

THE CALIFORNIA STATE UNIVERSITY

**POLICY MANUAL
FOR
CONTRACTING & PROCUREMENT**

(Last Updated 04/28/08)

CSU Policy Manual for Contracting & Procurement

TABLE OF CONTENT

INTRODUCTION	8
<i>POLICY TEXT</i>	8
<i>SECTION 100 - RESPONSIBILITY AND AUTHORITY (Rev. 3/12/02)</i>	8
101. DELEGATION TO THE CHANCELLOR	8
102. DELEGATION TO THE CAMPUS PRESIDENTS	9
103. ROLE OF GENERAL COUNSEL	9
104. ROLE OF THE CHANCELLOR'S OFFICE CONTRACT SERVICES & PROCUREMENT (CS&P) DEPARTMENT	10
<i>SECTION 200 - GENERAL PROCUREMENT REQUIREMENTS</i>	10
201. FAIR AND OPEN COMPETITION (Rev. 04/28/08)	10
202 CLASSIFICATION OF CONTRACT (Rev. 4/8/04)	10
203. SOLICITATION METHODOLOGIES (Rev. 4/2/08)	11
204. STRATEGIC SOURCING OPTIONS AND ALTERNATIVES (REV. 4/28/08)	12
A. CSU Master Enabling Agreements	12
B. Blanket Purchase Orders (BPO) and Multiple Awards	13
C. CSU Master Pricing Agreements	13
D. General Services Administration of the United States (GSA) Pricing Schedules	13
E. California Multiple Award Schedule (CMAS) and State Master Agreements Reference: Government Code 14846	14
F. Cooperative and Consortium Purchasing Agreements Administered by Non-CSU Agencies	14
205. LOW-VALUE PURCHASES (Rev. 3/19/01)	15
206 Limits on Competition (Rev. 4/28/08)	16
206.01 Sole Brand Procurement (Rev. 3/3/03)	17
206.02 Sole Source Procurement (Rev. 04/20/04)	17
206.03. Exceptions to Competition Requirements (Rev. 4/28/08)	18
207. PROCUREMENT RECORDS RETENTION	19
208. MULTI-YEAR CONTRACTS (Rev. 3/19/01)	19
209. EMERGENCY TRANSACTIONS (Rev. 3/12/02)	19
210. PROHIBITED PRACTICES	20
210.01 Personal Use Of Information Reference: Education Code 89006	20
210.02 Deleted (Rev. 07/07/06)	20
210.03 Appropriation Of State Property Or Services (Rev. 3/12/02)	20
210.05 Commercial Endorsements Of Products Or Services (Rev. 04/02/07)	21

CSU Policy Manual for Contracting & Procurement

210.06 Misuse Of The Name "California State University"	21
210.07. Restrictive Specifications (Rev. 4/28/08)	21
210.08 Splitting Orders or Contracts (Rev. 4/28/08)	21
210.09 Advance Payments (Rev. 04/02/07)	21
210.10 Prohibition of Labor Abuse (Rev. 10/05/07)	21
211. INTERNAL COMPLIANCE AUDITS	22
212. PROTESTS, DISPUTES, AND COMPLAINTS (Rev. 3/12/02)	22
212.01 Protest of Solicitation Requirements (Rev. 3/19/01)	23
212.02 Protest of Contract Award - Formal Solicitations (Rev. 07/07/06)	23
212.03 Disputes Subsequent to Award (Rev. 3/19/01)	24
213. PROCUREMENT FILES (Rev. 3/12/02)	24
213.01 Vendor Data Record (Revised 04/20/04)	24
213.02 Exclusion of Vendors or Contractors From Bidding (Rev. 3/12/02)	24
213.03 Contractor Identification Number (Rev. 04/20/04)	24
214. TAX-EXEMPT FINANCED ACQUISITIONS (Rev. 3/12/02)	25
215. DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION GOALS (Rev. 4/28/08)	25
Definition	25
Goal	26
Requirements	26
DVBE Incentive	27
Reporting	28
216. SMALL AND MICRO BUSINESSES (Rev. 4/28/08)	28
Definition of a Small Business	28
Definition of Micro Business	28
Small Business Goal	28
Requirements	29
Reporting	30
Annual Report	30
217. TARGET AREA PREFERENCE ACT (TACPA)	30
218. ENTERPRISE ZONE ACT (EZA)	31
219. COMMUNITY REHABILITATION PROGRAMS AND WORKSHOPS	31
220. NON-DISCRIMINATION (Rev. 01/01/06)	31
221. NATIONAL LABOR RELATIONS BOARD (NLRB) COMPLIANCE (Rev. 01/01/06)	31
222. AUDIT OF CONTRACT (Revised 01/29/99)	32
223. DRUG-FREE WORKPLACE CERTIFICATION (Rev. 01/01/06)	32
224. PRISON INDUSTRY AUTHORITY (Rev. 10/20/2004)	32
225. USE OF THE STATE DEPARTMENT OF GENERAL SERVICES	32
226 Use of electronic transmission (Rev. 04/02/07)	33

CSU Policy Manual for Contracting & Procurement

227. DIRECT PAYMENTS	33
228. AMERICANS WITH DISABILITIES ACT (ADA) (Rev. 10/5/07)	33
Exemptions:	34
A. Net Cost Increase	34
B. Commercially Non-Available	34
C. Sole Brand	34
D. Back Office	35
E. Fundamental Alteration	35
F. Undue Burden	35
G. Other exemptions	35
Contract Provision Requirement	35
229. CHILD SUPPORT COMPLIANCE ACT (Rev. 1/29/99):	36
230. INSURANCE REQUIREMENTS (Rev. 01/01/06)	36
230.01 Insurance Requirements For The Purchase Of Goods (Rev. 01/01/06)	37
230.02 Insurance Requirements For Hazardous Substance And Waste Removal Services (Rev. 01/01/06)	38
230.03 Insurance Requirements For Service Contracts (Rev. 01/01/06) Reference: E.O. 849	38
230.04 Insurance Requirements For Campus Facilities And Property Lease (Rev. 01/01/06)	40
230.05 Insurance Requirements For Auxiliary Operation Agreement (Rev. 01/01/06)	41
230.06 Insurance Requirements For Placement Agreements (New 03/03/03) Reference: EO 849	41
231. ETHNICITY RACE AND GENDER IN CONTRACTS (Rev. 5/20/05)	42
Requirements	42
Special Conditions	42
Reporting	42
232 Expatriate Corporations (Rev. 01/01/06)	42
233 Risk Allocation and Performance Assurance (Rev. 04/20/04)	43
235 CSU Buy Recycled Products Campaign (Rev. 07/07/06)	44
240. STANDARD CONTRACTING FORMS (Rev. 4/28/08 – formerly Policy 409)	45
240.1 Standard Terms and Conditions (Rev. 4/28/08 – formerly Policy 410 and 411)	45
245. ADVERTISING IN THE CALIFORNIA STATE CONTRACTS REGISTER (CSCR) (Rev. 4/28/08 – formerly Policy 403)	45
SECTION 300 - PERSONAL PROPERTY PROCUREMENT POLICY (Rev. 3/12/02)	46
301. BID THRESHOLDS FOR PERSONAL PROPERTY (Rev. 4/28/08)	47
A. Acquisitions Less than \$50,000	47
B. Acquisitions greater than \$50,000 and less than \$100,000	47

CSU Policy Manual for Contracting & Procurement

C. Acquisitions of \$100,000 or more	47
302. FORMAL BIDDING FOR PERSONAL PROPERTY (Rev. 4/28/08)	47
A. Public Notice	47
B. Public Opening of Bids	48
C. Evaluation of Bids	48
D. Rejection of Bid(s)	49
E. Protest	49
F. Conflict of Interest and Confidentiality	49
303. COMMODITIES WITH SPECIAL PURCHASING REQUIREMENTS	49
303.02 Vehicles, New and Used (Rev. 4/28/08)	49
303.03 Procurement of Hazardous Materials	50
303.04 Library Materials & Information	51
303.05 Forced, Convict, and Indentured Labor	51
304 Deleted (Rev. 04/02/07 – effective 01/01/07)	51
<i>SECTION 400 - PROCUREMENT OF SERVICES (Rev. 3/12/02)</i>	<i>51</i>
401. SOLICITATION THRESHOLDS FOR SERVICES (Rev. 4/28/08)	51
402. FORMAL SOLICITATION FOR SERVICES (Rev. 4/28/08)	52
403. ADVERTISING IN THE CALIFORNIA STATE CONTRACTS REGISTER (CSCR) (Rev. 4/28/08)	54
404. CONTRACT AWARD REPORT TO DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING (REV. 5/20/05)	54
405. AMENDMENTS TO SERVICE AGREEMENTS (REV. 4/28/08)	54
406. SERVICE ORDERS	55
409. STANDARD CONTRACTING FORMS (Rev. 4/28/08)	55
410. CSU STANDARD TERMS (Rev. 4/28/08)	55
411. ADDITIONAL TERMS AND CONDITIONS (Rev. 4/28/08)	55
412. SPECIAL PROCESSING REQUIREMENTS FOR CONTRACTS	55
412.01 Commencement of Work Clause	55
412.02 Compensation	55
412.03 Progress Payments	55
412.07 Hazardous Materials Removal Services Contracts (Rev. 4/28/08)	56
Insurance Requirements	56
412.09 Independent Contractors	56
412.10 Consulting Agreements (Rev. 04/20/04)	57
412.11 Prohibition of Contracts with Illegal Immigrants	58
<i>SECTION 500 - INFORMATION TECHNOLOGY RESOURCES (ITR) PROCUREMENT POLICY (Rev. 4/28/08)</i>	<i>58</i>
501. Solicitation Thresholds for ITR Goods and Services (Rev. 4/28/08)	59
A. Acquisitions less than \$50,000 from Certified Small Business	59

CSU Policy Manual for Contracting & Procurement

B. Acquisitions equal or greater than \$50,000 and less than \$100,000 from Certified Small Business	59
C. Acquisitions less than \$50,000	59
D. Acquisitions equal to or greater than \$50,000 and \$500,000 or less	60
Evaluation of Bids or Proposals for Electronic & Information Technology (E&IT) Goods	60
E. Acquisitions greater than \$500,000	61
502 FORMAL SOLICITATIONS FOR ITR GOODS AND SERVICES (Rev. 4/28/08)	61
503 IT Project Management (Rev. 04/20/04)	64
505. COMPETITIVE SOLICITATION (Rev. 7/6/01)	64
505.01 Best Value (Value-Effective) Acquisitions	64
505.02 Deleted (Rev. 04/02/07)	65
506. PRENEGOTIATION OF REPETITIVE CONTRACT TERMS & CONDITIONS (Rev. 4/28/08)	65
507. SPECIAL PROVISIONS	65
507.01 Used Equipment	65
507.02 DGS Division of Telecommunications	65
507.03 Disposal (Rev. 05/20/05 - Deleted)	65
507.04 Best Financing Alternatives (Rev. 4/28/08)	66
508 Deleted (Rev. 04/02/07, effective 01/01/07)	66
<i>SECTION 600 - SALE, LEASE, LICENSE, AND DISPOSAL OF CSU PERSONAL PROPERTY AND SALE OF CSU SERVICES</i>	66
601. RELEASE OF CSU-OWNED PERSONAL PROPERTY (Rev. 5/20/05)	66
602. SALE OR LICENSE OF INTELLECTUAL PROPERTY	66
603. DISPOSAL OF VEHICLES	66
604. SERVICES PROVIDED BY THE CSU	67
<i>SECTION 700 -PUBLIC AGENCY AND AUXILIARY AGREEMENTS (Rev. 3/12/02)</i>	67
701. INTERAGENCY AGREEMENTS (Rev. 3/19/01)	67
702. INTRA-AGENCY AGREEMENTS (Rev. 3/19/01)	67
703. CONTRACTS WITH LOCAL GOVERNMENT ENTITIES (Rev. 3/19/01)	67
704. CONTRACTS WITH STATE BOARDS AND COMMISSIONS (Rev. 3/19/01)	68
705. PRINTING AND BINDING ORDERS (Rev. 3/19/01)	68
706. SERVICES PROVIDED BY CAMPUS AUXILIARY ORGANIZATIONS (Rev. 3/19/01)	68

**707. INTERAGENCY AGREEMENTS ADMINISTERED BY THE CAMPUS
ADMINISTRATION (Rev. 3/12/02)**

CSU Policy Manual for Contracting & Procurement

INTRODUCTION

The purchasing and contracting policies of the California State University (CSU) are not based upon a single statutory reference but rather are adopted to form compliance with a variety of statutory and policy provisions found in the State of California statutory codes (i.e., Education Code, Public Contract, Government Code, etc.); Title 5, California Code of Regulations; the standing Orders and Resolutions of the Board of Trustees; specific Trustee policy issued via Chancellor Executive Orders and administrative policy memoranda.

CSU contracting and procurement policies encompass the following fundamental principles:

- Recognition that the basic mission of the CSU is to support the teaching, research and public service requirements for higher education for the people of the State of California,
- Recognition that the continued development and refinement of purchasing policies in accordance with good business judgment and best business practices is paramount to the effective and efficient total operations of the CSU,
- The firm belief that it is in the CSU's best interest to limit, as much as possible, prescriptive policies and regulations and to provide maximum flexibility to, and accountability for, the adoption of local campus policies and procedures to insure the cost effective operation of campus business, and,
- Recognition that the policies contained herein are intended to establish a baseline for compliance with State law and Trustees policy. It is the responsibility of the campus to determine the disposition of any issue not specifically addressed herein or otherwise prescribed in law or regulation.

The CSU is committed to maintaining high standards of performance based upon fair, ethical and professional business practices. It is expected that each campus President and administrative staff will develop and adopt local campus policies and operational procedures which further the implementation of Trustee policy presented herein.

POLICY TEXT

SECTION 100 - RESPONSIBILITY AND AUTHORITY (Rev. 3/12/02)

Reference: Education Code 89036, Public Contract Code, 10430(a), 12100.5, and 12120; Executive Order 775.

The Trustees have the authority for the California State University to purchase personal property and to enter into agreements for the furnishing of services.

101. DELEGATION TO THE CHANCELLOR

CSU Policy Manual for Contracting & Procurement

The Chancellor has been delegated authority from the Trustees to purchase personal property, and to enter into agreements for the furnishing of services (Standing Orders of the Board of Trustees, Chapter III, Section 4-e).

102. DELEGATION TO THE CAMPUS PRESIDENTS

Campus presidents have received delegated authority from the Chancellor to purchase, sell, lease, or license personal property in accordance with Trustee policy and law. Responsibility for the preparation of campus internal policies and procedures consistent with the provision of this manual remains with the campus presidents. Should campus presidents choose to further delegate their purchasing authority, campuses must maintain documentation of such delegation.

