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**SUBJECT: PURCHASING**

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I. **PURPOSE:** To establish policies and guidelines for the procurement of goods and services at Southern Utah University. Applicable to all University faculty, staff, student employees, and volunteers, this policy provides for the accountable use of public funds and professional and ethical procurement practices. This policy ensures compliance with the Utah State Procurement Code and with Board of Regents Policies, specifically Policy R571 *Purchasing* which governs the management and control of procurements and procurement procedures conducted by the institutions in the state system of higher education.

II. **REFERENCES:**

- A. Southern Utah University Purchasing Office Procedures: Maintained and located within the Purchasing Office and attached to the office Web site
- B. Southern Utah University Purchasing Card Procedures and Guide: Maintained and located within the Purchasing Office and attached to the office Web site.
- C. Utah Procurement Code, Utah Code Annotated, sections 63G-6a-101 et seq.
- D. Utah Board of Higher Education Policy R571 *Purchasing*
- E. Utah Public Officers' and Employees' Ethics Act
- F. Utah State Archives, Retention Schedules

III. **APPLICABILITY:**

Compliance with this policy as represented by related regulations and procedures is required for all members of the University community under any contract or employment agreement, including administrators, faculty, staff, students, student employees, contractors, vendors, and third-party agents.

Violations of this policy by faculty or employees constitute cause for formal discipline, including dismissal from University employment. University personnel who violate this policy are subject to the sanctions and remedies described in this policy and in SUU Policy 6.22, *Faculty Due Process*, and SUU Policy 8.3.5, *Termination of Non-Academic Staff Employees and Disciplinary Sanctions*.

University personnel may also be held personally liable to the extent allowable under civil or criminal law for losses or damages caused by negligence or willful violation of this Policy.

IV. **DEFINITIONS:**



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- A. Annual Cumulative Threshold: The maximum total annual amount that may be expended to obtain procurement items under the “Small Dollar Purchase Threshold” (Section 4.B.1) from the same source without a contract.
- B. Business: A sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity that engages in commercial business activities for profit making or non-profit purposes.
- C. Construction: The process of building, renovating, or demolishing University structure or buildings; major development work or landscaping of University real property. Construction does not include, the routine operation, repair, or maintenance of existing structures, buildings, or real property.
- D. Contract: Any legally executed University agreement for the procurement and/or disposal of equipment, goods, services, or construction.
- E. DFCM: The State of Utah Division of Facilities Construction & Management. DFCM provides oversight of capital development and capital improvement projects for the University as outlined in Board of Regents Policy R710-3.
- F. Emergency Procurement: A procurement conducted due to circumstances that threaten public health, welfare, safety, property, or other harm, including presenting a risk of causing financial harm to the University or significantly disrupting University operations, or circumstances where timeliness, litigation deadlines or other factors necessitate waiver of provisions of the standard procurement process.
- G. Enterprise Software: Also known as enterprise application software (EAS), is computer software used to satisfy the needs of an organization rather than individual users. Software that satisfies the needs of more than one department may be considered enterprise software.
- H. Gratuity: Anything of value, such as; money, loan, an award, employment, admission to an event, a meal, lodging, travel, a raffle, drawing or prize, or lottery, and entertainment for which a charge is normally made. Gratuity does not include a rebate, coupon, discount, airline or hotel awards and points, dividend, or other offering included in the price of a procurement item.
- I. Goods: Anything purchased other than services, construction, or real property.



