

**California State University
Channel Islands**

**Procurement and Logistical Services
Operations Manual**

**Revised
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CSU Channel Islands Procurement and Logistical Services

OPERATIONS MANUAL

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INTRODUCTION

The CI Procurement and Logistical Services Operations Manual is intended to serve as a general guideline for CI employees who conduct business transactions for the benefit of CI.

There are six sections in this manual. Section 1 addresses the subject of “Authority for Transactions”—i.e., how the responsibilities for procurement operations are transferred within the CSU from the Trustees to other tiers of the organization. Section 2 relates to requirements common to all transactions—primarily those for purchases, service orders, and standard agreements. Section 3 addresses transactions solely for commodities, while Section 4 shows requirements that are specific for service acquisitions. Section 5 contains certain requirements that are unique to Information Technology (IT) and computer transactions. Section 6 summarizes the requirements for public works projects.

The manual reflects State of California Statutes, CSU Trustees’ system-wide policy, and CSU procurement procedures and practices that have been implemented as needed.

The legal references from California Statute are found in the Public Contract Code (PCC) and the Education Code. Other California Codes are cited herein as well. The website for finding California Codes is <http://www.leginfo.ca.gov/calaw.html>.

Note: Policy for Public Works contracts and Professional Services agreements related to Public Works can also be found in (1) the State University Administrative Manual (SUAM), especially Sections X-XII, (2) the Major Capital Outlay Projects Construction Phase Manual, and (3) the Architect & Engineering (A/E) Design Process and Requirements training manual.

THE ROLE OF CI PROCUREMENT AND LOGISTICAL SERVICES

CI Procurement and Logistical Services (“Procurement”) carry out the purchasing, contracting, and support services functions for the campus. Procurement is responsible for ensuring that acquisitions of all goods and services are made within the framework of the CSU Policy Manual for Contracting & Procurement as well as the statutes and regulations of the State of California, the Integrated California State University Administrative Manual (ISUAM), and all other applicable policy issued by the State, the CSU Trustees, and the University President. Procurement staff members are committed to providing reliable, cost effective, timely, innovative and quality service for the campus.

Procurement exists to assist faculty and staff in acquiring commodities and services of a specified quality, delivered at the desired time, in the proper amount, at an economical price and from an acceptable source. Its responsibilities include contracting, purchasing and support services for the campus community. A major objective is to promote fair, ethical and legal practices in carrying out these transactions for the university.

Procurement subscribes to fundamental principles encompassed in CSU Trustees’ Policy, which are:

- A recognition that the basic mission of the CSU is to support the teaching, research and public service requirements for higher education for the people of the State of California,
- A recognition that the continued development and refinement of procurement policies in accordance with good business judgment and best business practices is important to the effective and efficient total operations of CI,
- A firm belief that it is in CI’s best interest to limit, as much as possible, prescriptive policies and regulations and to provide maximum flexibility to, and accountability for, the adoption of local campus policies and procedures to insure the cost effective operation of campus business, and,
- A recognition that the ICSUAM establishes a baseline for State Law and Trustees’ Policy and that it is the responsibility of the campus to determine the disposition of any issue not specifically addressed in the ICSUAM or prescribed in State laws or regulations.

ICSUAM 5000.00

Section 1

Authority for Transactions

- 1.01 Trustees' Authority: The Trustees of the CSU have the statutory authority to purchase personal property; enter into agreements for the furnishing of services; and lease, sell, or exchange any property of a state university for any purpose that they consider to be consistent with the functions of the CSU.

Ed Code 89036, 89046, 89048; Public Contract Code (PCC) 10295, 10430I, 12100.5, 12120; ICSUAM 5100.00.

- 1.02 Chancellor's Authority: The Chancellor of the CSU has delegated authority from the Trustees to make property and services transactions consistent with the provisions of statutory authority permitted in California's Education Code and Public Contract Code (PCC).

Standing Orders of the Board of Trustees, Chapter III, Section 4-e; ICSUAM 5101.00.

- 1.03 Role of General Counsel: The Office of General Counsel provides, manages and coordinates all legal services for the CSU. For procurement operations, it reviews and approves certain transactions specifically requiring legal approval or endorsement, and acts as a consultative body on all matters that require legal interpretation, resolution, or adjudication.

ICSUAM 5103.00

- 1.04 Role of the Chancellor's Office Contract Services & Procurement (CS&P) Department: The role of the Contract Services & Procurement (CS&P) Department is to develop, maintain, and administer Trustees' policy related to public procurement practices in the CSU. The Department serves as a legislative advocate, maintains system wide data and procurement information resources and serves as a liaison to other California and non-California entities. CS&P also conducts, disseminates and trains campuses on the system wide analysis of expenditures of goods and services. CS&P facilitates multi-campus, system wide and multi-agency strategic initiatives, procurement and contracting activities and is directly responsible for purchasing and contracting functions in support of Chancellor's Office operations.

ICSUAM 5104.00

- 1.05 President's Authority: The President of each CSU campus has received delegated authority from the Chancellor to purchase, sell, lease, or license personal property and acquire or provide services in accordance with Trustees' policy and law. Responsibility for the preparation of campus internal policies and procedures consistent with CSU Policy and California law remains with the President. This delegated authority is subject to the condition that certain of these transactions be submitted to the Office of the Chancellor for review and approval. These transactions are:

- a. Any transaction that exceeds \$250,000 and is awarded without the taking of competitive bids (sole source). This condition does not apply, however, to sole brand acquisitions that are acquired under competitive procedures nor to contracts pursuant to a planned purchasing program or master agreement previously reviewed and approved by the Office of the Chancellor;
- b. Transactions that contain system-wide or multi-campus obligations, liabilities or encumbrances (requests for delegation shall be considered);
- c. Transactions that contain provisions for the tax-exempt financing of equipment or services;
- d. Contracts to obtain legal services to be performed by outside (non-CSU) counsel
- e. Lease agreements for real property where the commitments of the Trustees, or property leased, is to be used to support the issuance of bonds, certificates of participation or notes, or where there is a transfer of interest by installment sale or other form of security.
- f. Lease agreements for real property with a term of twenty or more years or with options that result in a potential term of twenty or more years.
- g. Lease agreements for real property with any annual lease payment equal to or greater than \$1,000,000.00
- h. Lease agreements for real property that permit the development of real property of the CSU pursuant to policies of the Trustees on public/private or public/public development.

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

Chancellor's Executive Orders 615, 667, 669, 775; ICSUAM 5102.00

- 1.06 Vice President's Authority: The Vice President for Business and Financial Affairs at CI has received delegated authority from the President to purchase, sell, lease, or license personal property and acquire or provide services in accordance with Trustees' policy and law. Responsibility for the preparation of campus internal policies and procedures consistent with CSU Policy and California law remains with the President.
- 1.07 Procurement Authority: The Director of Procurement & Logistical Services has received delegated authority from the Vice President to purchase, sell, lease, or license personal property and acquire or provide services in accordance with Trustees' policy and law and may represent the campus on all university property and services transactions and by virtue of that administrative appointment has been delegated the authority to prepare, process, and execute documents necessary to carry out that responsibility. In turn, the director has delegated authority to and assigns various staff members of Procurement specific responsibilities for transactions falling within specialty areas that may require certain training, experience, and skills.

1.08 Delegated Campus Authority: Authority has been delegated to campus departments to acquire certain kinds of commodities and services described as direct payment acquisitions. These, typically, are transactions for which little or no value can be added by processing them through the standard procurement procedures. They would routinely be requested by a check request form and include commitments or obligations for such things as advertisements, postage & mailing charges, petty cash fund reimbursements, stipends, fees for guest artists or lecturers (honoraria), accreditation fees, books, subscriptions, publications, registration fees, medical exams, insurance premiums, membership fees, and utilities. CI's dollar threshold for direct pay purchases is one thousand dollars (\$1,000) or less.

An additional delegated purchasing authority known as the Procurement Card Program (Pcard) allows participating campus departmental staff to expend department funds directly for commodities. Procurement & Logical Services administers this program. Low dollar value purchases are made via the issuance of procurement credit cards to campus faculty and staff that apply and qualify for participation in the program. The primary purpose of this program is to reduce processing time, costs, and delivery delays. It is intended also to enhance user productivity and satisfaction as well as to promote user independence. Acquisition of services under this delegation program is not permitted. Any request for delegation of authority that would temporarily or permanently increase established limits should be submitted via the program chair/department head and approving official to the program administrator in Procurement & Logical Services. The administrator maintains a file of all current delegations of acquisition authority (signature authorizations) for purchases placed under this program.

ICSUAM 5204.00 5227.00 5250.00

Section 2 Requirements Common to All Transactions

The following paragraphs apply to all procurement transactions, whether acquisitions of personal property (commodities) or services, information technology (IT) orders & contracts, and the sale, lease, license and disposal of CI personal property. This excludes public works, which is embodied in Section 6. In accordance with the California Legislature's intent, the requirements of Section 2 are designed to achieve:

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

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

PCC 10300, ICSUAM 5201.00.