The delegated authority is subject to the condition that certain of these transactions be submitted to the Office of the Chancellor for review and approval. These transactions are:

1. Any transaction which exceeds \$250,000 and is awarded without the taking of competitive bids (sole source). This condition does not apply to sole brand acquisitions which are acquired under competitive procedures nor to contracts pursuant to planned purchasing activities such as CSU master agreements previously reviewed and approved by the Office of the Chancellor;
2. Transactions which contain systemwide or multi-campus obligations, liabilities or encumbrances (requests for delegation shall be considered);
3. Transactions which contain provisions for the tax-exempt financing of equipment or services;
4. Contracts to obtain legal services to be performed by outside (non-CSU) counsel;
5. Lease agreements for real property where the commitments of the Trustees, or property leased, is to be used to support the issuance of bonds, certificates of participation or notes, or where there is a transfer of interest by installment sale or other form of security;
6. Lease agreements for real property with a term of twenty or more years or with options that result in a potential term of twenty or more years;
7. Lease agreements for real property with any annual lease payment equal to or greater than \$1,000,000;
8. Lease agreements for real property that permit the development of real property of the CSU pursuant to policies of the Trustees on public/private or public/public development.

Transactions or requests related to the preceding conditions must be submitted with all related documentation and an explanation of the transaction to the Office of the Chancellor to coordinate program & legal reviews.

103. ROLE OF GENERAL COUNSEL

The Office of General Counsel serves as the Trustees' official advisory agent to the CSU and its campuses on all matters related to compliance with legal codes, statutes and

CSU Policy Manual for Contracting & Procurement

regulations, and on matters related to the carrying out of Trustees policy. For procurement operations, it serves as an approval agent for certain transactions specifically requiring legal approval or endorsement, and as a consultative body on all matters that require legal interpretation, resolution, or adjudication.

104. ROLE OF THE CHANCELLOR'S OFFICE CONTRACT SERVICES & PROCUREMENT (CS&P) DEPARTMENT

The role of the Contract Services & Procurement Department (CS&P) is to develop, maintain, and administer Trustees' policy related to public procurement practices in the CSU. The Department serves as a legislative advocate, maintains systemwide data and procurement information resources and serves as a liaison to other California and non-California entities. CS&P also facilitates the Target of Procurement program, training, and other procurement management functions. It is directly responsible for purchasing and contracting functions in support of Chancellor's Office operations, including systemwide strategic initiatives, as requested.

SECTION 200 - GENERAL PROCUREMENT REQUIREMENTS

201. FAIR AND OPEN COMPETITION (Rev. 04/28/08)

Reference: Education Code 89036, Public Contract Code Article 3 of Chapter 2, Part 2, Division 2. Public Contract Code 12100 et seq., Executive Order 775

The CSU is committed to a policy of promoting fair and open competition, for the acquisition of goods and services to meet its needs. In implementing its policies and procedures for the preparation and administration of purchase orders and contracts, the CSU strives to achieve; through public advertising, notification, and outreach, the following objectives:

1. Compliance with the intent of statutes regarding competition as a means of protecting the public from the misuse of public funds;
2. Stimulation of competition in a manner conducive to sound fiscal practices by providing qualified firms fair opportunity to participate;
3. The elimination of favoritism, fraud, and corruption in the awarding of purchase orders and contracts;
4. Obtain best value for the CSU while complying with legislative intent.

202 CLASSIFICATION OF CONTRACT (Rev. 4/8/04)

Proper Classification of Contracts is necessary as a first step in determining which solicitation process is appropriate for the contract, and what elements are required to be in the contract. The classification of a contract is determined by its predominate purpose or value of the activity.

- A. Contract for Goods: This is a purchase that has as its sole or main purpose the buying of tangible items, such as equipment, parts, supplies, or other merchandise. If any

CSU Policy Manual for Contracting & Procurement

services are to be provided as well, the dollar value associated with the purchase of the Goods must be greater than the dollar value of the services that will be provided. This classification of contracts does not include contracts for the acquisition of Information Technology Resources (ITR) goods and Services.

- B. Information Technology Resources (ITR) Goods and Services Contract: This classification of contracts includes acquisition of goods and/or services for all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications which include voice, video, and data communications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

When determining whether a contract is for ITR one must consider the main predominant purpose or value of the activity, and whether information technology skills and knowledge are involved as the primary purpose of the contract or whether such knowledge or skills are used to further an overarching purpose.

Example: A contract for installing cable for a local area network that also includes installation of network electronics. If the primary value is getting the cable installed, this would most likely be a non-ITR service; or if it is being done in a public structure, this would be a Public Works contract. If the main emphasis of this contract is the installation of the network electronics, it would be an ITR contract.

- C. Contract for Services: Service means any work performed by an independent contractor wherein the service rendered does not consist primarily of the acquisition of goods. This classification of contracts does not include contracts for the acquisition of information technology services, public works project agreements, or professional service agreements in connection with a public works project.
- Example: A contract for carpeting may involve purchase of carpet (commodity) as well as removal of old carpet and pad (service), and installation of new carpet and pad (service). The determining factor is what would be the primary focus of the contract and expertise of the contractor. If the prime contractor is with an installer, or if the main emphasis is the installation with the majority of the contract cost for labor, then it would be a service contract.

203. SOLICITATION METHODOLOGIES (Rev. 4/2/08)

There are several industry-standard methods that may be used for soliciting and awarding contracts.

Some of the more common ones are:

- Invitation For Bid (IFB)
- Request For Proposal (RFP)
- Request For Quotation (RFQ)

CSU Policy Manual for Contracting & Procurement

In addition, Policy sections 301 and 501 allow for the use of an informal solicitation process in certain circumstances. Such acquisitions must be in accordance with campuses' policies and procedures for informal solicitations. When choosing which methodology to use, a campus should consider the procurement objective; including but not limited to, the requirements of the goods or services being procured, the estimated dollar value of the resultant contract, any legislative and policy requirements, and the best interest of the CSU. If the objectives change during the process, the procurement process should be restarted using the appropriate process or formally modified through appropriate written notification to potential vendors.

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

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

204. STRATEGIC SOURCING OPTIONS AND ALTERNATIVES (REV. 4/28/08)

It is the policy of the CSU to seek and to achieve discounts and to reduce administrative costs through the use of volume purchasing programs and multiple sourcing opportunities. To this end, the CSU is committed to maximizing purchasing leverage through collaborative, joint, and strategic sourcing activities. The Targets of Procurement program, under the direction of administrative vice presidents, and administered by the self-governing council of CSU Procurement Officers, is dedicated to the effective management of strategic sourcing and contracting in the CSU.

A. CSU Master Enabling Agreements

These agreements support the strategic sourcing efforts of two or more campuses by combining common requirements for specified goods and services. This enables the CSU to avoid redundant solicitations and contracts, maximize volume discounts, and reduce administrative costs. Each CSU Master Enabling Agreement may have specific conditions for its use. These conditions may include: the extent to which competition requirements have or have not been satisfied, the naming of parties that may place orders against the CSU Master Enabling Agreement, and/or instructions on how to place an order.

Unless stated otherwise within the terms of the Master Enabling Agreement,; if multiple Master Enabling Agreements were awarded to multiple vendors then acquisitions placed against those Master Enabling Agreements shall be competitively solicited from two or more of the awarded vendors resulting in two or more offers. Such competition may be the result of an informal or formal solicitation process as determined by campus procedures. Acquisitions provided for by Policy Sections 301A, 301B, 401A, 401B, 501A, 501B and 501C shall be exempted from this competition requirement. In the event that only one offer is

CSU Policy Manual for Contracting & Procurement

received, documentation of the solicitation method used must be included with the contract documentation. Master Enabling Agreements resulting from a formal competitive process and where only one vendor was awarded an agreement do not require further competition.

Persons interested in pursuing volume purchasing, either on a multiple campus or systemwide basis, should contact either the Director of Contract Services and Procurement or their local campus procurement offices.

A directory of all CSU Master Agreements is maintained at the [CSU Contract Store](#) website.

B. Blanket Purchase Orders (BPO) and Multiple Awards

BPO are primary source agreements which are designed to supply goods or services on an ongoing basis for a designated period of time. The agreement generally establishes prices, terms, conditions, and the period covered. Quantities or minimum sales are not required.

Awards may be initiated with more than one vendor or contractor for comparable products or services. Multiple awards may be used in instances where awarding to a single provider would be impractical or fail to satisfy the overall requirements of all potential users.

C. CSU Master Pricing Agreements

In order to reduce administrative costs to the CSU, Master Pricing Agreements may be awarded. Such agreements establish fixed prices/rates provided by vendors for the purpose of acquiring goods and services at the vendors' best pricing. These prices/rates may be based on aggregate volume purchased and may include mutually agreed to terms and conditions for any resulting orders placed by campuses. Master Pricing Agreements may be used to establish market pricing or price reasonableness when a procurement is not subject to competition. Master Pricing Agreements are not to be used in lieu of satisfying formal competition requirements. In addition, Master Pricing Agreements may be established to assist in the meeting of legislatively mandated procurement goals for programs such as Buy Recycled Products and DVBE. Master Pricing Agreements are listed at [CSU Contract Store](#) website.

D. General Services Administration of the United States (GSA) Pricing Schedules

A Multiple Award Schedule (MAS) is an agreement established between the General Services Administration (GSA) of the United States and multiple vendors for the purpose of acquiring goods and/or services under specific prices, terms and conditions. GSA agreements may be used by the CSU if the GSA vendor is willing to extend the same GSA prices to the CSU, prices in the agreement have satisfied CSU's competitive solicitation process, and the terms of the agreement include the terms required by California law.

CSU Policy Manual for Contracting & Procurement

E. California Multiple Award Schedule (CMAS) and State Master Agreements

Reference: Government Code 14846

A California Multiple Award Schedule (CMAS) and State Master Agreements are agreements established between the California Department of General Services (DGS) and multiple vendors who agree to the State of California terms and conditions, and may be used by the CSU. Acquisitions based on CMAS or State Master Agreements shall be competitively solicited by the CSU resulting in offers from three or more vendors including one small business, if available. If less than three offers are received, documentation of solicitation methods must be included with the contract documentation. Acquisitions provided for by Policy Sections 301A, 301B, 401A, 401B, 501A, 501B and 501C shall be exempt from this competition requirement. Three offers are not required for CMAS and State Master Agreements based on competition, such as Cal-Store, the Master Rental Agreement, Western States Contracting Alliance (WSCA), etc. Information on specific CMAS and State Master Agreements are available on DGS's website at: <http://www.pd.dgs.ca.gov/emas/default.htm> .

Prior to placing orders under the California Multiple Award Schedule program, the CSU shall, whenever practicable, first consider offers from small businesses and Disabled Veteran Business Enterprise suppliers that have established CMAS contracts.

F. Cooperative and Consortium Purchasing Agreements Administered by Non-CSU Agencies

A cooperative purchasing relationship is one in which a lead government agency conducts a solicitation and executes and maintains an agreement for which all members of the cooperative, including the lead agency, may utilize and will benefit equally.

A consortium purchasing relationship is one in which a third party conducts a solicitation and executes and maintains an agreement with the intent that the primary benefit of such an agreement will be to its member organizations.

Participation in cooperative and consortium agreements, administered by public or private organizations external to the State or the CSU, is permitted for acquiring goods and services if all of the following are met.

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

CSU Policy Manual for Contracting & Procurement

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

205. LOW-VALUE PURCHASES (Rev. 3/19/01)

Reference: EO 760

The development of methods for reducing the costs of executing low-value purchases through expedited order processing, the use of procurement credit cards, and/or the issuance of low-value purchase authorizations shall be encouraged. A low-value purchase authorization may be granted by the President or designee to individuals in departments outside the purchasing department, such delegation of authority shall be in writing. It shall be the responsibility of the campus to determine appropriate levels of delegation based on internal policy and procedure.

The chief financial officer of each campus is responsible for developing and maintaining policies and procedures governing low-value purchases. Campus practices should insure strong internal controls that mitigate procurement abuses, comply with Trustee policy, ensure observance of good business practices and provide appropriate checks and balances. Since procurement discretion may involve the application of the State's conflict of interest laws, attention should be given to compliance with those laws in light of the potential impact that the exercise of procurement discretion may have on a personal financial interest.

The following policies shall be observed in administering low-value purchase authorization:

Each campus must develop low-value procurement policies and procedures that as a minimum include the following:

1. Usage Controls - General procurement controls should be instituted to:
 - (a) prohibit splitting of purchases to circumvent purchase limits
 - (b) prohibit purchases of items determined by the campus to be inappropriate
 - (c) prohibit the procurement of personal services, including consulting services
 - (d) define role of the approving official to insure that a cardholder's subordinate or peer is not designated as approving official. Approving officials should not approve their own purchases
 - (e) ensure duplicative payments do not occur
 - (f) ensure that accessible planned purchasing agreements and services made available from internal sources or through established agreements shall take precedence in low-value purchase considerations
2. Monitoring Activities that include the performance of periodic post-audits, to insure compliance with the CSU procurement policies.

CSU Policy Manual for Contracting & Procurement

3. Periodic appraisals shall be conducted to ensure proper performance under the delegations and to provide a basis for adjusting or discontinuing delegation authority to individuals.
4. Enforcement provisions that clearly identify sanctions for improper use of the delegation. Such sanctions may include required reimbursement for personal charges including any applicable transaction fees, and suspension of the delegation when warranted.
5. Payment processing provisions - The processing of credit card payments must include a complete review and analysis of the monthly credit card charges. In support of the review, the campus departments should be required to submit complete supporting documentation in a timely manner. The review should include the following:
 - (a) Supervisor or management approval
 - (b) A follow-up of disputed charges from the prior months
 - (c) A review of the completeness of the documentation supporting the monthly credit card invoice
 - (d) Clearance of outstanding delinquent invoices
6. Provision for the return of procurement credit cards - Personnel clearing procedures must specifically include a final card reconciliation and return-of-card process.

206 Limits on Competition (Rev. 4/28/08)

Reference: Executive Order 775

It is the policy of the CSU to promote fair and open competition to the maximum extent possible. This section prescribes the policies to be used in those instances where other than full and open competitive contracting is required to fulfill the requirements of the CSU.

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

Each sole source or sole brand request must include a written justification explaining why the sole source/brand is necessary to satisfy the needs of the CSU. Except when a contract is necessary for the immediate preservation of the public health, welfare, or safety, or the protection of CSU property and programs, the request must be approved prior to the execution of the sole source or sole brand contract. The justification shall include the following information.

- The unique performance factors required;
- Why these factors are required;
- What other source/brands have been considered or rejected and why.

Sole source or sole brand requests shall not be justified on the basis of:

CSU Policy Manual for Contracting & Procurement

- A lack of advance planning;
- Concerns related to the amount of funds available for the acquisition of the goods or services; or
- A previously non-competitively bid contract for which the price to the CSU was zero or substantially below fair market price and the results of such contract caused the sole source or sole brand to be required on future contracts.

The drafting or application of specifications or solicitation requirements for goods or services that are unnecessarily restrictive in such a manner as to limit, directly or indirectly, competition to a single brand or single source does not provide for full and open competition, regardless of the number of sources solicited, and is prohibited. A “brand name or equal” is a competitive process that allows bidders to propose equivalent items.

206.01 Sole Brand Procurement (Rev. 3/3/03)

A sole brand procurement is prohibited except in the following instances:

1. The sole brand product is unique and essential to the CSU’s requirements, thereby precluding consideration of a product manufactured by another company, or
2. The sole brand product is required to match other similar product already in place and the use of an alternate product would cause the CSU to incur substantial additional costs.
3. The sole brand product is required for the immediate preservation of the public health, welfare, or safety, or the protection of CSU property and programs.

The determination as to whether a procurement has been adequately justified in writing for a sole brand award shall be made by the designated campus authority.

