

# COMMISSION FOR HIGHER EDUCATION

Friday, May 11, 2012

## **DECISION ITEM C:**                    **Administrative Item on Which Staff Propose Expedited Action**

### **Staff Recommendation**

That the Commission for Higher Education approve by consent the following administrative item in accordance with the background information provided in this agenda item:

- Procurement Policy and Guidelines

### **Background**

Pursuant to IC 21-18-5, the Commission is exempt from the procurement policies and regulations in IC 5-22. The Commission's current procurement policy was developed in April 2004 and must be updated to reflect changes in statute and state policy. A proposed procurement policy is attached.

### **Supporting Documents**

*Procurement Policy and Guidelines, May 11, 2012*

# PROCUREMENT POLICY & GUIDELINES

## 1. DEFINITIONS

*Commission.* Commission for Higher Education and any administrative units or subdivisions therein.

*Commodity.* Goods that are purchased, generally tangible in nature (includes printing services).

*Contract.* A legal agreement that binds two or more parties to specific terms.

*Grant.* A competitively-awarded distribution to a non-profit organization or agency for which no services or goods are provided in return.

*Letter of Agreement (LOA).* An agreement between the Commission and a vendor to provide reimbursement for a service provided that does not exceed \$5,000 or last longer than thirty (30) days. Typically used to retain speakers and reimburse non-employees for travel; may contain provisions regarding honoraria.

*Memorandum of Understanding (MOU).* An agreement between two or more state instrumentalities that codifies an arrangement for the provision of services and/or financial support.

*Request for Proposal/Quote (RFP/Q).* A formal solicitation for bidding on a project or service to allow competitive awarding to occur.

*Professional Services.* Any contract that lasts for a period longer than ninety (90) days and procures a service from a vendor or individual.

*Utilities.* Services required for the Commission to operate such as telephone and data services.

## 2. POLICY STATEMENT

The Commission exercises its exemption from the State of Indiana's public purchasing requirements as permitted by IC 21-18-5 (c.f. IC 5-22-1-2). This document is intended to be the Commission's comprehensive procurement policy by which all employees shall abide.

### 2.1 PROCUREMENT TIERS

Procurement is divided into tiers based on the type of purchasing taking place. The following categories are used: Professional Services and Commodities, Grants, Travel, and Utilities. Each Tier is determined by a dollar threshold that specifies what action is to take place. Purchases may not be artificially divided to avoid the requirements of each Tier.

#### 2.1.1 Professional Services and Commodities

Professional services and commodities purchases are divided into three tiers. Where applicable, Tier 2 and 3 commodities bidding shall include IN-ARF and PEN Products in the minimum bid count; however, more than three bids may be solicited. The Commission will utilize Indiana Department of Administration's negotiated Quantity Purchase Agreements (QPA) when the prices for those agreements are competitive;

however, the Commission reserves the right to purchase any item at a more competitive price outside of the QPA when it is determined that the QPA is not competitive or in the Commission's best interest.

*Tier 1* – less than \$5,000 – not awarded competitively. For Tier 1 professional services, a Letter of Agreement is signed by both parties to memorialize the arrangement and a purchase order is issued to encumber the funds. Procurement of Tier 1 commodities requires only a purchase order. When permissible, purchases less than \$500 will be procured using the agency credit card.

*Tier 2* – \$5,000 to \$49,999 – awarded competitively through a minimum of three (3) e-mail or telephone solicitations. There is no minimum timeframe for letting bids. If there are less than three (3) vendors who offer a Tier 2 professional service or commodity, the requestor must certify the contract cannot be awarded competitively and justify the vendor selected. Once awarded, a contract will be created and a purchase order will be issued to encumber the funds.

*Tier 3* – \$50,000 or more – awarded competitively through a formal RFP/Q. A minimum of three solicitations are required and must be in writing. The bid must be let for a minimum of seven (7) business days (excludes weekends and state holidays); the letting period should take into account the scope and cost of the project so as to give vendors adequate time to appropriately respond. Once awarded, a contract will be created and a purchase order will be issued to encumber the funds.

### [2.1.2 Grants](#)

Grant awards are divided into two tiers.

*Tier 1* – less than \$25,000 – awarded competitively through e-mail or telephone solicitations. A grant award agreement will be created and a purchase order will be issued to encumber and disburse the funds.

*Tier 2* – \$25,000 or more – awarded competitively through a formal RFP. A minimum of three solicitations are required and must be in writing. The bid must be let for a minimum of fifteen (15) business days (excludes weekends and state holidays); the letting period should take into account the scope and cost of the grant so as to give applicants adequate time to appropriately create a proposal. Once competitively awarded, a grant award agreement will be created and a purchase order will be issued to encumber and disburse the funds.

### [2.1.3 Travel](#)

Travel purchases are governed by the Indiana Department of Administration (IDOA) and the Office of Management and Budget. Applicable policies can be located on IDOA's website and in various Financial Management Circulars. The Commission shall abide by these policies. When permissible, travel pre-purchases for transportation, lodging, and registration will be procured through the use of the agency travel credit card. No travel advances shall be provided to any Commission member or staff. Original receipts, including pre-paid lodging, are required for reimbursement.

