

The Rule Book for

PURCHASING

AT

ARIZONA STATE UNIVERSITY

How to get what you want, and keep everyone happy, and keep your name off the front page of the newspaper!

Purchasing and Business Services
August, 2006

WELCOME

Here is the straight story on Arizona State University's Purchasing policies. Please use this guide to thread your way through the maze of public purchasing. This guide references both the Purchasing and the Comptroller policy manuals. All of the University's manuals are available at <http://www.asu.edu/aad/manuals> on the World Wide Web. In addition, you may download forms from the ASU Purchasing web site at <http://www.asu.edu/purchasing> or from the Comptrollers web site at <http://www-comp.vpas.asu.edu> on the Web.

BASIC POLICIES

There are only seven basic policies from which all the rules flow. If you understand these seven policies, you will be a good steward of the public's resources.

1. **Authority to contract.** You must have specific authority to obligate the University to pay for goods and services.
2. **Competition.** The University buys goods and services through public competition.
3. **Open process.** As a public institution, the University's purchases are open to public inspection and oversight.
4. **Selection of suppliers.** The University purchases from the lowest cost supplier who can meet our requirements.
5. **Standards.** Certain commodities are standardized so as to take advantage of economies of scale.
5. **Disadvantaged business program.** The University seeks to do business with small business, with minority owned businesses, and with woman owned businesses.
6. **Conflict of interest.** University employees may not personally benefit from their official positions or decisions.

These policies lead to the specific processes and procedures in the rest of this guide.

AUTHORITY TO CONTRACT

The University Procurement Code. The University is not subject to the Arizona Procurement Code, however State law requires the Arizona Board of Regents to adopt procurement policies and procedures that are substantially equivalent to the Arizona Procurement Code. The Regents procurement procedures are known as the University Procurement Code, and are found in Chapter III, Section H of the Arizona Board of Regents Policy Manual. You can access the Regents Policy Manual at <http://www.abor.asu.edu> on the World Wide Web

Is everything subject to the Code? All University purchases are made in accordance with the University Procurement Code regardless of the source of funds. Stated another way, if the money is in a University account, the only way to buy anything is in accordance with the Code. (PUR 201-01)

Who can obligate the University? No individual other than the Director of Purchasing and Business Services has the authority to place an order directly with a vendor, to enter into a contract or lease, or to obligate the University in any way unless: (1) the President of the University specifically authorizes an individual to do so in writing, or (2) the Director of Purchasing and Business Services delegates purchasing authority to specific individuals for a specific term or purpose. (PUR 201-02)

Where is the President's delegation of purchasing authority? The delegation of procurement authority for other than Purchasing and Business Services staff is in PUR 202, Contract Signature Authority.

How does the University promise to pay a supplier? The commitment of University funds is authorized only by issuing a purchase order or by the signing of an approved contract by a person authorized to sign it. (PUR 201-02)

What about unauthorized purchases? Procurements or other commitments made by unauthorized personnel are not legal and binding upon the University and may result in a personal obligation for the individual making the procurement or commitment. In such a case, the University could simply refuse to pay the supplier, and the supplier would seek redress from the person who made the promise to pay. It is possible for the Director of Purchasing and Business Services to make an exception and issue a confirming Purchase Order when an unauthorized employee has made an unauthorized procurement. To obligate the University to pay for an unauthorized procurement, the Director of Purchasing and Business Services may require a written explanation by the individual making the commitment and written approval from the appropriate vice president or vice provost. This explanation and the vice president's approval will be included in the contract file for audit purposes. (PUR 201-02)

What purchasing authority does a department staff member have?