2.01 Classification of Contract Including Defining Characteristics of a Purchase Order, Service Order, or Contract:

- a. A purchase order, once issued under proper authorization to a vendor who has been duly informed of the intent to buy a commodity offered at a specified time and price and under mutually-agreed-upon terms and conditions, is a legally binding contract. However, it differs from a contract (formal signed agreement) in that only one party (the issuer) is required to sign it. The issuer may, however, require the vendor to sign the purchase order if there are unusual conditions that appear to warrant it.
- b. A service order is an instrument that technically can be used in much the same manner as a purchase order (signed unilaterally by the issuer), except that a service rather than a commodity is being obtained from a provider of such services. The buyer may opt to require that the provider sign the service order if there are unusual conditions that appear to warrant it.
- c. A contract is a formal agreement, signed by all parties who are to be bound (legally) by its terms and conditions. Contracts can be issued for any number of purposes, but usually the purpose is to acquire a service or commodity from a provider in exchange for some form of consideration (usually money). The Agreement form is commonly the instrument used for such a contractual purpose.

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

Contract for Goods

This is a purchase that has as its sole or main purpose the buying of tangible items, such as equipment, parts, supplies, or other merchandise. If any services are to be provided as well, the dollar value associated with the purchase of the Goods must be greater than the dollar value of the services that will be provided. This classification of contracts does not include contracts for the acquisition of Information Technology Resource (ITR) Goods and Services or facility maintenance services.

Information Technology Resources (ITR) Goods and Services Contract

Information Technology Resources (ITR): Equipment, material and/or services used for electronic storage, processing or transmitting of any data or information, as well as the data or information itself. This definition includes but is not limited to electronic mail, voice mail, local databases, externally accessed databases, CD-ROM, recorded magnetic media, photographs, digitized information, or micro-imaging. This also includes any wire, radio, electromagnetic, photo optical, photo electronic or other facility used in transmitting electronic communications, and any computer facilities or related electronic equipment that electronically stores such communications.

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

Contract for Services

Service means any work performed by an independent contractor wherein the service rendered does not consist primarily of the acquisition of goods. This classification of contracts does not include contracts for the acquisition of ITR services (see Section 200) or public works project agreements but does include contracts for maintenance tasks for the routine, recurring and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility.

ICSUAM 5202.00

- 2.02 Competitive Bidding: The promotion of fair and open competition by the University in the acquisition of goods and services to meet its needs is indispensable to maintaining its operational health. It normally results in the best use of CI's limited financial resources, prevents favoritism, and it provides a professionally viable and positive climate in which the University may conduct its business. When properly implemented, it achieves optimal benefits to everyone involved, including the general public in regard to the best use of the University's budget as appropriated by the California Legislature.

There are numerous ways to promote fair and open competition. They include, but are not limited to, electronic bidding processes, public advertising for bids or proposals through daily or weekly newspapers of general circulation; trade or specialty publications; direct notifications to known vendors & service providers; initiating outreach programs, an extensive use of vendor & contractor source files for bidding purposes, and inquires to obtain informal quotes. It is the policy of the CSU to advertise in the California State Contracts Register (CSCR) to every extent possible. Contract advertisements may be submitted electronically at <http://www.dgs.ca.gov/pd/programs/eprocure.aspx>. Each campus Procurement Officer may establish procedures and criteria for exemptions to the requirement for advertising solicitations in the CSCR that are set forth in ICSUAM Policy 5000 series. Any exemptions established must require the Procurement Officer's determination that the State's best interest would be served better by not advertising in the CSCR.

Lists may be developed and used which would include the most recent provider (if any) as well as those who have responded to past advertisements or notices issued for the same or similar products or services.

Whenever the lowest responsible bid for the award of an order or contract is rejected for noncompliance as the result of disqualification of the bid or the bidder, a formal rejection notification must be sent to that bidder either by letter or electronic transmission. When sent electronically documentation must be placed in the bid file. Twenty-four hour notice, excluding Saturdays, Sundays, and legal holidays, is required to be given to the disqualified low bidder before an award may be made to the next lowest responsible bidder.

In addition to an exemption based upon a campus determination that its best interest would not be better served without advertising in the CSCR, the following contracts are exempt from publication in the CSCR. They include the following:

- a. In cases of emergency where a contract is necessary for the immediate preservation of life, public health, welfare, or safety, or the protection of State property and programs;
- b. The proposed contract is with a State or federal agency, a local government entity;
- c. Services for which the State has entered into a master service agreement;
- d. Refuse and/or sewage disposal contracts where there is no competition because the contractor is an authorized franchised dealer that provides services to a specific geographical area;
- e. Contracts for medical care services with physicians, local community hospitals, and medical groups. This does not include offsite laboratory services;
- f. Subvention contract (non-discretionary grants) with a private or nonprofit entity for the purpose of providing services to the public or segments thereof;
- g. Maintenance agreements for equipment that is under warranty or while the guaranteed useful life period is in effect, or agreements where the campus has determined that a local distributor or branch is the only source for parts and service;
- h. Proprietary software contracts;
- i. Leases or rentals for use as examination sites;
- j. Entertainment contracts for State-sponsored fairs and expositions;
- k. Contract for which only per diem and travel expenses are paid and there is no payment for service rendered;
- l. Contracts solely for the purpose of obtaining expert witnesses for litigation;
- m. Contracts for legal defense, legal advice, or legal service;

- n. Contracts with business entities operating handicapped workshops that meet the criteria established by Section 19404 of the Welfare and Institutions Code;
- o. Contracts for architectural or engineering services;
- p. Contracts not subject to competition requirements;
- q. Contracts that have been exempted from CSCR advertisement by DGS;
- r. Contracts subject to ICSUAM 5501 Solicitation Thresholds for ITR Goods and Services Section 100, 200 and 300.

PCC 102, 1103, 10300 et seq., 12100 et seq.; ICSUAM 5245.00

2.03 Solicitation Methodologies: There are several industry-standard methods that may be used for soliciting and awarding contracts. Some of the more common ones are:

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

In addition, ICSUAM Policies 5301.00, 5401.00 and 5501.00 allow for the use of an informal solicitation process in certain circumstances. Such acquisitions must be in accordance with campuses' policies and procedures for informal solicitations.

When choosing which methodology to use, a campus should consider the procurement objective; including but not limited to, the requirements of the goods or services being procured, the estimated dollar value of the resultant contract, any legislative and policy requirements, and the best interest of the CSU. If the objectives change during the process, the procurement process should be restarted using the appropriate process or formally modified through appropriate written notification to potential vendors.

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

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

PCC 1103, 10300 et seq., 12100.7; ICSUAM 5203.00

2.04 Limits on Competitive Bidding

It is the policy of the CSU to promote fair and open competition to the maximum extent possible. This policy prescribes the rules that apply when full and open competitive contracting in fulfillment of CSU requirements is not feasible.

Sole Brand and Sole Source Procurements

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

Each sole source or sole brand request must include a written justification explaining why the sole source/brand is necessary to satisfy the needs of the CSU. It must demonstrate that the supplier holds a unique (no other sources have it) set of skills or expertise that make it impossible for anyone else to do the work or that the goods are not available from another source. The results of a non-public solicitation (solicited or unsolicited, verbal or written quotes without public advertising in the California State Contract Register - See ICSUAM Policy 5245.00) for the service and/or goods do not demonstrate the uniqueness of the service and/or brand of goods required.

The request must be approved as provided herein prior to the execution of the sole source/brand procurement. The justification shall include the following information.

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

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

1. A lack of advance planning;
2. Concerns related to the amount of funds available for the acquisition of the goods or services; or
3. A previously bid (publically bid or not) contract or purchase order for the same product or service.

The utilization of unnecessarily restrictive specifications or solicitation requirements in a Competitive procurement for goods or services in such a manner as to limit, directly or indirectly, competition to a single brand or single source does not provide for full and open competition, regardless of the number of sources solicited, and is prohibited.

The use of "brand name or equal" is a competitive process that allows bidders to propose equivalent items and is permitted providing the justification for the rejection of items as "not equivalent" is documented and based on fair and equitable review.

Sole Brand Approval Requirements

Limiting competition to a sole brand is prohibited except in the following instances:

1. The sole brand product is unique and essential to the CSU's requirements, and the justification requirements of Section 100 have been fulfilled, or
2. The sole brand product is required to match other similar product already procured through a competitive process and the use of an alternate product would cause the CSU to incur substantial additional costs.

A sole brand procurement must be made via a competitive process. A sole brand available only from a single vendor is a sole source procurement subject to Sections 100 and 300 herein. The determination as to whether a procurement has been adequately justified for a sole brand award shall be made by the campus Procurement Director or higher authority.

Sole Source Approval Requirements

A sole source procurement made without appropriate competition is permitted only when a determination has been made and approved in writing that only one source exists for the required product or service.