206.02 Sole Source Procurement (Rev. 04/20/04)

Except where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or the protection of CSU property and programs, a sole source procurement is permissible only when a determination has been made and approved in writing, that only one source exists for the required product or service.

A requirement for a proprietary (or sole brand) item does not necessarily justify sole source procurement, as more than one potential bidder or supplier may exist who can supply that item.

The sole source request must clearly demonstrate:

1. That there is only one source or only one supplier that can provide the goods or services in accordance with the requirements of the CSU, or

CSU Policy Manual for Contracting & Procurement

2. The existence of limited rights in data patent rights, copyrights or secret processes makes the supplies or services available from only one source (however the mere existence of such rights or circumstances does not in and of itself justify a sole source procurement).

Addition of new work that was not within the scope of or incidental to, the original contract scope of work, either as part of the base contract or as an option, is subject to sole source requirements.

The determination as to whether a procurement has been adequately justified in writing for a sole source award shall be made by the designated authority. Campus sole source requests for acquisitions \$100,000 or more must be approved by a campus authority no lower than Vice President for Administration/Finance. For sole sources of \$250,000 or greater, a copy of the requisition, the justification, and other pertinent documentation must be forwarded to the Chancellor's Office CS&P for review and final approval.

206.03. Exceptions to Competition Requirements (Rev. 4/28/08)

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

1. Emergency contracts which are necessary for the immediate preservation of the public health, welfare, or safety, or the protection of CSU property and programs;
2. Contracts for the work or services of a state, local or federal agency, the University of California, a California community college, a foundation or auxiliary organization incorporated to support the CSU, or a Joint Powers Authority of which the CSU is a member;
3. Contracts for which only per diem and travel expenses are paid and there is no payment for services rendered;
4. Contracts for the express purposes of obtaining non-CSU legal counsel or obtaining expert witnesses for litigation (both of these must be submitted to the Office of General Counsel for approval);
5. Contracts with business entities operating Community Rehabilitation Program workshops as specified in Policy Section 219;
6. Equipment maintenance contracts for which there is only one authorized or qualified source required by the equipment manufacturer for the preservation of equipment warranty;
7. Proprietary software maintenance, annual license renewals, and/or upgrade contracts;
8. Utilities contracts for which there is no competition because of sole authorization to provide service to the geographical area;
9. Public entertainment contracts for campus-sponsored fairs, expositions, exhibitions, plays and concerts;
10. Contracts for conference or meeting facilities, including room accommodations for conference attendees;
11. Educational materials and information access resources related to campus library services as specified in Policy Section 303.04;

CSU Policy Manual for Contracting & Procurement

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

207. PROCUREMENT RECORDS RETENTION

Reference: Code of Civil Procedure Section 337; Education Code 89045

Education Code section 89045 describes the general nature of the materials that must be retained and the time frame for preserving them (five years, or after a Trustees' audit, whichever comes first). Each campus shall develop policies on records retention to satisfy all audit requirements, including those of the Trustees.

208. MULTI-YEAR CONTRACTS (Rev. 3/19/01)

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

A multi-year contract is authorized where:

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

Contracts extending into future years must include a provision stating that continuation of the contract is subject to the appropriation of funds by the California Legislature.

In developing multiyear contracts, consideration should be given to the expected changes in the applicable price levels throughout the term of the contract.

209. EMERGENCY TRANSACTIONS (Rev. 3/12/02)

Reference: Public Contract Code 1102

When an emergency involving the public health, welfare or safety, or the protection of State property or programs requires the immediate issuance of a purchase order, standard

CSU Policy Manual for Contracting & Procurement

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

210. PROHIBITED PRACTICES

210.01 Personal Use Of Information

Reference: Education Code 89006

Unless specifically stated within the terms and conditions of an employment or contractual relationship, it is unlawful for a person to utilize any CSU or CSU auxiliary organization information, that is not a matter of public record, for personal pecuniary gain. Prohibition of such utilization applies whether or not a person is or is not so employed or under contract at the time the gain is realized.

210.02 Deleted (Rev. 07/07/06)

210.03 Appropriation Of State Property Or Services (Rev. 3/12/02)

Reference: Public Contract Code 10334; Penal Code Sec. 72.

No CSU employee shall acquire any goods from the CSU, unless the goods are offered to the general public in the regular course of the CSU's business on the same terms and conditions as those applicable to the employee.

Misrepresentation to vendors or contractors that personal acquisitions are for the CSU when they are not, is prohibited and can result in prosecution for misrepresentation, embezzlement, and theft.

210.04 Conflict Of Interest (Rev. 01/01/06)

Reference: Education Code 89006 and 89909. Government Code sections 1090, 87100, 87103 and 89503. Public Contracts Code sections 10830, 10831, 10832 and 10420. 2. CCR 18700 et seq, 5CCR 43810, Contract Resource Library document CRL 056

- A. It is unlawful for any person to utilize any information, not a matter of public record, that is received by that person by reason of his or her employment by, or contractual relationship with, the Trustees, the California State University, or an auxiliary organization of the California State University, for personal pecuniary gain, not contemplated by the terms of the employment or contract, regardless of whether the person is or is not so employed or under contract at the time the gain is realized.
- B. Consulting agreements must be in compliance with conflict of interest requirements as specified in Policy Section 412.10, Consulting Agreements.
- C. No CSU employee may make or participate in the making of any decision in which the employee has a personal financial interest.
- D. Employees designated in the CSU Conflict of Interest Code must disqualify themselves from making or participating in a decision which would have a material effect on a personal financial interest.

CSU Policy Manual for Contracting & Procurement

- E. Employees designated in the CSU Conflict of Interest Code may not accept any gift of more than \$250 in any calendar year from any source which is disclosable in the CSU Conflict of Interest Code. In addition, such employees must disclose gifts totaling \$50 or more from any single source during any one reporting period for California Form 700, Statement of Economic Interest.

210.05 Commercial Endorsements Of Products Or Services (Rev. 04/02/07)

Reference: Education Code 89005.5 (a) (2); Trustees' Resolution 63-16, July 1963 page 602

Officers and employees of the CSU, in their official capacities, are prohibited from endorsing any commercial product or service.

210.06 Misuse Of The Name "California State University"

Reference: Education Code 89005.5

The name "California State University" is the property of the State. No person shall use this name, or any abbreviation of it, or any name of which these words are a part, without the permission of the Trustees.

210.07. Restrictive Specifications (Rev. 4/28/08)

Reference: Public Contracts Code 10318, 10339

No campus shall draft or cause to be drafted, any specifications for solicitations that are unnecessarily restrictive in such a manner as to limit, directly or indirectly, the opportunity for contract award to any one firm.

210.08 Splitting Orders or Contracts (Rev. 4/28/08)

Splitting of purchases or contracts in order to avoid or circumvent legal or policy requirements, including but not limited to competitive solicitation requirements, is prohibited

210.09 Advance Payments (Rev. 04/02/07)

Reference: Public Contract Code 10312; CCR Title 2, Sec. 679; Government Code 11257.

Payment in arrears is the prescribed method of remitting payments for acquisitions. The CSU must have received appropriate return and/or in-kind value in order for consideration to be paid. Advance payments are permitted, whenever specifically authorized in law or determined to be in the best interest of the CSU.

210.10 Prohibition of Labor Abuse (Rev. 10/05/07)

Reference: EO 718, Public Contracts Code Section 6108

- A. License Agreements

CSU Policy Manual for Contracting & Procurement

This policy shall apply to all licensing agreements with the California State University (CSU) or a CSU affiliated enterprise authorizing a licensee to manufacture products bearing the name, logo, or image of the CSU.

This policy shall include each contractor, subcontractor, vendor, or manufacturer that is engaged in a manufacturing process including assembly and packaging of a CSU licensed product.

The CSU is opposed to any acts or omissions by a licensee that would constitute labor abuse. Officers and employees of the CSU and its auxiliary organizations will use their best efforts to ensure that licensees adhere to non-abusive labor practices, including the provision of safe and healthful working conditions.

B. Procurement Contracts

All CSU contracts for the procurement or laundering of apparel, garments or corresponding accessories or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, shall require the contractor to certify that it has maintained a “sweat-free” workplace in compliance with Public Contracts Code Section 6108 and that they adhere to the Sweatfree Code of Conduct as set forth by the California Department of Industrial Relations. A copy of the code is located at:

http://www.calstate.edu/business_community/

The certification requirement does not apply to a credit card purchase of goods of two thousand five hundred dollars (\$2,500) or less. The total amount of exemption authorized herein shall not exceed seven thousand five hundred dollars (\$7,500) per year for each company from which each campus is purchasing goods by credit card. It shall be the responsibility of each campus to monitor the use of this exemption and adhere to these restrictions on these purchases.

211. INTERNAL COMPLIANCE AUDITS

Reference: Education Code 89045(c)(d).

At least once every five years the Trustees Internal Audit staff is required to perform audits of the activities of the CSU and its campuses. These activities include purchasing, contracting, leasing of CSU property, property management, and other support services generally under the direction of the Procurement and Support Services Officers. To ensure compliance with all applicable codes, regulations, and policies, the campus procurement officers and their staffs shall provide or make available to the auditors all local policies, procedures and descriptions of operating control mechanisms, and any files, documents, records, or reference materials, that may be requested during the course of these audits.

212. PROTESTS, DISPUTES, AND COMPLAINTS (Rev. 3/12/02)

Reference: Public Contract Code Sections 12102(h).

CSU Policy Manual for Contracting & Procurement

Campuses have final authority to resolve protests, disputes, and complaints arising from the solicitation, award, or performance of a contract; in all instances where a legal representative of the bidder, vendor, or contractor has initiated correspondence or formal action, campuses shall contact the Office of General Counsel prior to taking any action. Solicitation documents must contain provisions for the resolution of protests and disputes.

212.01 Protest of Solicitation Requirements (Rev. 3/19/01)

The solicitation document shall provide potential bidders with the opportunity to protest the specifications and/or requirements that the bidder feels may be unfair or unreasonable. Such protests must be submitted prior to the scheduled bid submittal deadline.

The campus shall within a reasonable period of time issue a decision to the bidder. The decision of the campus is final.

212.02 Protest of Contract Award - Formal Solicitations (Rev. 07/07/06)

Campuses are encouraged to develop protest procedures that emphasize transparency and that will provide firms, which submitted a proposal, with an understanding of the process with which their proposal will be evaluated. Protest of contract awards may be limited to firms that submitted a proposal in response to CSU's solicitation and must be on the ground that the firm's proposal should have been selected in accordance with the selection criteria in the solicitation document. Once a firm expresses its intention to protest, the contract shall not be awarded until the protest has been withdrawn or a decision has been reached by the CSU.

Notification of Protest

A firm must express its intention to protest the award of a contract within the timeframe specified by the solicitation document. The timeframe specified, usually no more than five (5) business days, must provide firms with a reasonable opportunity to make an initial determination to proceed with the protest and should take in to account factors such as the complexity of the project.

Detail Statement of Protest

Within ten (10) calendar days after expressing its intent to protest an award of a contract, the protesting firm must submit a full and complete written statement specifying the grounds of the protest and the facts in support thereof. Authority to protest may be limited to participating bidders.

Review of Protest

An impartial evaluator(s) selected by the campus shall perform a review of the protest. Selection of the evaluator shall be at the discretion of the campus. The evaluator(s) shall review the merits and timeliness of the protest and submit a

CSU Policy Manual for Contracting & Procurement

decision in writing within a reasonable period of time following receipt of the detailed statement of protest. The campus shall issue a decision in writing or otherwise furnish to the protesting firm the decision in such a manner as to ensure receipt. The decision of the campus is final.

212.03 Disputes Subsequent to Award (Rev. 3/19/01)

Disputes subsequent to award may include, but not be limited to, contention over terms, pricing, payment, scope and/or deliverables. A dispute resolution and escalation clause, describing resolution procedures and the appropriate parties to which the matter may be escalated, shall be included in solicitation documents and contracts, as applicable.

213. PROCUREMENT FILES (Rev. 3/12/02)

The campus procurement office must maintain files on all active solicitations and contracts for products & services that are likely to be requested for the purpose of conducting CSU business and for carrying out its educational mission.

213.01 Vendor Data Record (Revised 04/20/04)

A completed Vendor Data Record must be obtained whenever the CSU engages in a transaction that leads to a payment to any individual or any entity that is not a governmental entity.

A Vendor Data Record Form (CRL040) is available at the CS&P [Contract Resource Library](#) website.

213.02 Exclusion of Vendors or Contractors From Bidding (Rev. 3/12/02)

A vendor or contractor may be removed or suspended from a campus's list of potential bidders and be prohibited from participating in any of the campus's bid processes if there has been a failure, without good cause, to perform in accordance with the terms of a past contract with a CSU campus or with any other governmental entity. A vendor or contractor may also be removed or suspended if its performance with respect to a previously awarded purchase order or contract has been unsatisfactory. Such exclusion must remain in effect for at least 90 days after the unsatisfactory performance has been recorded, but shall not exceed a period of 360 calendar days in duration. A vendor or contractor excluded from bidding shall be relieved of the prohibition at any time after the 90-day minimum period, upon demonstrating to the campus's satisfaction that the problems which resulted in the removal or suspension have been corrected.

213.03 Contractor Identification Number (Rev. 04/20/04)

Reference: Public Contract Code 10833

CSU Policy Manual for Contracting & Procurement

Each contractor that enters into a contract with a CSU campus for ten thousand dollars (\$10,000) or more shall be assigned an identification number by the president of that CSU campus. Each contractor that has been assigned a number shall list it on each contract the contractor enters into with the CSU campus, regardless of the amount of the contract. In the case of a corporation or firm, the president's assigned number shall be used exclusively on each contract with that president's campus. The assigned number shall remain unchanged regardless of future name changes.

In order for the Trustees of the CSU to track the identification numbers centrally each campus shall, when requested, provide a report of the contractor assigned numbers to the CSU Office of the Chancellor.

214. TAX-EXEMPT FINANCED ACQUISITIONS (Rev. 3/12/02)

Reference: Education Code 89036, P.C.C. 12113, E.O. 775

Acquisitions that involve tax-exempt provisions (lease/purchase or installment payment agreements) must follow all of the general rules and principles of procurement as stated in other sections of this Policy Manual.

Such acquisitions are also subject to additional requirements which assure compliance with federal tax code provisions. Financed acquisitions are identified as tax-exempt whenever the seller/lessor or third party financier intends to claim the interest portion of its proceeds as exempt from federal income tax.

Procedural questions for developing such transactions can be directed to the Contract Services and Procurement Department (CS&P) at the Chancellor's Office. Helpful information for the development of contracts that provide for a financed tax-exempt acquisition can be found on the [CS&P Internet website](#)

Fully developed contracts or purchase orders containing the tax-exempt provisions must be submitted, along with all their related financial documentation, to the Finance and Treasury at the Chancellor's Office for review and approval prior to execution.

The Chancellor's Office shall be responsible for maintaining records to insure that financiers who issue tax-exempt obligations on behalf of the CSU comply with federal tax reporting obligations. The Chancellor's Office shall also maintain prenegotiated terms and conditions with selected financiers, provide model agreements, and coordinate efforts to obtain legal counsel on tax-exempt

215. DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION GOALS (Rev. 4/28/08)

Reference: Public Contract Code Section 10111, 10115 et seq.; CCR Title 5 Section 43870 et seq., Military and Veterans Code, Sections 999.2, 999.5, 999.7, 999.11 and 999.12, Government Code Section 14838.5

Definition

CSU Policy Manual for Contracting & Procurement

A disabled veteran business enterprise (DVBE) must meet the following requirements:

- At least 51 percent owned by one or more disabled veterans;
- Managed by, and daily business operations are controlled by one or more disabled veterans;
- The home office must be located in the U.S.
- Certified by the State of California and performs a commercially useful function under the above-reference codes.

