Bid Process

1. Invitation to Bid (IBT) or Request for Quotations

An ITB is a request, verbal or written, which is made to prospective suppliers of commodities or providers of services requesting the submission of a response for the purpose of awarding a contract or transmitting a purchase order. An ITB is generally an objective determination where the award is made to the responsive and responsible respondent who meets the minimum specifications and requirements at the lowest cost.

All ITBs shall require, at a minimum, that respondents:

- Provide a valid mailing or email address
- Sign the response prior to opening
- Provide a net price for the unit specified for each item
- Initial in ink any corrections of a line item unit price made by the respondent

Provide the number of calendar days required for delivery after receipt of order; and

State the length of time in which a proposed pricing is valid (failure to do so will result in pricing being valid for sixty (60) days).

Alternate items may be proposed in a response if allowed by the terms of the solicitation and if the alternate item or items meet the specifications in terms of quality, form and function. The procuring Agency may specify whether alternate items are allowed.

2. Request for Proposals (RFP)

A RFP is a formal invitation to potential respondents to submit a proposal to provide a good or service to the State or one or more of its Agencies. Additionally, a RFP is a procurement process whereby the State has the ability to judge if a respondent's qualifications, experience, and approach will result in an award of a contract to a respondent on terms and conditions in the best interests of the State.

Terms and conditions for a RFP are derived from the pro forma Contract (located on the Procurement Office website) developed during the RFP creation and attached to the solicitation. A RFP shall set forth specific provisions in accordance with Procurement Office Policy and include and meet the following:

- The description of the technical requirements for the goods or services to be procured by RFP shall provide sufficient detail to minimize the likelihood of respondent confusion
- The technical requirements and scope in the RFP shall not contain features that unduly restrict competition
- The RFP shall contain directions regarding the submittal of responses

- State requirements and restrictions regarding the RFP should be detailed in the RFP

A description of the evaluation factors to be considered in evaluating the responses should be detailed in the RFP. Evaluation factors should include, by way of example only, respondent qualifications, experience, technical approach, and cost; A declaration of whether the contract award is subject to successful contract negotiation should be detailed in the RFP; and

The RFP shall contain a schedule of events that specifies RFP deadlines. Respondents shall be given a reasonable time, as determined by the Procurement Officer, to consider the required scope and the response evaluation factors before responses are submitted. The schedule of events may contain the deadlines for events, which includes by way of example only:

- RFP Issuance Date
- Disability Accommodation Request
- Pre-Proposal Conference
- Notice of Intent to Propose
- Respondent Written "Questions and Comments" Submission
- Response to Written "Questions and Comments"

Oral Presentation or Vitural

- Site Visit
- Performance Bond Submission
- Response Submission
- Completion of Technical Response Evaluations
- Opening and Scoring of Cost Proposals

Evaluation Notice Released and RFP Files Opened for Public Inspection; and

3. Contract Signing

The Procurement Office shall carefully consider all persons involved with the development, formulation, drafting, or review of a RFP and safeguard against any perceived or actual conflicts of interest.

The Procurement Office shall approve all RFPs and any addenda, amendments, and clarifications to RFPs before their public release.

A RFP or its revisions shall be approved based on the following:

- Application of the requirements of the Rules and Procurement Office Policy

Adequacy of the scope description; and

Adequacy of the RFP's assurance of:

- Fairness to respondents
- Clear and open competition

Achievement of procurement objectives; and

4. Protection of the State's interests

Upon approval, the Procurement Office shall send the RFP or a written or electronic notice that the specific RFP has been released to a documented list of potential providers.

5. Competitive Negotiation

A competitive negotiation is a procurement method that involves direct discussions between the University and respondents who have been pre-qualified through a pre-qualification method and found to be responsive and responsible. The purpose of a competitive negotiation is to facilitate discussion between the University and the best evaluated respondent or respondents to ensure award of a contract or contracts on terms on conditions in the best interests of the State.

Competitive negotiation techniques may be used in conjunction with any procurement method. All negotiations shall be conducted by the Procurement Office. The University may elect to negotiate by requesting revised cost proposals from one or more responsive and responsible respondents. The University, however, reserves the right to award a contract on the basis of initial responses received. Accordingly, each response should contain the respondent's best terms from a price and technical standpoint.

The University reserves the right to conduct multiple negotiation rounds or limit negotiations to only respondents in the competitive range or to only the highest evaluated respondent. If the University exercises its right to enter into negotiations, it may identify areas of one or more proposals that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the University's specifications or requirements. The University may seek to clarify those identified issues during negotiations.

All responsive and responsible respondents the University has identified for further cost negotiation will receive equivalent information. All cost negotiations will be documented for the procurement file.

Additionally, the University may conduct Target Pricing and other price or service level negotiations. Target Pricing may be based on considerations such as current pricing, market considerations, benchmarks, budget availability, or other methods that do not reveal individual respondent pricing. During Target Price negotiations, respondents are not obligated to meet or beat target prices, but respondents will not be allowed to increase prices they propose. All communications, clarifications and negotiations shall be conducted in a manner that supports fairness in proposal improvement. Note that each clarification sought by the University may be unique to an individual respondent.

The Procurement Office shall maintain, at a minimum, the following documentation for a competitive negotiation:

- A log of the date and time of each meeting with a respondent, including the identity of the respondent and its representative

A description of the nature or reason for all material communications with each respondent; and

A copy of all written and electronic communications between the Procurement Office and each respondent

6. Request for Information (RFI)

A “Request for Information” or “RFI” is a solicitation sent to a broad base of potential suppliers for the purpose of developing strategy, building a database, or preparing for a Request for Proposals or a Request for Qualifications. A RFI enables an equitable and simultaneous comparison of vendors. The University may use this tool to gather information about the availability of goods or services. A RFI should be utilized when:

- The department has a procurement need, but requires more information to fully understand the industry

The department desires to identify vendors who are available to supply the needed good or service; or

7. When the University determines that a RFP process will benefit from a RFI

8. Request for Qualifications (RFQ)

A “Request for Qualifications” or “RFQ” may only be utilized by the Procurement Office. A RFQ is a written solicitation, requiring written responses from potential respondents, containing a list of qualifications that must be met and another approved procurement method such as a Competitive Negotiation. A RFQ may also be used to select professional services providers based on recognized competence and integrity in accordance with Tenn. Code Ann. §§ 12-3-103 and 12-4-107. In such instances, cost shall not be considered in evaluating respondents. A RFQ may be used to gather information from potential respondents regarding qualifications of providers of goods and services within the market place.

9. Scope of Work and Specifications

10. Scope of Work

The scope of work is a very important part of the procurement process as it forms the basic framework for the resulting contract. The solicitation coordinator is primarily responsible, in consultation with, by way of example only, experts, end users, or University stakeholders, for managing the drafting of the scope of work. The scope of work is a detailed description of what is required of the contracting party to satisfactorily perform what is required under the contract. The success or failure of a procurement and the resulting contract can usually be linked to the adequacy of the planning, analysis and thoroughness of the scope of work. The time spent planning, analyzing, and drafting the scope of work will result in saving time, resources, money and will improve the quality of the goods or services procured by the University. It is very important that the scope of work achieve the following:

- Secure the best economic advantage to the University
- Be clearly defined
- Be contractually sound
- Be unbiased and non-prejudicial toward respondents

Encourage innovative solutions to the requirements described, if appropriate; and

Allow for free and open competition to the maximum extent reasonably practicable under the circumstances.