Addition of new work that was not within the scope of or incidental to the original contract scope of work, either as part of the base contract or as an option, requires sole source justification and approval.

The sole source request must clearly demonstrate that there is only one source or only one supplier that can provide the goods or services to satisfy the requirements of the CSU, and the justification requirements of Section 100 have been fulfilled.

Before a contract or Purchase Order can be issued the determination as to whether a sole source procurement has been adequately justified in writing shall be made by the designated campus authority. Campus sole source requests for acquisitions less than \$100,000 must have written approval by a campus Vice President. Campus sole source requests for acquisitions \$100,000 or more must have written approval by a campus authority no lower than Vice President for Administration/Finance. All pertinent documentation for sole source procurements of \$250,000 or greater must be forwarded to Contract Services and Procurement at the Chancellor's Office for review and final written approval.

Exceptions to Competition Requirements

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

1. Emergency contracts which are necessary for the immediate preservation of the public health, welfare, or safety, or the protection of CSU property and programs (PCC § 1102, 10340(b)(1));
2. Contracts for the work or services of a state, local or federal agency, the University of California, a California community college, a foundation or auxiliary organization incorporated to support the CSU, or a Joint Powers Authority of which the CSU is a member (PCC §§ 10335(a), 10340(b)(3) GC § 11256);
3. Contracts solely for the purpose of obtaining expert witnesses for litigation (PCC § 10335.5(c)(3)); Contracts for legal defense, legal advice, or legal services by an attorney or the attorney's staff (PCC § 10335.5(c)(4)); Contracts for the express purpose of obtaining non-CSU legal counsel or obtaining expert witnesses for litigation (both of these must be submitted to the Office of General Counsel for approval);
4. Small Business/Disabled Veteran Business Enterprise (SB/DVBE) Option (GC § 14838.5; PCC §§ 10335.5(c)(6), 10340(b)(6)) (See ICSUAM policy 5215);
5. Contracts for the development, maintenance, administration, or use of licensing or proficiency testing examinations (PCC § 10340(b)(7));

6. Contracts for which only per diem and travel expenses are paid and there is no payment for services
7. Contracts with business entities operating Community Rehabilitation Program workshops as specified in ICSUAM Policy 5219.00;
8. Equipment maintenance contracts for which there is only one authorized or qualified source required by the equipment manufacturer for the preservation of equipment warranty;
9. Proprietary software maintenance, annual license renewals, and/or upgrade contracts;
10. Utilities contracts for which there is no competition because of sole authorization to provide service to the geographical area;
11. Public entertainment contracts for campus-sponsored fairs, expositions, exhibitions, plays and concerts;
12. Contracts for conference or meeting facilities, including room accommodations for conference attendees;
13. Educational materials and information access resources related to campus library services as specified in ICSUAM Policy 5303.00, Section 400;
14. General Services Administration (GSA) contracts in accordance with ICSUAM 5204.00;
15. California Department of General Services Leveraged Purchasing Agreements list on the web site: <http://www.dgs.ca.gov/pd/Programs/Leveraged.aspx>
16. Contract amendments for time extensions, with no additional dollars being added;
17. Contract amendments to exercise options that were part of the original contract or that were part of a previously approved amendment to the contract;
18. Contract amendments that are within the scope of or incidental to the original contract scope of work;
19. Contracts for professional examinations and memberships;
20. Contracts for goods or services produced by Prison Industry Authority;
21. Real property rentals or real property leases;
22. Proprietary subscriptions, publications, technical manuals (manuals, law books, etc.) or Technical;
23. Subscriptions or licenses to online academic or statutorily mandated content;
24. Rental of proprietary postage meters if they are interfaced and inter-membered with existing mailing equipment and there is only one authorized manufacturer's representative in the geographic area.

ICSUAM 5206.00

- 2.05 Exclusion of Vendors or Contractors from Bidding: A vendor or contractor may be removed or suspended from CI's list of potential bidders and be prohibited from participating in any of the university's bid processes if there has been a documented failure without good cause to perform in accordance with the terms of a past contract with CI, another CSU campus, or with any other governmental entity. It may also be removed or suspended if its performance with respect to a previously awarded purchase order or contract has been unsatisfactory. Such exclusion must remain in effect for at least 90 days after the unsatisfactory performance has been recorded, but shall not exceed a period of 365 calendar days in duration. A vendor or contractor excluded from bidding shall be relieved of the prohibition at any time after the 90-day minimum period, upon demonstrating to CI's satisfaction that the problems that resulted in the removal or suspension have been corrected.

PCC 10303, 12102(j); ICSUAM 5213 200

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

Standard Terms and Conditions

It is the campus's responsibility to include, in each contract, terms and conditions necessary to protect the interests of the CSU, comply with applicable laws, reasonably mitigate risks and provide best value to the CSU. Standard terms and conditions have been developed for campus use and are available at: <http://www.calstate.edu/CSP/crl/GP/GP.shtml> While the standard terms and conditions may be used for many contracts without modification, it may be necessary to add, delete or modify the terms and conditions for a specific contract to convey a clear understanding of each party's expected role, its obligations, and the parameters in which the activities must be carried out, under the contract.

ICSUAM 5240.00

- 2.07 General Provisions for Acquisition of Commodities and Services: Under California Law and Trustees' Policy there are specific minimum terms and conditions (referred to as "General Provisions" by the CSU) to which a vendor or contractor must agree in order to do business with the State or the CSU. These provisions differ somewhat, depending upon whether the intended acquisition is a product, service, IT and maintenance. There are formal General Provisions required for each. They are displayed as Exhibits on the CS&P Internet website <http://www.calstate.edu/csp/crl/GP/GP.shtml>

The exact wording of these provisions has been prescribed by the Office of General Counsel and may not be altered without pre-approval from that Office. The Provisions that are applicable to a given acquisition must become an integral part (whether referenced or stated in print) of every contract or purchase order issued. Many of these provisions are set up as standard comments in the purchasing system and may be printed onto the PO document itself. If the provisions are referenced, the exhibits on the CS&P website may be cited on both the bid solicitation document and the acquisition instrument (PO) for convenience, and thus need not be detailed in print. For a particular contract, P.O., or service order, additional provisions may be added whenever needed, and certain items of the General Provisions in the exhibit selected for use may be deleted by way of supplemental General Provisions if they are not applicable.

However, none of the General Provisions that appear on the set selected for use may be altered, and none that are required under statute or State regulations may be deleted.

PCC 10307, 10351(2); ICSUAM 5240 100

2.08 Use of Electronic or Fax Transmission: Campuses may utilize electronic transmission to perform, but are not limited to the following:

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

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

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

PCC 1600; ICSUAM 5226.00

2.09 Payee Data Record (State Form 204): Each vendor or contractor (except for a State or other governmental entity) doing business with the State of California is required to complete a State of California Form 204, Vendor Data Record form. The form is provided to the vendor or contractor by Procurement or requesters and must be completed, signed, and returned to Procurement before Accounts Payable may make payment. This is due to taxed earnings reporting requirements (Form 1099) that must be filed by the University.

Exclusion of Vendors or Contractors from Bidding

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

Contractor Identification Number

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

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

Revenue and Taxation Code 18637; ICSUAM 5213.00 100, 200 300

- 2.10 Vendor & Contractor Bidder Files: Procurement maintains active vendor and contractor files on many products & services that are likely to be requested for the purpose of conducting the university's business and for carrying out its educational responsibilities.

PCC 10302, 10303;

- 2.11 Computer Data Fields: The Common Financial System (CFS), also known as PeopleSoft financials, is a customized computer software system that permits Procurement staff to readily convert an online Request for goods and services into encumbrance documents necessary for processing commodity and service acquisitions. Abbreviated entries can be keyed into the data field blocks of the many specialty screens that are built into the software. This permits greater speed in recording the data from the req as well as from filed data residing in Procurement that happens to be applicable to the order being placed. The applied abbreviations are known as "naming conventions." They are shortcuts to identifying and recording the various aspects of the commodity or service being sought as well as information about the provider.

- 2.12 Request for Goods and Services (Req.) also known as an online Requisition Processing: Employees from campus instructional and administrative departments, when authorized, may complete and submit an online Request for goods and services to Procurement to be processed and transformed into a purchase order, a contract, or a service order. The requester should fill complete all required fields including part or information such as the kind of commodity or service desired, the estimated cost, a suggested provider (if one is known), the timeframe for delivery or completion, the requester's department name, the account number to be charged, the name of the person making the request, and online approval in ink of the person authorized to approve the expenditure from the account. The Procurement staff will not take action on any request until a completed and authorized online req is submitted.