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- J. Hospitality Gift: A promotional or hospitality item, including, a pen, pencil, stationary, toy, pin, trinket, snack, nonalcoholic beverage, or appetizer.
- K. Individual Procurement Threshold: The maximum amount for which a University unit may purchase one procurement item within a single transaction.
- L. Invitation to Bid: A formal procurement method for soliciting bids from vendors interested in providing requested goods or services to the University.
- M. Kickback: A gratuity or bribe given in exchange for favorable treatment in a procurement process or the administration of a contract.
- N. Large-Dollar Purchase Threshold: The threshold established by the Purchasing Department and approved by the President's Cabinet over which a formal, advertised solicitation must be conducted.
- O. President's Cabinet: SUU administrators who serve on the President's Cabinet include the President, Vice President for Academics, Vice President for Finance & Administration, Vice President for Student Affairs, Vice President for Advancement & Enrollment Management, Vice President for Alumni & Community Relations, Athletic Director, and others designated by the President over time. Each SUU employee falls under one of the President's Cabinet representatives.
- P. Procurement: The act of buying, purchasing, renting, leasing, or otherwise acquiring any equipment, goods, services, or construction. Procurement also includes all functions that pertain to the obtaining of any equipment, good, service, or construction including description of requirements, selection, solicitation of sources, preparation, and award of a contract, and all phases of contract administration.
- Q. Procurement Participant: A person involved in administering, conducting, and making a decision regarding the procurement, those that make recommendations, evaluate, award the contract, ensures compliance, audits or enforces the contract.
- R. Procurement Threshold: The maximum amount that a single item may cost before it must be bid.
- S. Professional Services: A service that requires a high degree of specialized knowledge, training, certification, professional licensure, or discretion in the



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performance of the service. For purposes of this policy, professional services include, but are not limited to:

- a. Legal services
  - b. Consultation services
  - c. Architectural services
  - d. Engineering
  - e. Design
  - f. Underwriting
  - g. Bond Counsel
  - h. Financial advice
  - i. Construction management
  - j. Medical services
  - k. Psychiatric services
  - l. Counseling services
  - m. Art
  - n. Software design and programming
- T. Public Funds: All funds for which the University has a fiduciary responsibility including state appropriations and tuition (generally referred to as E&G Funds), federal appropriations, income generated by all University departments, operations, and non-contract auxiliaries, and funds from gifts, grants, and contracts.
- U. Purchase Order: A legal and binding written contractual document, reflective of an offer from a supplier/vendor, and acceptance of that offer by the University. A purchase order serves as a formal order of goods or services to a vendor/supplier, and sets forth all terms and conditions applicable to that order.
- V. Request for Proposals (RFP): A procurement method for soliciting proposals from vendors/suppliers interested in providing requested goods or services to the University.



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- W. Requisition: A request for the purchase of goods or services, initiated through the University's accounting system, and received by the Purchasing Department, which can be turned into a University Purchase Order.
- X. Services: The furnishing of labor, time, or effort by a vendor/supplier, not involving the delivery of a specific end product, other than reports, which are merely incidental to the required performance. It does not include employment agreements or collective bargaining agreements.
- Y. Single Procurement Aggregate Threshold: The maximum total amount that a University unit may expend to obtain multiple procurement items from one source within a single transaction.
- Z. Small-Dollar Purchase Threshold: The threshold established by the Purchasing Department and approved by the President's Cabinet over which adequate competition must be sought in accordance with Purchasing Procedures.
- AA. Specification: Any description of the physical or functional characteristics or of the nature of any equipment, good, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a piece of equipment, good, service, or construction item for delivery.
- BB. Split Transaction: To divide, split, parcel, or otherwise manipulate a purchase into two or more smaller purchases with the intent to circumventing the procurement code, policies, and/or procedures.
- CC. Transaction: A formal or informal contract or agreement, expressed or implied, to which the University is a party that involves any transfer of consideration or payment of compensation.

V. **POLICY:**

Southern Utah University utilizes a centralized Purchasing Office to effectively administer the procurement function. The Purchasing Office has been granted authority by the Southern Utah University Board of Trustees and the University President to order supplies, materials, services and equipment, and to obligate the University in any type of contractual agreement. The President designates the Director of Purchasing as the Chief Procurement Officer for the University.



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No department, employee, or student can obligate the University in any manner or purpose without written authorization from the University President, Vice President for Finance and Administration or the Director of Purchasing. The Purchasing Office shall establish operating procedures consistent with State of Utah legal requirements and other governing University policies which allow for an efficient and cost-effective purchasing process.

The Purchasing Office recognizes and adheres to applicable State of Utah Procurement Code sections 63G-6a-101 et seq., State of Utah State Codes (specifically Title 67) and Administrative Rules that regulate all University purchasing activity as well as Board of Regents Policy R571 *Purchasing* which governs the management and control of procurements and procurement procedures conducted by the institutions in the state system of higher education.