Assuming that the purchase is in accordance with applicable statutes and policies:

You may make purchases for up to \$5,000 via a Purchasing Card. This is the preferred method of making small dollar purchases. (PUR 304-01)

You may pay invoices up to \$5,000 with a Payment Voucher (PV document in Advantage). PUR 301-02 authorizes higher dollar amounts for selected commodities. (PUR 301-02)

You may be reimbursed for up to \$500, and at a higher amount with the approval of an academic Dean or administrative Director. (PUR 304-03)

You can make a purchase for up to \$5,000 via a Departmental Limited Value Purchase Order (PDLVPO document in Advantage). (PUR 304-01)

You may obtain a consultant for up to \$5,000 via a Departmental Professional Services Order. (PUR 307-04)

You may purchase goods and services from on-campus servicing departments in any dollar amount via the Interdepartmental Purchase Order (PO) or Stock Requisition (SR). (PUR 302-01 through 05)

You may initiate the purchasing process for goods and services from off-campus suppliers in any dollar amount via the Requisition (RX document in Advantage). (PUR 303-01) However, any purchase under \$ 50,000 by this method must be from a small business.

Purchasing Staff Buying Requirements:

All purchases over \$5,000 but under \$50,000 shall be restricted to small businesses unless it is impracticable. In accordance with this directive, the Director of Purchasing has decided that transactions under \$5,000 are impracticable to mandate awarding to small businesses if the transaction is via one of the small dollar purchasing methods as listed above.

Up to \$25,000. The buyer determines how much competition is needed. Buyers are organized in commodity groups. They understand the market, and can determine when we are getting value in our purchases and when we should solicit competition. (PUR 305-01) These purchases must be from a small business.

\$25,000 up to \$50,000. The buyer will conduct an informal solicitation, usually via fax, but increasingly via an electronic solicitation network. (PUR 305-02) These purchases must be from a small business

\$50,000 and over. The buyer will conduct a formal solicitation via an Invitation to Bid or a Request for Proposal. The Invitation to Bid is used when we know exactly what we want, and the only issue is price. The Request for Proposal is used when we think we know what we want, but are willing to entertain alternate solutions suggested by suppliers. (PUR 306-01) **Are there some goods and services that we cannot buy?** The following is a list of restricted or prohibited transactions. (PUR 203 and COM 401-03) No small business requirement.

Bottled Water: with state funds (PUR 203)

Business Meals, Food, and Related Expenses: Use of sponsored project funds unless specifically authorized by the grant or contract. Use of st

ate funds. Use of University funds to pay for alcoholic beverages, regardless of expenditure purpose. (COM 420-02)

Direct Vendor Billings: Payment of a vendor invoice of more than \$5,000 billed directly to ASU when a Purchasing Card or Departmental Limited Value Purchase Order (PDLVPO) should have been issued. There are lots of higher dollar amounts in PUR 301-02.

Employee Post-Graduate Research Stipends/Grants: Payment with sponsored funds (COM 420-05)

Employee and/or Student Support Payments: Departmental loans to students and/or employees, unless the award is initiated directly by Student Financial Assistance. Student support payments charged to state area/orgs except for student independent contractor services (object/subobject code 7310 39). (COM 422-01 and 430-23)

Faculty and Staff Reimbursements: Reimbursements of more than \$500 for expenses other than travel or business meals, food and related expenses, unless approved in writing by an academic Dean or administrative Director, or a dean or Director's designee. (COM 420-01)

Fines and Penalties: Payments of fines and penalties are prohibited unless specifically authorized by the appropriate provost/vice president and forwarded directly to the Comptroller and Treasurer and no one else for proper coding determination. Under no condition can parking, traffic, and library fines be paid with University funds. (COM 109)

Flowers: All types, unless the items are needed in conjunction with an official university event. Authorized purchases for flowers must be paid from local funds.

Gases: All gases with the exception of small amounts of helium for balloons are prohibited purchases on PDLVPOs and the Purchasing Card. Lab gasses are ordered through Laboratory Stores.