CI buyers have the responsibility to attempt to source the item requested in order to find a lower price from another responsive vendor for an item with the exact specifications. The online req is assigned to a staff member for order processing and placement. If an error is discovered on the online req, it must be rejected until the requester can make the correction. Some corrections may be made telephone, email, but some must be revised by the requester. Once the RGS is accepted, the buyer reviews potential supplier or vendor sources (including any suggested by the requester). When the estimate or quoted price is within the limits of an informal acquisition a purchase order, contract, or service order may be prepared and issued to the supplier who appears to be the best source. When the estimated cost necessitates formal bidding, the assigned staff member issues a formal bid solicitation document, either an Invitation For Bid (IFB) or a Request For Proposal (RFP). Bids and proposals that are received by a specified deadline are then evaluated to determine which provider will receive a purchase order or contract award. The requester may ask or query the electronic purchasing system about the status of an online req at any time.

The Vice President for Business and Financial Affairs or designee establishes deadlines for the submittal of reqs toward the end of each fiscal year. These deadlines are outlined in a Year End Calendar notification that is prepared annually. Requisitions submitted after such deadlines have passed may be rejected and returned unprocessed to the requester.

- 2.13 Electronic Approval: Online req are electronically approved prior to receipt by Procurement. Procurement visually inspects approval signatures on hard copies of Requisitions and other procurement documents that are submitted for processing and compares them to signatures on file.
- 2.14 Strategic Sourcing Options and Alternatives: It is the policy of the CSU to seek and to achieve discounts and/or better services and to reduce administrative costs through the use of strategic purchasing programs and appropriate sourcing opportunities. To this end the CSU is committed to maximizing purchasing leverage through collaborative, joint, and strategic sourcing activities within the CSU and with partner Universities and organizations. The Office of the Chancellor shall maintain a CSU contract web site with all system-wide and multi-campus contracts displayed with instructions for their use and the contact information for the responsible CSU employee managing the contract. Sections 2.15-2.20 below list the various types of programs available.

ICSUAM 5204.00

- 2.15 Blanket Orders for Commodities or Services and Multiple Awards: These are primary source agreements designed to accommodate CI needs on an on-going basis for a specified period of time. An agreement of this kind encompasses a class or category of goods or services in which a vendor or contractor specializes and can readily furnish upon demand. The agreement generally establishes the prices, effective term, general provisions (administrative requirements), any special terms & conditions, a total cost-not-to-exceed for the effective term, order-placing authority, shipment procedures, discounts or prompt payment allowances, and an option to extend the effective term if mutually desired. Quantities or minimum sales are not normally specified. The use of a declining balance procurement card can also be utilized.

CI Accounts Payable must obtain an invoice and proof of receipt prior to payment. Each invoice and receipt must reference the blanket order number. Summary invoices may be submitted to the campus periodically, confirming the sale and delivery of the goods or services.

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

Blanket Orders and Multiple Awards must be competitively bid unless the specified cost-not-to-exceed amount is less than \$50,000 (for commodities or services), or unless the Vice President for Business and Financial Affairs has approved a sole source justification. Change Orders to increase the amount (or to extend the effective term if so provided in the original agreement) may be executed by mutual consent, as long as the \$50,000 (for commodities or services) cost limitation is not exceeded on the Blanket Order or Multiple Awards. When practical, new bid solicitations are encouraged in lieu of Change Orders so that the campus may continuously benefit from market competition.

ICSUAM 5204.00 200 and 5206.00

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

A multi-year contract is authorized where:

- a. Estimated requirements cover the period of the contract and are reasonably firm and continuing; and
- b. Such a contract will serve the best interests of CI by encouraging effective competition or otherwise promoting economies in the CSU procurement process.
- c. Contracts extending into future years must include a provision stating that continuation of the contract is subject to the appropriation of funds by the California Legislature.
- d. In developing multi-year contracts, consideration should be given to the expected changes in the applicable price levels throughout the term of the contract.

ICSUAM 5208.00.

- 2.17 CSU Master Enabling Agreements (MEA's): These agreements support the strategic sourcing efforts of the CSU by combining common requirements for specified goods and/or services. This enables the CSU to avoid redundant solicitations and contracts, maximize volume discounts, and reduce administrative costs. Each CSU MEA may have unique conditions for its use. These conditions may include: the extent to which competition requirements have or have not been satisfied, the naming of parties that may place orders against the CSU MEA, and/or instructions on how to place an order. The requirements for using any particular MEA shall be established during the contracting process and communicated to Campuses after execution on the CSU Contract Store.

Unless stated otherwise in the CSU contract website, if MEAs are awarded to multiple vendors then acquisitions placed against those MEAs shall be competitively solicited from two or more of the awarded vendors resulting in two or more offers. Such competition may be the result of an informal or formal solicitation process as determined by campus procedures. Acquisitions provided for by Policies 5301.00 (sections 100 & 200), 5401.00 (sections 100 & 200) and 5501.00 (sections 100, 200 & 300) shall be exempted from this competition requirement. In the event that only one offer is received, documentation of the solicitation method used must be included with the contract documentation. MEAs resulting from a formal competitive process and where only one vendor was awarded an agreement do not require further competition.,

MEA's contain instructions for entering into a sub-agreement at the campus level. To do this, generally, a separate PO or contractual document is prepared and executed by the campus. The ordering document must contain any appropriate attachment, rider, or cost schedule, and show reference to the MEA by name and number. A directory for all CSU MEA's, CSU site licenses, pricing for computer software and subscription databases is maintained at the website <http://www.calstate.edu/csp>

To guard against more than one solicitation being issued purporting to represent all campuses of the CSU for the same commodity or service, permission to take on such a system-wide bidding and/or contracting effort must be obtained from the Director, Contract Services and Procurement, Office of the Chancellor

ICSUAM 5204.00 100.

- 2.18 Master Pricing Agreements (MPA): In order to reduce administrative costs to the CSU, MPAs may be awarded by the Chancellor's Office. Such agreements establish fixed prices/rates provided by the vendors for the purpose of acquiring goods and services at the vendor's best pricing. These prices/rates may be based on an aggregate volume purchased and may include mutually agreed to terms and conditions for any resulting orders placed by campuses. MPAs must state if bidding requirements were satisfied (See Policy 5206.00). Campuses wishing to create a system-wide MPA must request and obtain permission to do so from the Director, Contract Services and Procurement, Office of the Chancellor.

ICSUAM 5204.00 300

2.19 California Multiple Award Schedule (CMAS): California Multiple Award Schedule (CMAS) is an agreement established between the DGS and multiple vendors who agree to the State of California terms & conditions. Some but not all CMAS contracts are the result of the State adopting a Federal GSA contract and as such, could be governed under section 2.18 below if used directly.

CMAS contracts are considered by DGS to include prices that are assessed as fair, reasonable and competitive. The use of the CMAS program contracts have not been established through any competitive means. The use of the CMAS program contracts does not relieve the CSU of any responsibility to meet statewide requirements, guidelines, procedures or policies regarding bidding contracts or procurements. The CMAS program use restrictions are described in "General CMAS Program Information" (Refer to Resources and Reference Materials Section).

The use of a CMAS contract normally provides a discount savings but requires an administrative fee of approximately 2% and an approximate 1% Small Business administrative fee to be paid to DGS. When a req is submitted to Procurement, the staff member who processes the req will determine whether or not the request can be filled under CMAS. The amount of the fee is determined by reference to the "DGS Price Book." The discounted contract price is then used to adjust the price on the order, while the DGS fee is generally recorded separately. The reason the DGS fee may be kept separate from the encumbrance is to avoid the necessity of leaving orders open for extended periods of time awaiting receipt of DGS billings. These billings can take place well after the orders themselves have been fulfilled.

ICSUAM 5204.00 500 1

2.20 General Services Administration (GSA) Contracts: A Multiple Award Schedule (MAS) or a Federal Supply Schedule (FSS) are agreements established between GSA and multiple vendors for the purpose of acquiring goods and services under specific prices, terms and conditions. CI may award a contract to a vendor having such an agreement without further competitive bidding, but only if the vendor is willing to extend the same GSA prices, terms and conditions to the campus while agreeing to any additional terms and conditions that may be imposed by the campus. Once a req is received, Procurement staff member assigned to it may determine that a vendor (or service provider) will permit the order to be filled using a GSA agreement. If permission is granted, and a lower price would result in filling the order in this way, the requester shall be notified that the GSA agreement will be utilized. Procurements made on the basis of GSA agreements must comply with applicable requirements of CSU policy and the law.

Gov. Code 14846; ICSUAM 5204.00 500

2.21 Use of the State Department of General Services (DGS): The Department of General Services (DGS) offers a variety of services that are available to all State agencies including the CSU. Chartered Legislation specifies that "If the CSU determines that greater efficiency would be served by contracting with the DGS or another department or agency of the State for the performance of any service or function, the DGS or other department or agency shall contract with the CSU to perform the service of function.

DGS administers a statewide Leveraged Procurement Agreement (LPA) program. These contracts are established to reduce the need for individual State departments to conduct repetitive bids for like products. These contracts are developed through a competitive bidding process based on the business needs of the State of California departments. Statewide commodity contracts do not have dollar limits or limitations to their use except as otherwise noted in the contract user instructions. The CSU may use these contracts without limits, except as established in the contract, when it is in the best interest of the CSU.