11. Specifications - Generally

The term “specifications” is generally used to describe the specifications of the University’s needs. Departments shall recommend to the Procurement Office specifications for all goods or services needed irrespective of whether the contract is a Statewide Contract or approved source. Specifications shall be functional or performance specifications, when practicable, and must be clear, unambiguous and written to promote open and fair competition.

With respect to goods, all brand and model numbers used, must be those in current production, and available in the market. The usage of brand and model names alone will not be permitted as a substitute for performance or functional specifications, unless providing performance or functional specifications is impracticable. When an item is specified by the use of brand names, the words "or equal" should be included.

Department recommended specifications may be approved as stated or modified by the Procurement Office to enhance competition. Changes to department’s minimum specifications should be approved by the Procurement Office after consultation with the requisitioning department.

12. Descriptive Format

A descriptive format consists of a conventional listing or paragraph text description of specification data. Recommended specifications in a descriptive format should, if practicable:

- With respect to goods, identify the product using general terminology in the description
- List the characteristics that determine performance capability and identify those characteristics that are essential in order to meet performance requirements

With respect to goods, list the minimum or maximum acceptable performance requirements for each characteristic with as much tolerance and flexibility as practicable. Unnecessary characteristics or performance requirements may limit competition; and

With respect to goods, identify two (2) or more items by manufacturer, brand or item number that will meet the minimum performance requirements.

13. Standard Specifications by Description

The Procurement Office shall review all recommended specifications and develop and adopt standard specifications for any good or service that shall, insofar as practicable, fit the requirements of the majority of all department who utilize the same good or service.

14. Standard Specifications by Type

15. The University utilizes different specification types to procure goods or services

16. Specifications Based on Standard State Specifications

Items must equal or exceed the specifications listed. The absence of detailed specifications or the omission of detailed descriptions shall be recognized as meaning that only the best commercial practices are to prevail and that only first quality materials and workmanship are to be used.

17. Specifications Based on Catalogs, Price List, or Price Schedules

Responses are obtained requesting a plus (+) percentage (%), minus (-) percentage (%), or net cost offered as a discount or surcharge applying to the goods listed in the catalog, price list, or price schedule described within the solicitation. A single percentage for each catalog or price list is required, unless otherwise authorized by the Procurement Office.

18. Specifications Based on Qualified Goods List

Specifications may include a list of brands and model numbers that meet the requirements. Goods which have been analytically tested and meet specifications receive Qualified Products List (QPL) approval.

19. Specifications Based on Brand Name

Reference to brand names, trade names, model numbers, or other descriptions peculiar to specific brand goods, is made to establish a required level of quality and functional capabilities. It is not intended to exclude other goods of comparable quality or functionality. Comparable goods of other manufacturers will be considered if proof of comparability is contained in the response.

20. Exceptions to Standard Specifications

The Procurement Office shall make use of standard specifications when practicable. Goods and services purchased without standard specifications shall be made in accordance with rules or policies.

21. Exemptions to Standard Specifications

The President or designee may designate certain materials, supplies, and equipment which are standard in manufacture and competitive in design that may be purchased without standard specifications.

22. Life Cycle Costing

It is State policy to use the life cycle costs of goods, as developed and disseminated by the federal government, when feasible for State procurements.

23. Considerations in Determining Life Cycle Costs

In determining life cycle costs, the Procurement Office may consider the cost of the good, the energy consumption, maintenance costs, the cost of upgrades over the life of the item the projected energy cost of energy over the useful life of the good, and the anticipated resale or salvage value of the product.

24. Energy Efficiency Standards

Energy Star is a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy that has established energy efficiency standards utilized by the federal government in its contracting for major energy-consuming goods. Pursuant to

Executive Order 59, agencies shall use energy efficiency standards prescribed by Energy Star for the purchase of energy consuming goods.

The Energy Star website, http://www.energystar.gov/, provides a qualified list of goods meeting Energy Star's minimum energy specifications, life cycle costing calculations, life cycle cost formula information, and qualified goods that meet Energy Star's rating for using less energy and helping to protect the environment. Currently, the Energy Star rating can be found on goods in more than 35 goods categories. Goods listed on the Energy Star website's list of qualified goods will be used as

"acceptable brands and models" on response documents. The minimal energy specifications for goods listed on the Energy Star Qualified Goods list must be included in the line item specifications on all response documents for the purchase of major energy consuming goods.

25. Product Testing and Demonstration

Vendors often offer demonstrations of their goods to departments users. Departments are required to provide prior written notification of goods testing to the Senior Buyer or Purchasing Manager.

26. Drafting the Solicitation

After the appropriate procurement method has been determined, the Procurement Office should prepare a solicitation document that meets the needs of the University. The procurement method selected for a given procurement should be in accordance with the Procurement Office's Procurement Policy and Procedures and this manual. The public policy of the State is that the procurement of goods or services shall, whenever practicable, be accomplished through a competitive solicitation. In preparing the solicitation document, the solicitation coordinator shall review the relevant statutes, the Rules and Procurement Office Policy to identify each of the statutory, regulatory or policy and procedural requirements or considerations necessary to comply with applicable law before drafting a solicitation document. Employees involved in preparing a solicitation should have on file or sign and submit a conflict of interest and disclosure statement prior to beginning work on a solicitation.

27. Planning

The Contract Management Plan should cover all the different steps in the process with the expected date of initiation of each milestone. When this is the case, the Contract Management Plan merges with the procurement schedule. And, ideally, it should then contemplate all the steps in the process, including contract administration and close-out.

28. Solicitation Event Planning

Solicitation event planning requires extensive study on the good or service category, market trends, new goods, meetings with vendors. Solicitation coordinators should:

Establish baseline for the procurement, including running volume reports out of Govs e-Shop (and analyzing the same) to understand University spend and vendors.

29. Document queries that were run in Govs e-Shop

30. Identify prospective vendors

Gain an understanding of the unique seasonal or market conditions for the procurement at issue.

Review specifications from previous contracts and speaking with user agencies on what is working well and what is not working well (e.g., revising past specifications when necessary; removing superfluous specifications to reduce respondent confusion or unnecessary conditions, etc.).

31. Ask what would make the contract better (e.g., hold a stakeholder meeting)

32. Review terms and conditions and make improvements where needed

Draft open specifications (e.g., consider finding at least two acceptable brands or models for each line item).

Complete a spreadsheet to have item numbers assigned to new items and descriptions updated on terms you are keeping.

Finalize procurement strategy and evaluation criteria:

Are any of the items sole source or proprietary?

Will the procurement be an “all or nothing” award?

Does it make sense to group certain items and awards based on grouping factors?

What terms and conditions are most advantageous for the University (e.g., what is a reasonable number of days for shipping once the vendor receives a purchase order)?

After event approval, the solicitation coordinator should be certain to adjust the end date to a reasonable amount of time for prospective respondents to complete their responses before dispatching.

33. Benchmarking and Estimates of Expected Costs

Benchmarking and estimating contract costs are core functions of contract procurement. Benchmarking is the process of comparing an item, service or performance between competitors. Estimating contract costs is the process of determining the total cost of contract ownership. Price analysis and cost analysis are common tools used in benchmarking and estimating costs. Price analysis is a process of comparing proposed price with known indicators of fairness and reasonableness. Price analysis techniques include:

Comparing "apples-to-apples" or in other words, the same or similar goods or services at similar units of measure.

34. Comparing competitive prices received in response to a solicitation with one another

Comparing proposed prices with prices under existing contracts and with prices proposed in the past for the same or similar goods or services. Factor in market changes (e.g., commodity price changes) or other influences (e.g., inflation, raw material costs, and transportation costs).

