



MONTCLAIR STATE

UNIVERSITY

Procurement Policies and

Procedures

Manual

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These policies and procedures were adopted after review and acceptance by the Office of the Attorney General of New Jersey and comply with applicable laws and regulations.

MONTCLAIR STATE UNIVERSITY

PROCUREMENT POLICIES AND PROCEDURES

INTRODUCTION

Montclair State University as an agency of the State of New Jersey is obligated to comply with the statutes and regulations of the State when procuring goods and services. Pursuant to P.L. 2017, c. 178, to be codified at N.J.S.A. 18A:64N-11, et. seq., the Montclair State University Board of Trustees has the power and duty to award contracts and agreements in accordance with the Montclair State University Act. Procurement authority has been delegated from the Board of Trustees, through the President, to the Vice President for Finance and Treasurer (VPFT), who is the University's Contracting Officer. The Director of Construction Procurement and Accounting and the Director of Procurement, Goods and Services both report to the VPFT and have the responsibility for the day to day management and operations of procurement activities as delegated by the VPFT.

The Montclair State University Act sets forth the general provisions, guidelines and procedures relative to acquiring goods and services for the University. The University's Procurement Policies and Procedures have been developed to assure the efficient, cost-effective and timely procurement of the goods and services needed by the University in a manner that is consistent with applicable law.

PURPOSE

The purpose of these Procurement Policies and Procedures is to provide guidance to the University community and to suppliers interested in contracting with the University. These policies and procedures govern the University's procurement of contracts for goods and services and contracts for capital construction projects. They are designed to encourage and promote competition among suppliers to ensure that the University receives the highest quality products and services at the lowest price in the most efficient way. Additionally, these policies and procedures are designed to be responsive to the University's need for goods and services in a timely fashion. **In accordance with these policies and procedures, the University will contract for capital projects and goods and services with those responsive and responsible bidders whose bid is most advantageous to the University, price and other factors considered.**

University personnel are expected to adhere to these policies and procedures and with the related sections of the New Jersey Uniform Code of Ethics (<http://www.state.nj.us/ethics/docs/ethics/uniformcode.pdf>). Personnel who violate these policies and procedures and/or who obligate the University for goods and services or for the construction of capital projects in violation of these policies and procedures may be held personally liable for such expenditures and/or may be subject to disciplinary action in accordance with applicable University collective bargaining agreements and applicable personnel policies and procedures.

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NOTE - All procurement forms referenced herein are available on the Procurement Services' website.

PROCUREMENT POLICY/PROCEDURE #1

REVISED DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: PROCUREMENT METHODOLOGY

PURCHASING METHODS

Depending upon the amount and circumstances of the purchase, there are five ways that University user departments can procure goods, services and capital construction project services (excluding [Emergency Procurements – see Procurement Policy/Procedure #14](#)):

- (1) the use of an already existing University contract, State of New Jersey contract or General Services Administration contract;
- (2) [Delegated Purchasing Authority](#) for certain purchases of \$35,500 or less;
- (3) [publicly advertising](#) the procurement for competitive bid proposals; or
- (4) procurements qualifying as a [Waiver of Advertising](#); or
- (5) the use of a nationally recognized and accepted cooperative purchasing agreement entered into by one or more States within the United States or any of its political subdivisions.

The following provides direction as to when a particular procurement approach is to be utilized and the process that is to be followed with respect to each procurement approach.

(A) EXISTING UNIVERSITY, STATE, CO-OPERATIVE, OR GENERAL SERVICES ADMINISTRATION CONTRACT

Prior to initiating any procurement, the user department should contact Procurement Services to ascertain whether the item or service is available through an existing University contract or whether a State of New Jersey contract or General Services Administration contract might be a viable procurement option, or whether the item or service is available through a nationally recognized and accepted cooperative purchasing agreement. If such an option exists, Procurement Services will advise the user department how to proceed.

(B) DELEGATED PURCHASING AUTHORITY

Delegated Purchasing Authority (DPA) involves a purchase having a value of \$35,500 or less which is not made through an existing University contract, State of New Jersey contract or General Services Administration contract. **If the anticipated purchase exceeds \$35,500, the DPA process may not be used. Purchases cannot be divided to circumvent the \$35,500 public bid threshold limit.**

DPA Procurement Procedure:

1. **For a purchase of \$35,500 or less**, the user department should contact Procurement Services to ascertain whether the item or service is available through an existing University contract or whether a State of New Jersey contract or General Services Administration contract might be a viable procurement option. The user department will be advised whether DPA can be used to purchase the item or service.
2. If the DPA purchase is \$2,000 or less, 1 written proposal is required.
3. If the DPA purchase is more than \$2,000 but less than **\$7,000**, the user department is not required, but is recommended, to solicit two (2) competitive proposals to ensure that the University is receiving the highest quality product or service at the lowest price. Proposals must be received in writing.
4. For DPA purchases **over \$7,000 up to \$35,500**, the user department is required to solicit competitive proposals. The user department must:
 - (a) Prepare specifications in accordance with [Procurement Policy/Procedure #15, Specifications](#);
 - (b) Solicit a minimum of three written proposals by email, fax or sealed proposals;
 - (c) The user department must award the contract to a responsive and responsible bidder on the basis of price and other factors.
5. **For all DPA purchases**, the user department will ask the selected supplier whether it is a certified Minority Business Enterprise (“MBE”), Woman Business Enterprise (“WBE”), Small Business Enterprise (“SBE”), and/or a Disabled Veteran Enterprise (“DVBE”). If yes, a copy of the applicable certifications will be requested by the user department from the selected supplier and must be sent to Procurement Services. (Note: A supplier may be certified for one or more of these designations.)
6. **For all DPA procurements involving services that will not be performed at or in a University facility**, the user department will have the selected supplier complete the [Source Disclosure Certification Form](#). (N.J.S.A. 52:34-13.2 requires that all contracts primarily for services shall be performed within the United States, except when the University Contracting Officer certifies in writing that a required service cannot be provided by the contractor or subcontractor within the United States.) See Procurement Policy/Procedure # 22, Source Disclosure.
7. All DPA purchasing requisitions will be prepared by the user department in the full amount of the purchase.
8. For all DPA purchasing requisitions when competitive proposals were solicited, the user department must forward to Procurement Services copies of the specifications, all proposals received, and an explanation for selecting the proposed supplier.
9. (a) **For DPA purchases totaling over \$5,325 in a fiscal year** (15% of the \$35,500 public bid threshold), the user department should secure the statutorily required [Business Registration](#)

[Certificate](#) from the proposed supplier and submit it to Procurement Services.

- (b) **For DPA purchases totaling over \$17,500 in a fiscal year**, the user department should secure the statutorily required [Political Contribution Disclosure](#) from the proposed supplier and submit it to Procurement Services.

Procurement Services does not process a requisition into a purchase order until all required documents are received.

10. In the event that it is necessary to **increase the amount of a DPA purchase** and in doing so the increase causes the procurement to exceed the \$7,000 or \$35,500 thresholds, Procurement Services should be consulted regarding the appropriate procedures. Depending upon the specific circumstances it may be possible to increase the initial procurement amount; in other circumstances it may be necessary to initiate a separate procurement.

Until the user department has been notified by Procurement Services that a purchase order has been issued, an order or other commitment cannot be placed with a supplier nor should a supplier be authorized to begin any work for the University.

(C) FORMAL PUBLICLY ADVERTISED BID

For a proposed purchase having an estimated value greater than \$35,500, the user department should contact Procurement Services to ascertain whether the purchase can be made through an existing University contract or whether a State of New Jersey contract, nationally recognized and accepted cooperative contract or General Services Administration contract might be a viable procurement option. If none of these contracting options is viable, the user department will be advised whether the purchase is to be made through a formal publicly advertised bid or if it can be made through a [Waiver of Advertising](#). **Purchases may not be divided to circumvent the \$35,500 public bid threshold limit.**

Formal Publicly Advertised Bid Procedure:

1. (a) **For the procurement of goods and/or services**, the user department must complete a [Procurement Bid Initiation Form](#). The completed Form is to be forwarded to the Appropriate Director of Procurement Services.

(b) **For the procurement of materials, repairs and operations (MRO) and construction project services**, the user department must complete either a Procurement Bid Initiation Form or [Construction Project Bid Initiation Form](#). The completed Form is to be forwarded to the Director of Construction Procurement and Accounting.
2. Procurement Services, in consultation with the user department, will complete the procurement schedule information on the [Procurement Bid Initiation Form](#) or [Construction Project Bid Initiation Form](#) and return a copy of the completed Form to the user department.
3. The user department will prepare specifications in accordance with [Procurement Policy/Procedure #15](#), Specifications.

4. Procurement Services, in conjunction with the user department, will finalize a Request for Proposal (RFP). The RFP will provide all information necessary to afford all bidders a fair and reasonable opportunity for competition and enable them to submit a bid based on all relevant information.
5. The vice president to whom the user department reports will establish an Evaluation Committee to evaluate bid proposals received in response to the RFP. The Evaluation Committee shall be formed from University staff knowledgeable in the subject matter of the RFP and a Procurement Services staff member. (See [Procurement Policy/Procedure #16](#)).
6. To promote competitive bidding, Procurement Services will advertise the RFP on the University website and, if determined to be in the best interest of the University, one or more newspapers, in order to give best notice of the bidding opportunity. The notice should not be less than ten (10) calendar days in advance of the date established for the receipt of bid proposals. The advertisement will designate the time and manner for submitting bid proposals. No bid proposals shall be accepted after the time designated. If the expected total cost of the procurement is \$12,500,000.00 or more the RFP must be submitted to the Office of the State Comptroller (OSC) for review prior to issuance of the RFP. The OSC has thirty (30) days to review and comment on the documents. After receipt of comments and making any necessary changes to the RFP, the University will advertise the RFP. If the expected total value of the procurement is more than \$2,500,000 but less than \$12,500,000, the appropriate Director for Procurement Services shall notify the OSC within 20 days after the award of the contract.

COVID-19 – Executive Order 166

Executive Order 166, requires all purchases of **\$150,000 or more** made after July 17, 2020 and that may involve COVID-19 Recovery Funds and/or a COVID-19 Recovery Program, to be submitted to the Office of the State Comptroller for approval **before** the procurement process can begin. The Procurement Services Department will submit all requests, on behalf of the University community, for review by the OSC. The OSC will respond within 10 business days if the procurement process complies with applicable legal requirements, or notify Procurement Services of changes required.

