pass/purchasing/reuse/>

Sale of License of Intellectual Property

Campus presidents have the delegated authority from the trustees to transfer intangible intellectual property rights to university faculty, staff, or other entities for valuable consideration. Campus

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presidents shall ensure that campus policies addressing intellectual property are kept current and comprehensive as to content and procedure.

Disposal of Vehicles

A campus vehicle may be discarded, traded in, or sold whenever the campus determines it is within its best interests to do so, regardless of age or mileage, or at such time as the vehicle has been determined to be unsafe for continued use, or when it no longer serves the purpose for which it was acquired. Options for the disposal of a vehicle can include (1) surveying it to the DGS State Surplus Property Division, (2) transferring it to the DGS Fleet Administration Division, and (3) liquidating it through competitive bidding or auction at the maximum price attainable in the open market.

Services Provided by the CSU

The CSU does not engage in the sale of services in competition with private enterprise, except when the rendering of such services are related to its educational mission. Whenever services are sold by the CSU, the full cost of providing them must be recovered, including any direct, indirect (overhead) and marginal costs that might be applicable.

Services Provided by Campus Auxiliary Organizations

CSU campuses and campus auxiliaries may contract with State agencies and other entities to provide services related to research, workshops, institutes, and other educationally-related studies or projects needed by the State that are generally available only from institutions of higher education or their employees. These contracts are exempt from the State's general requirement of competitive bidding prior to making award.

The University's Auxiliary's are: Associated Students, Spartan Shops, Student Union, SJSU Research Foundation and Tower Foundation.

Public Agency and Auxiliary Agreements

The following Agreements are not required to be competitively bid

<http://www.calstate.edu/icsuam/sections/5000/5700.0CSPICSUAMCIMPSU.shtml>

Interagency Agreements

An Interagency Agreement is a negotiated contract between two State agencies for the purpose of conveying one agency's services to the other agency for a price, for exchanged services, or for some other form of authorized consideration. Generally it may contain specific terms and conditions to which each agency has agreed, but is left devoid of indemnification clauses, hold harmless statements, and other legal protective devices standardly employed by the State in contracts with non-State entities.

All Interagency Agreements exceeding \$10,000 must contain a provision that the contracting parties shall be subject to the examination and audit of the State Auditor for a period of three years after final payment under the contract. The examination and audit shall be confined to those matters connected with the performance of the contract.

Intra-Agency Agreements

Campuses may enter into agreements with one another for the purpose of providing reimbursed services, or an exchange of services, through the use of a Memorandum of Understanding (MOU) or other appropriate form. Payment for these services shall be processed via Cash Posting Order (CPO), not a purchase order. Information regarding CPO is located at:

http://www.sjsu.edu/acctg_svcs/policies/cost_recovery_other_cs/

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Contracts with Local Government Entities

Where one of the contracting parties is a county, city, district, or other local public body, the contract shall be accompanied by a copy of the resolution, order, motion, or ordinance of the local governing body by law having authority to enter into the proposed contract, approve, and to authorize execution of the agreement. The campus may wish to have such a contract undergo a review by the Office of General Counsel.

Contracts with State Boards and Commissions

Contracts proposed by State boards and commissions in excess of \$1,000 must be accompanied by copies of the resolution, order, or motion authorizing execution of the agreement, unless the campus previously has been furnished with evidence of the authority of the person executing the agreement, or the person has statutory authorization.

Services Provided by Campus Auxiliary Organizations

CSU campuses and campus auxiliaries may contract with State agencies and other entities to provide services related to research, workshops, institutes, and other educationally-related studies or projects needed by the State that are generally available only from institutions of higher education or their employees. These contracts are exempt from the State's general requirement of competitive bidding prior to making award.

Where the primary responsibility for fulfilling the contractual obligations will rest with an auxiliary organization, the contract should be placed directly with the auxiliary organization. Public Contract code Section 10340(b) (3) provides that State agencies may obtain the services of the CSU or auxiliary organization without securing competitive bids.

Interagency Agreements Administered by the Campus

Where the primary responsibility to administer and fulfill the obligations of a service agreement rests with the campus administration instead of an auxiliary organization, the campus shall follow the regular procedures required in CSU policy for Interagency Agreements.