Comparing proposed prices with average market prices; competitive price lists such as with other states, cooperative agreements, and federal government prices; similar indices and discount or rebate arrangements.

Comparing additional discounts offered (e.g., volume purchase discounts, prompt pay discounts).

Comparing additional costs (e.g., payment term penalties, training, product/process conversions, and subcontractor arrangements).

Cost analysis is used to determine the estimated cost of the contract and whether or not the proposed pricing components as well as the total contract costs are fair and reasonable. It is the primary evaluation method used where price competition is lacking in sole source procurements and to evaluate professional, consulting and service related contracts that are comprised of multiple inter-related components such as the estimated total cost, labor, materials, overhead, and profit.

Cost analysis and estimating cost techniques include:

Verifying and evaluating the total costs including allowances for contingencies. Proposed costs must be allowable, allocable (logically related to or required when performing the contract), and reasonable.

Comparing the actual costs of the current contractor for the same product or similar work versus other states, cooperative contracts, or the federal government, using standard units of measure. (e.g., Unit Price x Planned Quantity x Time).

Comparing the actual costs of the same good or service versus other states, cooperative contracts, or the federal government, using standard units of measure. (e.g., Unit Price x Planned Quantity x Time).

Projection of proposed contractor's cost over the contract life (e.g., fixed, price dictated by federal government, through average market selling prices, raw material in short supply).

Determining the potential effect of the contractor's current practices and incidentals on future costs (e.g., on-time delivery, product/resource shortage, training, cost-overruns).

Estimating costs is the culmination of the information obtained and formulated through price or cost analysis. Benchmarking and estimating contract costs are functions that should be conducted for every procurement, contract extension, contract renewal or contract change request.

35. Target Pricing

Only the Procurement Office is authorized to use negotiation techniques. For example, the solicitation coordinator may review pricing from the previous contracts, if applicable, or benchmark pricing from other state contracts. The solicitation coordinator should make "apples-to-apples" comparisons with respect to contract terms and conditions, whenever possible to ensure that target price analysis roughly approximates pricing that contemplates the "principle of substitution." Industry standards should also be considered for establishing target pricing when available. The principle of substitution holds that a rational, informed buyer will only acquire a good or service at its lowest price in the market place provided that "substitutes" (e.g., similar quality, quantity or functionality) are available. Consistent with the principle of substitution, target pricing is a form of price negotiation that helps to ensure that the University is receiving the best value or the most cost-effective goods or services.

36. Identifying Prospective Respondents

The University maintains a database that contains contact information for registered suppliers and current and former suppliers. There are circumstances where a solicitation coordinator is unable to identify qualified suppliers through the supplier database (e.g., because of the unique goods or services at issue, proprietary rights of parties, etc.). In such an event, a solicitation coordinator should perform due diligence or research to identify potential vendors, particularly if the good or service has not been purchased before, involves new technology or proprietary rights.

37. Standard Terms and Conditions - Solicitations

The Procurement Office shall prescribe the standard terms and conditions to be used in all solicitations in accordance with the Rules or Procurement Office Policy. Changes to the standard terms and conditions may require additional approvals in accordance with Section 5.15.3. of this Manual.

38. Special Terms and Conditions - Solicitations

The Procurement Office shall prescribe all special terms and conditions to be used in a solicitation in accordance with the Rules or Central Procurement Office Policy. Changes to the special terms and conditions may require additional State approvals in accordance with Section 5.15.3. of this Manual.

39. Evaluation Criteria

Evaluation criteria (and the weighting to be applied to each criterion) shall be specified in solicitations (except ITBs) and made available to all prospective respondents. The solicitation coordinator should tailor the evaluation criteria to the particular project and contract terms to achieve the best possible response in terms of value for money. While not an exhaustive list, criteria that should be evaluated include qualifications, experience, technical approach, and cost in the evaluation of responses.

The response evaluation process (except ITBs) should be designed to award a contract on terms and conditions in the University's best interests and not necessarily to the respondent offering the lowest cost. The evaluation criteria should be designed to weight the relative importance of each criterion in a manner that corresponds to the importance to the University of each criterion. For example, if a respondent's technical approach is more valuable to the University than a respondent's experience, the evaluation criteria should be weighted to give greater importance or emphasis to the technical approach criterion.

40. Requisitions for Purchase

To request procurement action by the Procurement Office, a requisition for purchase is required. Please note that a requisition for purchase may be required in other contexts, e.g., when buying from a Statewide Contract. A requisition for Purchase is used in the following purchase techniques, by way of example only:

A requisition for purchase may be used request the procurement Office to procure a given good or service needed by the Department.

All requisitions for purchase require quantity, description and costs. One-time purchases require the specific quantity to be purchased and detailed item descriptions. Term Contracts with direct purchase authority and Delegated Purchase Authority must state the goods or services to be procured, the term of the contract, the estimated usage and dollar amounts. When requested by the Procurement Office, a department shall provide information and statistics to support or clarify estimates for purchases and to verify use of goods or services by the department. .

41. Solicitation Event Creation

Once the procurement planning phase has been completed, the solicitation coordinator is able to create a requisition in Govs e-Shop. The solicitation coordinator will prepare the terms and conditions and solicitation factors for the event. Solicitation factors are questions that the respondent must answer with regard to the solicitation. The terms and conditions contain not only a list of pre-specified terms that are to be contained in all responses, but also contain special terms and conditions that the solicitation coordinator has identified that are tailored to the specific good or service involved in the solicitation.

42. Terms and Conditions and Instructions

43. The terms and conditions should be added as attachments to the requisition

44. Title

The title should be appropriately titled and descriptive of the bid and the purpose of the procurement. The bid name and number should appear in the subject line of the solicitation.

45. Date, Time and Location of Event

Although not mandatory, the solicitation coordinator should identify a date, time and location for the pre- bid conference, if applicable. A conference room should be reserved for this meeting and included in the event details. The bid description will include the event name, date, time and location of pre-bid conference. If there are interested parties who are unable to attend the conference in person, arrangements should be made to allow such persons to attend telephonically.

46. Target Start Date

The solicitation coordinator should also establish a target start of contract period and insert the proposed dates of the contract in Govs e-Shop. Please note that a contract start date cannot occur earlier than the date on which all party approvals have been obtained. Target start dates should contemplate the lag time needed for approvals. The solicitation coordinator should manage all contract beginning and expiration dates to avoid lapses in contract coverage (i.e., the period between when one contract ends and before the replacing contract begins, when one contract ends and the extension or renewal becomes effective, etc.) as these lapses compromise the University's legal rights and remedies, e.g., in the event of contract breach of force majeure.

47. Addenda, Amendments, and Clarifications to a Solicitation

Prior to public release, all solicitations and subsequent addenda, amendments, and clarifications to a solicitation require the approval of the Procurement Office and all other entities that endorsed or approved the original solicitation. All solicitations, including any addenda, amendments, and clarifications to a solicitation, shall be approved based on the following:

- Application of the requirements of Procurement Office Policy and the Rules

Adequacy of the scope of service description; and

Adequacy of the solicitation's assurance of:

- Fairness to potential providers of commodities or services
- Clear and open competition

Achievement of procurement objectives; and

48. Protection of the State's best interests

49. Pre-response Conference

The solicitation coordinator should conduct a pre-response conference with all prospective respondents to clarify the solicitation. These are commonly referred to as a “pre-bid” or “pre-proposal” conference, but are collectively referred as a “pre-response” conference to more universally apply to all solicitations.