DGS Master Agreements are contracts similar to LPAs that are competitively bid by the DGS. These types of agreements establish a pre-qualified list of vendors and simplify the purchasing process for the end user, by utilizing fair and reasonable pricing for the function to be provided. Limits on the maximum amount of order may be specified in the Master Agreement contract terms.

ICSUAM 5204.00 500.2 & 500.3 & 5225.00

- 2.22 Cooperative and Consortium Agreements; Purchasing Cooperatives or Purchasing Consortia (Cooperatives) are a type of cooperative purchasing arrangements amongst similar organizations where the use the aggregate demand is used to obtain lower prices and/or better services from selected suppliers. The CSU may belong to or participate in these organizations to the CSU's best interest.

A Cooperative establishes contracts through the efforts of its staff or by one of the members of the Cooperative with the intent that such a contract will be of benefit to its member organizations. Use of contracts established by a Cooperative is permitted in lieu of formal bidding requirements (See ICSUAM5206.00) for acquiring goods and services if the bidding process was public and any resulting CSU contract or purchase agreement under the Cooperative contract is in conformance with applicable CSU policies and the law. Purchases resulting from Cooperative contracts do not relieve the CSU from the requirements or attaining goals in programs such as but not limited to Small Business, DVBE, Recycled Content or Accessibility.

Purchase orders issued against a Cooperative agreement must list the Cooperative contract number, the campus Cooperative membership number (if required) and the quote received from the Cooperative/Consortia for the goods/services ordered. A copy of the Cooperative contract must also be on file with the CI Procurement office.

ICSUAM 5204.00 600

- 2.23 Multi-Campus Collaborative Contracts; A group of two or more CSU campuses may elect to work collaboratively on strategic procurement activities when such collaboration serves to maximize overall value based on volume, common specifications, common vendors, timing of significant one-time procurement needs, or other beneficial criteria. For such collaborations, one campus shall be appointed to act as lead agent for the procurement and management of the subsequent contract.

To guard against more than one solicitation being issued purporting to represent a similar group of campuses for the same commodity or service, the lead campus must notify the Director, Contract Services and Procurement, Office of the Chancellor as the solicitation is being developed. The lead campus is responsible for the management of the resultant agreement over its term and shall maintain the posting in the CSU system-wide contract

web site.

CI orders placed against a multi-campus collaborative contract must be on a Standard Agreement form and a purchase order both referencing the collaborative agreement.

ICSUAM 5204.00 700

- 2.24 Use of Other Competitively Bid Contracts: When in the best interest of the campus, formally bid and awarded contracts from other campuses or other California public agencies may be used in lieu of formal bidding requirements established in ICSUAM Policies 530.100, 5401.00 and 5501.00. The procurement file shall be documented with references to the formally bid and awarded contract. The CI purchase order shall contain the original contract number and name of the awarding campus/agency.

ICSUAM 5204.00 800

- 2.25 Small/Micro Businesses and the Office of Small Business Certification & Resources (State): CI supports the spirit of the Legislature's declaration as set forth in the Small/Micro Business Procurement and Contracts Act (Gov. Code 14835 et seq.) and supports those goals established by the Office of Small Business and DVBE Services (OSDS) for the extent of participation of small and micro businesses in the provision of goods, services, IT and in the construction of state facilities. The definition of both a Small and Micro Business are those businesses that have been certified as such by the DGS.

In order to comply with the requirements of the Small/Micro Business Procurement and Contract Act, CI must report to the OSBCR annually on the number and dollar amount of contracts and purchase orders awarded to small businesses. This Report is to be sent to the Chancellor's Office in accordance with the due dates specified at <http://www.calstate.edu/CSP/reports.shtml>. A CI Procurement Office staff member has been designated as the Campus Small Business Coordinator and is responsible for this function as well as the promotion of all Small Business outreach activities and the coordination and reporting of such activities performed on campus.

A Small Business Advocate is on staff in the CS&P Department at the Chancellor's Office and serves as a single point of contact for small businesses and shall:

- Make information about pending solicitations available to State-registered small business firms that are capable of meeting the CSU's business needs;
- Actively soliciting offers for goods and services from small business firms;
- Helping ensure that prompt payments are made to small business firms that have provided goods or services to the CSU.

CI has appointed a small business coordinator to facilitate the Small Business Advocate and perform the duties listed above in addition to consideration provided to small Business vendors under CMAS prior to placing an order, identifying and implementing innovative acquisition processes to further small business participation and to give special Consideration to small businesses and micro businesses by reducing experience Requirements and level of inventory normally required.

The awarding department may, on contracts estimated to be \$300,000.00, give special assistance to small business and micro business in the preparation and submission of financial ability and experience in performing public works.

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

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

CI may award a contract for the acquisition of goods, services or IT that has an estimated value of less than \$250,000.00 to a certified small business or disabled veteran enterprise without advertising so long as two or more certified small business or two or more disabled veteran business enterprises as reference in Government Code Section 1438.5.

For construction contracts, CI may award a contract that has an estimated value of less than \$270,000.00, the cost limit as identified in Public Contract Code Section 10105 to a certified small/micro business or to a disabled veteran business enterprise without advertising as long as written bids are obtained from two or more such vendors. In implementing this provision, the Trustees shall consider a responsive offer timely received from a responsible certified small/micro business or from a disabled veteran business enterprise as referenced in Government Code Section 14838.7. The high-end cost limits as identified above are periodically adjusted by the CA Dept. of Finance.

Gov. Code 14835; PCC 10301-10303; ICSUAM 5216.00 101, 102, 200, 300, 400, 500 & 600.

- 2.26 Disabled Veteran Business Enterprises (DVBE) and Activity Reporting: A DVBE is defined as a business certified as such by DGS. The program was established to acknowledge disabled veterans for their service and to further DVBE participation in state contracting, promote competition and encourage greater economic opportunity.

A DVBE goal of 3% of total expenditures has been established which provides the overall percentage of dollar amounts expended each year by CI for contract awards, including purchase orders and procurement card orders. An annual activity report shall be prepared and submitted by Procurement to DGS and copying the CS&P Department of the Chancellor's Office. CI shall submit reports in accordance with the due dates specified at <http://calstate.edu/CSP/reports.shtml>

The CSU has established within the Chancellor's Office Department of Contracts and Procurement, a DVBE Advocate as well as each campus per provisions of 999.12 of the Military and Veteran's Code to do all of the following:

- Assist certified DVBE firms to participate in the agency's contracting process

- Assist contract officers in seeking DVBE firms to participate in the agency's contract and procurement activities
- Disseminate information to the agency's contracts and procurement office: e.g. new policies, procedures, laws and SB/DVBE bid procedures
- Serve as an advocate for the DVBE firms that are utilized as the agency's contractors or subcontractors
- Report to the OSDS regarding any violation of this article
- Coordinate with the state DVBE advocate at the Department of Veteran's Affairs in an effort to meet the statewide 3% goal as provided for in section 999 of the Military and Veterans Code

In addition to the above program responsibilities, the DVBE Advocate, campus DVBE Coordinator or designee, has the following responsibilities:

- Determine if and when the level of DVBE participation for individual solicitation should be
- greater than 3%
- Evaluate the participation compliance in proposals and bids, including verification of DVBE
- Certifications
- Determine if a commercially useful function (CUF) is being provided by all DVBE primes
- and subcontractors
- Evaluate requests for DVBE waivers for solicitations

The DVBE participation requirement applies to all advertised competitive solicitations regardless of the solicitation format (RFQ/IFB/RFP) or dollar value. Bidders must document their compliance with the DVBE program requirements.

In an effort to reach or exceed the annual DVBE goal, campuses may specify an amount of DVBE participation greater than 3% for an individual solicitation.

If 1) the DVBE requirement is waived, or 2) the DVBE requirement is reduced or 3) the incentive or other portion of the standard DVBE solicitation requirement is not included in a bid, then a completed and approved waiver form shall be included in the solicitation file justifying the change.

The DVBE Incentive is required as part of the standard DVBE solicitation language unless waived. Bidders may receive an incentive for exceeding the 3% participation requirement. Campuses have the ability to determine the level of DVBE incentive they will offer for corresponding levels of participation, i.e., the more DVBE participation they propose, the higher the incentive. This information must be included in the solicitation. The minimum incentive level a qualifying bidder can receive is 1%. The combination of all preferences (i.e. TACPA, SB, Recycled Products) with a DVBE incentive cannot exceed 10% or \$100,000, whichever is less. A non-small business cannot displace a California certified small business from the top-ranked position because of application of the above preferences or DVBE incentive.