For DVBE certification purposes, a “disabled veteran” is 1) a veteran of the U.S. military, naval, or air service; 2) the veteran must have a service-connected disability of at least 10% or more; and 3) the veteran must be domiciled in California.

Goal

The Disabled Veteran Business Enterprise (DVBE) Participation Program was established to acknowledge disabled veterans for their service and to further DVBE participation in state contracting, promote competition and encourage greater economic opportunity.

The state established a DVBE contracting participation goal of at least three percent. The goal applies to the total contract dollars expended each year by all campuses. This includes all contracts, purchase orders, and procurement card orders.

In the effort to reach or exceed this goal, campuses may specify any amount of DVBE participation for an individual solicitation, as long as they achieve their annual 3% goal.

Requirements

Disabled Veteran (DVBE) Advocate: The CSU has established, within the Chancellor’s Office Department of Contracts and Procurement a DVBE Advocate and at each campus a DVBE Coordinator, consistent with the provisions of 999.12 of the Military and Veterans Code, to do all of the following:

- Assist certified DVBE firms to participate in the agency’s contracting process.
- Assist contract officers in seeking DVBE firms to participate in the agency’s contract and procurement activities.
- Disseminate information to the agency’s contracts and procurement office.
- Serve as an advocate for the DVBE firms that are utilized as the agency’s contractors or subcontractors.
- Report to the Office of Small Business and DVBE Services (OSDS) regarding any violation of this article.
- Coordinate with the state DVBE advocate at the Department of Veterans Affairs in an effort to meet the statewide 3 percent goal provided for in section 999 of the Military and Veterans Code.

CSU Policy Manual for Contracting & Procurement

In addition, the DVBE advocate, Campus DVBE Coordinator, or designee has the following responsibilities:

- Specify the amount of required DVBE participation for individual solicitations.
- Evaluate the participation compliance in proposals and bids, including but not limited to 1) verification of DVBE qualifications and 2) evaluation of Good Faith Efforts.
- Evaluate requests for DVBE waivers for solicitations, including Good Faith Effort waivers of Advertising requirements of PCC Section 10115.2(b)(3).

The DVBE participation requirement applies for competitive solicitations regardless of the solicitation format (RFQ, IFB, RFP) or dollar value. Bidders must document at least one of the following three ways to comply with the DVBE program requirements: 1) Commit to the required level of DVBE participation, 2) document a Good Faith Effort, 3) Provide an approved Business Utilization Plan. Bidders for EDP-related contract awards and for purchase order awards may opt to submit a "Utilization Plan" in lieu of meeting the 3 percent participation requirement. Utilization Plans are described in Section 10115.15 of the Public Contract Code.

DVBE Incentive

The DVBE Incentive is part of the standard DVBE solicitation language. Bidders may receive an incentive for meeting or exceeding the 3% participation requirement, making their bids more competitive. Campuses have the ability to determine the level of DVBE incentive they will offer for corresponding levels of participation, i.e., the more DVBE participation they propose, the higher the incentive. This information must be included in the solicitation. The minimum incentive a qualifying bidder can receive is 3%. The combination of preferences with a DVBE incentive cannot exceed 10% or \$100,000, whichever is less. A non-small business cannot displace a California certified small business from the top-ranked position because of application of preferences or incentive.

SB/DVBE Option

A campus may award a contract for the acquisition of goods, services or information technology that has an estimated value of greater than five thousand dollars (\$5,000), but less than one hundred thousand dollars (\$100,000) to a certified small business or disabled veteran business enterprise, as long as the campus obtains price quotations from two or more certified small business or disabled veteran business enterprises as referenced in Government Code Section 14838.5

For construction contracts, campuses may award a contract that has an estimated value of greater than \$5,000, but less than the cost limit as identified in Public Contract Code Section 10105, to a certified small business, including a microbusiness, or to a disabled veteran business enterprise, as long as written bids are obtained from two or more certified small businesses, including microbusinesses, or from two or more disabled veteran business enterprises. In implementing this provision, the Trustees shall consider a

CSU Policy Manual for Contracting & Procurement

responsive offer timely received from a responsible certified small business, including a microbusiness, or from a disabled veteran business enterprise as referenced in Government Code Section 14838.7 (For CY 2008, the high-end cost limit as identified above is currently \$147,000--this number is periodically adjusted by the CA Dept of Finance.)

Reporting

Activity reports shall be prepared and submitted by each campus to the Department of General Services. A copy of activity reports shall be sent to the Chancellor's Office, Department of Contract Services and Procurement in order to consolidate activity for the CSU system. Campuses shall submit reports in accordance with due dates specified at: <http://www.calstate.edu/CSP/reports.shtml>

216. SMALL AND MICRO BUSINESSES (Rev. 4/28/08)

Reference: Government Code Section 14835 et seq.; Title 2, Section 1896 et seq.

Definition of a Small Business

- An independently owned and operated business
- Not dominant in its field of operation
- The principal office is located in California
- The officers are domiciled in California
- Together with affiliates is either:
 - A service, construction or non-manufacturing business with 100 or fewer employees, and average annual gross receipts of twelve million dollars (\$12,000,000) or less over the previous three years, or
 - A manufacturer with 100 or fewer employees.

Definition of Micro Business

Micro-business is a small business that, together with affiliates, has average annual gross receipts of two million seven hundred fifty thousand dollars (\$2,750,000) or less over the previous three years, or is a manufacturer. Micro-businesses shall be extended the same preferences and incentives applicable to certified small businesses.

For the purposes of this policy statement, small and micro businesses shall be collectively referred to as "small businesses."

Small Business Goal

The CSU supports the spirit of the Legislature's declaration as set forth in the Small Business Procurement and Contracts Act (G.C. 14835 et seq.) and supports those goals established by the Office of Small Business and DVBE Services (OSDS), for the extent of participation of small businesses, including micro-businesses, in the provision of goods, information technology, and services to the state, and in the construction of state facilities.

CSU Policy Manual for Contracting & Procurement

To provide small businesses an opportunity to request preference, the Small Business Preference Form or an equivalent advisory statement shall be included in all bid solicitations for the procurement of goods and for service agreements. Evidence of certification by OSDS (usually via copy of the OSDS approval letter or referenced certification number) is required from bidder in order for a bid preference to be granted.

Requirements

CSU has established a Small Business Advocate within the Chancellor's Office, Contract Services & Procurement department. The Small Business Advocate is the single point of contact for small businesses and shall:

- Make information regarding pending solicitation available to, and consider offers from, California small business suppliers capable of meeting the CSU's business needs, and who have registered with the state for this purpose.
- Ensure prompt payment to small businesses

Each campus shall appoint a small business coordinator to facilitate the Small Business Advocate and perform the following duties:

- Make information regarding pending solicitations available to, and consider offers from, certified California small business suppliers capable of meeting the CSU's business needs, and who have registered with the state for this purpose.
- Ensure prompt payment to small businesses.
- Consider small businesses under the California Multiple Award Schedule (CMAS) prior to placing an order.
- Identify and implement innovative acquisition processes to further small business participation.
- Give special consideration to small businesses and micro businesses by reducing experience requirements and level inventory normally required.

The awarding department may, on contracts with an estimated cost which exceeds \$300,000.00, give special assistance to small businesses and micro businesses in the preparation and submission of financial ability and experience in performing public works.

The State is required to aid, counsel, assist, and protect, to the maximum extent possible, the interests of small business concerns in order to preserve free competitive enterprise and ensure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the State be placed with such enterprises.

Small Business Preference

CSU Policy Manual for Contracting & Procurement

To provide small businesses an opportunity to request preference, the Small Business Preference Form or an equivalent advisory statement shall be included in all bid solicitations for the procurement of goods and for service agreements. Evidence of certification by OSDS is required from bidder in order for a bid preference to be granted. All certified small businesses may elect to apply a 5% percent bidder's preference that shall not exceed \$50,000.00 in accordance with G.C. 14835 et seq.

SB/DVBE Option

A campus may award a contract for the acquisition of goods, services or information technology that has an estimated value of greater than five thousand dollars (\$5,000), but less than one hundred thousand dollars (\$100,000) to a certified small business or disabled veteran business enterprise, as long as the campus obtains price quotations from two or more certified small business or disabled veteran business enterprises as referenced in Government Code Section 14838.5

For construction contracts, campuses may award a contract that has an estimated value of greater than \$5,000, but less than the cost limit as identified in Public Contract Code Section 10105, to a certified small business, including a microbusiness, or to a disabled veteran business enterprise, as long as written bids are obtained from two or more certified small businesses, including microbusinesses, or from two or more disabled veteran business enterprises. In implementing this provision, the Trustees shall consider a responsive offer timely received from a responsible certified small business, including a microbusiness, or from a disabled veteran business enterprise as referenced in Government Code Section 14838.7 (For CY 2008, the high-end cost limit as identified above is currently \$147,000--this number is periodically adjusted by the CA Dept of Finance.)

Reporting

In order to comply with the requirements of the Small Business Procurement and Contract Act, the CSU must report to the OSDS annually on the number and amount of contracts and purchase orders awarded to small businesses.

Annual Report

Campuses shall submit to the Office of the Chancellor annual Small Business & DVBE reports in accordance with due dates specified at:
<http://www.calstate.edu/CSP/reports.shtml>

217. TARGET AREA PREFERENCE ACT (TACPA)

Reference: Government Code Section 4530 et seq.

In accordance with Government Code Section 4530 et seq., preference must be granted to California-based companies submitting bids or proposals to the State for goods to be produced or services performed at worksites in distressed (as defined) areas by persons

CSU Policy Manual for Contracting & Procurement

with a high risk of unemployment when the contract is for goods or services in excess of \$100,000. The 5% preference is applicable only to contracts awarded on the basis of lowest responsible bidder meeting specifications.

218. ENTERPRISE ZONE ACT (EZA)

Reference: Government Code Section 7070 et seq.

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

219. COMMUNITY REHABILITATION PROGRAMS AND WORKSHOPS

Reference: Welfare and Institutions Code, Sections 19403, 19404.

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

220. NON-DISCRIMINATION (Rev. 01/01/06)

Reference: Government Code Section 12990 et seq., California Code of Regulations Sections 8115 and 8107

All contracts of \$5,000 or more must contain a condition stating that the contractor, by signing the contract, certifies under penalty of perjury that the non-discrimination requirements of Government Code Section 12990 et seq. have been met, unless exempted under Title 2, Section 8115 of the California Code of Regulations. These are requirements that must be met by all vendors or contractors who wish to do business with the State.

221. NATIONAL LABOR RELATIONS BOARD (NLRB) COMPLIANCE (Rev. 01/01/06)

Reference: Public Contract Code Section 10296.

All contracts must contain a condition stating that the contractor, by signing the contract, certifies under penalty of perjury that contractor has not violated the provisions of Public

CSU Policy Manual for Contracting & Procurement

Contract Code section 10296 regarding the issuance of orders by the National Labor Relations Board (NLRB).

The certification requirement does not apply to a credit card purchase of goods of two thousand five hundred dollars (\$2,500) or less. The total amount of exemption authorized herein shall not exceed seven thousand five hundred dollars (\$7,500) per year for each company from which each campus is purchasing goods by credit card. It shall be the responsibility of each campus to monitor the use of this exemption and adhere to these restrictions on these purchases.

222. AUDIT OF CONTRACT (Revised 01/29/99)

Reference: Government Code Section 8546.7

A notification to the contractor is required on all contracts exceeding \$10,000 that such contracts are subject to an audit of the Office of the University Auditor and State Auditor for a period of three years after final payment has been made.

223. DRUG-FREE WORKPLACE CERTIFICATION (Rev. 01/01/06)

Reference: Government Code Sections 8355, 8356, and 8357

State contractors and recipients of State grants are required to maintain a "drug-free workplace." A campus may suspend payments under a contract or grant or terminate the contract or grant, or both, if a contractor or grantee has failed to comply with the legal requirements contained in Government Code Sections 8355, 8356, and 8357.

Every person or organization awarded a contract for the procurement of any goods or services, including Information Technology goods and services, shall certify that it will provide a drug-free workplace in accordance with Government Code 8355.

The certification requirement does not apply to a credit card purchase of goods of two thousand five hundred dollars (\$2,500) or less. The total amount of exemption authorized herein shall not exceed seven thousand five hundred dollars (\$7,500) per year for each company from which each campus is purchasing goods by credit card. It shall be the responsibility of each campus to monitor the use of this exemption and adhere to these restrictions on these purchases.

224. PRISON INDUSTRY AUTHORITY (Rev. 10/20/2004)

Campuses are encouraged to procure any available goods or services produced by the Prison Industry Authority (PIA). A campus may contract, without competition, with PIA for goods and services; whenever it is determined that PIA can provide the best value for the CSU.

225. USE OF THE STATE DEPARTMENT OF GENERAL SERVICES

Reference: Statutes of 1993, chapter 1097, Section 8.

The Department of General Services (DGS) offers a variety of services that are available to all State agencies, including the CSU. Chaptered legislation specifies that:

CSU Policy Manual for Contracting & Procurement

"If the California State University (CSU) determines that greater efficiency would be served by contracting with the Department of General Services (DGS) or another department or agency of the State for the performance of any service or function, the DGS or other department or agency shall contract with the CSU to perform the service or function."

226 Use of electronic transmission (Rev. 04/02/07)

Reference: Public Contract Code Section 1600 & 1601.

Campuses may utilize electronic transmission to perform, but are not limited to, the following:

- Enter into contracts;
- Issuance of solicitation documents and receipts of responses thereto;
- Communications with contractors, bidders and prospective bidders.

Appropriate security measure should be instituted to protect the confidentiality of the transmission when necessary. If sealed bid requirements are applicable, the electronic transmission method used must provide for the verification of the bid submittal time and date and the time and date that the bid was opened.

Security and verification requirements notwithstanding, electronic transmissions include, but are not limited to, email, telefax, electronic data interchange and Internet.

227. DIRECT PAYMENTS

Direct payments may be made for those types of commitments/obligations for which little or no value can be added by processing the transaction through the standard procurement procedures. Campuses are responsible for establishing local policies which identify types and dollar thresholds for transactions authorized for direct payments and associated procedures for exception processing. Examples of direct payments may include but are not limited to public utilities, room rentals, rebates & reimbursements, books, subscriptions, publications, registration fees, and membership dues.

228. AMERICANS WITH DISABILITIES ACT (ADA) (Rev. 10/5/07)

Reference: Government Code 11135, CSU Executive Order 926, CSU Coded Memo AA-2007-04, Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 and following), Sections 508 of the Rehabilitation Act of 1973, as amended (Section 508)

Any public solicitation process developed by campuses shall be compliant with all applicable regulations and guidelines issued pursuant to the ADA so as not to deny persons with disabilities the opportunity to participate in the competition for the contract award.