The solicitation coordinator should have an agenda of all the items he or she would like to cover at the pre-response conference. The time of the pre-response conference with respondents should contemplate a prospective respondent’s travel time to the place of the conference. The solicitation coordinator should encourage prospective respondents to bring all pertinent solicitation documents to the pre-response conference. The solicitation coordinator should place all pertinent solicitation documents (e.g., specifications, terms and conditions, line item list, factors, etc.) in an appropriate file or format for easy access during the pre-response conference. The solicitation coordinator should be in a position to make necessary changes to any pertinent solicitation documents as a result of the pre- response conference.

The pre-response conference notification should include the following information:

50. Pre-response Conference Date: (Insert date)

51. Time: (Insert time, including time zone and duration of the event)

52. Location

53. Purpose for Conference

54. Communication with Respondents

Clear, concise and consistent communication while the solicitation has been introduced into the market place is essential for a harmonious, fair and transparent procurement. A solicitation coordinator should avoid even the appearance of favoritism towards a given respondent. Each solicitation should identify the solicitation coordinator who will act as the point of contact for the State. Communication should be reduced to writing, but may be orally given to prospective respondents, provided the oral communication is reduced to writing and provided to all prospective respondents. No solicitation may be modified or amended orally by a solicitation coordinator. Unless a communication with respondents is reduced to writing, no communication shall be deemed to be the official communication of the Procurement Office or the Procurement Officer.

55. Question and Answer

After all pre-response agenda items have been covered, the solicitation coordinator should allow for a brief written question and answer period after the pre-response conference and share all questions and answers with all known prospective respondents. The solicitation coordinator should be sure to update any information, including additional potential respondents, from changes made at the pre-response conference.

56. General Requirements of Solicitations and Response Evaluation

57. Technical Responses

The technical response evaluation should include, but is not limited to, consideration of the following factors:

- Quality of the goods or reliability of the services
- Experience and qualifications (e.g., pending litigation, years in business, utilization of diverse business enterprises as sub-consultants, subcontractors, or suppliers to assist in

providing goods or services, partnering with or mentoring of diverse business programs associated with the delivery of goods or services, and customer references, etc.)

- Technical approach
- Financial ability to perform
- Delivery terms (e.g., number of days for product to be shipped or for job to be started, etc.)
- Past vendor performance, financial resources, and ability to perform to specification requirements
- The effect of the purchase on productivity

Environmental options and resources (e.g., green, energy efficiency, earth- conscious considerations , recycle options, remanufactured/refurbished products or equipment, packaging, certificates, permits, awards, successful and ongoing programs, etc.); and

58. Used products or equipment

Tabulating Pricing or Analyzing Cost Proposal

The solicitation coordinator should evaluate the responses received to determine the low respondent for each line item or group and determine the respondent who will be recommended for award with respect to ITBs or Request for Quotations. Additional steps may include additional negotiation rounds.

The cost proposal should include, but not be limited to, the following considerations:

- Acquisition costs
- Costs of implementation
- Delivery costs
- Discounts or Rebates
- Cost of any University employee training associated with the purchase
- Implementation and start-up costs, including installation costs, life cycle costs, trade-in value and warranty options
- Discounts

Once the evaluation team has completed the evaluation of the technical portion of the response, the cost proposal (e.g., single award, line item, or group award) will be calculated using a formula set forth in the solicitation. The relative scoring and weight between the technical response and the cost proposal shall be set forth in the solicitation. The evaluation team shall combine the technical response scores with the cost proposal scores for each respondent to determine the response that has the highest evaluated score. Technical responses and cost proposals may be contemporaneously evaluated or tabulated so long as the evaluation panel for the technical responses is independent of the persons tabulating or otherwise analyzing the cost proposals. In no event should the persons serving on the evaluation panel for the technical responses be influenced by the cost proposals and all safe guards must be in place to maintain a proper segregation of duties and responsibilities.

59. Vendor References

Vendor reference checking is an essential part of an evaluation committee's or solicitation coordinator duties and responsibilities. Through reference checking, a determination can be made if the vendor is:

60. Honest and trustworthy

61. Reliable

62. Competitively priced

63. Customer focused

64. Supportive

Former clients of vendors are more likely to be more honest about their relationship with the vendor. The solicitation coordinator or evaluation committee should start the questions on a general level before proceeding to more specific questions concerning the goods or services at issue in the event. The solicitation coordinator should obtain as much detail as practicable given the solicitation at issue. Some key performance areas of inquiry include:

- Questions concerning the vendor's relationship with the reference

A description of how the vendor was selected (e.g., through competitive process, non-competitive process, etc.)

- Whether other vendors were under consideration and if so which vendors
- A brief description of the evaluation and elimination process that selected the vendor at issue
- The scope of work of the contract awarded to the vendor
- Whether the vendor performed in accordance with the contract's scope of work
- Whether there were any problems encountered with the vendor
- Whether there were any limitations on vendor performance
- Specifics as to what the vendor did well under the contract
- Whether the vendor was easy to work with and how the vendor responded to the needs of the reference
- Whether the goods or services were performed in accordance with the contract
- Whether there are any results that have been realized from using the goods or services provided by the reference

- With respect to goods, whether the goods are easy to use or require education and training to properly use
- Whether there are things the reference would do differently if the reference was to re-procure the goods or services at issue
- Whether the choice of the vendor was cost effective
- Whether the reference would recommend the vendor to other prospective references

Whether the reference has other advice not covered by any of the foregoing areas of inquiry.

If training is involved, the solicitation coordinator may want to consider these areas of inquiry as well:

- Whether the vendor provides the training or subcontracts the training
- Whether the trainer was properly qualified (e.g., through training, education, licensing or certification) to do the training
- Whether the trainer was knowledgeable about the good or service at issue
- Whether the training provided was sufficient
- The length of time it took for an individual to become proficient

65. Whether additional indirect costs are involved the price of the good or service at issue

If a prospective respondent has listed in his or her response similar state contracts to demonstrate experience or expertise, depending on the sensitivity and importance of the contract to be awarded, the solicitation coordinator should review each of the contracts identified by the respondent to ensure that the respondent's representations of experience are accurate.

66. Evaluation Committee

The number of evaluation committee members of a solicitation may vary but should consist of at least three (3) members, each of whom should have the technical expertise in terms of education, training and experience to aid the evaluation committee with respect to the technical aspects of the solicitation. If necessary, the solicitation coordinator should seek out State employees or consultants who can attend presentations and provide meaningful technical expertise to evaluation committee members.

Only state employees may serve as evaluation committee members, but non-state employees with technical expertise that is helpful to the evaluation committee should be included as consulting, ex officio or non-voting members. Before the commencement of the evaluation process, the evaluation committee should review and familiarize themselves with the solicitation, applicable statutes, rules and regulations, Procurement Office Policy and this Manual. All Evaluation Committee members should understand the general solicitation requirements and the specific requirements of the subject solicitation. Only Evaluation committee members are permitted to score responses.

No individual involved in evaluating a solicitation or the associated scope of service should have a financial interest in a prospective respondent or have the appearance of a conflict of interest with regard to the solicitation or prospective respondent. Ensuring the independence of each person involved in the evaluation of responses is the solicitation coordinator's responsibility. The solicitation coordinator shall follow the Procurement Office's Code of Conduct, which are incorporated in these Procedures by reference. Appendix B to the Business Conduct and Ethics Policy and Procedures contains all necessary conflict of interest disclosure forms for evaluation committee members.