The DVBE incentive is a method that provides an advantage to certain bidders. The incentive is applied during the evaluation process for bids proposing participation of

California certified DVBEs. The application of an incentive varies from that of a preference both in when it is incorporated into competitive solicitations and how incentive percentages are determined and calculated. Unlike preferences in which the inclusion is standardized in competitive solicitations and a standard percentage is stipulated, discretion is left to campuses to determine incentive percentages for a particular transaction based upon a business strategy to achieve their overall annual goal.

CI may award a contract for the acquisition of goods, services or IT that has an estimated value of less than \$250,000.00 to a certified small business or disabled veteran enterprise without advertising so long as two or more certified small business or two or more disabled veteran business enterprises as reference in Government Code Section 1438.5.

For construction contracts, CI may award a contract that has an estimated value of less than \$270,000.00, the cost limit as identified in Public Contract Code Section 10105 to a certified small/micro business or to a disabled veteran business enterprise without advertising as long as written bids are obtained from two or more such vendors. In implementing this provision, the Trustees shall consider a responsive offer timely received from a responsible certified small/micro business or from a disabled veteran business enterprise as referenced in Government Code Section 14838.7. The high-end cost limits as identified above are periodically adjusted by the CA Dept. of Finance.

Campuses should include a justification in the solicitation file whenever the DVBE requirement or incentive is waived or reduced.

ICSUAM 5215.00 100, 200, 300,400, 500 & 600

- 2.27 Target Area Preference Act: Any California-based company submitting a bid or proposal to the State (including the CSU) for goods to be produced or services performed at worksites in distressed (as defined in Gov. Code 4532) areas by persons with a high risk of unemployment are entitled to a 5% bid preference whenever the contract award is in excess of \$100,000. The 5% preference is applicable only to contracts awarded on the basis of lowest responsible bidder meeting specifications.

Gov. Code 4530; ICSUAM 5217.00.

- 2.28 Enterprise Zone Act: A business may be granted a 5% bid preference when bidding on any State (including CSU) contract of \$100,000 or more for goods and services (excluding construction contracts) if the business site is located within one of 34 distinct "Enterprise Zones" located throughout California, as designated by the California State Trade and Commerce Agency. Enterprise Zones are designated to encourage job-producing business development in specified sections of cities or counties. The 5% bid preference is applicable only to contracts awarded on the basis of lowest responsible bidder meeting specifications.

Gov. Code 7070; ICSUAM 5218.00

- 2.29 Prison Industry Authority: The CSU campuses are encouraged, though no longer required, to procure any available comparable goods or services produced by the Prison Industry Authority (PIA). The campus may contract, without competition, with PIA for goods and services; whenever it is determined that PIA can provide the best value for the campus. It is the responsibility of Procurement to contact PIA regarding acquisition of the type of goods or services listed in the PIA catalog or within any of its update announcements.

Penal Code 2807; ICSUAM 5224.00.

- 2.30 Labor Abuse Prohibition:

A. License Agreements

This procedure shall apply to all licensing agreements with the CSU or a CSU affiliated enterprise authorizing a licensee to manufacture products bearing the name, logo, or image of the CSU.

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

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

B. Procurement Contracts

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

PCC 6108; Chancellor's Executive Order 718, ICSUAM 5210.00 1000

- 2.31 Non-Discrimination: All contracts of \$5,000 or more must contain a clause stating that the contractor, by accepting the contract, certifies under penalty of perjury that the non-discrimination requirements of Government Code Section 12990 et seq. have been met, unless exempted under Title 2, Section 11111 of the California Code of Regulations. These are requirements that must be met by all vendors and contractors who wish to do business with the State.

Gov. Code 12990; ICSUAM 5220.00

- 2.32 National Labor Relations Board Compliance: All CSU contracts must contain a clause stating that the contractor, by accepting the contract, certifies under penalty of perjury that contractor has not violated the provisions of Public Contract Code section 10296 regarding the issuance of orders by the National Labor Relations Board (NLRB). The certification requirement does not apply to a credit card purchase of goods of two thousand five hundred dollars (\$2,500) or less. The total amount of exemption authorized herein shall not exceed seven thousand five hundred dollars (\$7,500) per year for each company from which each campus is purchasing goods by credit card. It shall be the responsibility of each campus to monitor the use of this exemption and adhere to these restrictions on these purchases.

PCC 10296; ICSUAM 5221.00.

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

Gov. Code 8546.7; ICSUAM 5222.00

- 2.34 Drug-Free Workplace Certification: State contractors and recipients of State grants are required to maintain a “drug-free workplace.” CI may suspend payments under a contract or grant or terminate the contract or grant, or both, if a contractor or grantee has failed to comply with the legal requirements contained in Government Code Sections 8355, 8356, and 8357. Every person or organization awarded a contract for the procurement of any goods or services shall certify that it will provide a drug-free workplace in accordance with Government Code 8355. The certification requirement does not apply to a credit card purchase of goods of two thousand five hundred dollars (\$2,500) or less. The total amount of exemption authorized herein shall not exceed seven thousand five hundred dollars (\$7,500) per year for each company from which each campus is purchasing goods by credit card. It shall be the responsibility of each campus to monitor the use of this exemption and adhere to these restrictions on these purchases.

Gov. Code 8355-8357; ICSUAM 5223.00

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

Welfare Code 19403, 19404; ICSUAM 5219.00

- 2.36 Funding Source Designations: The requester should designate an appropriate funding source (also known as a CFS chartfield string) on the Req before sending it to Procurement for processing. The funding source should be one that is under the authority of the person who approves the req. After an invoice has been processed against the order or contract, the funding source can be changed or corrected only by Accounting via an accounting journal entry.

- 2.37 Requisitions and Purchase Orders: Requestors enter an online req. through PeopleSoft except for IT procurements which are sent by the requestor directly to www.csuci.edu/TC/Purchasing. Non-IT purchase reqs. are then assigned to a Buyer by either the Director of Procurement and Logistical Services or the Buyer III Lead. Once a req. has been assigned to a Buyer, the assigned Buyer will review the req. to ensure it is complete or if any contract negotiations must be involved. Once the req. passes the Buyer's review, the Buyer will issue a purchase/service order and forward it to the vendor. The requestor can then check the status of any PO via a query in PeopleSoft.
- 2.38 Requisition's (Reqs) for Subsequent Fiscal Years: Req submitted to Procurement for commodities or services to be purchased with funds budgeted for the following fiscal year must be submitted as a future-year req and be clearly identified as such with the following fiscal year's designation.
- 2.39 Year End Deadlines for Submitting Reqs: Toward the latter half of each fiscal year a notification and calendar of deadlines is prepared and transmitted by the Vice President for Business and Financial Affairs or designee to advise campus departments of the deadlines established that year for submitting RGS's. The deadlines on this notification vary, depending upon the funding used and type of acquisition being requested.
- 2.40 Purchase Order and Contract Coding Designations: Codes streamline data collection necessary for reporting requirements. Procurement personnel apply some of these codes such as acquisition or commodity codes, while others codes such as the accounting string must be furnished on the req by the requester. Since codes may be revised, all individuals responsible for preparing and processing reqs should reference the most current version of any coding instructions. The chart of accounts may be found in the Data warehouse.
- 2.41 Commodity and Service Codes: A commodity or service code is assigned to each type of acquisition through CFS.
- 2.42 Open PO Report: The Open PO Report shows all open and currently encumbered PO's. Procurement staff generates this report from the CFS financial system weekly. The report is available to all departments with current activity against their funds upon request.

2.43 Change Orders to reflect Price Changes or Other Modifications: Requestors should submit an approved email request for changes and Procurement prepares a Change Order in response to a revised quote or other advisory from the supplier or end-user detailing the need for a required change. Change Orders can include such things as price revisions, supplier name or address corrections, delivery or shipping corrections, or descriptive changes in the goods or services being requested. A requested change to an order-in-process must be documented before a Change Order is prepared and issued. A Change Order shall not be executed, however, in response to a request to make changes on a Req-in-process. Such requests can be made by the approver of the Req itself to the budget check (BC) completion process. After the BC process such requests must be documented (via e-mail) in order to have the Req changed. Occasionally, changes to a Req might be accommodated more readily by canceling entirely and submitting a new Req. In the event the PO has already been issued, the Procurement staff member assigned the responsibility for placing the order may be able to contact the supplier and cancel the original order before it is filled. However, the Procurement staff member must be advised of the requester’s intended action before the replacement Req is prepared and submitted.

2.44 Termination or Cancellation of Orders: The words “termination” and “cancellation” are often interchangeable in use—both result in the closure of a purchase order, contract, or service order ahead of the time previously agreed upon by the parties. Generally, purchase orders or service orders (unilaterally-signed agreements) are “cancelled”, whereas contracts (bilaterally-signed agreements) are terminated.

Upon receipt of a request for cancellation, the Procurement staff member originally assigned the req must make contact back with the requester to advise whether or not the request can be cancelled. If both the requester and the provider are willing to accept a no-cost cancellation, the cancellation may be processed. If there is a cost to cancel (e.g., a restocking fee, a return fee, etc.) the cost must be brought to the requester’s attention. If the cost is accepted, that cost must be covered either by a change request or a new req from the requester before a cancellation can be processed.