7. Procurement Services will arrange to have notice of the RFP posted on the State Division of Minority and Women's Business Development's website.
8. Procurement Services may schedule a pre-bid meeting and/or a site inspection for procurements relating to goods and services. Generally, a pre-bid meeting and a site inspection will be scheduled for procurements relating to a capital construction project.
9. If necessary, Procurement Services, in conjunction with the user department, will prepare RFP addenda to clarify or amend any of the terms, conditions or requirements of the RFP.
10. Procurement Services will advertise any addendum in advance of the bid opening date. Addenda may be advertised on the University's website.
11. Procurement Services will publicly open all bid proposals received on the date, time and location specified in the RFP. No bid proposals will be accepted after the time specified in the RFP.

12. Procurement Services will make an initial determination whether the bid proposals received are **responsive**, i.e. meet the mandatory requirements of the RFP as delineated in the instructions to bidders.

13. The Evaluation Committee or, if no Evaluation Committee has been formed (also see Procurement Policy / Procedure #16), the assigned Procurement Services buyer, will review proposals as follows:

- (a) Bid proposals relating to goods and services that have been determined to meet the mandatory requirements of the RFP as delineated in the instructions to bidders are further evaluated for responsiveness to all requirements and specifications of the RFP and the bidder's responsibility, i.e., ability to successfully complete the contract as per the specifications. The successful bidder will be selected on the basis of price and other factors.
- (b) Construction contractor bid proposals that have been determined to meet the mandatory requirements of the RFP as delineated in the instructions to bidders are further evaluated as to price, responsiveness to all requirements and specifications of the RFP and the bidder's responsibility, i.e., ability to successfully complete the contract as per the specifications. The successful contractor will be selected on the basis of price and other factors.

Prior to a pre-bid meeting, or if there is no pre-bid meeting, prior to bid opening, the Evaluation Committee will review the evaluation criteria specified in the RFP and will establish the methodology that will be used to evaluate each proposal. The specific methodology established to evaluate the criteria specified in the RFP will not be made public until after bid proposals are opened.

14. Upon conclusion of the evaluation of responsive bid proposals, the Evaluation Committee or, if no Evaluation Committee has been formed, the assigned Procurement Services buyer will prepare a written Recommendation to Award (RTA) based on the evaluation criteria set forth in the RFP.

15. The RTA will be signed by all members of the Evaluation Committee or, if no Evaluation Committee has been formed, by the assigned Procurement Services buyer. The signed RTA will be submitted to the user department for final review and sign-off, including sign-off by the vice president to whom the user department reports. Any questions regarding the contract award recommendation that arise during final sign-off should be directed in writing to the appropriate Director of Procurement Services or the VPFT. The VPFT or the appropriate Director of Procurement Services may, if deemed appropriate, convene a meeting with the Evaluation Committee to respond to the questions and to clarify the contents of the Evaluation Committee's Contract Award Recommendation.

16. Procurement Services will ascertain whether the selected bidder is a certified Minority Business Enterprise ("MBE"), Woman Business Enterprise ("WBE"), Disabled Veteran Enterprise ("DVBE") and/or Small Business Enterprise ("SBE"). If yes, copies of all applicable certifications will be obtained by Procurement Services.

17. Procurement Services will obtain the selected bidder's Business Registration Certificate, Political Contribution Disclosure, Stockholder Disclosure, Affirmative Action Compliance, Source Disclosure Certification, [Non-Collusion Affidavit](#) and all required [insurance certificates](#), as considered appropriate.

18. For publicly advertised RFPs having a value of greater than \$500,000, Procurement Services will prepare a draft and submit to the VPFT a Board of Trustees' resolution ("action item") seeking Board of Trustees approval of the contract award. The draft is normally reviewed by the VPFT, other appropriate vice presidents, University Counsel and the President. If the President determines to move the item forward for action, the President submits the action item to the Board of Trustees.

19. Procurement Services will finalize the contract, which must be approved by the VPFT and, if revised from previously approved standard contract boilerplate, University Counsel. The contract will be executed by the awarded supplier and the VPFT. (Procurement Services will consult with the Vice President for University Facilities ("VPUF") and the Associate Vice President for Design and Construction to finalize contracts related to construction projects prior to submission to the VPFT and University Counsel.) For contracts relating to design and construction projects, an Internal Notice to Proceed (NTP) will be forwarded to the VPUF by Procurement Services or the VPFT upon final sign-off of the purchase order and execution of contract.

20. The total dollar amount of the requisition from the user department must be entered for the full amount of the contract, unless a lesser amount is authorized in advance by the appropriate Director of Procurement Services or the VPFT. Requisitions will be processed into a purchase order by Procurement Services following contract execution by the supplier and concurrent with contract execution by the University.

21. Until the user department has been notified by Procurement Services that a purchase order has been issued, an order or other commitment cannot be placed with a supplier nor should a supplier be authorized to begin any work for the University.

22. The user department will monitor all contract expenditures. In the event a user department concludes that an amount greater than the maximum contract value is necessary in order to complete the work or complete the procurement, a contract modification must be made in advance of approving additional work or acceptance of additional goods and services. In such event, the user department will provide Procurement Services with a detailed explanation as to:

(a) why the original contract amount, including any contingency, was insufficient; (b) define the work remaining to be completed or additional good or services required; and (c) the additional funds required. If the contract was previously approved by the Board of Trustees, prior approval of the Board of Trustees must be secured for the increased amount required, if such increase results in a total contract amount that exceeds the current Board approval. If Board of Trustee approval is necessary, Procurement Services will draft and submit to the VPFT the necessary action item seeking Board of Trustee approval to increase the amount of the contract award. Such action item will be reviewed and processed in the same manner as the original action item submitted to the Board of Trustees. (Also see Policy and Procedure #24, Purchase Order

Adjustment Request.)

23. In no event should goods and/or services be ordered or accepted by the user department if the cost of such goods and/or services exceeds the current contract amount or the maximum contract amount approved by the Board of Trustees.

24. In the event an increase in the contract amount results in a total contract exceeding \$500,000, Board of Trustees approval must be secured.

(D) WAIVERS OF ADVERTISING

Waivers of advertising are **exceptions to the statutory requirement that purchases having a value of greater than \$35,500 be procured through formal publicly advertised bidding. However, the University must adhere to the requirement for competitive bidding.**

To seek such a waiver for a purchase having a value greater than \$35,500, the user department will contact Procurement Services to determine whether the item or service is available through an existing University contract or whether a State of New Jersey contract, nationally recognized and accepted cooperative contract or General Services Administration contract might be a viable procurement option. If none of these contracting options is viable, the user department will be advised by Procurement Services whether the item or service should be procured through a formal publicly advertised bid or may be procured through a waiver of advertising.

The Montclair State University Act permits waivers of advertising contracts in any of the following circumstances:

- (1) Professional services;
- (2) Extraordinary unspecifiable services and products which cannot reasonably be described by written specifications, subject, however, to procedures consistent with open public bidding whenever possible;
- (3) Materials or supplies which are not available from more than one potential bidder, including without limitation materials or supplies which are patented or copyrighted;
- (4) The doing of any work by employees of the University;
- (5) The printing of all legal notices and legal briefs, records and appendices to be used in any legal proceeding to which the University may be a party;
- (6) Textbooks, copyrighted materials, student produced publications and services incidental thereto, library materials including without limitation books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials and specialized library services, including electronic databases and digital formats;
- (7) Food supplies and services, including food supplies and management contracts for student centers, dining rooms and cafeterias;
- (8) The supplying of any product or the rendering of any service by the public utility which is subject to the jurisdiction of the Board of Public Utilities, in accordance with tariffs and

schedules of charges made, charged and exacted, filed with that board; or

- (9) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with the services;
- (10) Specialized machinery or equipment of a technical nature which will not reasonably permit the drawing of specifications, and the procurement thereof without advertising is in the public interest;
- (11) Insurance;
- (12) Publishing of legal notices in newspapers as required by law;
- (13) The acquisition of artifacts or other items of unique intrinsic, artistic or historic character;
- (14) The collection of amounts due on student loans and amounts due on other financial obligations of the University;
- (15) Professional consulting services;
- (16) Entertainment, including without limitation theatrical presentations, band and other concerts, movies and other audiovisual productions;
- (17) Contracts employing funds created by student activities fees charged to students or otherwise raised by students and expended by student organizations;
- (18) Printing, including without limitation catalogs, yearbooks and course announcements and the production and reproduction of such material in electronic and digital formats, including compact discs;
- (19) Information technology;
- (20) Personnel recruitment and advertising, including without limitation advertising seeking student enrollment;
- (21) Educational supplies, books, articles of clothing and other miscellaneous articles purchased by the University for resale to students and employees;
- (22) Purchase or rental of graduation caps and gowns and award certificates or plaques;
- (23) Items available from suppliers at costs below State contract pricing for the same product or service, which meets or exceeds the State contract terms or conditions;
- (24) Management contracts for bookstores, performing arts centers, residence hall, parking facilities and building operations;
- (25) Consulting services involving information technology, curricular or programmatic review, fund raising, transportation, safety or security;
- (26) Construction management services for construction, alteration or repair of any building or improvement;
- (27) Purchase or rental of equipment of a technical nature when the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest;
- (28) Services to be performed by the contractor which are of a technical nature; or
- (29) The lease of office space, office machinery, buildings or real property as may be required for the conduct of the University's business;

(30) The acquisition of real property by gift, grant, purchase or any other lawful manner in the name of and for the use of the University for the purpose of the administration of the University's business;

(31) Where only 1 source of supply is available;

(32) Articles of wearing apparel which are styled or seasonal in character;

(33) Commodities traded on a national commodity exchange to be purchased or when fluctuations of the market require immediate action.

Waiver of Advertising Contract Procedures:

There are two waivers of advertising procedures that are available for each fiscal year:

1. The first waiver of advertising procedure can be utilized for any of the 33 circumstances permitting waivers of advertising.
2. The second waiver of advertising procedure, the **Request for Qualifications** procedure, may only be utilized in 5 of the 33 circumstances permitting waivers of advertising: (1) Professional services, (15) Professional consulting services, (25) Consulting services involving information technology, curricular or programmatic review, fund raising, transportation, safety or security, (26) Construction management services for construction, alteration, or repair of any building or improvement; and (28) Technical Services.
3. If the expected total cost of the procurement is \$12,500,000.00 or more the RFQ must be submitted to the Office of the State Comptroller (OSC) for review prior to issuance of the RFQ. The OSC has thirty (30) days to review and comment on the documents. After receipt of comments and making any necessary changes to the RFQ, the University will issue the RFQ. If the expected total value of the procurement is more than \$2,500,000 but less than \$12,500,000, the applicable Director for Procurement Services shall notify the OSC within 20 days after the award of the contract. Executive Order 166 is applicable for an RFQ.