67. Evaluation of Responses

Evaluation committee members should be provided with copies of each solicitation before beginning their individual review of the responses.

68. Review all Responses

Evaluation committee members should take notes, make comments, or prepare questions for discussion during oral presentations or any meetings with other evaluation committee members. It is not necessary for the evaluation committee member to score the responses at this point.

69. Determine status – Responsiveness and Responsibility

If the solicitation requests financial information and the response raises concerns that the respondent may lack Adequate Financial Resources, the solicitation coordinator shall evaluate whether a respondent has Adequate Financial Resources by considering the following:

- The Respondent's financial health
- Ratio of assets to liabilities
- Working capital
- Cash flow projections
- Credit ratings
- Profitability
- Liquidity of assets
- Bonding capacity
- Liens or judgments
- Delinquent taxes
- Insurance coverages
- Securities and Exchange Commission Form 10-K filings

Audited financial statements; or

Bankruptcy or reorganization filings - a bankruptcy filing does not necessarily mean a lack of Adequate Financial Resources or that the Respondent is Non-responsive.

A respondent that appears, based on the response, to lack Adequate Financial Resources may nonetheless be deemed responsible if it demonstrates the ability to obtain Adequate Financial Resources. Evidence that a respondent has obtained Adequate Financial Resources may consist of a third-party commitment or explicit arrangement, such as a payment bond, performance bond, or a letter from a bank or financial institution evidencing a line of credit. Evidence of Adequate Financial Resources must be available upon request by the University and effective no later than the contract's effective date. If the University requests evidence of Adequate Financial Resources from a respondent, evaluation of that respondent's response will not continue until the respondent provides evidence of

Adequate Financial Resources. All evidence of a respondent's Adequate Financial Resources will be documented in the procurement file.

The solicitation coordinator, in consult with the evaluation committee if applicable, should determine whether each response is "responsive" or "non-responsive." A response that is "responsive" is one that conforms in all material respects to the solicitation and meets all mandatory requirements. A response may be deemed "non-responsive" if any of the required information is not provided, the submitted price is found to be excessive or inadequate as measured by criteria stated in the solicitation, or the response is clearly not within the scope of work or specifications described and required in the solicitation. The solicitation coordinator should exercise extreme care when making this determination because of the time and cost that a potential respondent has put into submitting a response and the fact that competition strengthens the results of a given procurement.

Responses capable of being determined responsive through clarification should not be deemed non- responsive. If a response is determined to be "non-responsive," the solicitation coordinator should document the justification for this determination. If a response fails to address one or more solicitation mandatory requirements or respond to them incompletely, the response should not be evaluated unless these areas can be clarified by the respondent. Documentation of any decision to bypass or determine a response "non-responsive" should be included in the procurement file. All respondents are deemed to know all facts documented in the University's procurement files on the first day of the open file period.

70. Scoring Technical Responses

The evaluation committee should evaluate the responses and rank them based on the evaluation and weighting criteria contained in the solicitation. A good practice is for each committee member to initially or informally score responses independently from the other members. Responses must be evaluated solely on the stated criteria listed in the solicitation. An evaluation committee member's prior experience with the respondent or the good or service at issue cannot be considered in scoring the responses. The solicitation coordinator should use an evaluation criteria form, which will reduce subjectivity, and ensure that each member of the evaluation committee applies reasonably consistent and bias-free analysis to each response with respect to all other responses. Point assignments should be determined prior to the receipt of responses and will be made available in the evaluation criteria form.

71. Evaluation Committee Meetings

Once the responses have been evaluated and scored by individual evaluation committee members, the full evaluation committee may meet to discuss the responses and arrive at the final scoring. Only Evaluation Committee members who are present in person or electronically during oral presentations may participate in scoring responses. The full Evaluation Committee should discuss all aspects of the responses so that there is a "unified understanding" of the criteria and corresponding responses. Only an individual Evaluation Committee member may adjust his or her individual score at this point.

Respondent scoring should be based on the written responses and respondents' oral presentations. For example, ambiguous or unclear information provided in a response or during oral presentations or incapable of being clarified after attempts by the solicitation coordinator at seeking clarifications should be downgraded accordingly.

72. Clarification

If the evaluation committee is unsure of certain items or issues included in a solicitation response, or needs clarification of a response, it may, at any time, request further clarification from the respondent through the solicitation coordinator. The solicitation coordinator will distribute the clarification questions

to the respondent. Responses will be returned to the solicitation coordinator and disseminated to the evaluation committee as appropriate. Solicitation coordinators should consult the Procurement Office's Policy and Procedures on Negotiations or appropriate legal counsel where the solicitation coordinator is uncertain whether a response can be clarified and to what extent.

73. Oral Presentations

Oral presentations are not a mandatory requirement of a solicitation evaluation. If an oral presentation is deemed necessary, the solicitation coordinator shall include within the solicitation's schedule of events a date for oral presentations. The oral presentation is an opportunity for respondents to explain and clarify their responses. If an oral presentation is mandatory, it must be stated in the solicitation, as amended. Oral presentations must not allow respondents to materially alter the respondent's response, the requirements of the solicitation, the specifications, or the proposed scope of work.

The oral presentation typically highlights the added value, competitive advantage and unique ability each respondent can provide to deliver a good or service that meets the requirements of the solicitation. The presentation should include a demonstration that substantiates the approach, method, functionality, determination and cost effectiveness of the response. Although not mandatory, oral presentations are a valuable way to:

- Further assess a respondent's ability to deliver the proposed good or service that may not have been presented accurately or precisely in the written response
- Provide a discussion and visual demonstration of the solution the respondent is proposing that could not be effectively conveyed or measured in writing due to its subjective content

Provide an additional method of evaluation of the responses offered by the highest scoring respondents to further differentiate them from other respondents, especially where the evaluation of the written responses is too close to make a clear award decision.

Evaluate the respondent's proposed key personnel who will be primarily responsible for performing the contract awarded pursuant to the procurement.

Oral presentations typically focus on the business aspects of the response that require clarification as well as provide a technical solution overview. The presentation should allow the respondent to demonstrate to the evaluation committee the concept, basic functionality, usability and effectiveness of the respondent's good or service. Detailed aspects such as integration, scheduling, etc., should be held at a separate Statement of Work (SOW) meeting. Non-voting or ex officio members providing technical advice and counsel to the evaluation committee should attend each oral presentation and ask questions as appropriate. All pertinent dialogue between evaluation committee members, technical advisers and respondents shall be reduced to writing to memorialize the presentations. These written memorializing of presentations shall aid the evaluation committee in scoring responses.

74. Scoring Cost Proposals

The cost proposal should be retained by the solicitation coordinator and kept confidential from the evaluation committee and other respondents until the technical evaluation is completed. The reason for this requirement is to prevent the evaluation committee from being unduly influenced by the cost proposals when evaluating the technical responses.

The solicitation coordinator will review the evaluation committee's technical scoring and justification for compliance to the solicitation. The solicitation coordinator will then open and provide the cost proposals

to the evaluation committee for review and determination so that an "apple-to-apple" comparison can be made.

The solicitation coordinator or the procurement professional assisting with cost proposal analysis and evaluation should take steps to ensure that there are no hidden or undisclosed costs associated with a response in the event of contract award. Cost proposals are scored according to the solicitation evaluation criteria, and the cost score will be added to the technical score to determine the award.

There are circumstances where it may become necessary for the solicitation coordinator to review, analyze and tabulate the cost proposal of respondents contemporaneously with the evaluation of the technical responses. In such an event, the Procurement Office shall maintain strict confidentiality between the procurement professionals or the evaluation committee members analyzing and evaluating the technical responses and those procurement professionals analyzing and evaluating the cost proposals.