Any order or commitment made by a University faculty, staff, or student is not legally binding (see Section A - Purchasing) unless that person has been authorized in a manner as described within this policy. Those found to have violated this policy, or any component herein, will be subject to disciplinary action per State Statute and requirements.

The Purchasing Office will maintain records of all transactions, agreements, legal notices, land purchase/sale documents, contracts, and supporting documentation. These files may be recorded either electronically or by paper and must be readily available for review. Procurement documents will be retained as prescribed by the applicable State Archives record(s) retention schedule.

**A. PURCHASING:**

All goods and services purchased by the University shall be procured in compliance with applicable statutes, rules, guidelines, policies and procedures, regardless of the funding source, including state appropriations, federal appropriations, generated income, or funds from gifts, grants, and contracts.

No University employee or student may expend or obligate any University funds or contract with any business or entity or legally bind the campus without prior approval of the Purchasing Office. For consideration as approval by the Purchasing Office, employees and students must utilize one of the following tools:



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1. Purchasing Card Program – This program consists of issuing a credit card to an employee or student to facilitate the purchase of their departmental supplies, goods, conference fees, some types of services, certain travel requirements, and other miscellaneous needs. Purchasing Card usage is controlled through limitations on dollar values and vendor category. Employees and students (Cardholders) issued a Purchasing Card must comply with the requirements set within the “Purchasing Card Guide”. Receipts/documentation must be obtained for all transactions and maintained in office files and will be subject to review/audit.

The Purchasing Office and Office of Internal Audit will administrate and conduct a comprehensive internal control process regarding Purchasing Card use. Purchasing Card transactions will be audited to ensure compliance with University policies and state of Utah statutes.

2. Purchase Orders – The general form used by the University to contract with a business to provide goods and services. Employees must complete a Purchase Requisition form, either paper or electronic, and submit to the Purchasing Office for completion. Budgets to be used must have sufficient funds available. Requisitions with budgets that reflect insufficient funds will be returned to the department. Once completed by the Purchasing Office, a formal Purchase Order (PO) will be forwarded on to the vendor. The process allows for various options where PO’s may be placed by mailing, faxing, ordering electronically, or by giving the PO number to the individual who initiated the requisition so they may place the order themselves. At no time may an employee or student place an order without first obtaining a University issued Purchase Order, or through the use of a University issued Purchasing Card.

**B. BIDDING/REQUEST FOR PROPOSAL REQUIREMENTS:**

To support University activities, the Purchasing Office will utilize, when required or deemed helpful, either formal Bid or Request for Proposal (RFP) processes. Furthermore, the University adheres to State of Utah Procurement codes as established by Utah State Legislature and Administrative Rules regarding these practices.

In accordance with the State of Utah Procurement Code, and with the approval of the President’s Cabinet, the Purchasing Office will establish procurement thresholds specified in purchasing office procedures. The identified thresholds are



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effective for all procurement activity including construction contracts. Transactions within each of the procurement thresholds must adhere to either an individual procurement threshold or a single procurement aggregate threshold.

1. **Small Dollar Threshold:**

All Procurements under the small-dollar purchase threshold may be placed directly with a vendor without seeking formal competition at the discretion of the Purchasing Department. It is recommended that University employees compare multiple sources for pricing of goods or services before completing a transaction, and that departments get their pricing/quotes in written form. (According to the Uniform Commercial Code, any offer over \$500 has to be in written form to be binding and enforceable.)

  - a. Purchases that exceed the small-dollar purchase threshold require bids (or proposals) from at least three (3) vendors.
  - b. Bids (or proposals) must be in writing and on formal company letterhead or bid sheet. Faxed or e-mail quotes are acceptable bid formats. Oral bids will not be accepted.
  - c. The Purchasing Office will perform the bid (or RFP) process which includes preparation of formal bid (or RFP) documents and contract award notifications.
  - d. Internet pricing is acceptable for books, DVDs, CDs and other items commonly circulated by the University Library(s).
2. **Large Dollar Threshold**
  - a. Same criteria as transactions exceeding small-dollar threshold except notification of Bid (or RFP) must be posted on either the Purchasing Office Web site, through a State of Utah sanctioned bid system, or as a legal notice within a circulated newspaper.
  - b. The Purchasing Office will be responsible for advertising.
  - c. Process time allowed for this level of transaction will be at a minimum of ten (10) working days to satisfy State of Utah code requirements.