Gifts and Contributions to Organizations and Individuals (Including Gifts to Student Organizations): For student organizations funded in whole or part by an ASU department, ASU will reimburse incurred expenses; however, lump sum payments for which no accounting is provided are prohibited. For certain banquets and luncheons, a portion of the cost to attend is above the cost of the meal and represents a charitable contribution to the hosting organization. Often, this portion is indicated by the hosting organization as being deductible for tax purposes. Such charitable contributions cannot be paid from ASU funds, but can be paid by an ASU affiliated organization, e.g., the ASU Foundation. (COM 420–04)

Laboratory Chemicals: Laboratory chemicals may be purchased directly by departments or an easier way to acquire laboratory chemicals is to simply call Laboratory Stores at 480-965-3377. You may also use the Purchasing Card or a Department Limited Value Purchase Order. Note, the University is currently deploying the SunRISE Chemical Management System. A system to order, manage, transfer and dispose of chemicals. Once this system is made available to a department, SunRise will be the only method used to order chemicals.

Legal Fees: All types except those that have been reviewed and authorized by General Counsel.

Loans and Advances to ASU Employees, Students, and Organizations: All types except loans awarded to students by the Student Financial Assistance Office.

Lost Key Charges: Use of state or local area/orgs for payment of lost key charges assessed by ASU to the individual who lost the key(s).

Nonresident Alien Work Permits: Use of state or local area/orgs for payments of work permits that nonresident aliens must obtain in order to hold a job in the U.S., unless stated in an offer letter of employment or similar contractual obligation.

Parking Decals for ASU Employees and Students: All types, except those purchased for ASU vehicles.

Parking, Traffic, and Library Fines: Use of state or local area/orgs for payment. Note: Library fines include charges for lost books (replacement fees). (COM 109)

Petty Cash Funds: Such funds may not be used for: acquisitions costing more

than \$500 per unit; business meals, food, and related expenses to be paid from state area/orgs or meals of \$25 or more paid from local area/orgs; capital items; compensation of individuals for services rendered; fines; personal loans or check cashing; and travel. (COM 403) **Political Activities:** Disbursement or allocation of state funds for purposes of influencing legislation or supporting partisan political activity. (COM 203)

Purchases From ASU Individuals: Purchases that are not competitively bid. (PUR 103)

Refrigerants: Refrigerants, such as Freon and its substitutes, require special handling and will be purchased only for Facilities Management. Any requested exceptions will be reviewed by the Director of Purchasing and Business Services.

Transfers: Transfer of gifts to an off-campus bank account or to an organization financially related to ASU, such as the ASU Foundation. (COM 301 and 303)

University Club of ASU: Use of state or local area/orgs for membership and dues payments to the University Club of ASU.

How can we return something we have purchased? If the item was purchased via one of the University's small dollar ordering programs, contact the supplier and see if they will accept the return. If the item was purchased via a purchase order, the matter is a bit more complex. A purchase order is a legal contract for purchase. If the material delivered is as specified on the purchase order, the vendor is under no obligation to accept the return and may impose a restocking charge. This charge will be the responsibility of the requesting department. Departments desiring to return merchandise to vendors must first contact the Purchasing Department in writing or by e-mail, explaining the reason for the return. The Purchasing Department will secure permission from the vendor and will arrange for the material to be picked up and returned. Departments receiving credit memos from the return of merchandise should forward them to Payables and Reimbursements with complete information regarding purchase order number, area/org number, and reason for return written on the credit memo in red. Payables and Reimbursements will use this credit memo on the next payment to the vendor and credit the original area/org. If a credit memo is not used within a reasonable time, Payables and Reimbursements will request a cash refund from the vendor and credit the original area/org. (PUR 601-02)

Can we prepay for purchases? Prepayment of purchase orders and contracts is discouraged. Prepayment may be acceptable, however, for: (1) purchases under \$5,000 made via one of the University's small dollar purchasing methods, (2) subscriptions, where usual business practices require payment in advance, but not to exceed three years, (3) memberships in professional associations, where such memberships have demonstrated value to the University, (4) equipment

maintenance services, where such services are performed within the budget period, except that if the service begins in July, payment may be made in the prior fiscal year, (5) software maintenance and upgrade services, where such services are performed within the budget period, except that if the service begins in July, payment may be made in the prior fiscal year, (6) registration fees required in connection with attendance at conventions, conferences, and official meetings, and (7) purchases other than the above for \$5,000 or more as approved by both the Director of Purchasing and Business Services and the Comptroller and Treasurer. Note: Performance bonds or other guarantees may be required if prepayment is approved.

