

Purchasing and Business Services Manual (PUR)

PUR 300: Federal Procurement

Effective: 7/1/2018

Revised: 3/1/2025

Purpose

To provide procurement requirements when spending Federal money

Sources

Code of Federal Regulations, §§ 200.317 through 200.326

Policy

The following requirements apply to all purchases using Federal monies.

Conflict of Interest

No employee, officer, or agent of the university may participate in the selection, award, or administration of a contract supported by a Federal award if that employee, officer, or agent has a real or apparent conflict of interest. Also, the officers, employees, and agents of the university may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontractors.

Substantial civil and criminal penalties may result to the ASU employee from failure to comply with the conflict of interest laws.

Unnecessary or Duplicate Items

Consider whether goods and/or services to be purchased are already available at the university, from other ABOR universities, from state surplus property, or from a Federal source, including the Federal Surplus Personal Property Donation Program, GSAXcess®.

Users can work with Purchasing and Business Services to determine if the requirement should be consolidated or broken out for economy, if the needed items can be leased rather than purchased, and if the needed items can be purchased through an existing competitively bid contract.

Competition

Procurement transactions must be conducted in a manner providing full and open competition. 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 must be excluded from competing for such procurements.

Some of the situations considered to be restrictive of competition include, but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business
2. Requiring unnecessary experience
3. Noncompetitive pricing practices between firms or between affiliated companies
4. Noncompetitive contracts to consultants that are on retainer contracts

5. Organizational conflicts of interest, such as noncompetitive buying from a university affiliate
6. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements that would make a competing product an equal
7. Any arbitrary action in the procurement process.

Identification of the Requirement or Outcome

Department staff must develop a clear and accurate description of the technical requirements for the material, product, or service to be procured, or the outcome to be achieved. 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 all requirements which the offers must fulfill and all other factors to be used in evaluating bids or proposals must be identified.

Contractor Source Considerations

The university will comply with any applicable grant conditions or laws regarding the selection of contractors.

Feedback on Supplier Performance

It is assumed that all suppliers will successfully perform. Department staff should forward any concerns about a supplier's performance to the applicable buyer in Purchasing and Business Services. The university may use past unsuccessful performance as a basis for not making an award to a supplier.

Technical Evaluation

As a part of the process to evaluate proposals received under a competitive solicitation, department staff will compare the technical and/or performance characteristics of the goods and/or services offered against the requirements of the solicitation. The results of this technical evaluation will be documented in writing and will include the technical and/or performance reason for recommending an award to the apparently successful proposer and for rejecting an award for each of the other proposers. This technical evaluation will be submitted to the Buyer and will be a part of the procurement file. As there is a wide variation of potential and/or performance specifications, no form is available for technical evaluations.

Procurement File

The procurement file should contain documentation of, and the rationale behind, all of the decisions above. These include the rationale for determining that the needed items had to be purchased, for selecting the method of procurement, for awarding to the successful supplier, for not awarding to each of the unsuccessful suppliers, any technical analyses, the required cost or price analysis, the negotiation and amount of profit, and feedback received on the contractor's performance.