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- d. Construction projects must comply with the University's approval requirements and the policies set forth by the State of Utah, including the Department of Facilities and Construction Management (DFCM).
3. Exceptions to Procurement Requirements:  
Institutions may award a contract for a procurement item without using a standard procurement process under the following circumstances (See Utah Board of Regents Policy R571-8, without limitation)
    - a. State Contracts: The University acknowledges and utilizes State of Utah Purchasing Contracts for the procurement of goods and services. Because these contracts are the result of a formal bid/RFP process performed by state purchasing process, vendors who hold these contracts are excluded from the University Bid requirement. Purchases can be made directly from these vendors for any amount, through appropriate purchasing office procedures, and are not subject to the multiple bid/RFP process.
    - b. Sole Source Procurements: sole source procurements shall be utilized if a requirement is only available from one vendor or a legitimate compatibility issue exists. A sole source form must be completed and approved by departmental supervision. This form must accompany the purchase requisition and is subject to approval of the Director of Purchasing.
    - c. Transitional Cost: A standard procurement process is not required where transitional costs are a significant consideration in selecting a procurement item and the results of a cost benefit analysis demonstrate that transitional costs are unreasonable or cost-prohibitive and that the awarding of a contract without engaging in a standard procurement process is in the best interest of the institution.
    - d. Goods or Services where the standard procurement process is impractical and not in the institution's best interest. The president or designee may make designations under this exception and/or may add additional criteria. Examples of these circumstances include, but are not limited to (See also R571-8):



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- 1) Public utility services
  - 2) Items where the most important consideration is compatibility of equipment, technology, software, accessories, replacement parts, or service;
  - 3) Unique research materials;
  - 4) Instructional materials or other needed items for curriculum purposes
  - 5) Membership fees, conference registrations, seminars, subscriptions to intellectual content;
  - 6) Athletic game guarantees;
  - 7) Guest lecturers, performers, entertainers, convocations
  - 8) Airfare (bids are still required when chartering aircraft)
  - 9) Hotels
  - 10) Media advertising and marketing, including social media
  - 11) Sponsorships
  - 12) Royalty payments
  - 13) Postage and direct mail services
  - 14) Groceries
  - 15) Fast Food Services
- e. Trial Use: Consistent with the requirements of the herein-referenced code, rules and policies, a trial use contract may be awarded upon a determination that the procurement item is needed for a trial use or testing to determine whether the procurement item will benefit the institution.
- f. Emergency purchases as approved by the Director of Purchasing, Vice President for Finance and Administration, or the University President.
- g. Procurement of items for resale (Auxiliary Services, etc.)
4. Bid protests: Aggrieved bidders, vendors, or potential bidders or vendors, may protest the solicitation's specifications or award decision in



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accordance with the Utah Procurement Code, Utah Code Annotated, (63G-6a-1601 et seq.)

5. The procurement of goods and/or services from other governmental agencies, including public institutions of higher education, and correctional industries, may be made without competition as determined by the Purchasing Office.

**C. LIMITATIONS AND RESTRICTIONS ON PROCUREMENT:**

1. Purchases of materials, goods, or services can only be used for University business. Expenditure of University funds for personal use, or purposes other than those that benefit the University are strictly prohibited.
2. Purchases of flowers for bereavement, plaques, awards, University promotional items and cards over \$50.00, food, refreshments, grocery items for departmental meetings, parties, open houses, or meals for faculty and staff members not on official travel status are not allowable. Exceptions include:
  - a. Items required for instructional needs.
  - b. Items receiving written approval by the purchaser's appropriate member of the President's Cabinet or Dean. (President's Cabinet members may delegate signature authority to a direct-report within their respective division).
  - c. Gift cards, gift certificates, or other cash equivalent items are prohibited except on rare occasions and only when approved by the University President. All applicable U.S. Internal Revenue Service (IRS) tax reporting and payment requirements apply under such circumstances.
  - d. Reasonable business meals when conducting business on behalf of the University, entertaining guest speakers to campus, as part of an employee selection process, or when otherwise appropriate. Written approval is required by the individual's Dean, Vice President or the University President.