75. Negotiation

Each solicitation should include provisions governing negotiation with one or more respondents. Pre- award negotiations may be conducted with respondents who are within the competitive range.

Negotiations should be conducted in a manner that is fair to the respondent or respondents selected for further negotiation. Negotiation rounds, including by way of example only, an initial round of target price negotiation, additional rounds of negotiation, culminating in a round of negotiation, may be had if it is beneficial to the University. Only the Procurement Office may engage in target price, additional rounds of negotiation, or negotiations. Neither target price, additional rounds of negotiation, nor responses can be requested until after responses are evaluated. Once target pricing, additional rounds of negotiation, or responses are received, with respect to a RFP or other solicitation method involving an evaluation committee, the evaluation committee should evaluate it in the same manner as the original response criteria. With respect to an ITB or other solicitation method not involving an evaluation committee, the solicitation coordinator is responsible for analyzing and tabulating all target pricing, additional negotiation responses, or responses.

Negotiations may be conducted with a select group of respondents based on an established competitive range or with just the apparent awarded respondent. The solicitation coordinator may conduct multiple negotiation rounds if doing so is in the University's best interests. There is no minimum number of negotiation rounds and there are no limitations to how many rounds of negotiations must be conducted.

If the University exercises its right to enter into negotiations, it may identify areas of a proposal that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the University's specifications or requirements. The University may seek to clarify those identified issues during negotiations. All responsive respondents or selected competitive range respondents will be given equivalent information with respect to cost negotiations. By their very nature, single respondent negotiations will not involve making all information as part of the negotiation available to other respondents who were not selected for further negotiation.

All cost negotiations will be documented for the procurement file. Additionally, the solicitation coordinator should conduct target pricing and other price or service level pricing, market considerations, benchmarks, budget availability, industry standards or other method that does not reveal individual respondent pricing. During negotiations rounds, respondents are not obligated to meet or beat target prices, but will not be allowed to increase prices. All communications, clarifications and negotiations shall be conducted in a manner that supports fairness in response improvement. Note that each

76. clarification sought by the University may be unique to an individual Proposer

77. Competitive Range

Given the number of responses and the broad range of competitiveness of responses, it may not be practicable to engage in negotiations with each and every respondent. In the event of multiple responses and the University's needs for negotiating a contract on terms and conditions in the University's best interests, it may be necessary to shorten the list of respondents to a "competitive range" and only negotiate with one or more respondents within the competitive range. The competitive range should be established based on the following guiding principles:

78. Price

79. Cost of Ownership

Responses that appear to provide the best value based on:

Evaluation criteria in the solicitation

Product specifications

Information provided by the vendors

Responses most likely to provide greater value after negotiations based on the same criteria.

80. Respondent scores

The solicitation coordinator may wish to consider establishing in the solicitation a minimum score that a respondent must achieve before the respondent will be considered in the competitive range and thus eligible for additional negotiation.

81. Negotiation with Single Respondent versus Multi-party Negotiation

Factors a solicitation coordinator should consider when electing to negotiate with just the highest evaluated respondent instead of engaging in multi-party negotiations include:

82. The expected dollar value of the award and length of contract

The complexity of the acquisition and the variety and complexity of offered solutions, in terms of impact on the likely breadth and depth of the discussions.

The resources available to conduct discussions vs. the expected variable administrative costs of discussions.

83. The impact on lead-time for award vs. the need for timely delivery

The extent to which discussions with additional respondents would likely provide diminishing returns.

The disparity in pricing between the lowest priced respondent and the other respondents, with respect to an ITB.

The disparity in pricing between the highest rated respondent and the other respondents, with respect to all other solicitation methods.

84. Target Price Negotiations

Target pricing gives responsive and responsible respondents an opportunity to improve upon their responses by offering more competitive pricing. Proposers are not obligated to meet or beat target prices but will not be allowed to increase overall prices. All communications, clarifications and negotiations shall be conducted in a manner that supports fairness in the proposal improvement and does not reveal individual respondent pricing.

The target price is reached by considering factors such as the current/last contract price paid for an item, benchmarks, industry standards, budgets, raw materials that influence the pricing of the product, or market trends.

Once the initial responses have been received, the solicitation coordinator should:

85. Determine the lowest proposed cost for each line item as applicable

Compare the lowest proposed cost for each line item against current/past contract price and other benchmarks.

Determine a unique target %, as opposed to a flat % off, for the least cost supplier that will guide proposer pricing towards the ideal purchase price.

86. Calculate the target price for each line item in a spreadsheet

Evaluate whether or not there is a price reasonableness to the target price for each line item and for the total target price overall.

Send standard language and target price bidding spreadsheet to respondents deemed responsible and responsive.

87. Receive target cost proposals

88. Determine if target price negotiation resulted in improved cost proposals

If the receipt of target price proposals did not result in one or more cost proposals at or below the State's target price, the solicitation coordinator should evaluate whether an additional round of target price negotiation will result in one or more cost proposals at or below the State's target price.

89. Best and Final Offer (BAFO) Negotiations

The best and final offer (BAFO) negotiation is an optional step to help obtain improvements in the scope of work or the most cost effective pricing available. The BAFO process may be useful when:

90. No single response addresses all the specifications

The cost submitted by all respondents is too high (e.g., exceeds the University's estimate of expected costs, budget, etc.).

91. The scores of two or more respondents are very close after the initial evaluation

92. All respondents submitted responses that are unclear or deficient in one or more areas

93. Procedures for the use of the BAFO process

The following rules shall apply to BAFO negotiations:

The solicitation coordinator, with respect to an ITB, or the evaluation committee, with respect to all other solicitation methods, should determine if the BAFO process will be conducted and which respondents are within the competitive range for receipt of the State's BAFO request.

The solicitation coordinator, with respect to an ITB, or the evaluation committee, with respect to all other solicitation methods, may restrict the BAFO negotiations to a single respondent or engage in a multi-party BAFO negotiation.

BAFO's are best conducted using only those respondents within the competitive range. Any respondent deemed non-responsive or non-responsible or not within the competitive range may be excluded from participation, which shall be documented in the solicitation file.

The content of the BAFO request may come from questions proposed by the solicitation coordinator, with respect to an ITB, or the solicitation coordinator in consult with the evaluation committee, with respect to all other solicitation methods.

The solicitation coordinator, with respect to an ITB, or the evaluation committee, with respect to all other solicitation methods, may request that a proposer readdress important aspects of the proposal such as but not limited to implementation schedule, level of support, amount of resources proposed, terms and conditions or cost.

The solicitation coordinator will dispatch the BAFO request stating the elements to be covered and defining the date and time the BAFO must be returned.

All communication to and from respondents regarding the BAFO solicitation shall be coordinated by the solicitation coordinator.

94. All responses to the BAFO shall be returned to the solicitation coordinator

BAFO's submitted after the deadline shall not be considered. Only the original and most recently submitted responses may be considered for evaluation.

95. Content and structure of Solicitations utilizing a BAFO Process

All solicitations utilizing a BAFO process shall contain the following:

Best and final solicitations shall contain specific information on what is being requested. Enhanced core components of the solicitation may be solicited; however, the integrity of the scope of the original solicitation must be maintained. Respondents may be asked to provide additional clarification to specific sections of their response and to rework their proposal content or cost proposal.

96. Best and final solicitations shall include submission requirements with time lines

Best and final solicitations shall contain specifics on how the offers will be evaluated and outline the process that will be used to determine the successful proposer.