Mileage shall not be reimbursed for intra-city travel unless approved in writing by the Commissioner or an approved designee.

### [2.1.4 Utilities](#)

Utilities will be procured, when possible through the use of the agency credit card or a purchase order with payment terms of Net 30 days.

## [2.2 PROCEDURES](#)

Commission staff are authorized to develop appropriate procedures to enforce and execute the provisions of this policy. These procedures may be updated from time to time as necessary due to technology and statutory changes.

### [2.2.1 Contracts](#)

Contracts shall contain the agency's approved boilerplate language unless approved by the Office of the Attorney General or other counsel. Procurement contracts shall not be signed unless they are initiated by the Commission and its staff. Contracts may contain a vendor's contract language provided it does not violate statute or other obligations. Contracts are not fully executed until the Commissioner or an approved designee signs them. One (1) original of the contract shall be maintained by the Commission and one (1) sent to the contractor. Upon completion of the contract, the Contractor shall certify that the contract is complete and all work is final. No contract or grant award agreement shall be issued without prior review by the Commissioner and Chief Financial Officer or their designees.

Contracts should generally not exceed two (2) years in length unless specifically tied to a grant or there is a justifiable business reason to do so.

Grant award contracts where the Commission is a grantee shall use the appropriate language of the Grantor provided it does not violate statute. In instances where a conflict exists, an Addendum may be used to rectify the violation. Only the Commissioner or an approved designee can approve grant award contracts where the Commission is a grantee.

A sample contract and grant award contract is appended to this document (Appendix I and II).

### [2.2.2 Memoranda of Understanding](#)

Interagency agreements shall be formalized through Memoranda of Understanding. Any obligation of funds shall be clearly enumerated in addition to specific requirements to receive those funds. Memoranda shall follow the Office of Management and Budget's guidelines as required by various financial management circulars. Memoranda of Understanding shall be signed by respective agency heads or and the State Budget Director or their designees.

### [2.2.2 Requisitions](#)

The procurement process begins with the initiation of a requisition that is ultimately approved by the Associate Commissioner and CFO or approved designee. Upon final approval, the purchase is completed using the agency credit card or the requisition is expedited to a purchase order and dispatched. Any obligation of funds requires a purchase order. Funds shall be encumbered to ensure adequate budget exists and that funds are not overcommitted. A purchase order must be issued **prior** to any obligation of funds. For purchases which result in the acquisition of a capital asset as established by standard accounting procedures for the State of Indiana, all relevant asset information will be included with the purchase order to create a clear audit trail of activity from acquisition to payment.

### [2.2.2 Request for Proposals/Quotes](#)

Requests for Proposals/Quotes shall generally follow the prescribed formats appended to this document (Appendix III and IV) as applicable. RFP/Qs shall not be written to specify a specific model or procedure unless there is sufficient business justification; comparable substitutions should always be permitted to promote competitive bids and participation. Each bid will be scored accordingly and all documentation will be retained with agency accounting and procurement files.

### [2.2.3 Preferences](#)

Pursuant to IC 5-22-1-2 and 21-18-5, only the following commodity purchase preferences are applicable to state educational institutions and, consequently, the Commission:

- IC 5-22-15-21 – U.S. Manufactured Preference (*absolute*)
- IC 5-22-15-16 – Recycled Products Preference (*price*)
- IC 5-22-15-20.5 – Buy Indiana Preference (*price*)

Commission staff shall maintain policies and procedures that are consistent with this statute and subsequent revisions.

### [2.2.4 Approval Authority](#)

Only the Commissioner, the Chief Financial Officer, or their designees have final approval authority to obligate funds. Designees must have written authority on file. No other member of the Commission or the Commission staff may obligate funding outside of this approval route.

### [2.2.5 Expenditures in Excess of \\$50,000](#)

Any expenditure that exceeds \$50,000 must be approved by the Commission unless that expenditure was approved as a line item of the regular budget submission to the Commission. Expenditures may not be artificially divided to avoid this or any other requirement.

## [2.3 CONFLICTS OF INTEREST](#)

No Commission member or staff shall take part in the awarding of a contract or the procurement of goods and services in which there is a known conflict of interest as disclosed per Commission policies. In such instances, the person in question shall be excluded from the awarding process. No information on the status or competitive nature of other bids shall be shared with a person who is known to have a conflict of interest.

## [2.4 ADMINISTRATIVE EMERGENCIES](#)

Any time the Commissioner makes a written determination that an administrative emergency exists, Section 2.1 may be suspended to expedite procurement.

A sample Administrative Emergency Waiver is appended to this document (Appendix V).

## **3. SCOPE OF POLICY**

All sections, in their entirety, apply to all Commission members and employees.

#### 4. POLICY INFORMATION AND HISTORY

**Effective date:** June 01, 2012

**References  
and Authority:** IC 4-13-2  
IC 5-22  
IC 21-18-5-2  
Commission Bylaws, Article VIII

**Revisions:** Second – supersedes policy dated April 08, 2004 and any other guidelines not contained herein.

**Approvals:**

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Teresa Lubbers, *Commissioner*

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Date approved by *Commission for Higher Education*