(1) Waiver of Advertising Procedure for any of the 33 Circumstances Permitting Waivers of Advertising:

(a) The user department prepares specifications in accordance with [Procurement Policy/Procedure #15](#), Specifications.

(b) The user department attaches the [Standard Contract Terms and Conditions](#) to the specifications.

(c) The user department secures written signed proposals from a minimum of three (3) suppliers (the only exception to this requirement is a circumstance where the purchase is from a sole source with no comparable item and/or service available from any other supplier).

(d) The vice president to whom the user department reports, in consultation with Procurement Services, forms an evaluation committee to review and evaluate proposals received on the basis of price and other factors. The Evaluation Committee shall be formed from University staff knowledgeable in the subject matter of the RFP and may include a Procurement Services staff

member. Evaluation Committee members should review and be familiar with [Procurement Policy/Procedure #16, Evaluation Committee](#).

(e) The user department will ascertain whether the selected supplier is a certified Minority Business Enterprise (“MBE”), Woman Business Enterprise (“WBE”), Disabled Veterans Business Enterprise (“DVBE”) and/or Small Business Enterprise (“SBE”). If yes, the user department should request a copy of all such certifications from the selected supplier (Note: A supplier can be certified as one or more of these classifications.)

(f) The user department will submit a completed [Bid Waiver Selection Form](#) to the appropriate Director of Procurement Services. The following should accompany the [Bid Waiver Selection Form](#):

- (1) The user department’s specifications;
- (2) All proposals received;
- (3) A statement delineating the reasons for selecting the proposed supplier;
- (4) The proposed supplier’s signed acceptance of the Standard Contract Terms and Conditions (Procurement Services, in consultation with the VPFT, University Counsel and the user department when necessary, will modify the standard terms and conditions to be executed by the supplier and the University, when appropriate for a specific procurement);
- (5) If applicable, a copy of the selected supplier’s Affirmative Action, MBE, WBE, DVBE and/or SBE certification(s); and
- (6) The department’s Worktags have sufficient funding for the procurement.

(g) The user department must process a requisition in the full amount of the proposed contract for the balance of the fiscal year. Should the services be for other than a capital construction project or certain professional services approved in advance by the appropriate Director of Procurement or VPFT, and should the term of the proposed waiver of advertising contract exceed the current fiscal year, the user department will process a second requisition to Procurement Services for the balance of the waiver of advertising contract at the start of the ensuing fiscal year. The only exception to the submission of a requisition with the [Bid Waiver Selection Form](#) is when the anticipated start date of the proposed waiver of advertising contract is in the next fiscal year. In such event, the user department must submit a requisition in the full amount of the approved waiver of advertising contract at the start of the next fiscal year.

(h) Upon receipt of a properly completed [Bid Waiver Selection Form](#) and all of the aforementioned required attachments, the user department initiating the bid waiver must obtain the selected supplier’s Business Registration Certificate, Political Contribution Disclosure, Stockholder Disclosure, Affirmative Action Certificate, Source Disclosure, Iran Investment Disclosure MacBride Principles Disclosure and all required insurance certificates.

(i) Procurement Services will prepare a draft and submit to the VPFT a Board of Trustees’ action item seeking Board of Trustees approval of the contract award for contracts over \$500,000. The draft is normally reviewed by the VPFT, other appropriate vice presidents, University Counsel and the President. If the President determines to move the item forward for action, the President submits the action item to the Board of Trustees. If the board waiver is less than \$500,000 it will

be reviewed by the VPFT and reported to the Board of Trustees at its next meeting.

(j) Upon Board of Trustees approval or the VPFT, Procurement Services, with consultation with the user department when necessary, will finalize the contract to be executed by the supplier and the University. The contract must be approved by the VPFT and University Counsel and will be executed by the awarded supplier and the VPFT.

(k) The requisition from the user department will be processed into a purchase order by Procurement Services following contract execution by the supplier and concurrent with contract execution by the University.

(l) Until the user department has been notified by Procurement Services that a purchase order has been issued, an order or other commitment cannot be placed with a supplier nor should a supplier be authorized to begin any work for the University.

(m) The user department will monitor all contract expenditures. In the event a user department concludes that an amount greater than the maximum contract value is necessary in order to complete the work or complete the procurement, a contract modification must be made in advance of approving additional work or acceptance of additional goods and services. If the contract was previously approved by the Board of Trustees, prior approval of the Board of Trustees must be secured for the increased amount required. In such event, the user department will provide Procurement Services with a detailed explanation as to: (a) why the original contract amount, including any contingency, was insufficient; (b) define the work remaining to be completed or additional good or services required; and (c) the additional funds required. If Board of Trustee approval is necessary, Procurement Services will draft and submit to the VPFT the necessary action item seeking Board of Trustee approval to increase the amount of the contract award. Such action item will be reviewed and processed in the same manner as the original action item submitted to the Board of Trustees.

(n) In no event should goods and/or services be ordered or accepted by the user department if the cost of such goods and/or services exceeds the current contract amount or the maximum contract amount approved by the Board of Trustees.

(2) Request for Qualifications Waiver of Advertising Procedure (RFQ):

The RFQ procedure may be utilized, in lieu of the previously defined waiver of advertising procedure, in the following five (5) circumstances permitting waivers of advertising: (1) Professional services, (15) Professional consulting services, (25) Consulting services involving information technology, curricular or programmatic review, fund raising, transportation, safety or security, (26) Construction management services for construction alteration or repair of any building or improvement and (28) Technical Services.

The RFQ process is as follows:

(a) The user department will complete a [Procurement Bid Initiation Form](#) and submits the completed Form to Procurement Services.

(b) Procurement Services, in consultation with the use department, will complete the procurement schedule information on the [Procurement Bid Initiation Form](#). Procurement

Services will return a fully executed copy of the Form to the user department.

(c) The user department, in consultation with Procurement Services, will prepare the RFQ. The RFQ will supply sufficient information and specification to afford all bidders a fair and reasonable opportunity for competition and enable them to submit a bid based on all relevant information.

(d) The vice president to whom the user department reports, in consultation with Procurement Services, will establish an Evaluation Committee to evaluate proposals received in response to the RFQ in accordance with [Procurement Policy/Procedure #16](#).

(e) Procurement Services and the user department will coordinate the issuance of the RFQ to suppliers. The user department, and Procurement Services as considered appropriate, will identify suppliers to whom the RFQ will be sent. Generally, the RFQ will be sent to suppliers by Procurement Services.

(f) If necessary, Procurement Services, in conjunction with the user department, will prepare RFQ addenda. Procurement Services is responsible for ensuring that all suppliers initially provided a copy of the RFQ receive all addenda that may be issued. Addenda may be issued by fax, regular mail or email.

(g) The Evaluation Committee will review all RFQ proposals and establish a list of the one or more most qualified respondents who may be invited to make oral presentations.

(h) Following receipt of pricing proposals and oral presentations, the Evaluation Committee will conduct a final evaluation, based on price and other factors, to determine the most qualified respondent and rank all remaining respondents in accordance with Procurement Policy/Procedure 16.

(i) Final pricing is negotiated with the respondent determined to be the best qualified. If price negotiations are not acceptable, the appropriate Director of Procurement Services will consult with the VPFT and the vice president to whom the user department reports to determine if price negotiations with the most qualified bidder should continue or whether the University should initiate negotiations with the next most qualified bidder.

(j) A Recommendation to Award is prepared by the Evaluation Committee and signed by all Evaluation Committee members in accordance with Procurement Policy/Procedure 16.

(k) Procurement Services will ascertain whether the selected bidder is a certified Minority Business Enterprise (“MBE”), Woman Business Enterprise (“WBE”) and/or Small Business Enterprise (“SBE”). Copies of all applicable certifications will be requested by Procurement Services.

(l) The department initiating the purchase or Procurement Services when involved in the solicitation, will obtain the selected supplier’s Business Registration Certificate, Political Contribution Disclosure, Stockholder Disclosure, Affirmative Action Compliance, Source Disclosure, Iran Investment Disclosure and MacBride Principles Disclosure, and all required insurance certificates.

(m) For contracts that exceed \$500,000, Procurement Services will prepare a draft and submit to the VPFT a Board of Trustees' action item seeking Board of Trustees approval of the contract award substantiating the award as a waiver of advertising. The draft is normally reviewed by the VPFT, other appropriate vice presidents, University Counsel and the President. If the President determines to move the item forward for action, the President submits the action item to the Board of Trustees. If the board waiver is less than \$500,000 it will be reviewed by the VPFT and reported to the Board of Trustees at its next meeting.

(n) Upon Board of Trustees approval, Procurement Services will finalize the contract to be executed by the suppliers and the University. The contract must be approved by the VPFT and University Counsel and will be executed by the awarded supplier and the VPFT.

(o) The requisition from the user department will be processed into a purchase order by Procurement Services following contract execution by the supplier and concurrent with contract execution by the University. The requisition will be in the full amount of the waiver of advertising contract award.

(p) Until the user department has been notified by Procurement Services that a purchase order has been issued, an order or other commitment cannot be placed with a supplier nor should a supplier be authorized to begin any work for the University.

(q) The user department will monitor all contract expenditures. In the event a user department concludes that an amount greater than the maximum contract value is necessary in order to complete the work or complete the procurement, a contract modification must be made in advance of approving additional work or acceptance of additional goods and services. If the contract was previously approved by the Board of Trustees, prior approval of the Board of Trustees must be secured for the increased amount required. In such event, the user department will provide Procurement Services with a detailed explanation as to: (a) why the original contract amount, including any contingency, was insufficient; (b) define the work remaining to be completed or additional goods or services required; and (c) the additional funds required. If Board of Trustee approval is necessary, Procurement Services will draft and submit to the VPFT the necessary action item seeking Board of Trustee approval to increase the amount of the contract award. Such action item will be reviewed and processed in the same manner as the original action item submitted to the Board of Trustees.

(r) In no event should goods and/or services be ordered or accepted by the user department if the cost of such goods and/or services exceeds the current contract amount or the maximum contract amount approved by the Board of Trustees.