Acquisition of Electronic and Information Technology (E&IT) products and services greater than \$50,000

CSU Policy Manual for Contracting & Procurement

Each campus shall acquire products that comply with applicable Section 508 provisions when such products are available in the commercial marketplace. Unless a product qualifies for one of the exemptions listed below, the product that best meets the standards and at the same time complies with other applicable procurement policies and regulations must be procured. If a campus determines that compliance with any provision of Section 508 is unfeasible, then such exception shall be fully documented and approved by the campus president or designee.

Exemptions:

A. Net Cost Increase

The CSU has a specific exemption base in California's Government Code Section 11135(c)(2). This Government Code section states: "... In clarifying that the California State University is subject to paragraph (2) of subdivision (d), it is not the intention of the Legislature to increase the cost of developing or procuring electronic and information technology. The California State University shall, however, in determining the cost of developing or procuring electronic or information technology, consider whether technology that meets the standards applicable pursuant to paragraph (2) of subdivision (d) will reduce the long-term cost incurred by the California State University in providing access or accommodations to future users of this technology who are persons with disabilities, as required by existing law, including this section, Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 and following), and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794). "

This section of the Gov. Code exempts the CSU from Section 508 requirements if it can be determined that in the procurement of accessible E&IT product will increase the cost to the CSU.

B. Commercially Non-Available

At the time of procurement, there are instances when a product that meets all the functional specifications does not have features to meet all the appropriate 508 standards. In certain situations, at the time of procurement, the features to meet those standards are considered commercially non-available and are exempt. The rationale is that while the features are not commercially available at the time of procurement, there is the strongly likelihood that at some future date, the items might be commercially available.

This exemption only applies during the evaluation of a vendor's product. In some cases, the vendor's product complies with some, but not all the standards. If that vendor has the most compliant product, then the standards that the vendor cannot comply with are considered commercially non-available.

C. Sole Brand

CSU Policy Manual for Contracting & Procurement

A sole brand is when only one product meets the functional specification required. A sole brand product should first be reviewed and approved in accordance with campus policy and procedure for sole brand requests. An approved sole brand product is exempt from Section 508 requirements.

D. Back Office

This pertains to a group of products that reside in either a telecommunication closet or data center. These are products that do not interact with people except when maintenance is required. An example is a server in a data center. If the server simply operates without human interaction, then the server qualifies as a back office exemption. If there is software running on the server that does have human interaction (e.g., Oracle), then the software is not exempt.

E. Fundamental Alteration

The CSU is not required to make changes in the fundamental characteristics of a product to comply with Section 508 accessibility standards. This does not apply cosmetic or aesthetic changes. Adding accessibility features would not generally be considered a fundamental alteration if it did not have any significant effect on the standard mode of operation or its size or weight. As a general rule, fundamental alteration normally applies to hand-held devices. Technology in this area is rapidly evolving and an exemption granted for one procurement should not be automatically extended to future procurements.

F. Undue Burden

Undue burden means significant difficulty or expense. When determining if a product qualifies for an undue burden, the campus must consider the resources available to the program or component for which the product is being developed, procured, maintained, or used. Considerations should include the functionality needed from the product and the technical difficulty involved in making the product accessible. In addition, other considerations include compatibility with the campus or CSU infrastructure, including security, and the difficulty of integrating the product. Campuses undue burdens requests require the approval of the campus president. [For the CO use: Office of the Chancellor undue burden requests require the approval of the Executive Vice Chancellor.]

G. Other exemptions

In addition to the exemptions above, Section 508 provides for other types of exemptions. These other exemptions should be reviewed on a case-by-case basis and approval shall be in accordance with campus policies and procedures.

Contract Provision Requirement

All contracts must contain a condition stating that the contractor, by signing the contract, assures the University that it complies with American with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

CSU Policy Manual for Contracting & Procurement

229. CHILD SUPPORT COMPLIANCE ACT (Rev. 1/29/99):

Reference: Public Contracts Code 7110

It is the policy of the State of California that anyone who enters into a contract with a state agency shall recognize the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code.

Any contract in excess of \$100,000 must include the General Provision Clause entitled Child Support Compliance Act.

230. INSURANCE REQUIREMENTS (Rev. 01/01/06)

Reference: Executive Orders 849

In addition to the general requirements contained in this policy section, specific requirements stated in contract categories are also applicable. In developing requirements for all acquisitions, the campus must determine what insurance and hold harmless requirements, if any, are needed based on an evaluation and identification of the associated risk.

A. Risk Identification and Evaluation

Questions that should be considered in determining what risks and subsequent losses could arise from the activities contemplated under the contract should include, among others, the following:

1. What activities will take place?
2. Who could be harmed?
3. What property could be damaged and how severely?
4. What is the maximum likely loss for each activity?
5. Is there a possible pollution exposure?
6. Are crowds or bystanders/passersby likely to be involved?
7. Will inherently dangerous activities be involved?
8. How likely is it that the University will be a defendant in the event of a loss?

After consideration of these factors, the campus may amend the standard insurance and hold harmless requirements, specified in this policy and in the applicable contract category of this policy manual, to the needs of the acquisition.

B. Hold Harmless Provisions

Many alternative hold harmless provisions are possible, with each alternative having a different purpose and potential risk transfer variant. In addition to minimum standards for insurance requirements, this policy manual establishes

CSU Policy Manual for Contracting & Procurement

the approved hold harmless provisions based on the risk assessment of the contract category. Modification to hold harmless language in contract negotiation is a crucial part of the risk transfer process and should only be undertaken with appropriate review and counsel.

In some instances, a no "hold harmless" clause approach may be appropriate for low liability activity and for activities critical to CSU.

C. Additional Insured Endorsements

In the event insurance requirements are included in the terms and conditions of a contract or agreement, the contractor, consultant, or vendor, must be required to show evidence of adequate insurance coverage by furnishing to the California State University a certificate or certificates of insurance that include additional insured endorsements.

All certificates of insurance issued to the University require the following:

- Provide for thirty (30) days advance written notice to the University of any modification, change, or cancellation of any of the insurance coverage.
- Provide for Acceptability of Insurers rating, AM Best - AVII or equivalent unless otherwise agreed to by the University.
- Name the State of California, the Trustees of the California State University, the campus and the officers, employees, volunteers and agent of each of them as additional insureds, except for professional liability and workers' compensation insurance.

In the event a contracting entity is self-insured, the following statement signed by an authorized corporate officer of the contracting entity will be acceptable if the company has the necessary financial resources to guarantee payment when the law imposes such liability and subject to approval by the campus risk manager or other authorized campus representative:

"As an alternative to providing the general liability insurance required by this subsection [subsection #], the Contractor may cause to be provided other kinds of insurance or methods or plans of protection such as, but not limited to, self insurance pools, primary or excess risk retention groups if and to the extent such other kinds of insurance or methods or plans of protection shall afford reasonable protection to the Board of Trustees and their officers, agents and employees."

230.01 Insurance Requirements For The Purchase Of Goods (Rev. 01/01/06) Reference E.O849

It is recognized that a purchase order for the routine procurement of goods may not explicitly state insurance requirements. However, campuses should review each acquisition to identify any potential risks that may

CSU Policy Manual for Contracting & Procurement

require the imposition of insurance requirements. Factors as set forth in section 230 of the policy manual should be considered.

230.02 Insurance Requirements For Hazardous Substance And Waste Removal Services (Rev. 01/01/06)

Reference: EO 849

This policy section applies to the procurement of hazardous materials as well as for service contracts for the removal of hazardous materials.

In the absence of a risk identification and evaluation, the following insurance limits and hold harmless provisions are required:

General Liability: comprehensive or commercial form minimum limits coverage in the minimum amount of \$5,000,000 combined single limit bodily injury and property damage each occurrence and \$10,000,000 aggregate, including premises/operations, personal injury, broad form property damage, products/completed operations, contractual liability, independent contractors and \$500,000 fire legal liability. A Waiver of Subrogation is required.

Environmental Impairment (pollution) Liability: coverage in the minimum amount of \$5,000,000 combined single limit bodily injury and property damage each occurrence and \$10,000,000 aggregate, including clean-up costs.

Commercial Automobile Liability: coverage is required in the minimum amount of \$1,000,000 combined single limit bodily injury and property damage, including owned, non-owned and hired automobiles; should also include Uninsured/Underinsured Motorists coverage in the minimum amount of \$1,000,000.

Pollution and/or Asbestos Pollution Liability and/or Errors and Omissions.

Workers' Compensation: as required under California law.

Hold Harmless Provision: reference CSU General Provisions for Service Agreements as maintained in the Contract Resource Library.

In addition to above coverage noted under Contractor's auto liability, hazardous material transporter services must also have an MCS-90 endorsement and Sudden & Accidental Pollution Insurance endorsement. The Sudden & Accidental Pollution Insurance must have minimum limits of \$2,000,000 per occurrence, \$2,000,000 total. A higher limit on the MCS-90 endorsement required by law must be matched by the Sudden & Accidental Pollution Insurance.

230.03 Insurance Requirements For Service Contracts (Rev. 01/01/06)

Reference: E.O. 849

Evidence of proper insurance coverage is required for any campus or auxiliary organization contract involving any activities that put the State, the CSU, or the campus at risk. Such contracts include those for custodial services, landscaping, refuse collection, elevator maintenance, pest control and fumigation, excavation or demolition work, and

CSU Policy Manual for Contracting & Procurement

any other contracts where the services are being performed on campus by independent contractors. Specific questions relating to insurance coverages shall be directed to the appropriate risk manager.

Short term licenses issued by a campus or an auxiliary for special on-campus events shall also require such evidence of coverage, whenever they pose a significant level of risk. These include, but are not limited to, athletic events, automobile or motorcycle races, rodeos, thrill shows and fireworks displays.

The limits shown below will generally be required for service providers involved in low risk activities and specifically do not apply to services for hazardous materials removal. Higher limits will be required for service providers performing potentially high-risk activities. Campus risk managers should be consulted for the minimum requirements.
Minimum limits

General Liability: comprehensive or commercial form minimum limits each Occurrence \$1,000,000, General Aggregate \$2,000,000.

Employer Liability: \$1,000,000.

Business Automobile Liability: minimum limits for Owned, Scheduled, Non-Owned, or Hired Automobiles with a combined single limit of not less than \$1,000,000 per occurrence.

Workers' Compensation: as required under California State Law.

Errors and Omission insurance is required for professional service consultants and professional service design architects/engineers.

Hold Harmless Provision: reference CSU General Provisions for Service Agreements as maintained in the Contract Resource Library.

Contracts requiring insurance coverage shall contain the following provisions:

1. Contractor shall furnish to the University prior to the commencement of work an underwriter's endorsement with a certificate of insurance stating that there is insurance presently in effect for the contractor that, as a minimum, meets the requirement contained herein.
2. The certificate of insurance shall provide:
 - (a) That the insurer will not cancel the insured's coverage without thirty (30) days prior notice to the University;
 - (b) That the State of California, the Trustees of the California State University, the University, and the employees, officers, and agents of each of them, are included

CSU Policy Manual for Contracting & Procurement

as additional insureds, but only insofar as the operations under this contract are concerned;

- (c) That the State, the Trustees, and the University, and the employees, officers, and agents of each of them will not be responsible for any premiums or assessments on the policy.

3. Contractor agrees that the bodily injury liability insurance herein provided shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided herein for not less than the remainder of the term of the contract, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the University, and the contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event contractor fails to keep in effect at all times insurance coverage as herein provided, the University may, in addition to any other remedies it may have, terminate this contract upon the occurrence of such event.

Exceptions: The limits shown above will generally be required for service providers involved in low risk activities. Higher limits will be required for service providers performing potentially high-risk activities. Campus risk managers should be consulted for the minimum requirements.

230.04 Insurance Requirements For Campus Facilities And Property Lease (Rev. 01/01/06)

Reference: EO 849

In addition to the requirements in Policy Manual section 230, the following requirements are also applicable.

- General Liability: comprehensive or commercial form minimum limits each occurrence \$1,000,000, General Aggregate \$2,000,000 (when available).
- Employer Liability: \$1,000,000.
- Business Automobile Liability: minimum limits for Owned, Scheduled, Non-Owned, or Hired Automobiles with a combined single limit of not less than \$1,000,000 per occurrence.
- Workers' Compensation: as required under California law.
- Hold Harmless Provision: Lessee shall hold harmless, indemnify, and defend the State of California, the Trustees of the California State University, the [campus] and the officers, employees, volunteers and agents of each of them from and against any and all liability, loss, damage, expense, costs of every nature, and causes of actions arising out of or in connection with the use by the Lessee of said property.

Long-term leases of real property require case-by-case analysis to determine insurance requirements and will vary depending on the nature of the agreement. Insurance

CSU Policy Manual for Contracting & Procurement

requirements should be commensurate with the activities associated with the lease that may cause damage to person or property.

230.05 Insurance Requirements For Auxiliary Operation Agreement (Rev. 01/01/06)

Reference: E.O. 849

In addition to the requirements in Policy Manual section 230, the following requirements are also applicable.

- General Liability: comprehensive or commercial form minimum limits each occurrence \$1,000,000, General Aggregate \$2,000,000.
- Employer Liability: \$1,000,000.
- Business Automobile Liability: minimum limits for Owned, Scheduled, Non-Owned, or Hired Automobiles with a combined single limit of not less than \$1,000,000 per occurrence.
- Workers' Compensation: as required under California law.
- Hold Harmless Provision: Auxiliary agrees to indemnify, defend, and save harmless the State of California, the Trustees of the California State University, the [campus name] and the officers, employees, volunteers and agents of each of them (all of which are hereinafter referred to as "State") from any and all loss, damage, or liability that may be suffered or incurred by State, cause by arising out of, or in any way connected with the operations of Auxiliary.

Long-term leases of real property require case-by-case analysis to determine insurance requirements and will vary depending on the nature of the agreement. Insurance requirements should be commensurate with the activities associated with the lease that may cause damage to person or property.

230.06 Insurance Requirements For Placement Agreements (New 03/03/03)

Reference: EO 849

These agreements typically provide for students to be placed with other agencies or institutions for course-required work experience. Student placement agreements must be in writing and shall specify minimum insurance requirements applicable to the contracting parties and appropriate hold harmless provisions based upon the need of the contracting parties. The following hold harmless provision may be used as a minimum:

Hold Harmless Provision: [insert public entity] shall be responsible for damages caused by the negligence of its officers, employees and agents. Trustees shall be responsible for the damages caused by the negligence of its officers, employees and agents. The intent of this paragraph is to impose responsibility on each party for the negligence of its officers, employees and agents.

CSU Policy Manual for Contracting & Procurement

231. ETHNICITY RACE AND GENDER IN CONTRACTS (Rev. 5/20/05)

Reference: public Contract Code Section 10116 et. seq.

The CSU shall report to the Governor and Legislature on the level of participation of business enterprises, by race, ethnicity, and gender of owner, in contracts as identified.

Requirements

Campuses shall collect the voluntary information prescribed on the “Voluntary Statistical Data” form on all procurement transactions specified in the Reporting Section below. The data collected shall be compiled on a fiscal year basis and reported to the Office of the Chancellor. The Voluntary Statistical Data form can be found in the Contract Resources Library.

Special Conditions

Awarding departments are prohibited from using the data compiled under this section to discriminate or provide a preference in the awarding of any contracts. Contractors are prohibited from using the information compiled under this section to discriminate or provide a preference in the solicitation or acceptance of bids for subcontracting, or for materials or equipment, on the basis of race, color, sex, ethnic origin, or ancestry.