Do we pay sales taxes? The university is subject to the payment of state and local sales tax and state use tax. Use tax is paid to the State of Arizona for purchases from out-of-state suppliers who do not have an Arizona sales tax license. Note that the amount of any applicable sales or use tax is not considered in determining the low bid of competing bidders. Note also that Arizona Revised Statutes § 42-1310.01 provides exemptions from state but not applicable local sales and use taxes for “machinery and equipment used in research and development.” For more information on sales tax exemptions regarding equipment purchased for research and development, see the Comptroller’s Office Policies and Procedures Manual, COM 120, “Sales Tax Exemption for Purchases.” A form for documenting this exemption is available at <http://www.asu.edu/purchasing> on the Purchasing and Business Services web site. (PUR 602-07)

Are there any commodities that require special processing? Yes. The following commodities have special handling or processing requirements: live animals, hazardous materials, radioactive materials, gasses and gas cylinders, foreign purchases requiring customs clearances, printing of ASU business stationary and letterhead, and off-campus property leases. Contact Purchasing and Business Services prior to initiating these transactions.

COMPETITION

Best Value. The University seeks to obtain goods and services at the best value. Value is assured when the goods and services are obtained in a timely manner, at an appropriate level of quality, with reasonable cost, through an appropriate level of competition, and in accordance with applicable federal and state regulations. (PUR 201-03)

Competition. Very few goods and services are purchased without some consideration of competition. Individuals using one of the University small-dollar purchasing programs should consider the prices charged by competing firms for alternative goods and services. Purchasing and Business Services buyers who place orders under the formal competition limit of \$50,000 are using their professional knowledge of the commodity

and market to determine that the price for goods and services is fair and reasonable. For transactions costing more than \$25,000, but less than \$50,000, informal competition is normally obtained. For transactions costing more than \$50,000, formal competition is normally encouraged. (PUR 201-03)

What if there is only one place to get a good or service? This is a sole source procurement. A sole source procurement avoids any competition. A sole source is not simply the best source; it is the only source. The best source is established through competition. In order to establish that there is only one source for a particular good or service, the requestor must attach to the purchase request a written justification on a Justification for Sole Source Purchase form (see PUR 303-02A) that: (1) describes the technical or performance characteristics of the goods or services, (2) explains why these characteristics are essential, and (3) verifies that these characteristics cannot be obtained from any other source. For federal grants, consultant services may be considered a sole source procurement if: (1) the grant specifies consultants or professional services by name or company, and (2) approval for the grant includes these specified consultants or professional services. The requestor must attach to the purchase request a copy of the portion of the approved grant that specifies the consultant or professional services. (PUR 303-02)

Can I get a waiver to the bidding requirement? Yes, but these are not easy to get, and all of them are reported to the President's Working Group. All procurements costing \$50,000 or more require competitive sealed bids or proposals. The President or Vice President or Vice Provost may authorize procurements without competitive bidding if a situation exists that: (1) threatens public health, welfare, or safety, or (2) makes compliance with the competitive bidding requirement impracticable, unnecessary, or contrary to the public interest. Waivers should be requested only under the most extreme circumstances. Personal preference for certain products does not constitute justification for requesting a waiver. Bid waivers are requested on a Request for Waiver of Bidding Requirements form available at <http://www.asu.edu/purchasing> on the ASU Purchasing World Wide Web page. Purchasing and Business Services will secure the maximum amount of competition as is practicable under the circumstances. Note: Bid waivers may not be approved by Associate or Assistant Vice Presidents or Provosts; only by the actual Vice President or Vice Provost. If the respective Vice President or Vice Provost is not available, then the bid waiver must be approved by the Provost or President. (PUR 306-02)

OPEN PROCESS

Public Opening. Formal sealed bids are opened publicly, and the amount of each bid is announced and recorded. Formal sealed proposals are also opened publicly, with only the names of the proposers announced and recorded. (PUR 107)

Public Records. Completed solicitations are public records and available for inspection by the public. (ARS 39-121 et seq.)