(E) RESPONSIVE BID

A "responsive bid" is one that meets the requirements of the specifications of the RFP or RFQ and the University's contractual terms and conditions, including completeness of the quotation, forms, inclusion of references and attachments and completion of required responses. The determination that a bid is responsive is made by Procurement Services and, when appropriate, in consultation with the Evaluation Committee and or the vice president to whom the user department reports or designee.

(F) RESPONSIBLE BIDDER

A “responsible bidder” is a bidder able to demonstrate to the satisfaction of the University that the bidder has the ability, capacity, resources, fitness, and expertise to execute the project in accordance with the specifications of the RFP or RFQ in a manner that is likely to result in timely completion of a high quality project. The determination that a bidder is responsible is made by the Evaluation Committee, or the buyer if an Evaluation Committee is not formed.

PROCUREMENT POLICY/PROCEDURE #2

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: PROCUREMENT CODE OF ETHICS

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: PROCUREMENT CODE OF ETHICS

While all University employees are obligated to adhere to the New Jersey State Uniform Code of Ethics (<http://www.state.nj.us/ethics/ethics/>), those involved in the procurement of goods and/or services and capital projects also must discharge their duties impartially so as to ensure fair competitive access to University procurements by interested suppliers. University employees must conduct themselves in a manner so as to foster public confidence in the integrity of the University's procurement process. When the University is awarded a United States federally funded grant, the sub award and contracts entered into by the University using such federal funds are also subject to the State Uniform Code of Ethics and the University's Financial Conflict of Interest in Research Policy.

All University employees involved in the procurement of goods and/or services and capital projects must:

- Conduct all University procurements in accordance with the University's Procurement Policies and Procedures and applicable provisions of the New Jersey State Uniform Code of Ethics.
- Grant all bidders equal consideration.
- Evaluate each procurement transaction on its own merits.
- Endeavor to use their best efforts to obtain the maximum ultimate value for each dollar of expenditure.
- Decline gifts or gratuities, regardless of value.

University employees who participate in any purchase in which they or members of their families, including domestic partners, have a beneficial interest will make full disclosure of such interests to the appropriate Director of Procurement Services. The University will generally not enter into a contractual relationship with such supplier. Any exception requires the written approval of the VPFT.

If a University employee participating in any University procurement reasonably believes, or has cause to believe, that they may have a conflict of interest regarding a supplier participating in that procurement, the University employee must discuss the potential conflict with the appropriate Director of Procurement Services or the VPFT. The appropriate Director of Procurement Services, in consultation with the VPFT, University's Ethics Officer and University Counsel will determine if recusal from the procurement is appropriate.

No employee, officer or agent of the University may participate in the selection, award or administration of a contract supported by federal funding if he or she has a real or apparent conflict of interest.

PROCUREMENT POLICY/PROCEDURE #3

REVISED DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: AUTHORITY TO CONTRACT

Montclair State University as an agency of the State of New Jersey is obligated to comply with the statutes and regulations of the State when procuring goods and services. The Montclair State University Board of Trustees has the power and duty to award contracts and agreements in accordance with the Montclair State University Act, (N.J.S.A. 18A:64N-9v.). Procurement authority has been delegated from the Board of Trustees, through the President, to the Vice President for Finance and Treasurer (VPFT), who is the University's Contracting Officer. The Directors of Procurement Services reports to the VPFT and have the responsibility for the day to day management and operations of procurement activities as delegated by the VPFT. The VPFT, or its designee, is delegated authority by the Board of Trustees to award and execute contracts without the approval of a Board action item for contracts whose total value is equal to or less than \$500,000.

Authority to enter into contracts that provide for the payment of a commission, a fixed amount or a stated percentage of sales to the University also rests with the Board of Trustees and has been delegated through the President to the VPFT as the University's Contracting Officer.

Any employee who enters into a contract in violation of any provision of the University's Procurement Policies and Procedures may be held personally liable for all such expenditures and/or be subject to disciplinary action in accordance with applicable collective bargaining agreements and applicable personnel and ethics policies.

Employee-owned Businesses

The University will adhere to the applicable section of the New Jersey Uniform Ethics Code relating to contracting with employees. Generally, the University will not purchase goods or services from companies owned by University employees.

Personal Purchases

Personal transactions for the benefit of University employees are not permitted. Anyone desirous of purchasing items for personal use must deal directly with the supplier and not involve Procurement Services nor represent that the purchase relates in any manner to the University.

Purchase Contrary to Policy

Procurement Services will refer any procurement or proposed procurement that does not comply with the University's Procurement Policies and Procedures to the VPFT. After appropriate consultation with the user department, the VPFT will take whatever actions he/she deems appropriate to the circumstances, including but not limited to, rejection of any requisition if such proposed purchase is contrary to the University's Procurement Policies and Procedures and recommendation of disciplinary action for the employee who violated University policy to the appropriate University officers.

A memorandum delineating the actions, circumstances, and ultimate resolution of the procurement in question will be included in the Procurement Services' file relating to the procurement.

PROCUREMENT POLICY/PROCEDURE #4

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: CONTACT WITH BIDDERS

New Jersey law (N.J.S.A. 52:34-10.1) states that a communication relative to any advertised procurement by a State agency shall be limited to the individual designated by the agency as responsible for the procurement. An officer or employee of a State agency who communicates with a bidder, or potential bidder, or any person acting on behalf thereof for a public contract regarding that contract shall maintain a written record of each communication from the date of the advertisement for bids to the date the contract is awarded. The State agency shall retain the record of each communication for the term of the contract and at least three years thereafter, or such longer period as may be established in the agency's record retention schedule.

In order to conform to this requirement, each bid solicitation by the University will include information identifying that University designee.

The University will comply with this statutory provision as follows:

(a) Formal publicly Advertised Bid

From the time that the procurement is advertised through the time that the contract is awarded, University employees must avoid discussing any aspect of the procurement with any potential bidder and any potential subcontractor of a potential bidder. This requirement insures that all potential bidders and all potential subcontractors of potential bidders have equal access to relevant information.

In the event a potential bidder or subcontractor of a potential bidder initiates contact with any University employees relating to the procurement, such potential bidder or subcontractor should be advised to contact Procurement Services. The individual contacted regarding a procurement should also make a written record of the contact and send a copy to the University designee for that procurement.

(b) Waiver of Advertising

Contact with any potential bidder or subcontractor of a potential bidder by the user department's employees during a waiver of advertising procurement or a delegated purchasing procurement is limited to responding to written questions received from a potential bidder. The user department's written response to such questions must be shared with all potential bidders to ensure that a level playing field is maintained between and among all potential bidders.

PROCUREMENT POLICY/PROCEDURE #5

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: SUPPLIER DIVERSITY PROGRAM

The University is committed to the inclusion of small, minority-owned and women-owned businesses in its procurement practices. The Supplier Diversity Program is an outreach effort that solicits and advocates the development and use of small, minority-owned and women-business enterprises as suppliers of goods and services to the University.

EXECUTIVE ORDER #34

In compliance with Executive Order #34 (Governor Corzine: 9/15/06), the University is committed to ensuring that minority-owned and women-owned business enterprises are afforded an equal opportunity to participate in the University's procurement processes.

SMALL BUSINESS SET ASIDE PROGRAM

The University shall make a good faith effort to award a total of 25% of the dollar value of University contracts for goods and services to eligible small businesses. To be eligible, small businesses must have no more than 100 permanent employees, have their principal place of business in New Jersey, and be registered with the New Jersey Commerce and Economic Growth Commission (<http://www.state.nj.us/commerce>).

SMALL BUSINESS SET ASIDE SUBCONTRACTING

Contracts which have traditionally or typically been performed with the services of subcontracted parties are well suited for small business set aside contracting. Procurement Services will routinely review contract specifications for re-procurements and for new procurements to determine if there is an opportunity to incorporate small business set aside subcontracting requirements. If small business set aside subcontracting opportunities exist, Procurement Services will include small business set-aside subcontracting requirements within the RFP, including the obligation of the contractor to report all payments made to a qualifying subcontractor to Procurement Services. In addition, Procurement Services will include in the advertisement for the RFP notification that the contract contains set-aside subcontracting opportunities.

PROCUREMENT POLICY/PROCEDURE #6

DATE: MARCH 2019

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: INFORMATION TECHNOLOGY PURCHASES

The purchase or lease of information technology equipment, software, or services must receive the prior review and approval of the Vice President for the Office of Information Technology or designee (“OIT”). All requests or requisitions for the purchase or lease of information technology received by Procurement Services without evidence of prior OIT review and approval will be forwarded to OIT prior to any processing by Procurement Services.

OIT requires information technology that provides on-line courses and programs, communications, or other services and activities through the University’s website, webpages, subordinated intranet pages or enterprise applications to be accessible by persons with disabilities in accordance with the World Wide Web Consortium’s [Web Content Accessibility Guidelines 2.0](#), Level AA criteria (“WCAG”). The **purchasing unit** is responsible for verifying information technology complies with WCAG. WCAG requires information technology to be: a) perceivable (alternative text for visual impairments or closed captioning); b) operable (functional without the use of a mouse); c) understandable (functional with screen readers and closed captioning) and d) robust (accessible using a wide range of assistive technologies). The purchasing unit must verify compliance with WCAG by requesting the vendor provide either: a) a Voluntary Product Assessment Template (“VPAT”) that demonstrates compliance with WCAG, or b) an audit prepared by the vendor or a third party demonstrating accessibility by persons with disabilities; or c) other appropriate documentation. The purchasing unit must retain the documentation provided by the vendor as part of the procurement process, and provide a copy to OIT or Procurement Services upon request. Information technology that does not comply with WCAG will not be approved by OIT.

Unless otherwise approved by University Counsel, contracts to purchase information technology must impose an obligation upon the vendor to comply with all provisions of the Americans with Disabilities Act and WCAG.

Related Policies: [Montclair State University Digital Accessibility Policy](#)

PROCUREMENT POLICY/PROCEDURE # 7

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: HIGHLY SPECIALIZED EQUIPMENT

To ensure compliance with procurement policies, while addressing the special needs generally surrounding such acquisitions, Procurement Services and University Facilities should be contacted before the user department engages in extensive discussions with the sales and equipment representatives for the procurement. The acquisition of complex or large dollar amount highly specialized equipment frequently requires extensive discussions between University employees and sales/equipment representatives. Procurement requests or requisitions for the purchase of the equipment received by Procurement Services without evidence of prior review by University Facilities will be forwarded to University Facilities for such review prior to further processing.