The solicitation coordinator with respect to an ITB or the evaluation committee with respect to all other solicitation methods will evaluate submissions of the BAFO and rescore the original response based entirely on the content of the BAFO submission.

Respondents are not required to submit a BAFO and may submit a written response stating that their response remains as originally submitted.

Requests for best and final offers shall not identify either the current rank of any of the respondents or the lowest costs currently proposed.

97. Respondents may be requested to make an oral presentation regarding their BAFO

The solicitation coordinator with respect to an ITB or the evaluation committee with respect to all other solicitation methods will have full discretion to accept or reject any information submitted in a BAFO.

98. Scoring of BAFOs

The solicitation coordinator, with respect to an ITB, or the evaluation committee, with respect to all other solicitation methods, should score the responses after receipt of the BAFO responses.

All scoring worksheets (e.g., original evaluation scores, best and final scores, etc.) should be retained for inclusion in the procurement file. Scores for the BAFO responses should be entered into a new score sheet/summary worksheet by the solicitation coordinator.

99. Notice of Intent to Award

100. Recommendation and Award

A Notice of Intent to Award shall be communicated in writing or by electronic transmission to all respondents. Each contract shall be awarded and let by the University with reasonable promptness to the apparent winning respondent, e.g., on the basis of highest evaluation score or lowest cost, whose response meets the requirements and criteria set forth in the solicitation. Where more than one item is specified in a solicitation, the University reserves the right to determine the winning respondent, or respondents in the case of a multiple award, either on the basis of each individual item, a group of items, or the total of all items, unless otherwise provided in the solicitation.

The Procurement Office shall document the evaluation team members' names, scores, and evaluation results and recommend an award to the respondent who has received the highest evaluation score or in the case of an ITB, an award to the responsive and responsible respondent with the lowest cost response.

Notwithstanding the foregoing, there are situations where it is in the best interests of the State to award a contract to a respondent other than the respondent with the lowest cost proposal. In such event, the

Procurement Officer, or his or her designee, shall document the reasons for awarding a contract to a respondent other than one with the lowest cost proposal. Justifications for such an award include, but are not limited to:

- The highest evaluated response, taken as a whole, falls outside the competitive range
- The respondent is not capable of meeting the solicitation requirements

The respondent is not able to perform under the terms of the contract as awarded, e.g., in terms of quality, quantity or timeliness of performance; or

Based on the totality of the above and other considerations, award to another respondent is in the best interests of the State, provided this determination is supported by sufficient documentation that will become part of the procurement file.

After the evaluation team completes the award recommendation process and notifies the respondents of the official award recommendation, the procurement file shall be open and available for public inspection for at least seven (7) calendar days prior to the actual award of the contract. Protests shall be governed by Tenn. Code Ann. § 4-56-101, et seq., and the Rules of the Central Procurement Office.

101. Tied Responses – Resolution

A tie exists when two or more respondents offer goods or services that meet all specifications, terms and conditions at identical prices including cash discount offered for prompt payment. A tie will be broken by considering the following factors, in descending order:

First preference shall be given to a "Tennessee Respondent." Pursuant to Tenn. Code Ann. § 12-3-1113(c)(2), a "Tennessee Respondent" means a business that is:

- Incorporated in this State

Has its principal place of business in this State; or

102. Has an established physical presence in this State

Second preference shall be given to the respondent who was the low cost respondent on other items being bid for the same requisition.

103. Third preference shall be given to the respondent who offers the best delivery

104. Fifth preference shall be given to further negotiations to break the tie

105. If a tie remains, it shall be broken by lot or coin toss

106. Notification of Selected and Non-selected Respondents

The solicitation coordinator shall notify the selected respondent and non-selected respondents of the intent to award by providing all respondents with a copy of the intent to award sent to the awarded respondent.

107. The Open File Period

The solicitation coordinator should have a complete file available to the public before the notice of intent to award is sent out, which begins the open file period. The procurement file should contain, at a minimum:

a copy of the solicitation:

- relevant correspondence between the solicitation coordinator and any respondents
- responses to the solicitation, including clarifications and information gathered at oral presentations as applicable
- score sheets
- relevant spreadsheets used in analyzing the technical responses and cost proposals
- all responses to target price or negotiations

108. the intent to award letter sent to the awarded respondent

Activities Required Before the Contract Effective Date

All activities in this Section must be completed before a contract's effective date. A contract is not effective until all of the activities in this Section have been completed. If the activities in this Section are not completed before a contract's effective date, then the Procurement and Contract Services may request that the contract be resubmitted with a new effective date. In no event shall the procuring department request goods or services before the contract's effective date.

109. Contract Award

Once the open file period has passed and no protests have been received, the solicitation coordinator may begin the award process. Awards of contracts shall be in accordance with the Rules, the Procurement Office Policy and this Manual.

110. Govs e-Shop

The solicitation coordinator and/or contract specialist is responsible for all necessary uploading of contracts to be routed for approvals.

111. Contract Approval

112. Approval by University Officials

The solicitation coordinator and/or contract specialist is responsible for obtaining all necessary approvals prior to a contract's effective date.

Contracts must be approved by the following:

- awarded respondent

Chief Procurement Officer

113. President or his or her designee

Certain types of procurements and contracts require additional approvals, as specified in the chart below.

The Procurement File

A procurement file shall be maintained for every solicitation. Such file shall include, but is not limited to, the following documentation, if applicable:

- A copy of the solicitation and any amendments or clarifications thereof
- A copy of any approved Rule Exception Request
- Any Conflict of Interest Disclosure documentation
- Any evaluator attestations
- A list of all vendors solicited to participate in the procurement
- A copy of each evaluated response

- A copy of each evaluation sheet
- A copy of any clarifications sent to respondents
- A copy of any negotiations (including BAFOs and Target Pricing)
- A copy of all correspondence between the vendor and the University regarding clarifications or negotiations
- Any Cost Proposal and Scoring Guide or Bid Abstracts and Bid Analysis with the total evaluation cost amount and score for each evaluated response
- Any completed Proposal Score Summary Matrix
- A copy of all technical scores
- A copy of all cost scores
- The Evaluation Notice/File Open for Inspection letter
- A copy of the protest procedures and the exact dollar amount of the Protest Bond
- Documentation of any decision to determine a response bypassed or non-responsive

Any correspondence or documentation detailing the evaluation process, clarifications, and negotiations; and

A copy of any pre-proposal conference and site-visit sign-in sheets.

114. Exceptions to Competitive Procurements

115. Emergency Purchases

116. The Director of Procurement must approve all non-competitive emergency purchases

117. Description of Emergency Purchases

An Emergency Purchase may occur when there is a serious and unexpected situation that poses an immediate risk to health, life, property or environment which calls an agency to action; such action entails the need to secure goods or services to carry out an emergency response. In such situations, competition should be engaged when practicable, but this policy recognizes that some emergencies are such that the exigencies of the situation may not allow for a competitive procurement.

118. Conditions of Use for Emergency Purchases

Conditions of use for an Emergency Purchase may include, by way of example only, natural disasters, hazardous material spill or systems failure. An Emergency Purchase does not require the declaration of a state of emergency. Poor planning (e.g., failure to manage contract beginning dates or expiration dates) or the expiration of funds (e.g., expiration of federal funding for a project), however, do not constitute an emergency. These circumstances may require immediate action and may justify use of another non-competitive procurement method, but not an emergency purchase.