Will the public, or press, attempt to second guess a purchasing decision?

Of course. This is why it is important to document purchasing decisions, and avoid the appearance of impropriety.

SELECTION OF SUPPLIER

Who develops the specifications for the goods and services we need?

Although Purchasing and Business Services and the requesting department share responsibility for the specifications, the requesting department is primarily responsible for developing the technical or performance specifications of a solicitation, and Purchasing and Business Services is primarily responsible for ensuring that the specifications are fair. Specifications must be written with a view to securing goods or services with the appropriate quality for the particular procurement. Only the grade or degree of goods that will meet, but not exceed, the requirements will be purchased by the University. Specifications must be written fairly and equitably and must not be: (1) unduly restrictive, (2) prejudicial to any supplier, or (3) a basis for just complaint from any competitive bidder. (PUR 303—03)

Can I specify “brand name or equal?” The descriptor “brand name or equal” may be used in specifications as a means of defining performance or other salient requirements of a procurement. When the descriptor “brand name or equal” is used, the specific features of the named brand which are required must be clearly identified so that it is clear what would make a competing product an “equal.” Where brand name only is desired, the requestor shall justify in writing the reasons for specifying a particular brand name through the respective buyer to the Director of Purchasing and Business Services. This document will be retained in the bid file. In developing specifications for items that have a high rate of energy consumption, consideration must be given to energy conservation. (PUR 303-03)

Who develops the criteria to be used to evaluate competing proposals?

Purchasing and Business Services and the requesting department share responsibility for developing the evaluation criteria for the responses to a Request for Proposal. The evaluation criteria should include a method for scoring vendor responses against specific criteria. (PUR 303-03)

Who actually selects the successful bidder or proposer? Purchasing and Business Services is responsible for contracting with the best sources of supply for the University. Departments are encouraged to provide buyers with the names of vendors to broaden the supplier base. ASU buyers will send solicitations to both suggested and already known vendors. As Purchasing and Business Services is a customer-

focused organization, the vendor selection process is made in association with user departments. In any formal solicitation process using evaluation factors other than cost, a buyer will work with the department in establishing the selection criteria. The criteria may include: time of delivery after receipt of an order, packaging and addressing, direct delivery to the work site, return policy, length of time a price will be guaranteed, electronic order capability, adequacy of invoicing, and many other factors. The user department agrees to these criteria when it approves the draft solicitation documents. The buyer will review the vendor responses in context of the evaluation criteria and recommend the award structure to the user department. The user department may justify an award different from the buyer's recommendation. If this justification warrants reconsideration, the buyer will agree. As buyers are experts in the purchasing process, and users are experts in their particular disciplines, users often identify something in the bid responses that is not apparent to a buyer. In those rare cases in which the buyer cannot agree with the justification submitted by the user, the final authority for selection of the supplier rests with the Director of Purchasing and Business Services. Note: Throughout the evaluation process, both the buyer and the user should strive to document the rationale for decisions, as all such documentation is subject to outside review. (PUR 502-01)

STANDARDS

Who sets standards? The Director of Purchasing and Business Services has the responsibility and authority to question the quality and kind of materials requested to ensure that the best interests of the University may be served. Common use items will be standardized to the greatest extent possible to: (1) take advantage of quantity discounts and (2) avoid numerous small orders. University maintenance capabilities and parts inventories will be taken into consideration in establishing standards. Materials used by a number of departments will be stocked in appropriate stores (e.g., ASU Stores, Department of Facilities Management Maintenance Stores, Laboratory Stores) to further the standardization program. (PUR 204)