Reporting

In order to comply with the requirements of the code, the report shall contain the levels of participation of business enterprises, by race, ethnicity, and gender of owner, for the following categories of contracts:

- Construction.
- Purchases of materials, supplies, or equipment.
- Professional services.
- All contracts for a dollar amount of less than twenty-five thousand dollars (\$25,000).

The Ethnicity/Race/Gender Business Ownership report form can be found in the Contract Resources Library.

Campus shall submit to the Office of the Chancellor Ethnicity/Race/Gender reports in accordance with due dates specified at:

<http://www.calstate.edu/CSP/reports.shtml>

232 Expatriate Corporations (Rev. 01/01/06)

Reference: Public Contract Code Section 10286 et. Seq., California Taxpayer and Shareholder Protection Act of 2003

CSU Policy Manual for Contracting & Procurement

The California Taxpayer and Shareholder Protection Act of 2003 prohibits state agencies from entering into any contract with an expatriate corporation or its subsidiary unless certain conditions are met. In compliance with California Taxpayer and Shareholder Protection Act of 2003, as a condition of contracting with the CSU, all vendors must submit a declaration stating that the vendor is eligible to contract with the CSU pursuant to the California Taxpayer and Shareholder Protection Act of 2003.

A campus may contract with an expatriate corporation or one of its subsidiaries when it necessary to meet a compelling public interest.

Some instances where contracting with one of these entities might rise to the need of a compelling public interest would be when there is a need for a non-competitive procurement for proprietary equipment, or a contract for service or maintenance of proprietary equipment already installed or manufactured by the expatriate corporation and where replacements or service are unavailable from another, non-prohibited source. These justifications are in addition to what would be considered a traditional compelling public need to ensure the provision of essential services, to ensure the public health and safety, or an emergency as defined in Public Contract Code section 1102. These examples are not exhaustive but are provided as an example.

The declaration requirement does not apply to a credit card purchase of goods of two thousand five hundred dollars (\$2,500) or less. The total amount of exemption authorized herein shall not exceed seven thousand five hundred dollars (\$7,500) per year for each company from which each campus is purchasing goods by credit card. It shall be the responsibility of each campus to monitor the use of this exemption and adhere to these restrictions on these purchases.

233 Risk Allocation and Performance Assurance (Rev. 04/20/04)

Contracts should be formed to insure the fair and reasonable allocation of risk and to assure satisfactory performance by the contractor. Such risks include unanticipated events which substantially increase the cost or time for completion or make performance impossible.

Risk mitigation should be addressed when planning procurements and during contract formation. Risks may be allocated by the contract general provisions as well as the parameters that define successful contract performance. Each contract should be reviewed to determine the proper contract provisions to mitigate CSU risks. Standard clauses expressly provide the rights and remedies for the CSU should various contingencies occur or if conditions are not as expected or represented. Substantive changes to the standard General Provisions or acceptance of contractor's contract terms should be done with care and, if necessary, include review by CSU legal counsel.

The requirements for successful contract performance should be clearly defined within the contract documents. Risks to the CSU may be reduced by the proper selection of contract type along with performance specifications that define and require successful

CSU Policy Manual for Contracting & Procurement

completion of the contract work. One type of completion contract is the Firm Fixed Price contract. Under a Firm Fixed Price contract the contractor has full responsibility for the successful delivery of goods and/or completion of services at a set total contract price. The contractor is also responsible for the associated performance costs and the resulting profit or lost.

As opposed to a completion type contract, a level of effort type contract increases the allocation of risk for the CSU and should be used only when a completion type contract is not appropriate. One type of level of effort contract is the Time and Materials contract. Under a Time and Materials contract, performance is based on a description of the work required in terms of the level of effort to be expended by the contractor. In this type of contract, the contractor receives the compensation upon expenditure of the required hours of effort regardless of whether the anticipated work is completed. As a result, Time and Materials contracts may not protect the CSU from cost overruns since contract value is not keyed to completion of specific deliverables.

Regardless of the contract type, all contracts should clearly state the maximum amount payable for performance under the contract.

235 CSU Buy Recycled Products Campaign (Rev. 07/07/06)

Reference: Public Contract Code Sections 10233, 10308.5, 10354, and 12150-12226

Campuses shall establish purchasing practices that assure, to the maximum extent economically feasible, the purchase of materials, goods, and supplies that are recycled or have recycled material within their content. Fitness and quality being equal, purchase preference shall be given to recycled products whenever such products are available and the cost of such products is no greater than that of their non-recycled counterparts.

The detailed requirements for the CSU Buy Recycle Campaign are contained in the CSU Buy Recycle Handbook. The Buy Recycle Handbook, Buy Recycle certification forms, Buy Recycle report forms and a list of qualified vendors can be found at CSU's Buy Recycle website:

<http://www.calstate.edu/Csp/recycle/recycle.shtml>

Campus Responsibilities:

1. Purchase Recycled Content Products (RCP) instead of non-Recycled Content Products (RCP) if fitness and quality are equal and the RCP is available at no more than the total cost of the non-RCP. However, campus procurement officers shall allow a price preference for recycled paper and tire derived products.
2. Require all contractors to certify the recycled content of all RCP purchased. For all products, contractors shall be required to certify in writing the minimum percentage, if not the exact percentage, of post-

CSU Policy Manual for Contracting & Procurement

consumer material in the materials, goods, (or supplies) provided or used. This certification shall be furnished under penalty of perjury.

3. Attain the RCP procurement mandates. Campus procurement offices shall strive to meet or exceed the legislative goals and timetables prescribed by the California legislature for the acquisition of recycled products.
4. Submit Buy Recycle procurement reports annually. Campus shall submit to the Office of the Chancellor Buy Recycled reports in accordance with due dates specified at:
<http://www.calstate.edu/CSP/reports.shtml>
5. Establish purchasing practices that ensure the purchase of materials, goods, and supplies that may be recycled or reused when discarded.

240. STANDARD CONTRACTING FORMS (Rev. 4/28/08 – formerly Policy 409)

There are standard CSU contracting forms available for use by a campus for a variety of functional applications. Campuses should review the appropriateness of each form prior to use and should consult with their CSU-assigned representative from the Office of General Counsel prior to any deletions, additions, or significant variations from the format or content of a standard form developed and approved for systemwide use.

240.1 Standard Terms and Conditions (Rev. 4/28/08 – formerly Policy 410 and 411)

It is the campus's responsibility to include, in each contract, terms and conditions necessary to protect the interests of the CSU, comply with applicable laws, reasonably mitigate risks and provide best value to the CSU. Standard terms and conditions have been developed for campus use and are available at:

<http://www.calstate.edu/CSP/crl/GP/GP.shtml>

While the standard terms and conditions may be used for many contracts without modification, it may be necessary to add, delete or modify the terms and conditions for a specific contract to convey a clear understanding of each party's expected role, its obligations, and the parameters in which the activities must be carried out, under the contract.

245. ADVERTISING IN THE CALIFORNIA STATE CONTRACTS REGISTER (CSCR) (Rev. 4/28/08 – formerly Policy 403)

Reference: Government Code, Section 14825 et seq.

It is the policy of the CSU to advertise in the CSCR to every extent possible. Contract advertisements may be submitted electronically at this website:

<https://www.cscr.dgs.ca.gov/cscr/>

CSU Policy Manual for Contracting & Procurement

Each campus Procurement Officer may establish procedures and criteria for exemptions to the requirements for advertising solicitations in the CSCR that are set forth in policy sections 300, 400 and 500 et. Seq. Any exemptions established must require the Procurement Officer's determination that the State's best interests would be served better by not advertising in the CSCR

In addition to an exemption based upon a campus determination that its best interests would be better served without advertising in the CSCR, the following contracts are exempt from publication in the CSCR.

1. Emergency contracts necessary for the immediate preservation of life or State property.
2. Contracts for the work or services of a State, local, or federal agency.
3. Services for which the State has entered into a master service contract.
4. Refuse and/or sewage disposal contracts where there is no competition because the contractor is an authorized franchise dealer that provides services to a specific geographical area.
5. Contracts for medical care services with physicians, local community hospitals, and medical groups (This does not include offsite laboratory services.)
6. Subvention contracts (non-discretionary grants) with a private or nonprofit entity for the purpose of providing services to the public or segments thereof.
7. Maintenance agreements for equipment that is under warranty or while the guaranteed useful life period is in effect, or agreements where the campus has determined that a local distributor or branch is the only source for parts and service.
8. Proprietary software contracts.
9. Leases or rentals for use as examination sites.
10. Entertainment contracts for State-sponsored fairs and expositions.
11. Contracts for which only per diem and travel expenses are paid and there is no payment for service rendered.
12. Contracts solely for the purpose of obtaining expert witnesses for litigation.
13. Contracts for legal defense, legal advice, or legal service.
14. Contracts with business entities operating handicapped workshops that meet the criteria established by Section 19404 of the Welfare and Institutions Code.
15. Contracts for architectural or engineering services.
16. Contracts not subject to competition requirements.
17. Contracts that have been exempted from CSCR advertisement by DGS.

SECTION 300 - PERSONAL PROPERTY PROCUREMENT POLICY (Rev. 3/12/02)

Reference: Education Code Section 89036; Executive Orders 775.

In addition to the special requirements contained in this Section 300, requirements in Section 200 also apply to the procurement of personal property.

CSU Policy Manual for Contracting & Procurement

As used in the following sections, "personal property" and "goods" mean all types of tangible personal property, including materials, supplies and equipment.

301. BID THRESHOLDS FOR PERSONAL PROPERTY (Rev. 4/28/08)

Reference: Government Code Section 14838.5

A. Acquisitions Less than \$50,000

Competition is not required for goods on transactions of an amount less than \$50,000 unless the campus determines that competition is necessary to develop sources, validate prices, or for other sound business reasons.

B. Acquisitions greater than \$50,000 and less than \$100,000

Except in cases when it has been determined that only one source or that only one brand or trade name of an article will properly meet the needs of the CSU, all contracts for the acquisition of goods in the amount greater than \$50,000 and less than \$100,000 shall be advertised in the California State Contracts Register and may be the result of an informal bid process. An informal solicitation process may provide for submittal of written or verbal quotes from vendors.

Bids that result in an award to a Certified Small Business are not required to be advertised in the California State Contracts Register, as long as price quotations have been obtained from two or more Certified Small Businesses.

C. Acquisitions of \$100,000 or more

Except in cases when it has been determined that only one source or that only one brand or trade name of a product is the only one which will properly meet the needs of the CSU all contracts for the acquisition of goods in the amount of \$100,000 or more shall be formally bid and awarded by written contract to the lowest responsible bidder meeting specifications.

Efforts shall be made to meet the goals established for small businesses and disabled veteran business enterprises as set forth in section 215, DVBE Participation Goals and 216, Small Businesses.

302. FORMAL BIDDING FOR PERSONAL PROPERTY (Rev. 4/28/08)

Other requirements notwithstanding, formal bidding shall comply with the following:

A. Public Notice

The Campus shall advertise in the California State Contracts Register the availability of its formal solicitations, and interested suppliers, upon request, shall be furnished with copies of the solicitation.

CSU Policy Manual for Contracting & Procurement

In addition to advertising in the California State Contracts Register, the campus shall also:

- in a location easily accessible to the public, post a copy of the solicitation, which shall remain posted until seven days after an award has been made.
- maintain complete copies of the solicitation, in the campus procurement office, to be made available to any interested supplier upon request.

The solicitation notice may also include an announcement in an appropriate media such as, but not limited to, a newspaper or trade journal. Such announcements shall contain at least a brief description of the goods, the closing date and time for bids to be received, and the location where complete copies of the bid documents may be obtained.

B. Public Opening of Bids

Sealed bids, for goods, shall be publicly opened and read at the date and time specified in the bid solicitation (if it so requires or if requested by any of the bidders). The campus shall maintain confidentiality regarding each bid until the public opening and reading takes place. Bids received after the closing date and time shall not be accepted. After bids are opened, they shall be made available for public inspection within a reasonable time. Public inspection shall not include the disclosure of documents designated by the University to be confidential.

C. Evaluation of Bids

As soon as practical after the bid opening, the campus shall begin the evaluation process to determine the lowest responsive and responsible bidder in accordance with the criteria for evaluation as stated in the solicitation. Deviations from requirements which do not materially impact the cost, quantity, or quality of the item or service to be provided or do not directly affect the outcome of the bid award, in the opinion of the campus, may be waived.

Evaluation of Bids for Electronic Goods

Reference: Government Code 11135, CSU Executive Order 926, CSU Coded Memo AA-2007-04, Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 and following), Sections 508 of the Rehabilitation Act of 1973, as amended (Section 508)

Unless otherwise exempted, bids for goods subject to Section 508 accessibility standards must be evaluated for compliance to these standards. Award must be made to the firm that submitted the lowest priced responsive bid that also meets or exceeds the acceptable level of Section 508 compliance as defined by campus authority for Section 508 compliance.

CSU Policy Manual for Contracting & Procurement

In the event that more than one bid are evaluated to be the lowest priced responsive bid then award must be made to the firm submitting the bid that best meets Section 508 accessibility standards.

In the event that none of the bids submitted meet Section 508 accessibility standards, the market research efforts to procure an accessible product must be documented and award may be made to the lowest responsive and responsible bidder.

D. Rejection of Bid(s)

If the apparent lowest bid does not comply with the bid requirements, it must be rejected. If the contract is not to be awarded to the lowest bidder, the campus must notify such bidder 24 hours prior to awarding the contract or purchase order to another bidder. In computing the 24-hour period, Saturdays, Sundays, and legal holidays shall be excluded. If prior to making the award, any bidder who has submitted a bid files a protest against the awarding of the contract or purchase order on the ground that he or she is the lowest responsible bidder meeting specifications, the contract or purchase order shall not be awarded until either the protest has been withdrawn or the campus has made a final decision, in accordance with Policy Section 212, as to the action to be taken relative to the protest.

The campus may, if it is in the best interest of the campus, reject all bids at any time prior to the award of the contract.

E. Protest

The bid document must contain provisions for resolution of protests and disputes.

F. Conflict of Interest and Confidentiality

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

A Conflict of Interest and Confidentiality Statement (CRL057) is available at the CS&P [Contract Resource Library](#) website.

303. COMMODITIES WITH SPECIAL PURCHASING REQUIREMENTS

303.02 Vehicles, New and Used (Rev. 4/28/08)

Reference: California Vehicle Code Sections 4000-6200; Government Code Section 13332.09

In addition to the normal requirements for purchasing any CSU personal property:

CSU Policy Manual for Contracting & Procurement

- A. The acquisition of new or used motor vehicles for CSU use necessitates additional registration and certification procedures. These procedures are specified within the contents of the California Vehicle Code sections 4000-6100.
- B. Campuses shall submit annual reports on their motor vehicle procurement to the Office of the Chancellor in accordance with the due date specified at:

<http://www.calstate.edu/CSP/reports.shtml>.

The report shall include all of the following:

- (1) An inventory of motor vehicles by the campus, that includes the type of vehicle, consistent with the fleet report to the Department of General Services.
- (2) The number of motor vehicles purchased during the prior fiscal year, disaggregated by campus and type of vehicle.
- (3) The average amount of time taken to complete procurement of each motor vehicle purchased during the prior fiscal year.
- (4) Any changes in campus policies or procedures made during the prior fiscal year relative to motor vehicle procurement and contracts for procurement and identifying any vehicles procured pursuant to the new policy or procedure.
- (5) The estimated cost savings associated with management by the California State University of motor vehicle procurement, including average time to complete procurements, reduced administrative costs, reduced charges paid to the Department of General Services, and competitive or reduced market prices obtained for vehicles.

