



UNIVERSITY OF GUAM  
UNIBETSEDĀT GUAHAN

Administration and Finance  
Office of the Vice President

Memorandum

4 March 2009

TO: All Administrators, Faculty and Staff  
VIA: President  
FROM: Vice President for Administration and Finance  
SUBJECT: Procurement of services under contract

Approved/Not Approved: \_\_\_\_\_

**PURPOSE**

This memo clarifies guidelines, procedures and compliance that supplement the University's Procurement Regulations as they apply to the procurement of services under contract. The Administrative Council has reviewed and adopted the attached.

**BACKGROUND**

The UOG Procurement Manual §1.4, Policy in Favor of Planned Procurement, requires "all procurement of supplies and services shall, where possible, be made sufficiently in advance of need of delivery or performance to promote maximum competition and good management of resources". Thus, the proper procurement process is to solicit quotes, prepare a purchase order or a contract, and lastly receive supplies or services. Most University procurement takes place within established policies and guidelines. However, there are several important issues that have been raised that require clarification of our planned procurement policies:

- External auditors have advised the University that competitive procurement is required for all contracts. Planned procurement is required for all contracts of \$1,500 or more unless the contractor can be justified under sole-source or is explicitly named in a grant award (note: these exceptions are further defined in the attached guidelines). Failure to competitively procure contracts can lead to audit findings and questioned costs, which may result in loss of the University's low risk auditee status.
- Legal Counsel has identified a number of contracts that are not based upon competitive procurement or do not have sufficient procurement documentation attached. Such contracts have been returned to the originating unit, resulting in processing delays and re-work for the unit and employees in the approval and processing processes.
- The Business Office has identified a number of invoices or payment requests where: i) the contractor began work before the contract was certified or approved; ii) direct payments are submitted for expenditures made without the benefit of a purchase order (PO); iii) POs are split to avoid the \$15,000 threshold; and iv) material amendments are made to existing POs without prior documentation and approval.

The University must continue to assertively enforce its procurement policies, or else risk audit findings and questioned costs.

**PROCUREMENT GUIDELINES AND ADDITIONAL PROCEDURES**

Please see the attached *Supplemental Guidelines, Procedures and Compliance Related to the Procurement under Contract of Part-Time Faculty and Non-Tenure Track Full-Time Faculty, Service Providers and Subcontractors*.

**ACTION REQUESTED**

Administrators, the Procurement Office and the Business Office are directed to take a strong stand on enforcing procurement policy. Administrators: please review the attached guidelines and procedures with those in your unit involved with procurement. *They are effective immediately.*

For the University of Guam,  
David O'Brien

## PROCUREMENT OF SERVICES UNDER CONTRACT

Enclosed are supplemental guidelines, procedures and compliance for administrators, faculty and staff related to procurement under contract of part-time faculty (aka adjuncts) and non-tenure track full-time faculty, service providers or subcontractors. They clarify and supplement the Procurement Manual (PM) and Comptroller's January 10, 2007, memo: *Policy in Favor of Planned Procurement*.

### GUIDELINES AND PROCEDURES

Planned procurement is required for part-time faculty (aka adjuncts) and non-tenure track full-time faculty, service providers and subcontractors under contract. The following guidelines and procedures apply to both non-academic and academic contracts. There are three dollar-thresholds for compliance:

#### 1. Contracts less than \$1,500

These contracts fall under the small purchase rule (PM Section 3.11.5). The procuring unit is encouraged, but not required, to solicit quotes from three qualified suppliers or to establish a pool of qualified adjuncts, service providers or subcontractors.

#### 2. Contracts of \$1,500 or more, but less than \$15,000

A. The procuring unit must solicit quotes/ qualifications from three potential suppliers for an ad hoc contract. If one or two of the three suppliers solicited do not respond with a quote/ qualifications, then these no-responses count toward the three quotes. OR  
B. The procuring unit must solicit and establish annually a qualified pool of adjuncts, service providers or subcontractors.

Quotes/ qualifications may be sought by phone, facsimile, etc. The procuring unit is not required to use the more formal Request for Qualifications (RFQ), Request for Proposals (RFP) or Invitation to Bid (ITB). However, a written record of the solicitation and responses must be kept with the contract on file. Additional, qualified suppliers may be added during the year.

#### 3. Contracts of \$15,000 and over

Same as #2 above except that the procuring unit must follow the process for a written and advertised RFQ, RFP or ITB, assisted by the University's Centralized Procurement Office. It is suggested that procuring units issue a RFQ/ RFP for needed services each year before a contract is urgently required.

Once a qualified pool is established, a contractor is selected by the procuring unit from the qualified pool appropriate for the contracted work. The procuring unit must attach to the contract a list of names showing the qualified pool and document why the chosen contractor was selected. Alternatively, the procuring unit must attach a master list sorted by type of qualification (e.g., teaching technology, teaching educational administration, teaching finance, etc) with the selected candidate highlighted and the selection rationale documented. For contracts of \$15,000 or over, the list must show the RFQ/ RFP/ ITB reference number.

There are two circumstances where the preceding guidelines and procedures do not apply: i) The contract is sole sourced. Procuring units must contact the Comptroller, VPAF or Legal Counsel prior to use of sole sourcing. Note that sole sourcing will only be accepted as per PM Section 3.12 and where the procuring unit can document that a competitive procurement of the services elicited no other responses. ii) The part-time faculty and non-tenure track full-time faculty, service provider or subcontractor is named in a grant award or pre-approved in writing by the granting or contracting authority. Being named in the grant proposal is insufficient.

Appropriate documentation, per the preceding, must be attached to the contract, highlighted as appropriate and submitted when the contract is forwarded for approval. Documentation must be more than the justification memo from the procuring unit. Submitting appropriate documentation will facilitate contract approval as well as Business Office processing of POs and invoices.

The University may not subcontract or team with a contractor in advance of a grant or contract with the promise of a contract or subcontract once the University receives the award. If the procuring unit wishes to team with a contractor in advance, then it must first follow #2 or #3 above. A RFQ template calling for teaming on grant applications may be obtained from the Procurement Office.

The procuring unit shall not allow work to begin on a contract until approved by the President. If justification is documented by the procuring unit, the VPs may approve exceptions to starting work for contract faculty needed to teach immediately or for emergencies.

### ADMINISTRATIVE COMPLIANCE

Those who do not comply with procurement policy, guidelines or procedures are subject to the following:

1. Administrators or administrative officers who allow work to begin on a contract before certified and approved by the President (or deemed an exception or emergency by a VP as per the above) will meet with her/his supervisor to develop a remedial plan to prevent further infractions. These matters will be re-examined during the individual's annual or nearest cyclical evaluation.
2. If an individual is repeatedly non-compliant with these policies, guidelines or procedures, s/he is subject to loss of authority to negotiate, establish or approve such contracts.

The VPAF will monitor administrative compliance.