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3. Procurement from Vendor in Which University Employee Has an Interest: It is the policy of the University to comply fully with all applicable provisions of the Utah Public Officers' and Employee Ethics Act, (67-16). The statements of detailed policies and procedures set forth herein are intended to provide notice to the University community of the requirements of that Act as applied to the procurement of supplies, services, and construction pursuant to the Utah Procurement Code, as amended, and related University regulations.
  - a. Employees must comply with the requirements of the Southern Utah University Conflict of Interest Policy, #5.7, when their ownership interest in a potential University vendor is either solely owned, partnership, LLC, or when their spouse or immediate relative has similar ownership rights.
4. Gift items to persons outside of the campus community are allowable with written supervisor approval. Gift items to employees, including retirees, are not allowed without written approval from the University President, Provost or applicable Vice President. Gifts may be subject to IRS reporting codes depending on value.
5. Delegation of Purchasing Authority. The Director of Purchasing may delegate special and limited purchasing authority to certain departments on campus due to special needs and campus roles. This authority allows for a department to generate and record their own purchase order process, in accordance with this policy and campus accounting procedures, and maintain their own file system. Those authorized departments will be subjected to audits to ensure compliance with University policy and State of Utah codes. Departments granted this authority must receive and have on file a letter from the Director of Purchasing granting this ability.
6. Remedies: If any transaction is entered into in violation of the policies and procedures set forth herein, the University employee who violated the prohibitions as specified may be subject to appropriate disciplinary action including possible dismissal from University employment as provided in the Utah Public Officers' and Employees' Ethics Act.
7. University funds expended by non-University organizations and component units will be in accordance with University policy, procedures, guidelines, and practices.



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8. Procurement procedures and policies shall be adhered to independent of any fund-raising endeavors of the University.
9. Advance payments for goods and services may not be made, except in certain circumstances determined appropriate by the University President, Vice President for Finance and Administration, or the Director of Purchasing.
10. Per Utah Procurement Code Annotated, sections 63G-6a-101 et seq, it is illegal to divide, split, parcel, or otherwise manipulate a purchase into two or more smaller purchases with the intent of circumventing procurement code, policies, procedures, and purchasing card policies. Criminal Penalties for illegal transactions, including felony and misdemeanor charges, and dismissal from employment will apply to individual(s) involved, as outlined in the Utah State Procurement Code (63G-6a-2304.5, 2305, 2306).

**D. PROCUREMENT ETHICS**

1. In accordance with the Utah Procurement Code (63G-6a-2304.5) it is unlawful to use your position or influence to receive a gratuity, bribe, or kickback.
2. It is unlawful for a procurement participant to use the procurement participant's position or influence to obtain a personal benefit for the procurement participant, or for a family member of the procurement participant, from an interested person.
3. It is unlawful for a procurement participant to ask, receive, offer to receive, accept or ask for a promise to receive a kickback for a procurement participant or for another person.
4. A person who violates this code is guilty of either a felony or misdemeanor charge, and shall be dismissed from employment (Utah Procurement Code 63G-6a-2304.5, 2305, and 2306).
5. A hospitality gift is acceptable when it is less than \$10 in value and the person is not involved in any ongoing procurement.

**E. USE OF UNIVERSITY PROPERTY AND AUXILIARIES**



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1. University property may not be used at any time to provide a location where vendor(s) may sell their goods and services to the campus community for personal consumption.

Auxiliary Services, which includes the Bookstore and Food Services, have the sole authority, as per Southern Utah University Policy 10.8, to provide all retail sales and food/drink items on campus.

2. Exceptions:
  - a. Businesses may be invited to participate and set up a table to sell their commodities/services for both business/personal use during the first seven (7) days of each semester. The tables will be located in the Sharwan Smith Student Center and are under the guidelines of that building administration. Vendors will be required to pay a suitable access fee to the student center for this ability.
  - b. If it is determined to be in the best interest of the University to provide goods or services for personal use to the campus community (e.g. ATMs), a formal Bid/RFP process must be performed to select the vendor.
  - c. Gift, food, and beverage sales conducted by the Utah Shakespeare Festival.
  - d. Other exceptions as approved by the University President or Vice President for Finance and Administration.