Many contracts have provisions that allow for termination for convenience by either or both parties to the contract. The provisions may call for termination with a specified number of days advance notice or may allow a party to terminate the contract when or if a certain event occurs. In most cases a notice of intent to terminate should be initiated, with the actual notice of termination following.

When a contractor fails to deliver supplies or provide services or otherwise substantially fails to perform the terms and conditions of the contract (this is termed a “default”), CI may terminate the contract for cause in accordance with the termination clause (generally included in the CSU General Provisions) as stated in the contract. Instead of an outright default, however, the contractor may commit an anticipatory breach of the contract that justifies a termination, such as a notification to the campus that the goods or services cannot be delivered within the timeframe specified in the contract, that a product substitution will be delivered rather than the product specified, or that the cost will be more than that to which the two parties have agreed.

- 2.45 Split Funding of Orders: Multiple funding sources may be specified on a Req whenever appropriate. For example, the General Fund and any special fund may both be used to support the purchase of a product in whatever proportion the person who has the authority to expend monies from the respective accounts within those funds has determined. The split funding should be clearly identified with complete chartfields strings for each line on the req.
- 2.46 DGS Billing Codes: These are account code numbers assigned in numerical block (or range) sequences by the State Department of General Services (DGS) to various state agencies (including the CSU) for the purpose of collecting fees that the DGS exacts for use of its negotiated contracts or for other administrative and business services that it provides. Portions of the sequential blocks are identified to various units within the campus for chargeback purposes as the DGS fees are paid from campus accounts.

The Procurement Division of the State of California's Department of General Services (DGS/PD) will bill each state and local government agency for use of California Multiple Award Schedule (CMAS) contracts equal to a determined percentage of the total value of each purchase order including fees for small/micro businesses.

The DGS/PD will invoice state and local government agencies directly. The administrative fee is not included on the purchase order, not invoiced by the Contractor and not remitted by the agency before an invoice is received. The agency can ask the Contractor to pay the administrative fee. In this case, the agency forwards the DGS/PD invoice to the Contractor and the Contractor issues a check to the Procurement Division for the invoice amount. When the total of the agency purchase order is higher than the invoiced amount, the agency must issue an amendment to the purchase order to lower the total amount or DGS/PD will bill the administrative fee against the original higher total.⁶
CSU Policy 225; CMAS Services Guide, Section 2

- 2.47 Low Value Purchases: The development of methods for reducing the costs of executing low-dollar value purchases through expedited order processing, the use of procurement credit cards, and/or the issuance of low-value purchase authorizations is a CSU policy that CSUCI supports. Authority to acquire low-dollar value commodities averaging between \$500-\$2,500 directly from a vendor has been delegated to most individual offices on campus, via a procurement credit or declining balance card system.

The CI Chief Financial Officer is responsible for developing and maintaining policies, limits and procedures governing low-value purchase transactions where little or no value can be added by processing the transaction through standard procurement procedures. Such policies and procedures must reference the requirements of ICSUAM policy 5250.00 procurement cards (University liability credit cards). CI practices shall ensure strong internal controls that mitigate procurement abuses, comply with Trustee policy, ensure observance of good business practices and provide appropriate checks and balances. Since procurement discretion may involve the application of the State's conflict of interest laws, attention shall be given to compliance with those laws in light of the potential impact that the exercise of procurement discretion may have on a personal financial interest.

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

- A. Usage Controls – General procurement controls shall be instituted to:
1. Prohibit splitting of purchases to circumvent limits.
 2. Prohibit purchases of items determined by the campus to be inappropriate.

3. Prohibit the procurement of personal services, including consulting services.
 4. Define the role of the approving official to ensure that a cardholder's subordinate or peer is not designated as approving official. Approving officials shall not approve their own purchases.
 5. Ensure that leveraged purchasing agreements made available through established campus or system-wide channels shall take precedence when making low value purchase transactions.
- B. Monitoring activities that include the performance of periodic post-audits, to ensure compliance with the P-Card policies and low-value procedures.
 - C. Enforcement provisions that clearly identify sanctions for improper use of the P-Card. Such transactions may include required reimbursement for personal charges including any applicable transaction fees and suspension of P-Card privileges when warranted.
 - D. Payment processing provisions – The processing of low-value purchase payments must include a complete review of the transaction and analysis of the monthly credit card charges if applicable. In support of the review, the campus departments shall be required to submit complete supporting documentation in a timely manner. The review shall include the following:
 1. Supervisor of management approval
 2. A follow-up of disputed charges from the prior months
 3. A review of the completeness of the documentation supporting the monthly credit card invoice, and
 4. Clearance of outstanding delinquent invoices.
 - E. Provision for the return of P-Cards –Personnel clearing procedures must specifically include a final card reconciliation and return of card process.

ICSUAM 5205.00

2.48 Procurement Cards: Procurement cards (P-Card) provide an alternative method of effecting purchase with the direct involvement of the CI procurement office. CI auxiliary organizations are allowed to use P-Cards and are subject to the same policy as CI A P-Card is a University liability credit card that may be used for certain business related purchases. P-Cards provide benefits that include:

- Streamlines the processes for small dollar/low-value purchases that reduce invoices and payments
- Enables employees to be more efficient and focus on their core missions
- Reduce paperwork and processing time in the employee's department as well as Procurement and Accounting
- Provides cost saving through consolidated payments to the P-Card company and
- Enables faster payments to CI vendors.

A single system-wide P-Card contract and related program is administered by the Chancellor's Office department of Contract Services and Procurement.

As a large public institution, the CSU is held to a high degree of public scrutiny and accountability for its business practices. In operating a P-Card program, every reasonable effort must be made to ensure that the program and card use is managed in a manner consistent with the CSU mission, CSU and campus policy, applicable laws and ethical and risk reduction practices.

The authority to set and enforce purchasing card policies and procedures lays with the procurement card Administrator and his or her campus management. Campuses must designate a single procurement card administrator responsible for the campus procurement specific for their campus. The content of a procurement card operations manual must minimally include the limitations and program requirements established in this policy and the specific responsibilities of the cardholder and approver as provided below:

General Program Requirements

- The CSU procurement card provider has several procurement card programs available for use by CSU campuses. All of these programs have two similar attributes; the transactions are all conveyed across a commercial credit card network and the CSU is responsible for payment of all undisputed charges made to each account.
- For the purposes of this policy, virtual, ghost, department, fleet, procurement or travel card accounts (and others with the above two attributes) shall have the same treatment in this policy as any other credit card product used by the CSU procurement card contracted bank.
- The use of procurement cards cannot avoid or circumvent any CSU or campus policies or limits. Procurement cards are to be used within the same statutes, rules, limits, policies and procedures as purchases using any other means of payment.
- Procurement cards may only be used for approved CSU expenditures. The use of a procurement card for any form of personal purchases (regardless of any intent to repay the CSU for a purchase) is expressly forbidden, with misuse leading to employee disciplinary actions.
- The procurement card program may also include the use in procuring travel related goods and services. All travel use of the procurement card will be governed by this policy, the CSU system wide Travel Policy and all campus specific travel policies and procedures.
- Campuses must train cardholders in related procurement and procurement card policy and procedures, and actively monitor the acceptable use of issued procurement cards.
- Campuses shall train designated approvers in related procurement and procurement card policy and procedures and actively monitor the acceptable use of issued procurement cards.
- Campuses shall establish and adjust procurement card spending limits reasonably consistent with the anticipated expenditures of the individual cardholder. Setting reasonable procurement card spending limits reduces the financial exposure of the CSU.
- Cardholders must sign documentation that specifically acknowledges agreement to comply with the policy and procedures established by each campus, the procurement card issuing bank and conditions for return of the card. Cardholders must also sign a document serving as a confirmation that campus training was provided on applicable policies, procedures and acceptable use.
- Campus payment(s) to the procurement card issuing bank for completed procurement card transactions must be made on a weekly basis prior to the closing of a monthly transaction cycle to take advantage of financial benefits related to the procurement card contract. Note: the payment frequency stipulated is subject to change based on the fluctuation of current interest rates to ensure the maximum benefit of the rate of return.

Cardholder Responsibilities

The role of a cardholder is to make purchases in accordance with the regulations established by the CSU and campus, as well as all federal and state rules to ensure accountability to the public and fairness and ethical treatment to vendors. Cardholder responsibilities include:

- Agreeing to all card program requirement established and as amended by the campus
- Completing and acknowledging the required campus procurement card cardholder training
- Ensuring that the campus policies and procedures of the procurement card program are integrated into the individual's use of the procurement card
- Protecting the card at all times to prevent unauthorized use
- Not sharing or authorizing others (subordinates or otherwise) to use the card
- Immediately reporting a lost or stolen card to the bank and actively follow banks rules and instructions in doing so and
- Immediately reporting fraudulent or suspected fraudulent charges to the bank and actively follow banks rules and instructions to clear the charges.

