

MORAVIAN UNIVERSITY

Effective Date: July 1, 2018
Applicability: Grant Purchasing and Procurement Policy
Related Policies: Moravian University Purchasing Policy and Business Travel Policy

Policy:

This policy provides guidelines for the purchases made using sponsored grant, contract and cooperative agreement funding or other funds administered by the Grants Office.

Purpose:

The purpose of this policy is to ensure compliance with the general rules and regulations governing purchasing and to comply with the Office of Management and Budget (*OMB Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards - 2 CFR 200*).

General Procurement Requirements

All procurement transactions must be in compliance with existing University Purchasing Policies. In addition to University policies, there are additional requirements that specifically govern purchasing made with sponsored grant funding. All purchases made with federal funding are subject to audit by federal awarding agencies.

The University will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also OMB Uniform Guidance §200.213 on suspension and debarment.

No University employee will be eligible to participate in the selection, award or administration of a contract supported by a Federal award if he or she has an apparent or true conflict of interest (see PHS/NIH Financial Conflict of Interest and Moravian Financial Conflict of Interest policies). Officers, employees and agents of the University may also not accept gratuities, favors or anything of monetary value from contractors or subcontractors.

The University will ensure maximum open and free competition and will not preclude potential bidders from qualifying during the solicitation period. The University will be responsible, in accordance with good administrative practice and sound business judgement, for the settlement of all contractual and administrative issues arising out of procurements. These may include but are not limited to source evaluation, protests, disputes, and claims.

Individual grant requirements and stipulations will be followed as primary guidance in addition to the approved budget for the respective grant. Under no circumstances will the University

reimburse or allow alcohol purchases for any grant. Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.

The University will maintain records sufficient to detail the history of procurement. These records will include, but are not limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. All receipts, invoices, and other expense documentation are required to be maintained for record keeping purposes.

In order to ensure compliance, Office of Management and Budget (*OMB*) *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards - 2 CFR 200* specifically addresses requirements related to Competition and Approved Methods of Procurement. Purchases and commitments that are not in compliance with these Federal requirements will need to be returned, cancelled or paid for with department funds or other non-federal sources. In some cases, University employees may be held personally responsible for these expenses.

Competition (See also OMB Uniform Guidance §200.319)

1. All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals will be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include, but are not limited to:

- (a) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (b) Requiring unnecessary experience and excessive bonding;
- (c) Noncompetitive pricing practices between firms or between affiliated companies;
- (d) Noncompetitive contracts to consultants that are on retainer contracts;
- (e) Organizational conflicts of interest;
- (f) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement (Note: submitting a make/model for equipment within a proposal, and subsequent approval of proposal does NOT give authorization to proceed with the purchase of that specific make/model); and
- (g) Any arbitrary action in the procurement process.

2. The University will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state and local preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion

provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

3. These procedures for solicitation will ensure that all solicitations:

- (a) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
- (b) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

4. The University will ensure that all prequalified lists of persons, firms, or products that are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the University will not preclude potential bidders from qualifying during the solicitation period.

Approved Procurement Methods (See also OMB Uniform Guidance §200.320)

The University must use one of the following methods of procurement whenever purchasing goods or services with federal funding.

1. **Micro Purchasing Method (\$0-\$9,999.99)**: Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold of **\$10,000** (OMB Uniform Guidance §200.67 Micro-purchase). To the extent practicable, the University will distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the University considers the price to be reasonable.
2. **Small Purchase Method (\$10,000-\$249,999.99)**: Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that are more than **\$10,000** but do not cost more than the defined Simplified Acquisition Threshold of **\$250,000**. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. At a minimum, the University requires three written quotations with “apples to apples” comparison in order to properly evaluate and select the vendor.
3. **Sealed Bids Method (\$250,000+ with formal advertising)**: For all procurement over **\$250,000**, bids will be publicly solicited and a firm fixed price contract (lump sum or unit price)

will be awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph 3 (a) of this section apply.

- (a) In order for sealed bidding to be feasible, the following conditions should be present:
 - (i) A complete, adequate, and realistic specification or purchase description is available;
 - (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
 - (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

- (b) If sealed bids are used, the following requirements apply:
 - (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
 - (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
 - (iii) All bids will be opened at the time and place prescribed in the invitation for bids;
 - (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of;
 - (v) Any or all bids may be rejected if there is a sound documented reason; and
 - (vi) Formal rating sheet based on required specifications must be completed and maintained for documentation purposes.

4. **Competitive Proposal Method (\$250,000+ with formal advertising):** Competitive selection is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (a) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (b) Proposals must be solicited from an adequate number of qualified sources;
- (c) The University will have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (d) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (e) The University will use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected,

subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort

- (f) Formal price comparison must be completed and maintained for documentation purposes.

5. Non-Competitive Proposal Method (\$250,000+ also referred to as “Sole Source”): Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (a) The item is available only from a single source;
- (b) The emergency-based need for the requirement will not permit a delay resulting from competitive solicitation;
- (c) The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the University; or
- (d) After solicitation of a number of sources, competition is determined inadequate.

Proper documentation must be provided in order to justify a true Sole Source situation.

Contract Cost and Price (See also OMB Uniform Guidance §200.323)

The University will perform a cost or price analysis for every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the particular procurement situation, but as a starting point, the University will make independent estimates before receiving bids or proposals. The University will negotiate profit as a separate element of the price for each contract where there is no price competition and in all cases where cost analysis is performed. Fair and reasonable profit must give consideration to the complexity of the work to be performed, risk borne by the contractor, contractor’s investment, amount of subcontracting, quality of past work performance, and industry profit rates and surrounding geographical area for similar work. The cost plus a percentage of cost and percentage of construction cost methods of contracting will not be used.

Travel

In addition to the University’s Business Travel Policy, particular grants have other travel requirements that must be followed. As mentioned above, the purchase of alcohol is not allowed and entertainment costs are only allowable if approved and have programmatic purpose. If the grant requires air travel, travelers must comply with the Fly America Act by using a U.S. flag carrier for all air travel funded by the grant (<https://www.gsa.gov/policy-regulations/policy/travel-management-policy/fly-america-act>). See OMB Uniform Guidance §200.474 for further details.

Additional Questions and Concerns

Should you have any additional questions or concerns regarding this policy and the purchasing as it relates to a specific grant that you are working on, please work with the Grant Recipient as well as the Grants Office and Business Office staff in order to clarify allowable expenses and procedures prior to making the purchases. The Vice President for Finance and Administration is the only authorized signer of agreements, contracts or any other official obligation on behalf of the University.

Procurement documentation requirements summarized in the table below:

Purchases have written documentation to support:	< \$10,000	Between \$10,000 and \$250,000	> \$250,000	Sole Source (any amount)
Efforts to distribute in an equitable and reasonable manner among vendors	✓	✓	✓	✓
Written price/rate quotes from at least 3 sources		✓ Submitted prior to vendor selection		
Advanced cost/price analysis			✓	
Formal bid or proposal from at least 2 sources			✓	
Formal rating sheets or price comparisons			✓ Submitted after bid review and rating and prior to vendor selection	
Sole source justification				✓ Submitted prior to vendor selection