PROCUREMENT POLICY/PROCEDURE #8

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: EQUIPMENT LEASE AGREEMENTS

The leasing of equipment must be in accordance with applicable Procurement Policies and Procedures. Prior to initiating a procurement of a lease for equipment, the user department should perform a lease versus buy analysis to determine the economic soundness of leasing the equipment, as opposed to purchasing the equipment.

Some of the economic factors that should be considered in the analysis are:

- a. Title – Who has ultimate ownership of the equipment at the end of the lease term?
- b. Liability – Who is responsible if equipment is stolen or damaged during the term of the lease?
- c. Insurance – Is the University or the supplier responsible for carrying sufficient insurance covering the equipment?
- d. Maintenance – Are all maintenance costs included in the original cost of the lease or is the University responsible to maintain the equipment at its own expense?

A copy of the analysis should be reviewed and approved by the Vice President for Finance and Treasurer or designee for financial soundness of the lease vs. buy decision and the Budget Director or designee for budgetary considerations prior to initiating a competitive procurement of the lease through Procurement Services.

PROCUREMENT POLICY/PROCEDURE #9

REVISED DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: LEASE/PURCHASE/SALE OF REAL PROPERTY

Procurement Procedures #18 and #19 are applicable to the purchase and lease of real property.

The Vice President for Finance and Treasurer (VPFT) is the University officer who has been delegated the authority by the Board of Trustees and the President to lease, purchase and sell real property on behalf of the University. Any unit of the University that wishes to lease, purchase or sell real property may do so only through the VPFT.

Lease, purchase and sale agreements for real property will be executed by the VPFT or other University officer only upon authorization by the Board of Trustees.

If the expected total cost of the lease or purchase of real property is \$12,500,000.00 or more, the agreement must be submitted to the OSC by the Director for Construction Procurement and Accounting for review prior to execution by the VPFT. The OSC has thirty (30) days to review and comment on the documents. The VPFT or his designee, in consultation with University Counsel, shall modify the agreement to incorporate comments and changes requested by the NJ Comptroller. If the expected total value of the lease, purchase or sale is more than \$2,500,000 but less than \$12,500,000, the Director shall notify the OSC within 20 days after the award of the contract.

Within 5 days after submitting a binding offer to purchase real property that is equal to or exceeds \$12,500,000, the VPFT or its designee shall submit a report to the Governor, Senate President, Speaker of the General Assembly, Director of Public Information in the Office of Legislative Services, Secretary of Higher Education and State Comptroller that includes a copy of the agreement, appraisal, and Board Resolution.

PROCUREMENT POLICY/PROCEDURE #10

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: GRAPHIC DESIGN SERVICES

All printing requests that require editorial work, project coordination, extensive design assistance, and/or involve questions regarding the University's visual identity standards or logos should be processed through the University Marketing and Graphic Services. Examples of such public relations materials are student recruitment materials, fund-raising materials, and general public relations publications. The Publications Office will coordinate requests with Procurement Services on a case by case basis, as considered necessary.

PROCUREMENT POLICY/PROCEDURE #11

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: CONSULTING SERVICES

The hiring of a consultant is generally done for the purpose of gaining services of a consultative nature or to receive the professional services of a recognized or licensed expert. Consultant qualifications generally include a formal advanced course of specialized instruction and/or specialized on-the-job experience. Some consultant services may require professional licensing in the State of New Jersey. Consulting services may involve information technology, curricular or programmatic review, fund raising, transportation, safety, security, and other subjects. In purchasing such services, the University is relying upon the consultant's experience, knowledge, discretion and decision-making ability and the contract generally will require that the consultant services be provided, supervised and/or certified by one or more specific qualified individuals .

As noted in [Procurement Policy/Procedure #1](#), consulting services of \$35,500 or less can be procured in accordance with [delegated purchasing authority](#) procedures. Consulting service contracts greater than \$35,500 must be procured through Procurement Services using a formal publicly bid process or in accordance with waiver of advertising procedures.

Procedures for Users – Delegated Purchasing Authority to Contract with Consultants

When a user department contracts with a consultant who is anticipated to be paid less than \$35,500, it is the user department's responsibility to comply with University Procurement Policies/Procedures and to seek guidance from Procurement Services on compliance **before** permitting a consultant to begin work. Whenever a consultant will be paid in excess of \$250 there should be a written two-party contract and a purchase order between the University and the consultant. When the consultant is expected to be paid in excess of \$5,325 the contract award is subject to Procurement Policy/Procedure #18 – Business Registration Certificate, which prohibits the University from entering into a contract having a value of \$5,325 or more unless the proposed contractor or subcontractor first provides a copy of its State of New Jersey Business Registration Certificate (BRC). When the consultant is expected to be paid in excess of \$17,500, the contract award is subject to Procurement Policy/Procedure #19 – Political Contribution Disclosure, which prohibits award of such contracts to persons/for-profit firms which have made certain political contributions. For consultant contracts in excess of \$17,500, the user department is responsible for compliance with Procurement Policy/Procedure #18 through #22, and #32, 33, and 34 **before** a contract is executed and **before** the consultant is permitted to begin providing services.

PROCUREMENT POLICY/PROCEDURE #12

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: PURCHASE OF OBSOLETE, DISCONTINUED OR USED ITEMS

Under circumstances of special need or unusual value, obsolete, discontinued, or used items may be purchased by the University. Since competition is more limited or not available on such items, any purchases falling into this category require the prior written approval of the appropriate Director of Procurement Services in consultation with the Vice President for Finance and Treasurer, if necessary. The user department must provide clear, written justification regarding the need to purchase such items.

PROCUREMENT POLICY/PROCEDURE #13

REVISED DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: PROCUREMENT UNDER STATE/FEDERAL/PRIVATE GRANTS AND CERTAIN PRIVATE GIFTS

Federal Award

When procuring property and services under a federally sponsored award or grant awarded to the University, the University must comply with the Procurement Policies, and also 2 CFR 200.322 (procurement of recovered materials), 2 CFR 200.326 (provisions to be included in contracts as set forth in Appendix II to 2 CFR 200).

Grants with Co-recipients and Sub-awardees

Grants are financial agreements between the University and a grantor to fund training, research, or other activities or purposes. The identities of the grant recipient, co-recipients and sub-awardees are fully disclosed in the grant application. Accordingly, the University's Procurement Policies and Procedures do not apply to grant recipients, co-recipients and sub-awardees.

Grants with Subcontractors

A grant award may involve the University subcontracting for commercially available services and/or equipment. These subcontractors are not grant recipients, co-recipients or sub-awardees. These subcontractors usually are in business to earn a profit. Unless stated otherwise in the grant, these policies and procedures will govern the procurement of all such subcontracts.

Certain Other Grants and Private Gifts

The University's Procurement Policies and Procedures do apply to purchases of goods and services funded by private grants, or private gifts. However, if the grant or gift is expressly conditioned by the grantor/donor to require procurement of specific goods or services from a specific supplier and the procurement condition is confirmed in writing by the grantor/donor, then the procurement may be processed under Procedure #1 as a Waiver of Advertising #3 (sole source) and the contract awarded with the approval of the Board of Trustees. Where the grantor/donor is affiliated with the specified supplier, such affiliation must be disclosed so that the Board of Trustees may determine whether acceptance of the grant or donation so conditioned on the specified non-competitive procurement from an affiliated supplier is in the best interests of the University.

PROCUREMENT POLICY/PROCEDURE #14

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: EMERGENCY PROCUREMENTS

An emergency procurement may be made in a situation affecting the health, safety or welfare of occupants of University property or in an urgent situation affecting University property that requires the immediate delivery of goods or performance of services. In a situation that qualifies as an emergency, a contract in excess of the public bid threshold may be awarded by the University without public advertising for bids and bidding.

In an emergency situation, the University employee in charge of the building, facility or equipment where the emergency occurred should submit a completed [Request for Emergency Procurement Form](#) to the Vice President for Finance and Treasurer (VPFT) or designee describing the nature of the emergency, the time of its occurrence, the proposed corrective work, the proposed corrective contractor, a description of competition solicited and price. The VPFT or designee, being satisfied that an emergency exists and that the proposed corrective work contract is in the University's best interest, is authorized to award a contract for the proposed corrective work.

In an emergency situation where the University vice president or designee responsible for the building, facility or equipment where the emergency occurred is unable to contact the VPFT or designee, he/she is authorized to award a contract for the proposed work. A completed [Request for Emergency Procurement Form](#) must be submitted by the University employee to the VPFT as soon as possible thereafter.

Upon completion of all action taken in response to an emergency situation affecting the health, safety or welfare of occupants of University property or affecting university property under the authority of this Procurement Policy/Procedure, a written report must be given to the President through the VPFT. A report of emergency contract of \$35,500 or greater will be submitted to the Board of Trustees at its next meeting. All normal paperwork must be completed after the fact.

PROCUREMENT POLICY/PROCEDURE #15

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: SPECIFICATIONS

Whether the purchase is being made utilizing DPA, the waiver of advertising process or the formal advertised bid process, specifications must be developed that will afford all bidders a fair and reasonable opportunity for competition and enable them to bid intelligently. Specifications must be clear, concise and unambiguous in order to make possible the receipt of responsive proposals from bidders. In general, specifications should:

1. Provide a clear explanation of the purpose of the proposed contract.
2. Set forth clearly and precisely the work to be carried out, the location of the work, the goods to be supplied, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements, and warranty and maintenance requirements, as well as other pertinent terms and conditions.
3. Specifications will be based on relevant characteristics and/or performance requirements. References to brand names, catalog numbers, or similar classifications should be avoided. If it is necessary to quote a brand name or catalog number of a particular manufacturer to clarify an otherwise incomplete specification, the words "or equal" must be added after each such reference. (Any questions relating to specifications for proprietary items, standardized items, or materials or supplies which are not available from more than one potential bidder should be discussed with the appropriate Director of Procurement Services .)
4. Specifications for the purchase of goods will provide for full payment upon delivery and acceptance of the goods by the University. Specifications for services will provide for payment upon completion of services or upon receipt and acceptance of specified deliverables as described in the specifications.
5. Any contracts/agreements, except those for capital construction projects and certain professional service contracts when approved by the Vice President for Finance and Treasurer (VPFT) and University Counsel, which extend into a second fiscal year must contain a clause which protects the University in the event of insufficient funding. In such cases the text of the terms and conditions must include the following clause:

All multi-year contracts will be subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation.