303.03 Procurement of Hazardous Materials

Reference: Labor Code, Sections 6360-6399.7.

The Hazardous Substances Information and Training Act in the California Labor Code specifies that purchase orders for chemicals, solvents, or other products that may contain any kind of hazardous material include a vendor requirement to furnish a Material Safety Data Sheet for the commodity being purchased.

Campuses should perform a risk identification and evaluation, in accordance with policy section 230 and the factors below, as part of its development of the terms and conditions and insurance requirements for purchase orders or contracts for the procurement of products that contain hazardous materials

- The potential danger of the material
- The method of delivery, i.e. will the contractor's vehicle drive on to the campus.
- The point of delivery

In the absence of a risk identification and evaluation, the minimum insurance requirements set forth in policy section 230.02 shall be used.

CSU Policy Manual for Contracting & Procurement

303.04 Library Materials & Information

Educational materials and information access resources related to campus library services may be purchased without advertising for, (or soliciting) bids. Such materials and resources include books, periodicals, computerized information for library use, educational films, audiovisual materials, test materials, workbooks and instructional computer software. Campuses are encouraged to solicit competitive bids on such materials and resources whenever practical so that opportunities are realized to optimize potential cost savings and benefits to the University.

303.05 Forced, Convict, and Indentured Labor

Reference: Public Contract Code 6108.

Every contract for the procurement of State equipment, materials, or supplies, other than procurement related to a public works contract, shall specify that no foreign-made equipment, materials, or supplies furnished to the State pursuant to the contract may be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction. The contractor shall agree to comply with this provision of the contract.

304 Deleted (Rev. 04/02/07 – effective 01/01/07)

SECTION 400 - PROCUREMENT OF SERVICES (Rev. 3/12/02)

In addition to the special requirements contained in this Section 400, applicable requirements in Section 200 must also be followed in the procurement of contractual services.

Reference: Education Code Sections 89036, 89038, and 89048(d); Executive Order 775, Labor Code Section 1771.5, CCR Section 16000, 16001

The following kinds of contracts shall be subject to this section of the Policy Manual:

- Service agreements
- Independent Contractor and Consulting services
- Equipment rental or lease agreements
- Service orders

This section does not apply to the following kinds of contracts:

- Public Works project agreements, including public works maintenance contracts.
- Professional Service agreements in connection with a public works project (such as contracts for architectural or engineering services)
- Lease, license, sale, or exchange of real property
- Purchases of goods (materials, supplies, or equipment)

401. SOLICITATION THRESHOLDS FOR SERVICES (Rev. 4/28/08)

Reference: Government Code Section 14838.5

CSU Policy Manual for Contracting & Procurement

A. Acquisitions Less than \$50,000

Competition is not required for services on transactions of an amount less than \$50,000 unless the campus determines that competition is necessary to develop sources, validate prices, or for other sound business reasons.

B. Acquisitions greater than \$50,000 and less than \$100,000 from Certified Small Business.

Acquisitions that are estimated to be greater than \$50,000 and less than \$100,000 may be awarded to a Certified Small Business without advertising in the California Contracts Register, as long as price quotations have been obtained from two or more small businesses.

C. Acquisitions of \$50,000 or more

Except in cases when it has been determined that only one source which will properly meet the needs of the CSU, all contracts for the acquisition of service in the amount of \$50,000 or more or as provided for in 401B above shall be formally solicited and awarded to the lowest responsible bidder(s) meeting the IFB specifications or the proposer(s) whose proposal is given the highest score by the evaluation committee.

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

402. FORMAL SOLICITATION FOR SERVICES (Rev. 4/28/08)

Other requirements notwithstanding, formal procurement for services shall comply with these regulations:

- A. Public notice of the intent to formally request services from the open market shall be advertised in the California Contracts Register and posted in a location easily accessible to any firm that may wish to participate. Complete copies of the solicitation documents must also be maintained in the campus procurement office and made available to any interested party upon request. The solicitation notice may also include an announcement in an appropriate newspaper or trade journal, including a brief description of the work to be performed, the closing date and time for bids or proposals to be received, and the location where complete copies of the solicitation document may be obtained.

CSU Policy Manual for Contracting & Procurement

- B. To promote fair and open competition each formal solicitation for services must attempt to secure at least three competitive bids or proposals. Three competitive bids or proposals are not required in these instances:
- (1) In cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or protection of state property.
 - (2) When the campus awarding the contract has advertised the contract in the California State Contracts Register and has solicited all known potential contractors, but has received less than three bids or proposals.
 - (3) The contract is with another state agency, a local governmental entity, or an auxiliary organization of the CSU. These contracts, however, may not be used to circumvent the competitive bidding requirements of this article.
 - (4) The contract meets the conditions prescribed in Policy Section 206, Limits on Competition.
- C. Any solicitation that has received less than three bids or proposals shall document, in a manner prescribed by the procedures of the campus, the firms or individuals it solicited for bids or proposals.
- D. Contracts for services may be awarded under a procedure which makes use of a Request for Proposal or Invitation for Bid.
- E. The bid or proposal evaluation process and selection criteria shall be stated within the solicitation documents. Deviations may be waived if, in the opinion of the campus, such deviations from requirements do not materially impact the cost, quantity, or quality of the item or service to be provided or do not directly affect the outcome of the bid award. All bids or proposals may be rejected in any case where the campus determines that the bids or proposals received are not in the best interests of the CSU.
- F. Allow for public opening of bids or proposals - Bids or proposals must be opened publicly at the time stated in the solicitation document (if it so requires or if requested by any of the bidders).

A public opening must be conducted for bids, which will be awarded to the lowest priced responsive and responsible bidder. The total dollar amount of each bid and the name of the bidder must be read. Bids documents are public upon opening and shall be available for public inspection within a reasonable time.

A public opening must be conducted for proposals, which will be evaluated and awarded to the proposer that represents the best value to the CSU, only if requested by the proposing firms or members of the public. Only the names of the proposing firms need to be read at the time of opening. All proposals shall be held in the strictest confidence and shall be made public and available immediately after the Notice of Intent to Award has been issued.

CSU Policy Manual for Contracting & Procurement

No bids or proposals that have been received after the closing date and time for bids or proposals shall be considered.

Public inspection shall not include the disclosure of documents designated by the CSU to be confidential.

G. The solicitation document must contain provisions for resolution of protests and disputes.

H. Conflict of Interest and Confidentiality

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

A Conflict of Interest and Confidentiality Statement (CRL057) is available at the CS&P [Contract Resource Library](#) website.

403. ADVERTISING IN THE CALIFORNIA STATE CONTRACTS REGISTER (CSCR) (Rev. 4/28/08)

Policy renumbered to Policy No. 245

404. CONTRACT AWARD REPORT TO DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING (REV. 5/20/05)

Reference: Government Code Section 12990; CCR Title 2, Section 8117.5.

Campuses shall give written notice at least quarterly to the Department of Fair Employment and Housing, Office of Compliance Programs, of all contracts (but not purchase orders) over \$5,000. For each contract awarded, the notice shall list the name, address, and telephone number of the contractor; the federal employee identification number; the State contract identification number; the date of contract award; the contract amount, the project location; the name of the agent who signed the contract, the name of the contract awarding campus, and the name of the officer signing on behalf of the campus. A reporting form for this purpose, State Standard Form 16, may be obtained from the [DGS Forms Management Center](#). The quarterly list may be appended to the form.

Report due date can be found at:

<http://www.calstate.edu/CSP/reports.shtml>

405. AMENDMENTS TO SERVICE AGREEMENTS (REV. 4/28/08)

Service Agreements work scope may not be modified as a means to circumvent competitive solicitation requirements.

Additional work scope may be added to an existing service agreement only if the added scope is the same type of work that was specified in the base contract or work that is incidental to the work specified in the base contract and is necessary for the completion of the work intended to be performed in the base contract.

CSU Policy Manual for Contracting & Procurement

406. SERVICE ORDERS

The Service Order may be used to obtain various kinds of services on a less formal basis whenever it is determined that there is no need to require both parties to sign a formal agreement, or where timing or circumstances make it impractical to employ a formal agreement.

409. STANDARD CONTRACTING FORMS (Rev. 4/28/08)

Renumbered to Policy 240

410. CSU STANDARD TERMS (Rev. 4/28/08)

Renumbered to Policy 240.1

411. ADDITIONAL TERMS AND CONDITIONS (Rev. 4/28/08)

Renumbered to Policy 240.1

412. SPECIAL PROCESSING REQUIREMENTS FOR CONTRACTS

412.01 Commencement of Work Clause

Except in cases of emergency to protect human life or State property, work shall not commence on any contract until the contract has been approved by the appropriate authority. Any work performed by the contractor before the date of approval can be considered as having been done at the contractor's own risk and as volunteer work.

412.02 Compensation

Payment and consideration provisions depend on the complexity and difficulty of the project, the current rate for similar work both within and outside State service, and the qualifications and experience of the individual(s) or firm awarded the contract. Contracts will list the rate of compensation to be paid for all consideration and other expenses.

Reimbursement of transportation costs and an allowance for per diem should be in conformance with the current CSU reimbursement policies applicable to CSU professional employees (CSU Internal Regulations).

412.03 Progress Payments

A "progress payment" is defined as any partial payment of the contract price during the progress of the work. If a provision in the contract calls for progress payments to be made, they shall be made at clearly identifiable stages of progress, and be based upon

CSU Policy Manual for Contracting & Procurement

written progress reports submitted with the contractor's invoices. Progress payments shall not be made in advance of services rendered.

412.07 Hazardous Materials Removal Services Contracts (Rev. 4/28/08)

Reference: EO 849

These services include all labor, packaging, materials, tools, vehicles, placards, labels/markings, equipment, including personal protective equipment and safety equipment, expertise, and other means necessary and required to provide services for the pickup, transportation, and disposal of hazardous wastes.

Contracts involving the handling, removal or disposal of hazardous materials shall be developed in accordance with CSU's model contract for hazardous material removal, and comply with all State and Federal requirements. Changes to the hazardous materials model contract may be made with the concurrence of campus Risk Management and Environmental Health and Safety.

Insurance Requirements

Campuses should perform a risk identification and evaluation, in accordance with policy section 230, as part of its development the insurance requirements for contracts for the procurement of hazardous materials removal services.

In the absence of a risk identification and evaluation, the minimum insurance requirements set forth in policy section 230.02 shall be used.

412.09 Independent Contractors

Reference: Internal Revenue Code Sections 3121(d), 6651, 6656, 6662; State Management Memo 95-18 regarding Independent Contractor/Employee Payroll Taxes (Expires 7/31/2000).

The following guidelines are provided to assist in the distinction between employer/employee vs. independent contractor relationships. These guidelines are based upon criteria used by the Internal Revenue Service, the State Employment Development Division, and other public service agencies.

1. An independent contractor generally is engaged in a distinct occupation or profession, e.g., in the business of providing consulting or other services related to the job being contracted.
2. Independent contractors perform independently; whereas, under an employer/employee relationship the employer retains the right to direct and control the work being performed, as well as control over the details or techniques of the work to be performed.
3. The working area, supplies, and/or equipment generally is not furnished to independent contractors.
4. Compensation for independent contractors is reflective of the specific work accomplished; whereas, employment relationships are generally compensated by payment of a set sum by the hour, week or month based on set hours of work.

CSU Policy Manual for Contracting & Procurement

5. The work being performed must not be of a type that is integrated into routine or ongoing employer operations.
6. The employer must not make direct payments for business, per diem, or travel expenses incurred by the independent contractor.
7. An employment relationship exists when the worker can quit or be terminated at any time; whereas, an independent contractor is legally obligated for failure to complete the job unless the agreement is terminated.

412.10 Consulting Agreements (Rev. 04/20/04)

Reference: Education Code Section 89036.

A "consulting services contract" is defined as an agreement with an independent contractor to have work performed that is advisory in nature, provides a recommended course of action or personal expertise, and results in an end product that is basically a transmittal of information, either written or verbal.

A "consulting services contract" does not include:

1. Contracts with the federal government;
2. Contracts with local agencies (as defined in Section 2211 of the Revenue and Taxation Code) to subvene federal funds for which no matching State funds are required;
3. Contracts for the development, maintenance, administration, or use of licensing or proficiency testing examinations (such as academic accreditations, program reviews, and other external evaluations);
4. Contracts for public works architectural or engineering services.

Consulting agreements are subject to the same policies and procedures as service agreements in general. Additional special processing requirements to be performed whenever a campus contracts with an independent contractor serving as a consultant include:

Conflict of Interest

Reference: Government Code 81000 et seq., 82019; PCC Section 10830

Should a consultant provide services for preparation or development of recommendations for the actions which are required, suggested or otherwise deemed appropriate, and which include the provision, acquisition or delivery of products or service; then the consultant must provide full disclosure of any financial interest, including but not limited to, service agreements, OEM, and/or remarketing agreement that may foreseeably allow the Contractor to materially benefit from the adoption of such recommendations.

No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract.

CSU Policy Manual for Contracting & Procurement

412.11 Prohibition of Contracts with Illegal Immigrants

Per the State of California Executive Order W-135-96 signed on 8-27-96 by the Governor, all contracts must contain the following language: "If Contractor is a natural person, Contractor certifies by signing this Agreement that s/he is a citizen or national of the United States or otherwise qualified to receive public benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 110 STAT. 2105, 2268-69.)"

SECTION 500 - INFORMATION TECHNOLOGY RESOURCES (ITR) PROCUREMENT POLICY (Rev. 4/28/08)

Reference: Public Contract Code, Section 12100 et seq.; Executive Order 775; Education Code 89036, Gov. Code Section 11702(e)

In addition to the special requirements contained in this Section 500, requirements in Section 200 may also apply to the procurement of information technology resources.

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

Public Contract Code Sections 10295 and 12120 provide that the CSU has an independent procurement authority separate from the State Departments of General Services and Finance.

Public Contract Code Section 12100.5 requires the Trustees to develop and maintain policies that further the legislative policies for ITR procurement as expressed in sections 12100 et seq. of the Public Contract Code.

The campus is responsible for assuring that all applicable state procurement laws and regulations are followed, in addition to the policies contained herein.

Each campus shall employ sound and appropriate business practices to guide and control the planning, acquisition, development, operation, maintenance, and evaluation of all ITR-related applications.

It is the policy of the CSU that campuses be given the choice of vendors that best meet individual or unique campus hardware, service, and application requirements. Long-term contracts with annual cancellation and funding-out clauses are encouraged, as they help protect the CSU's investment as well as provide multi-year renewal options that encourage vendors to develop higher levels of service and support (Ref. P.C.C. 12101.5(a)).

CSU Policy Manual for Contracting & Procurement

501. Solicitation Thresholds for ITR Goods and Services (Rev. 4/28/08)

Reference: Government Code Section 14838.5(c)

Except in cases when it has been determined that only one source will properly meet the needs of the CSU, these solicitation thresholds shall apply:

A. Acquisitions less than \$50,000 from Certified Small Business

Acquisitions that are estimated to be less than \$50,000 may be awarded to a Certified Small Business without competition and without advertising in the California State Contracts Register. However, whenever there is reason to believe a price quote from a single source is not fair and reasonable the campus shall obtain at least two price quotations from responsible suppliers.