119. Emergency Purchase Approval Process & Written Documentation

Departments may procure goods or services via the emergency purchase method of procurement in accordance with the Rules Procurement Policy. Departments should make emergency purchases through the Govs e-Shop and attach the following information when requested by the Procurement Office:

- The circumstances leading to the emergency purchase
- The Procurement-related actions taken in response to the emergency, including procurement methods used

A complete list of goods or services procured, including prices paid and total purchase amount; and

As applicable, additional purchases expected, including expected price and total purchase amount, as of the time of the report.

120. Emergency Purchase Authorization Procedure

Prior authorization of the Director of Procurement is required for emergency purchases. The request for authorization may be approved in a true emergency or as the only method of payment for commodities and services ordered by the Department for reasons including improper planning, utilizing an improper purchasing method, and contract expiration. The procedure for obtaining an Emergency Purchase Authorization is as follows:

121. The department shall enter a direct entry purchase in Govs e-Shop

122. The department shall document in Govs e-Shop justification for the emergency purchase

The department shall contact the Director of Procurement for emergency purchase authorization. In lieu of delegating the emergency purchase authority, the Director of Procurement may elect to procure the goods or services through the Emergency Purchase Procedure.

The Procurement Office will secure three (3) competitive responses, if practicable, and record the bids in Govs e-Shop or provide justification for obtaining fewer than three (3) responses. If a sole source procurement, the department must provide the justification required for the use of a sole source method of procurement.

123. Emergency Purchase Disapproval

If an emergency purchase authorization is denied, the Procurement Office will advise the Department as to the appropriate procedure to secure the goods or services requested.

124. Emergency Purchases

A Govs e-Shop one-time Requisition or Emergency Purchase request entered by the department may be processed in compliance with the Rules, Procurement Office Policy or this Manual. Departments must provide the Procurement Office with information regarding the emergency circumstances. If approved, the Director of Procurement may utilize expedited purchase procedures including short closing dates, an informal emergency solicitation process or other authorized means.

125. Extraordinary Emergency Purchase

Should emergencies affecting the health or safety of any person occur during periods when Procurement Office personnel are not available, a Department is authorized to contract for any commodity or service without prior Emergency Purchase Authorization. The Department shall report such purchases to the Procurement Office as soon as practicable. The procedure for "after the fact" authorization is the same as previously described for prior emergency authorization.

126. Sole Source Procurements

127. Written Justification Required

A sole source procurement is one where only one vendor possesses the unique and singularly available capability to meet the requirement of the solicitation, such as technical qualifications, ability to deliver at a particular time, or services from a public utility or a situation where a particular supplier or person is identified as the only qualified source available to the requisitioning authority. A sole source procurement must be approved by the Director of Procurement and the justification for awarding a sole source contract must be in writing. While not an exhaustive list, justifications for sole source procurements include:

- Only one company has the good or service that will meet the Institution’s needs
- Compatibility of existing equipment or products is at issue
- The good or service is covered by one or more patents or copyrights
- Continuity of results is absolutely dependent upon the specific good or service

- The supplier possesses exclusive capabilities for the good or service at issue that are not obtainable from similar suppliers

An unusual or compelling urgency exists; or

University users have extensive training or experience and use of similar goods or services would require significant reorientation and training.

128. Sole Source Procurement Approval Process

A department that requests utilizing a sole source method of procurement must provide written justification to the Procurement Office prior to awarding a contract and beginning the contract approval process. Only the Director of Procurement can approve the use of a sole source method of procurement. Upon approval by the Director of Procurement, the sole source procurement may be made without following competitive procurement procedures. A written quote should be obtained from

the sole source vendor of goods or services and a purchase order will be issued without utilizing a competitive procurement method. The Procurement Office shall report approved Sole Source Procurements to the Comptroller of the Treasury in the form of a quarterly report. Sole source procurements shall be made by contract in accordance with the Rules, Procurement Office Policy, and this Manual. Competitive purchasing methods or negotiations to ensure competition should be used when practicable.

129. Chief Procurement Officer Approval of Sole Source Procurements

The Director of Procurement in approving the use of a sole source method of procurement shall consider the following:

- Whether the vendor possesses exclusive or predominant capabilities or the item or service contains features providing a superior utility not obtainable from similar vendors
- Whether the product or service is unique and available from only one source

Whether the program requirements can be modified so that competitive products or services may be used; and

130. Whether items must be interchangeable or compatible with in-place items

131. Required Department Documentation

Any Department seeking to obtain goods or services through a sole source method of procurement must first obtain approval to do so from the Director of Procurement. The department, prior to using a sole source procurement, shall provide: (1) a Justification for Non-Competitive Purchases and Contracts using the template on the PACS website: (2) any documents supporting the request or responding to the PACS request for additional documentation; and (3) an annual signed and dated letter from the vendor stating that it has the exclusive rights to provide the goods or services if the basis for the sole source request is that the vendor has the exclusive rights to provide the goods or services. The vendor's letter must also include what makes the product unique, as required by the Procurement Office.

Only after the Director of Procurement's approval may a Department proceed with a sole source procurement.

132. Proprietary Procurements

133. Description of Proprietary Procurements

A Proprietary Procurement is a procurement where competition is restricted to authorized distributors of certain goods or services.

134. Conditions of Use for Proprietary Procurement

The circumstances justifying a proprietary procurement include:

- Compatibility of existing equipment or products is at issue
- The good or service is covered by one or more patents or copyrights

Continuity of results is absolutely dependent upon the proprietary good or service at issue; or

State users have extensive training or experience and use of similar goods or services would require significant reorientation and training.

135. Proprietary Procurement Approval Process

All Special Contract Requests for Proprietary Procurements, with accompanied justification and circumstances for limiting competition to a select group of distributors or suppliers, must be submitted annually to the Director of Procurement for approval prior to the draft or issuance of any associated procurement document. All other approvals for the selected procurement method still apply.

136. Local Purchases

There are two types of Local Purchase authority: (1) Small Purchases; and (2) Informal Purchases. The limitations, requirements and procedures for each are set forth below.

137. Small Purchases

138. Description and Conditions of Use for Small Purchase

Small purchase authority may be used for goods or services not exceeding the bid threshold. It is important to note that no procurement shall be artificially divided or split in order to fall within such amounts approved for small purchases. Similarly, if purchases that fall within the small purchase authority are of a recurring nature and the aggregate total exceeds such amounts, the contract is presumed to exceed the small purchase authority and a competitive procurement method must be used (e.g., RFP, ITB or informal quotes).

139. Small Purchase Approval Process

Small Purchases require a Purchase Order be issued prior to communication with a vendor for purchased of goods or services.

Informal Purchases

140. Description of Informal Purchase

Procurement Office uses competitive methods and solicits quotes or proposals from at least three (3) vendors when the total value of a contract or a purchase will cost less than $100,000 but at least

$50,000. Procurement shall also perform due diligence to ensure that the University is procuring goods and services on terms, conditions, and pricing that is in the University's best interests. All due diligence shall be documented and made a part of the procurement file. The exception is grant purchases. Any federal grant purchase $10,000 or above requires a competitive process of at least three (3) quotes.

141. Conditions of Use for Informal Purchase Authority

Local purchase authority may be used for goods or services not exceeding such amounts approved by the President. It is important to note that no procurements hall be artificially divided or split in order to fall within such amounts approved by the Procurement Commission. Similarly, if purchases that fall within the informal purchase authority are of a recurring nature and the aggregate total exceeds bid thresholds, the contract is presumed to exceed the informal purchase authority and a competitive procurement method must be used (e.g., RFP, ITB or informal quotes).