The maximum contract term for University contracts may be five (5) years. A longer term may be permitted with the approval of the VPFT.

6. For procurements relating to goods and/or services, specify the evaluation factors, in addition to price, that will be considered in the evaluation of proposals received. If specifications include

alternative designs, materials, completion schedules, payment terms, etc., conditions for their acceptability and the method of their evaluation must be expressly stated.

7. Clearly state when proposals are due and the manner in which proposals are to be submitted.

8. Provide the name of a Procurement Services contact in the event a supplier(s) has questions relating to the specifications.

9. If applicable, cite data and reports available for prospective bidders to review. All prospective bidders must be provided the same information and must be assured of equal opportunities to obtain additional information on a timely basis.

10. Addenda, if any, to the specifications must be clearly written. Addenda will be provided in sufficient time before the due date for the receipt of bid proposals to enable bidders to take appropriate action. Notice of an addendum will be provided to all bidders provided a copy of the RFQ or RFP or, if a pre-bid conference has been held, to the pre-bid conference attendees. Notice of RFP addenda be advertised in advance of the bid opening date. Addenda may be advertised on the University's website.

PROCUREMENT POLICY/PROCEDURE #16

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: EVALUATION COMMITTEE

An Evaluation Committee will be formed to evaluate bid proposals received in response to a formal advertised Request for Proposal (RFP) or a Request for Qualifications waiver of advertising (RFQ) pursuant to the applicable provisions of Policy #1. The RFP/RFQ shall state that bidders' responses will be evaluated by the Evaluation Committee in accordance with this policy. The Evaluation Committee's goal is to reach a consensus decision on the selection of the bidder to be recommended for contract award based upon the evaluation criteria contained in the RFP or the RFQ.

The Evaluation Committee is formed prior to the mandatory pre-bid meeting, or if there is no pre-bid meeting, prior to the receipt of bid proposals to ensure that there is no perception that the Evaluation Committee was formed to favor a particular bidder. The Evaluation Committee ordinarily consists of from three (3) to five (5) members. The vice president to whom the user department reports appoints the members of the Evaluation Committee. The Procurement Services buyer assigned to the Committee provides guidance regarding applicable Procurement Policies and Procedures and may be a voting member.

The evaluation process may be undertaken in two phases when a contract is to be awarded for the design, engineering, construction or other services related to a capital project and the total cost of the capital project is estimated to exceed \$5 million. During first phase an initial Evaluation Committee will be formed as noted above. The Phase One Evaluation Committee will identify three (3) to five (5) finalists considered to be the most responsive, responsible bidders. Following the identification of the finalists, the Committee membership will be increased to include the President or designee, Provost or designee, and will also include as appropriate for the particular contract being procured, the Vice President for University Facilities or designee, dean(s) and/or other vice president(s). The Expanded Evaluation Committee will evaluate the finalists and make a recommendation to award the contract.

Being an Evaluation Committee member requires a commitment of time and sound judgment. The majority of time will be during the Evaluation Phase of the procurement.

Evaluation Committee members must adhere to the following principles of conduct:

1. Conduct themselves in a professional manner at all times, whether with other Evaluation Committee members, bidders or the public.

2. Be objective, impartial, unbiased and fair in all aspects of the evaluation process.
3. Refer all inquiries from bidders, the general public, elected officials and the press, to the Procurement Services buyer assigned the Evaluation Committee.
4. Hold all Evaluation Committee proceedings, bid proposals and writings, including but not limited to e-mail exchanges among Committee members, in strict confidence.
5. Immediately make known to the Procurement Services buyer assigned to the Evaluation Committee any real or perceived conflict of interest of any party involved in the procurement process, particularly with bidders and their proposed subcontractors. The Procurement Services buyer will immediately inform the University Ethics Officer for investigation in accordance with established procedures.
6. Have no direct or indirect personal financial interest in any bidder or proposed subcontractor thereof.
7. Refrain from acting in any way that might be reasonably expected to create an impression among bidders or the general public that his/her judgment is biased, including but not limited to, any inappropriate contact with any bidder or subcontractor.
8. Report any serious concerns about the procurement process to the appropriate Director of Procurement Services or the VPFT.
9. Abide by the applicable provisions of the New Jersey Uniform Code of Ethics (<http://www.state.nj.us/ethics/docs/ethics/uniformcode.pdf>).

Being a member of an Evaluation Committee generally entails the following duties and responsibilities:

1. Becoming familiar with the requirements of the RFP or RFQ.
2. Comprehensively reviewing each bid proposal.
3. Meeting with the Evaluation Committee to discuss whether the bid proposals received meet the requirements of the RFP or RFQ.
4. Meeting with the Evaluation Committee to discuss the merits of the bid proposals determined to be responsive to the requirements of the RFP or RFQ.
5. Adhering to the Evaluation Criteria set forth in the RFP or RFQ.
6. Attending all presentations by bidders.

7. Participating in Evaluation Committee meetings and deliberations with respect to which responsive bid proposal will be recommended for contract award.

8. Participating in the drafting of the Evaluation Committee's Recommendation to Award (RTA).

9. Signing the Evaluation Committee's RTA.

10. If called upon by the appropriate Director of Procurement Services or University senior staff, clarifying the contents of the Evaluation Committee's RTA.

PROCUREMENT POLICY/PROCEDURE #17

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: INSURANCE CERTIFICATES

The University has specific insurance requirements for contractors or suppliers whose operations extend to the premises of the University. These insurance requirements are incorporated into the RFP template and Purchase Order utilized by Procurement Services. If a DPA, the user department must obtain from the supplier and provide to Procurement Services copies of all required insurance certificates before any work commences on the premises. Otherwise, user departments must check with Procurement Services before permitting any contractor or supplier to commence work on University premises or provide contracted goods or services to ensure that the required insurance certificates have been submitted by the contractor or supplier.

Procurement Services will consult with the University's Risk Manager within the Division of Finance and Treasury and University Counsel regarding any insurance requirements which may differ from those generally required by the University.

PROCUREMENT POLICY/PROCEDURE #18

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: BUSINESS REGISTRATION CERTIFICATE

N.J.S.A. 52:32-44 prohibits the University from entering into a contract having a value of \$5,325 or more unless the proposed contractor or subcontractor first provides a copy of its State of New Jersey Business Registration Certificate (BRC), <http://www.state.nj.us/treasury/revenue/busregcert.shtml>.

The BRC will be secured from the proposed contractor and any subcontractor thereof by Procurement Services before the initial requisition can be approved by Procurement Services.

For contracts over \$500,000, Procurement Services must secure the BRC from the proposed contractor and subcontractors before the proposed contract may be submitted to the University Board of Trustees for approval.

Exemptions/Non-Applicability:

State Colleges or Universities, State agencies, counties, municipalities and other governmental entities providing services to the University are not subject to the BRC requirement.

Contracts for the provision of goods, performance of services, or construction of a construction project where the goods that are received, services that are delivered, and construction that is constructed is not within the geographic borders of the State of New Jersey.

PROCUREMENT POLICY/PROCEDURE #19 *

DATE: MAY 2008

SUBJECT: POLITICAL CONTRIBUTION DISCLOSURE

N.J.S.A. 19:44A-20.13-20.25 prohibits the University from entering into contracts that exceed \$17,500 with an individual or for-profit entity that has made a political contribution in the prior eighteen month period to a candidate committee and/or election fund of any candidate or holder of the public office of Governor, or to any State or County political party committee. The law further requires the disclosure of all contributions to any political organization organized under section 527 of the Internal Revenue Code that also meets the definition of a “continuing political committee” within the meaning of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7.

For all publicly advertised procurements, waiver of advertising procurements and delegated purchasing authority procurements exceeding \$17,500, the proposed for-profit contractor is required to certify that no precluded political contributions were made. In addition, the proposed contractor must agree to disclose on a continuing basis during the term of the contract any such contributions at the time the contributions are made.

Before a user department awards and executes such a contract with a for-profit contractor under delegated purchasing authority, the user department is required to submit the proposed contract to Procurement Services and any proposed for-profit contractor will be required to disclose political contributions as required by state law.

In order to finalize a contract exceeding \$17,500, the proposed for-profit contractor must complete and submit to Procurement Services within five (5) business days of notification of contract award a signed Contractor Certification and Disclosure of Political Contributions. The Contractor Certification and Disclosure of Political Contributions and instructions pertaining thereto are available at: <http://www.state.nj.us/treasury/purchase/forms.shtml#eo134>. The for-profit contractor will also use the Contractor Certification and Disclosure of Political Contributions to report any precluded contributions during the term of the contract.

Upon receipt of the completed Contractor Certification and Disclosure of Political Contributions, Procurement Services will forward the Certification to the State Department of Treasury for review and approval. No contract can be executed or requisition processed until approval of the Certification is received from the State Department of Treasury.

For contracts proposed to be awarded by the user department under delegated purchase authority, Procurement Services will notify the user department promptly when approval of the Certification is received from the State Department of Treasury. Such approval and Procurement Services’ confirmation of compliance with this Procurement Policy/Procedure #19 must be received by the user department before a contract is executed and before delivery of goods or the performance of contract services begins.

* Subject to P.L. 2007 Chapter 304 and related New Jersey Treasury policies and procedures.

PROCUREMENT POLICY/PROCEDURE #20

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: STOCKHOLDER DISCLOSURE

A contract relating to an advertised University Request for Proposal (RFP) or a waiver of advertising will not be awarded to a corporation or partnership unless such corporation or partnership completes the [Ownership/Stockholder Disclosure Form](#). Prior to the bid or accompanying the bid, the proposed contractor must disclose the names and addresses of all stockholders in the corporation who own 10% or more of the corporation's stock or the names and addresses of any member of the partnership having a 10% or more ownership interest in the partnership. If the 10% or more stockholder or partner is itself a corporation or partnership, the disclosure requirement will also extend to that corporation or partnership.

Ownership disclosure does not apply where the owner of a bidder is a public corporation or a wholly owned subsidiary of a public corporation.

Ownership disclosure does not apply when the bidder is a nonprofit corporation, since a nonprofit corporation does not have any shareholders or partners.

Failure to provide full ownership disclosure precludes the award of a contract to the non-complying corporation or partnership.