B. Acquisitions equal or greater than \$50,000 and less than \$100,000 from Certified Small Business

Acquisitions that are estimated to be equal to or greater than \$50,000 and less than \$100,000 may be awarded to a Certified Small Business without advertising in California State Contracts Register, as long as price quotations have been obtained from two or more small businesses.

C. Acquisitions less than \$50,000

Acquisitions that are estimated to be less than \$50,000 may be awarded when the price has been determined to have met fair and reasonable standards. The attainment of the standard of “fair and reasonable” may be determined by, but not limited to, one of the following techniques:

- **Catalog or Market Price** – The price offered is supported by an established and verifiable catalog or market pricing medium issued by a responsible supplier and/or through an established reputable forum. In addition, the pricing structure provided is one that a prudent buyer would accept as a reasonable representation of existing market value.
- **Price Comparison** – A buyer has obtained and documented quotes or offers within the last 18 month period from other responsible suppliers which provides evidence that a price obtained is deemed fair and reasonable.
- **Historical Pricing** – A buyer is able to demonstrate that other transactions occurring in the past 18-months show prices for similar acquisitions, which provides evidence that a price obtained is deemed fair and reasonable.
- **Controlled Pricing** – law or regulation sets the price offered.
- **Informal solicitation process.**

Campuses may also define “fair and reasonable” attainment techniques that provide the best value to the CSU.

Acquisition of IT services of \$5,000 or more must be advertised in the California Contracts Register.

CSU Policy Manual for Contracting & Procurement

D. Acquisitions equal to or greater than \$50,000 and \$500,000 or less

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

- Solicitations for IT goods in excess of \$100,000
- All solicitations for IT services
- Solicitations that include both IT goods and services:
 - Advertisement must include both IT goods and services portions when the portion attributable to IT goods is in excess of \$100,000
 - Advertisement may be limited to advertising the IT service portion of the solicitation when the IT goods portion is \$100,000 or less

An informal solicitation process may provide for submittal of written or verbal quotes from vendors.

Evaluation of Bids or Proposals for Electronic & Information Technology (E&IT) Goods

Reference: Government Code 11135, CSU Executive Order 926, CSU Coded Memo AA-2007-04, Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 and following), Sections 508 of the Rehabilitation Act of 1973, as amended (Section 508)

1. Best Value Solicitations

If the Section 508 accessibility standards are applicable to the E&IT goods being procured and the solicitation is based on best value criteria, then compliance with Section 508 accessibility standards must also be included into the best value evaluation using the relative weightings specified in the solicitation document.

Contracts shall be awarded based on the proposal that provides the most value-effective solution to the CSU's requirements, including, unless exempted, Section 508 accessibility standards requirements.

2. Invitation for Bids

For solicitations where award is based on lowest priced responsive bid and section 508 accessibility standards are applicable to the E&IT goods being procured then the bid's compliance to these standards must also be evaluated. Award must be made to the firm that submitted the lowest priced responsive bid that also meets or exceeds the acceptable level of

CSU Policy Manual for Contracting & Procurement

Section 508 compliance as defined by campus authority for Section 508 compliance.

In the event that more than one bid is evaluated to be the lowest priced responsive bid then award must be made to the firm submitting the bid that best meets Section 508 accessibility standards.

In the event that none of the bids submitted meet Section 508 accessibility standards, the market research efforts to procure an accessible product must be documented and award may be made to the lowest responsive and responsible bidder.

E. Acquisitions greater than \$500,000

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

502 FORMAL SOLICITATIONS FOR ITR GOODS AND SERVICES (Rev. 4/28/08)

Other requirements notwithstanding, formal procurement for ITR goods and services shall comply with the following:

- A. Public notice of the intent to formally acquire ITR goods and services from the open market shall be posted in a location easily accessible to any firm that may wish to participate and shall be advertised in the California State Contracts Register (CSCR). Complete copies of the bid or proposal solicitation document must also be maintained in the campus procurement office and made available to any interested party upon request. The solicitation notice may also include an announcement in an appropriate newspaper or trade journal, including a brief description of the work to be performed, the closing date and time for bids or proposals to be received, and the location where complete copies of the solicitation document may be obtained.
- B. To promote fair and open competition each formal solicitation for ITR goods and services must attempt to secure competitive bids or proposals. The requirement for fair and open competition shall have been met or is not required in the following instances:
 1. In cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or protection of state property.
 2. When the campus awarding the contract has advertised the contract in the California State Contracts Register and has solicited all known potential contractors.

CSU Policy Manual for Contracting & Procurement

3. The contract is with another state agency, a local governmental entity, or an auxiliary organization of the CSU. These contracts, however, may not be used to circumvent the competitive bidding requirements of this article.
 4. The contract meets the conditions prescribed in Policy Section 206, Limits on Competition.
- C. Any solicitation that has received less than three bids or proposals shall document, in a manner prescribed by the procedures of the campus, the firms or individuals it solicited for bids or proposals.
- D. Contracts shall be awarded based on the proposal or bid that provides the most value-effective solution to the CSU's requirements. Request for Proposal or Invitation for Bid solicitation methodologies may be used in determining contract award.
- E. The bid or proposal evaluation process and selection criteria shall be stated within the solicitation documents. Bids or proposals shall be evaluated to determine which bids or proposals meet, and which do not meet, the requirements as specified in the solicitation document. Deviations, in the opinion of the campus, from requirements which do not materially impact the cost, quantity, or quality of the item or service to be provided or do not directly affect the outcome of the contract award may be waived. Proposals shall be evaluated based on quantified evaluation criteria.

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

Evaluation of Bids or Proposals for Electronic & Information Technology (E&IT) Goods

Reference: Government Code 11135, CSU Executive Order 926, CSU Coded Memo AA-2007-04, Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 and following), Sections 508 of the Rehabilitation Act of 1973, as amended (Section 508)

1. **Best Value Solicitations**
If the Section 508 accessibility standards are applicable to the E&IT goods being procured and the solicitation is based on best value criteria, then compliance with Section 508 accessibility standards must also be included into the best value evaluation using the relative weightings specified in the RFP document. Contracts shall be awarded based on the proposal that provides the most value-effective solution to the CSU's requirements,

CSU Policy Manual for Contracting & Procurement

including, unless exempted, Section 508 accessibility standards requirements.

2. Invitation for Bids

For solicitations where award is based on lowest priced responsive bid and Section 508 accessibility standards are applicable to the E&IT goods being procured then the bid's compliance to these standards must also be evaluated. Award must be made to the firm that submitted the lowest priced responsive bid that also meets or exceeds the acceptable level of Section 508 compliance as defined by campus authority for Section 508 compliance.

In the event that more than one bid is evaluated to be the lowest priced responsive bid then award must be made to the firm submitting the bid that best meets Section 508 accessibility standards.

In the event that none of the bids submitted meet Section 508 accessibility standards, the market research efforts to procure an accessible product must be documented and award may be made to the lowest responsive and responsible bidder.

- F. Allow for public opening of bids or proposals. Bids or proposals must be opened publicly at the time stated in the solicitation document (if it so requires, or if requested by any of the bidders).

A public opening must be conducted for bids, which will be awarded to the lowest priced responsive and responsible bidder. The total dollar amount of each bid and the name of the bidder must be read. Bids documents are public upon opening and shall be available for public inspection.

A public opening must be conducted for proposals, which will be evaluated and awarded to the proposer that represents the best value to the CSU, only if requested by the proposing firms or members of the public. Only the names of the proposing firms need to be read at the time of opening. All proposals shall be held in the strictest confidence and shall be made public and available immediately after the Notice of Intent to Award has been issued.

No bids or proposals that have been received after the date and closing time for bids or proposals shall be considered.

Public inspection shall not include the disclosure of documents designated by the CSU to be confidential.

- G. The solicitation document must contain provisions for resolution of protests and disputes.

CSU Policy Manual for Contracting & Procurement

H. Conflict of Interest and Confidentiality

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

A Conflict of Interest and Confidentiality Statement (CRL057) is available at the CS&P [Contract Resource Library](#) website.

503 IT Project Management (Rev. 04/20/04)

Reference: EO 862

A Solicitation Plan is required for all information technology projects that fall within the requirements of EO 862. Any requisitions for acquisitions that require a formal solicitation or that are considered high risk and/or critical to the success of the project must include an approved Solicitation Plan.

505. COMPETITIVE SOLICITATION (Rev. 7/6/01)

Reference: Public Contract Code 12100 et. seq.

It is the policy of the CSU that all transactions made under the CSU procurement authority be designed to encourage active competition among those who wish to become the suppliers of goods and services required by the campuses of the CSU. There is no single competitive procurement methodology universally suited to all categories of ITR acquisition. The CSU also recognizes that the same competitive processes used for obtaining non-ITR goods and services such as the Invitation for Bid, and the Request for Proposal, are effective for ITR acquisitions. There are, however, other techniques that may be tailored to support the unique characteristics of an ITR acquisition. Contract awards for all large-scale systems integration projects shall be based on the proposal that provides the most value-effective solution to CSU's requirements. However, hardware purchased independent of a large-scale system integration project may be made on the basis of lowest cost meeting all other specifications. When an acquisition is based upon cost alone, an award shall be made to the lowest responsible bidder meeting the specifications. [Ref. 12102(b,c)]

505.01 Best Value (Value-Effective) Acquisitions

Reference: Public Contract Code 12102(b); 12100.7.

The best value methodology for ITR acquisitions of goods and services shall be used to the maximum extent practical. Any solicitation which employs best value selection criteria shall be awarded to the respondent that provides the most value-effective based on life-cycle costing solution to the CSU's requirements. There is no specific formula or methodology for conducting a best value determination, but it is important that the award is consistent with the terms of the solicitation and that any price premium is justified by specific technical or value-added enhancements.

CSU Policy Manual for Contracting & Procurement

The solicitation document may provide for the evaluation and award of the contract based on factors other than acquisition cost. These factors may include, but are not limited to:

1. Operational costs.
2. Quality or technical competency of the bidder's product or service.
3. Delivery and implementation timetables including incentives for early delivery.
4. Warranties, guarantees, and return policies.
5. Costs associated with financing provisions or alternatives.
6. Vendor's financial stability.
7. Consistency of proposed product or service with the planned application.
8. Quality and effectiveness of the proposed product or service.
9. Vendor's industry or program experience.
10. Vendor's past performance record with similar installations.
11. Risk assessment.
12. Value added services or options.
13. Innovative use of current technologies and quality results.
14. Proven development methodologies and tools.
15. Maximum facilitation of data exchange and systems integration.

Solicitations for best value acquisitions may provide that costs be submitted under separate sealed cover for evaluation purposes.

505.02 Deleted (Rev. 04/02/07)

506. PRENEGOTIATION OF REPETITIVE CONTRACT TERMS & CONDITIONS (Rev. 4/28/08)

Deleted

507. SPECIAL PROVISIONS

507.01 Used Equipment

The CSU campuses may avail themselves of any opportunity to purchase used or remanufactured ITR equipment where a substantial savings in cost compared with other alternatives for acquisition of similar equipment justify the purchase.

507.02 DGS Division of Telecommunications

Reference: Public Contract Code 12120.

The CSU shall grant to the Department of General Services, Division of Telecommunications an opportunity to bid whenever the CSU solicits bids for telecommunications goods and services.

507.03 Disposal (Rev. 05/20/05 - Deleted)

See Policy 601

CSU Policy Manual for Contracting & Procurement

507.04 Best Financing Alternatives (Rev. 4/28/08)

Deleted

508 Deleted (Rev. 04/02/07, effective 01/01/07)

SECTION 600 - SALE, LEASE, LICENSE, AND DISPOSAL OF CSU PERSONAL PROPERTY AND SALE OF CSU SERVICES

601. RELEASE OF CSU-OWNED PERSONAL PROPERTY (Rev. 5/20/05)

Reference: California State Constitution Article 16, Section 6; Executive Orders 409b; Education Code Sections 89048(d); Public Contracts Code 12102(i).

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

602. SALE OR LICENSE OF INTELLECTUAL PROPERTY

Reference: Executive Order 644.

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

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

603. DISPOSAL OF VEHICLES

Reference: California Vehicle Code 24007 et seq.

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

Sales of all publicly-owned vehicles, including any owned by the CSU, are governed by provisions within the California Vehicle Code.

CSU Policy Manual for Contracting & Procurement

604. SERVICES PROVIDED BY THE CSU

The CSU does not engage in the sale of services in competition with private enterprise, except when the rendering of such services is related to its educational mission. Whenever services are sold by the CSU, the full cost of providing them must be recovered, including any direct, indirect (overhead) and marginal costs that might be applicable. The basis for setting values to the services shall be documented in a simple, equitable, and rational way, and be made available upon request.

SECTION 700 -PUBLIC AGENCY AND AUXILIARY AGREEMENTS (Rev. 3/12/02)

Reference: Government Code Sections 11256-11263 and 8546.7

The following kinds of contracts shall be subject to this section of the Policy Manual:

- Service agreements with auxiliaries
- Interagency agreements
- Intra-Agency agreements

Contracts with another state agency, a local governmental entity, another CSU campus or an auxiliary organization of the CSU does not require competition.

701. INTERAGENCY AGREEMENTS (Rev. 3/19/01)

Reference: Government Code Sections 11256-11263 and 8546.7.

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

All Interagency Agreements exceeding \$10,000 must contain a provision that the contracting parties shall be subject to the examination and audit of the State Auditor for a period of three years after final payment under the contract. The examination and audit shall be confined to those matters connected with the performance of the contract. (Government Code Section 8546.7.)

702. INTRA-AGENCY AGREEMENTS (Rev. 3/19/01)

Campuses may enter into agreements with one another for the purpose of providing reimbursed services, or an exchange of services, through the use of a Memorandum of Understanding or other appropriate form.

703. CONTRACTS WITH LOCAL GOVERNMENT ENTITIES (Rev. 3/19/01)

CSU Policy Manual for Contracting & Procurement

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

704. CONTRACTS WITH STATE BOARDS AND COMMISSIONS (Rev. 3/19/01)

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

705. PRINTING AND BINDING ORDERS (Rev. 3/19/01)

Reference: Chapter 1097 of 1993 Statutes, Section 8.

Printing, binding, stapling, and other related service needs of a campus are often available from on-campus providers such as central reprographics or self-supporting copy centers. Whenever such needs can be accommodated locally, these service providers shall be considered first.

Off-campus solicitations for printing, binding, or other related services from private printers are subject to the CSU's competitive bidding requirements.

A campus may contract with, or request work to be performed by, the Office of the State Printer (a Division of the DGS) for printing or binding services whenever it is determined that greater efficiency would be served by doing so.

706. SERVICES PROVIDED BY CAMPUS AUXILIARY ORGANIZATIONS (Rev. 3/19/01)

Reference: Education Code Section 89900; Title 5, Section 42400; Public Contract Code Section 10340(b)(3); Executive Order No. 750.

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

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

CSU Policy Manual for Contracting & Procurement

707. INTERAGENCY AGREEMENTS ADMINISTERED BY THE CAMPUS ADMINISTRATION (Rev. 3/12/02)

Reference: Education Code Section 89900; Title 5, Section 42400; Executive Order No. 750.

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