What about the ASU Graphic Standards? The University strives to project the best possible image, and accordingly has established graphic standards. All uses of the University name, logo, seal, marks, etc. in graphic presentation must conform to the requirements of the Arizona State University Graphic Standards Manual. No funds administered by or through the University, regardless of source, may be used to pay for any printed materials that do not conform to the established standards. Any nonconforming materials may be deemed to violate the Trademark Counterfeiting Act of 1984 and/or the Arizona Revised Statutes §§ 44-1406 to 1413 and may not be used to represent the University, a college, center, program, or individual staff member, even if non-University funds are used to pay for the materials. Other entities, including affiliated organizations, must obtain a license in order to use the University trademarks. (PUR 402-05)

DISADVANTAGED BUSINESS PROGRAM

The University is committed to the development of business activity with small businesses, including small disadvantaged and small women-owned business suppliers. To fulfill this commitment, Purchasing and Business Services will solicit participation by small business contractors in providing for the University's material, supply, equipment, and service needs.

Who is responsible for placing business with small, minority-owned, or woman-owned businesses? We all are. Purchasing and Business Services is responsible for implementing the Small Business and Small Disadvantaged Business Program by: (1) setting annual purchasing goals for the University, (2) instituting changes to purchasing procedures that will enhance the program, (3) documenting, tracking, and reporting annually to the President the success of the program, and (4) aiding and advising University personnel about the program. You are responsible for giving disadvantaged businesses a fair try.

University personnel who are responsible for requisitioning materials for purchase should be familiar with this policy and shall cooperate with Purchasing and Business Services in making opportunities available to small businesses, small socially and economically disadvantaged businesses, and small women-owned businesses for selling to the University.

CONFLICT OF INTEREST

What is the basic rule relating to conflict of interest? Any University employee who has, or whose relative has, a substantial interest in any contract with, sale to, purchase from or service for the University shall make known that interest to the University and shall refrain from participating in any manner in such contract, sale, procurement, or service. The forms used to disclose a potential conflict of interest may be obtained from the General Counsel's Office. (PUR 103, ARS 38-501 to 38-510)

Can an employee do business with the University? The procurement of supplies, equipment, or services from any employee of the University is not authorized unless it is made through public competitive bidding. While Purchasing and Business Services is under no obligation to conduct a solicitation so that an employee may submit a bid,

we are generally willing to do so. (PUR 103, ARS 38-501 to 38-510)

Can outsiders who develop specifications bid on the solicitation they are used in? No. No individuals or firms including, but not limited to, consultants, architects, engineers, designers, and other drafters preparing specifications or plans under a contract shall receive any direct or indirect benefit from the utilization of such specifications or plans. Specifically, the aforementioned persons and parties may not submit a bid or proposal to provide goods or services to the University if they have prepared the specifications or plans requiring the goods and services. (PUR 103)

May I accept a gift from a supplier? University employees shall not accept or solicit, directly or indirectly, anything of economic value as a gift, gratuity, favor, entertainment, or loan which is or may appear to be designed to influence official conduct in any manner, particularly from a person who is seeking to obtain contractual or other business or financial arrangements with the University (e.g. a vendor, who has interests that might be substantially affected by the performance or nonperformance of the employee's duty). But University employees may accept from vendors and others: (1) unsolicited advertising or promotional material such as pens, pencils, scratch pads, and calendars, (2) occasional business lunches or food and refreshments of insignificant value and, (3) other items of nominal or minor value (e.g., a box of candy or fruitcake) that are merely tokens of appreciation and not related to any particular transaction. (PUR 104)

THANK YOU

Thanks for reading through this guide. We hope it is helpful for you. If you have questions or comments, please contact Purchasing and Business Services at (602) 965-3271.

This guide was prepared in October 1998, and revised in September 1999, October 1999, June 2001, November 2002, August 2003, and October 2004, August 2006.