PROCUREMENT POLICY/PROCEDURE #21

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: AFFIRMATIVE ACTION COMPLIANCE

The Affirmative Action Law, N.J.S.A. 10:5-31, et seq., provides that no public works contract will be awarded unless the contractor has agreed to afford equal opportunity in performance of the contract in accordance with an affirmative action program approved by the State Treasurer. Accordingly, proposed contractors awarded University contracts for goods and services must, as a precondition to entering into a valid and binding contract, submit one of the following to Procurement Services:

- (1) evidence that the firm is operating under an existing federally approved or sanctioned affirmative action program; or
- (2) a Certificate of Employee Information Report; or
- (3) a completed Affirmative Action Employee Information Report (Form AA302).

Proposed contractors awarded University contracts for construction projects over the public bidding threshold must, as a precondition to entering into a valid and binding contract, submit the following to Procurement Services:

- (1) an initial project workforce report (Form AA-201).

In order to finalize the contract, the proposed contractor must submit appropriate evidence of compliance with this policy to Procurement Services within five (5) business days following notification of contract award. Thereafter, during the performance of the work, a monthly updated workforce report (Form AA-202) must be provided by the contractor as a condition of payment of invoices.

Exemptions/Non-Applicability

Public entities providing services to the University are not subject to the above Affirmative Action Requirements.

PROCUREMENT POLICY PROCEDURE #22

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: SOURCE DISCLOSURE

N.J.S.A. 52:34-13.2 requires that all contracts primarily for services be performed within the United States, except when the University Contracting Officer certifies in writing that a required service cannot be provided by the contractor or subcontractor within the United States.

Pursuant to the statutory requirements, all bidders responding to an advertised procurement must submit a completed [Source Disclosure Certification Form](#) with the bid proposal, disclosing the location by country where services under the contract, including subcontracted services, will be performed. For all other service related procurements, the [Source Disclosure Certification Form](#) must be completed prior to services being rendered, i.e. prior to issuance of the Purchase Order by Procurement Services.

If any of the services cannot be performed within the United States, the bidder will state with specificity the reasons why the services cannot be so performed. The University Contracting Officer who is the Vice President for Finance and Treasurer (VPFT) will determine whether sufficient justification has been provided by the bidder to form the basis of his certification that the services cannot be performed in the United States.

FAILURE TO SUBMIT SOURCING INFORMATION WHEN REQUESTED BY THE UNIVERSITY WILL PRECLUDE AWARD OF THE CONTRACT TO THE BIDDER.

If during the term of the contract, the contractor or subcontractor, who had on contract award declared that services would be performed in the United States, proceeds to shift the performance of the services outside the United States, the contractor will be deemed to be in material breach of the contract, which contract will be subject to termination for cause, at the discretion of the VPFT.

PROCUREMENT POLICY/PROCEDURE #23

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: SALES AND EXCISE TAX

The University is exempt from N.J. sales and use tax under N.J.S.A. 54:32 B-1 et seq and therefore the University does not pay sales tax or federal excise tax. The University may be exempt from hotel taxes.

All questions or inquiries regarding the University's exemption status should be referred to the appropriate Director of Procurement Services.

PROCUREMENT POLICY/PROCEDURE #24

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: REQUISITION PROCESS

Funding Sources

All funds deposited with the University, regardless of source, are University funds and must be handled in accordance with University policy, except as noted in Procurement Policy/Procedure #13. Although user departments are allocated funds in their budgets for a given period, this allocation is only an authority to requisition, not to purchase. No goods or services are permitted to be ordered or accepted by a user department until the issuance of a purchase order by Procurement Services.

Fund Account Numbers

Each department is assigned Worktags within Workday. All requisitions must contain the complete Worktags (11 different fields) which allow for the correct management of funds within departments, specific financial reporting on events, and a clear picture as to what was spent on commodities throughout the fiscal year. Invalid Worktags will not be accepted by the Workday procurement system. Documentation on Worktags are provided in the “Reference Guide for Requisitioner” at <http://www.montclair.edu/one-montclair/areas/finance/learningresources/>

Purchase Requisition

Before preparing and entering a purchase requisition in Workday, the user department is required to ensure that the purchase is in full accord with the applicable procurement policy. The user department will prepare an online purchase requisition to request the purchase of supplies, equipment or services from the supplier. The user department must note the contract relied upon on the requisition and submit a copy of the quote citing the contract number. For a University contract, State of New Jersey contract, General Services Administration contract, or nationally recognized and accepted cooperative purchasing agreement; the user department will include the applicable contract number on the requisition. For a waiver of advertising contract, the user department will include the waiver of advertising number on the requisition. For a delegated purchasing authority contract over \$7,000 the user department will attach to the requisition the specifications and the three proposals solicited to Procurement Services. After the purchase requisition is approved by the appropriate department manager, it is transmitted to Procurement Services for processing. Instructions on how to enter a requisition into the Workday can be found in the “Reference Guide for Requisitioner” at: <http://www.montclair.edu/one-montclair/areas/finance/learningresources/>

Procurement Services will review the purchase requisition to verify the propriety of the cited contract. Procurement Services will not process any purchase requisition if such purchase does not comply with these Procurement Policies and Procedures without the express written authority of the Vice President for Finance and Treasurer (VPFT).

Purchase Order Adjustment Request

The [Purchase Order Adjustment Form](#) must be prepared by the user department and submitted to Procurement Services to effectuate a change in a purchase order. The [Purchase Order Adjustment Form](#) is to be used in the following instances: (a) to increase or decrease the purchase quantity or price; (b) to make other changes to the purchase order.

Reference must be made on the [Purchase Order Adjustment Form](#) to the purchase order number and supplier. NO USER DEPARTMENT IS AUTHORIZED TO MAKE CHANGES TO ANY ORDER. PROCUREMENT SERVICES MUST BE CONTACTED AND THE APPROPRIATE BUYER WILL MAKE THE REQUIRED CHANGES UPON RECEIPT OF THE PROPERLY COMPLETED AND SIGNED PURCHASE ADJUSTMENT FORM DOCUMENTATION.

Invoicing

Invoicing instructions are provided on the purchase order. Suppliers are required to submit invoice(s) with the appropriate purchase order number clearly indicated on the invoice. If the supplier fails to provide a valid purchase order number on the invoice, the invoice may be returned unpaid to the supplier. Invoices for regular orders should be emailed to invoice@montclair.edu. For detailed instructions on the invoicing process refer to the “Reference Guide for Requisitioner”: <http://www.montclair.edu/one-montclair/areas/finance/learningresources/>

Additional specific guidance regarding invoice processing may be obtained from the Accounts Payable Department.

Receipt Process

After the delivery of goods, the supplier submits the invoice for payment directly to the Accounts Payable Department. The user department acknowledges receipt of goods in Workday. For detailed instructions on the receiving process please reference the “Receiver Reference Guide” located at: <http://www.montclair.edu/one-montclair/areas/finance/learningresources/>

Specific processes for receipt of materials related to construction projects are specified in separate University procedures specifically related to construction project management.

Additional specific guidance regarding receipt of goods and services may be obtained from the Accounts Payable Department.

Canceling Purchase Orders

Purchase orders may be canceled by the user department through Workday. Please reference the “Reference Guide for Requisitioner” at: <http://www.montclair.edu/one-montclair/areas/finance/learningresources/>

Specific processes for cancellation of contracts related to construction projects are specified in separate University procedures specifically related to construction project management.

Purchase Card

The Purchase Card (P-Card) Program has been designed to allow for the direct purchase of small dollar items through the use of a departmental credit card. The intent is to eliminate the need for

small dollar purchase orders, direct reimbursement, petty cash accounts and operational advances.

P-Cards are issued to individual employees subject to approval by the Director of Procurement Services, Goods and Services. P-Cards are nontransferable and not assignable and remain the property of Montclair State University. A transaction limit is established for each cardholder. User departments may increase limits by justifying the need for a higher card limit. Requests to increase limits should be sent to the P-Card Administrator.

User departments interested in using a P-Card should contact Procurement Services and request an application and a copy of the cardholder manual. For information relating to the use of the P-Card and for all P-Card form documents visit the Procurement Services website-“P-Card.”

PROCUREMENT POLICY/PROCEDURE #25

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: UNSATISFACTORY SUPPLIER PERFORMANCE

A user department must notify Procurement Services in writing of any failure by a supplier/contractor to comply with the terms and conditions of a contract within ten (10) days of the failure. A supplier/contractor may be terminated due to documented poor performance. In addition, documented poor performance may result in the supplier/contractor being determined not to be a responsible bidder in a future procurement and therefore ineligible for a contract award.

During performance of a contract, or at the termination of a contract, Procurement Services will request the user department to complete an evaluation of the supplier/contractor's performance. An evaluation that documents performance that is not materially in compliance with the contract specifications, or lacks the moral integrity required of a bidder for public contracts, may also result in the supplier/contractor being determined not to be qualified as a responsible bidder in a future procurement and therefore ineligible for a contract award.

Upon receipt of a complaint from the user department, Procurement Services will provide the supplier/contractor with a copy of the complaint. The supplier/contractor will have ten (10) calendar days to file a response to the complaint with Procurement Services. The supplier/contractor will be instructed to provide the user department with a copy of its response. If a complaint has been submitted to Procurement Services, the supplier/contractor may submit a corrective action plan during this period. However, such cure or corrective action plan will not serve as cause for automatic dismissal of a valid complaint.

The user department may submit comments to the supplier/contractor's response with Procurement Services within five (5) days of receipt of the supplier/contractor's response. The user department will provide the supplier/contractor with a copy of any comments.

After receipt of the user department's response, Procurement Services will issue a determination to the supplier/contractor and the user department.

In the event of a determination by Procurement Services that the supplier/contractor has substantively failed to perform a contract, the contract may be terminated for cause. Once performance of the contract is complete, where Procurement Services finds that a supplier/contractor's performance was not materially in compliance with the contract specifications, or lacked the moral integrity required of a bidder for public contracts, Procurement Services may determine that the supplier/contractor is a non-responsible bidder and not qualified for award of future MSU procurements for a specific period of disqualification, not to exceed five (5) years.

In the event Procurement Services determines the supplier/contractor is a non-responsible bidder disqualified from future procurements, the supplier/contractor shall be notified of the determination

in writing by Procurement Services. The supplier/contractor shall be permitted to file an appeal to the Board of Trustees to contest the determination that it is a non-responsible bidder no later than thirty days after supplier/contractor's receipt of the Procurement Services decision. A final administrative decision of the Board of Trustees disqualifying a supplier/contractor may be appealed to the Superior Court of New Jersey, Appellate Division, pursuant to N.J.S.A. 18A:3B-6(f).

PROCUREMENT POLICY/PROCEDURE # 26

DATE: OCTOBER 2018

FROM: DIRECTOR, PROCUREMENT SERVICES

SUBJECT: CONTRACT ASSIGNMENT (FROM ONE SUPPLIER TO ANOTHER)

This Policy is to establish a uniform procedure for the assignment of all University contracts when the supplier requests that the contract be assigned to another supplier. The following guidelines will apply for all proposed contract assignments:

1. The user department must prepare a memorandum to appropriate Director of Procurement Services recommending the proposed assignment. Such recommendation will identify the original supplier and the name, address and federal identification number of the proposed new supplier. The user department's recommendation will provide information substantiating the capability of the proposed new supplier to assume all of the obligations and responsibilities of the original contract.
2. In addition, a completed **Assignment Agreement** must be forwarded by the user department to the appropriate Director of Procurement Services. Should additional information or documents be required, the appropriate Director of Procurement Services will contact the appropriate University personnel to discuss the additional requirements.
3. No proposed assignment will be effective until approved in writing by the VPFT.

PROCUREMENT POLICY/PROCEDURE #27

DATE: OCTOBER 2018

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: CONTRACT EXTENSION

1. The term of contracts should end at the University's fiscal year unless justification can be made to Procurement Services for a longer term based upon price and other factors. If justification is made for a longer term, the total term should not exceed 5 years unless a longer term is approved by the VPFT taking into consideration price and other factors.
2. University contracts for multiyear projects, such as the construction or renovation projects, or software implementations, or professional service engagements will be for the length of time necessary for the completion of the scope of work.
3. Prior to any permissible extension of the term of a contract, the Procurement Services buyer will solicit the user department's evaluation of the contractor's performance. However, if the using department does not respond within 7 days, the contract will be renewed.
4. A user department is not required to extend a contract and needs no justification to make a determination not to extend a contract. If a user department does not want to extend the contract it should notify Procurement Services who will notify the contractor and who will arrange to initiate a new procurement, if required.
5. If an extension of the contract is appropriate, the Supplier Evaluation Form will be completed by the user department, approved by the vice president to whom the user department reports, and submitted to Procurement Services.
6. The Procurement Services buyer will make a written recommendation to the appropriate Director of Procurement Services whether to extend the contract. Factors to be considered by the Procurement Services buyer will include the user department's evaluation of the contractor or decision to not extend the contract and estimated pricing then available in the market place for comparable goods or services.
7. Upon the Director's approval, the Procurement Services buyer will secure the contractor's written agreement to extend contract price(s), terms and conditions for the term of the proposed extension. The user department should not solicit the contractor's agreement to extend the contract.
8. Notice of approved contract extensions will be made by the Procurement Services buyer to the user department and the contractor.

PROCUREMENT POLICY/PROCEDURE #28

DATE: OCTOBER 2018

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: RECEIVING

Inspection

All goods and merchandise should be inspected immediately upon receipt. If it is not feasible to inspect the goods and merchandise at time of receipt, the shipping document should be marked "Goods Accepted Subject to Inspection."

Reporting of Receipt of Merchandise

Upon receipt of merchandise, the user department must verify that the goods are as ordered and that they are in good undamaged condition. All receipts for goods and services must be recorded in Workday. Please refer to the "Reference Guide for Requisitioner" at:
<http://www.montclair.edu/one-montclair/areas/finance/learningresources/>

Damaged Goods, Returns

It is the user department's responsibility to document damage to goods and to initiate contact with the supplier and/or carrier for the return of the merchandise through the Central Receiving Department.

PROCUREMENT POLICY/PROCEDURE #29

DATE: MAY 2008

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: DOCUMENT MANAGEMENT

The management of records is the systematic control of information both in electronic and paper format from its creation or receipt through processing and use, until its destruction or placement into an archive. Procurement Services is responsible for the record retention of public bids/proposals, contracts, agreements and purchase orders.

User departments have a record retention responsibility when a purchase card is used (see Procurement Card Procedures on Procurement Services webpage-“P-Card”).

User departments are also obligated to comply with the record retention and destruction responsibilities identified in the Schedule for Four Year Colleges & Universities approved by the State of New Jersey's Bureau of Record Management. The Schedule can be found on the State website here: <http://www.nj.gov/treasury/revenue/rms/pdf/s510000.pdf>. Requests to destroy paper or electronic records on the Schedule, must be submitted to the State of New Jersey through authorized users of the Artemis system. The Record Custodian is University Counsel.

PROCUREMENT POLICY/PROCEDURE #30

DATE: MAY 2008

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: SURPLUS PROPERTY DISPOSAL

Whenever University property (e.g., equipment or furniture) is no longer suitable or required for the purpose for which it was intended, the appropriate Director of Procurement Services should be notified in writing and given a complete listing and condition of the property. If the University has no further use of the property, Procurement Services will arrange to offer the property for sale. Once the decision is made to sell the property, the following procedures will be followed:

1. If the estimated fair value of the property exceeds \$35,500 and the property does not consist of perishable goods, it will be sold at public sale to the highest bidder.
2. Notice of the date, time and location of the public sale, together with a description of the items to be sold and the conditions of sale, may be published at least once in a legal newspaper or on the University's website. The sale should be held between 7 and 14 days after the publication of the notice of sale.
3. If no bids are received, the items may then be sold at private sale without further publication or notice but in no event at less than the estimated fair value. Fair market value will be estimated based on published price lists, appraisals, or other means as appropriate and necessary in the particular circumstance.
4. Procurement Services may reject all bids received if it determines that rejection is in the University's best interest. If Procurement Services rejects all bids, Procurement Services will re-advertise the items for a subsequent public sale. If Procurement Services rejects all bids received at a second public sale, the items may be sold at private sale without further publication or notice but in no event at less than the amount of the highest bid rejected at the two preceding public sales.
5. Property may be sold to the United States, the State of New Jersey, and another college or university, or to any public entity without advertising for bids.
6. If the estimated fair value of the property to be sold does not exceed \$35,500 in any one sale or the property consists of perishable goods, it may be sold at private sale without advertising for bids.
7. If there are no responsive bids, or the value of surplus is less than the cost of removal or storage, surplus may be disposed of by the University or donated to a public entity or charitable organization, as the VPFT determines.

PROCUREMENT POLICY/PROCEDURE #31

DATE: MAY 2008

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: AMENDMENTS / EXCEPTIONS TO POLICIES/PROCEDURES

The Division of Finance and Treasury – Procurement Services will, through appropriate administrative procedures, periodically amend these policies and procedures. At such times, general notification will be made to the University community by means of electronic distribution lists and the University’s web page.

Anyone requesting or suggesting an amendment or modification to these Procurement Policies and Procedures must submit a written description of and justification for the amendment or modification to the Vice President for Finance and Treasurer (VPFT).

Exception from Policy

While these Procurement Policies and Procedures are generally considered the University’s best practice for procuring goods and services, there may be, from time to time, instances where a University employee believes that the best interests of the University will be significantly served by an exception or modification of one or another aspect of these policies and procedures. In such instances, the employee may bring a request for an exception or modification to a senior officer of the University, usually their vice president, who, if in agreement will bring the request to the VPFT for consideration. If the VPFT agrees that the exception or waiver is in the best interests of the University and that such waiver or deviation is reasonable and in accordance with applicable laws, the VPFT will approve the waiver or deviation for that particular instance. The VPFT will document such approval in writing and will include that documentation in the Procurement Services’ file relating to the procurement. No waiver or deviation from these policies and procedures may be made by University personnel without such a specific approval.

PROCUREMENT POLICY/PROCEDURE #32

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: PUBLIC/PRIVATE PARTNERSHIPS

The University may enter into agreement(s) with a private entity that permits the private entity to assume full financial and administrative responsibility for on-campus construction, reconstruction, repair, alteration, improvement or extension of a building, structure, or facility, for the benefit of the University, provided the project is financed in whole by the private entity and Montclair State University is the owner or tenant of the land upon which the project is constructed.

The University shall follow the Request for Qualifications Waiver of Advertising (RFQ) process in Procurement Procedure #1.D.2, subsections (a) through (m) to select the private entity. The contracts awarded by the private entity for the construction project shall not be subject to the Procurement Policies but shall comply in all other respects with N.J.S.A. 18A:64N-10 and N.J.S.A. 18A:64-85 which is incorporated by reference.

PROCUREMENT POLICY PROCEDURE #33

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: MACBRIDE PRINCIPLES DISCLOSURE

N.J.S.A. 52:34-12.2 requires that, whenever a contract for goods and services that exceeds \$40,000, or a contract for construction exceeds \$2,000, the person or entity to be awarded the contract must certify:

- 1) it has no business operations in Northern Ireland; or
- 2) it will take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in section 2 of P.L.1987, c. 177 (C. 52:18A-89.5), and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

If a person or entity who would otherwise be awarded a contract will not or is unable to provide the Disclosure, the University may award the contract to the next ranked bidder on the condition that bidder provide the Disclosure.

Upon receiving information that a party to a contract is in violation of the Disclosure submitted to the University, the University shall review the information and offer the party an opportunity to respond. If the University finds that a violation has occurred, it shall take such action as may be appropriate and provided for by law, rule or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

This procedure shall not apply to contracts in which the application of the provisions would jeopardize the receipt of federal funds.

For the purposes of this procedure, a person or entity conducts business operations in Northern Ireland if it has ongoing business activities in Northern Ireland and maintains a physical presence therein through the operation of offices, plants, factories, or similar facilities, either directly or indirectly through intermediaries, subsidiaries or affiliated companies over which the corporation maintains effective control.

PROCUREMENT POLICY PROCEDURE #34

DATE: OCTOBER 2017

FROM: DIVISION OF FINANCE AND TREASURY - PROCUREMENT SERVICES

SUBJECT: IRAN INVESTMENT DISCLOSURE

N.J.S.A. 52:32-58 requires a person or entity that submits a bid or proposal to or otherwise proposes to enter into or renew a contract with the University to certify that the person or entity is not engaging in investment activities in Iran. The certification shall be executed on behalf of the applicable person or entity by an authorized officer or representative of the person or entity.

In the event that a person or entity is unable to make the certification required, the person or entity shall provide to the University a detailed and precise description of such activities, and such description to be provided under penalty of perjury.