Approver Responsibilities

The approver is the individual assigned to a cardholder to ensure compliance with procurement card policies and with CSU, campus, state fiscal and procurement rules by reviewing the transactions on no less than a monthly basis. A cardholder cannot function as his or her own approver. Approver responsibilities include:

- Completing and acknowledging required procurement card approver training
- Monitoring transactions of assigned cardholder(s) for appropriateness of purchase
- Ensuring that adequate transaction documentation exists as may be established by the campus
- Identifying possible violations of assigned cardholder(s) and taking appropriate action if violations are found and
- Notifying the card program administrator of changes in departmental program participants.

Generally the delegation of certain duties in the procurement card program is a necessity to maintain administrative flow and efficiency. In certain circumstances, however, the delegation of duties is prohibited. All delegations shall be in writing.

- The campus procurement card program administrator may have one or more "backups" or "delegates" that are authorized to administer the campus procurement card program in conjunction with the administrator's or in the administrator's absence. The delegation may be in whole or in part as best suits the campus operation
- Cardholders may have subordinates or other individuals assisting them in the administration of the card accounts, but the cardholder may not delegate the authority of the use of the card or signing periodic card reconciliation documents.
- Approvers may have subordinates or other individuals assisting them in the administration of their Approver activities. The Approver may delegate the authority of approving Cardholder transactions consistent with the Approvers department expenditure authority. Delegation of such authority to any Cardholder is prohibited.

Auxiliary Organization Employee Use

Auxiliary Organizations of the CSU are specifically included in system wide procurement card contracts. Auxiliary Organizations may participate in the procurement card contract and implement any of the procurement card products available. In doing so, the Auxiliary Organizations will benefit from the system wide size of the contract and all participants will benefit from the additional Auxiliary Organization expenditure volume. In this instance, Auxiliary Organizations would have a business relationship with the CSU contracted procurement card bank.

Auxiliary Organization Use of Campus Procurement Card Program

In cases where the campus elects to include Auxiliary Organization employees under the campus procurement card program, certain protections for the CSU are required. The campus must have a written agreement with the Auxiliary Organization using their program that minimally includes the responsibilities of each organization and provisions guaranteeing payment of charges by Auxiliary employees.

In some instances, Conflict of Interest reporting may be required of procurement card program participants (cardholders and/or approvers). Instructions specifically related to program participants being designated Statement of Economic Interests (Form 700) filers are managed by system wide and campus HR through policy and Coded Memorandums.

For purposes of this policy, the following definitions apply:

Administrator: An individual who is responsible for the day-to-day management and operation of the procurement card program at each CSU campus or location.

Cardholder: The named individual to whom the procurement card is issued and whose name appears on the card.

Approver: An individual(s) at a supervisory level who is responsible for reviewing and/or approving purchases made by the cardholder. Approvers may not be in a subordinate relationship to the cardholder. Approvers may not delegate the responsibility for reviewing and/or approving purchases made by the cardholder.

E.O 760, ICSUAM 5250.00

2.49 Corporate Cards (Employee Personal Liability Credit Cards)

It is the policy of the CSU to establish system wide responsibility for and facilitate acquisition of personal liability business credit cards. Commonly known as “corporate cards,” the cards are designed for employees who must travel and incur reimbursable business or entertaining expenses on behalf of the CSU. It is also the policy of the CSU to reduce employee cash advances through the use of corporate cards to the extent feasible and within risk tolerances. Campuses must prepare written procedures that implement this policy. Auxiliary Organizations that participate in the state or the system wide corporate card program are subject to this policy.

The CSU may enter into system wide contracts with financial institutions to establish a corporate card program. Such corporate cards minimize the burden on an employee's personal financial situation when CSU travel or hospitality expenses must be incurred personally and subsequently reimbursed. Corporate cards provide benefits that include:

- Enables employees to pay for CSU reimbursable travel or hospitality costs without incurring out of pocket expenses; and
- Provides travel protection insurances for employee travelers when traveling on commercial transportation.

A single system wide bank procurement card contract that includes corporate cards will be administered by the Chancellor's Office department of Contract Services and Procurement. The State of California also operates a corporate card program and campuses may obtain corporate cards for employees through this State program. The Chancellor's Office department of Contract Services and Procurement may obtain corporate cards for employees through this State program. The Chancellor's Office department of Contract Services and Procurement shall be responsible for managing both corporate card programs in the CSU. This policy shall be fully implemented by CSU locations by June 30, 2015.

This policy applies to all corporate card programs whether provided under contract by the CSU or State of California.

A CSU faculty member may be eligible to apply for a corporate card if he or she meets all of the following criteria:

Their position at the university requires business travel at least two times per year, and The card has been authorized by their supervisor and the unit's business manager or chair and;

The individual has completed an application and agreed in writing to both the financial institution's Institution's Cardholder Agreement and all CSU applicable policies, procedures and timely payment requirements.

Corporate cards may only be used for bona fide business expenses that directly serve the University purposes. CORPORATE CARDS MAY NOT BE USED FOR PERSONAL PURCHASES.

General Program Requirements

- The use of a corporate card shall not circumvent any CSU or campus policies
- Campuses must develop and train Cardholders in corporate card policy and procedures, and actively monitor the acceptable use and payment status of issued corporate cards. The policies should include a policy of notifying campus HR in cases where employee corporate card payment defaults result in a loss of rebate revenue to the CSU or the State.
- Campuses must develop a procedure of notification and sanctions to Cardholders when payment lateness is discovered to avoid potential employee payment defaults
- Through training and active program management, Campuses shall avoid Cardholder payment default
- To the extent feasible:

- Campuses shall establish and adjust corporate card spending limits to be reasonably consistent with the anticipated expenditures of the individual cardholder
- Campuses shall use merchant category codes (MCC) to reduce the financial and business exposure of the CSU or the State.
- Cardholders must sign documentation that specifically acknowledges agreement to comply with the policy and procedures established by each campus, the corporate card issuing bank and conditions for return of the card. Cardholders must also sign a document serving as confirmation that campus training was provided on applicable policies, timely payment and acceptable use.

Cardholder Responsibilities

The role of a Cardholder is to make purchases in accordance with the regulations established by the CSU and campus, and:

- Agreeing to all card program requirements established and as amended by the campus
- Completing and acknowledging the required campus corporate card Cardholder training
- Ensuring that the campus policies and procedures of the corporate card program are followed
- Protecting the card at all times to prevent unauthorized use
- Paying the financial institution within the allocated time (by the due date) in the Cardholder
- agreement. Payment of the amount owed to the financial institution may not be delayed due to lack of reimbursement of travel expenses by the CSU
- Monitoring the card statements and use the online corporate card tools to monitor transaction to guard against fraudulent activity; and
- Reporting card loss, misuse or fraud immediately to the card-issuing bank.

Auxiliary Organization Employee Use

- Auxiliary Organizations of the CSU are specifically included in system wide procurement card contracts and may obtain the offered corporate cards for their employees and staff if eligible. Auxiliary Organizations may participate in the procurement card contract and implement any of the procurement card products available. In doing so, the Auxiliary Organizations will benefit from the system wide size of the contract and all participants will benefit from the additional Auxiliary Organization expenditure volume.
- Auxiliary organizations that offer the corporate card program to their employees shall follow this policy and develop applicable programmatic policy and procedures.
- In cases where the campus elects to include Auxiliary Organization employees under the campus corporate card program and management certain protections for the CSU are required, as payment defaults will affect campus rebate revenues. The campus must have a written agreement with the Auxiliary Organization using their program that minimally includes the responsibilities of each organization and provisions guaranteeing payment default by Auxiliary employees.

Definitions

For purposes of this policy, the following definition(s) apply.

MCC Code: A merchant category code (MCC) is a four-digit number assigned to a business by credit card companies (for instance American Express, MasterCard, VISA). The MCC is used to classify the business by the type of goods or services it provides. In some cases the MCC code can be used by Administrators of a card program to limit the retail categories a corporate card may be used.

ICSUAM 5251.00

- 2.50 Price Justification on Non-Formal Acquisitions: Competition is sought, via either formal or informal solicitation, for transactions under \$50,000 for commodities or services whenever Procurement determines that the competition is necessary to develop a source, validate prices, or for other sound business reasons. Procurement retains the right to source any transaction that is \$10,000 or higher. Informal solicitations may be secured in writing, mail, fax or email quotes are acceptable. The number of providers from whom quotes or bids are solicited is the responsibility of Procurement and will generally depend upon the size, complexity of the purchase, and market conditions. Before execution of the order there shall be a determination that the price is reasonable.

“Reasonable price” is defined as a price that does not exceed that which would be paid in the conduct of a competitive business. It may be established by market quotes, price or cost analysis, or the experience and judgment of the procurement manager or a designee. Such judgment considers total value to the campus. There is value to the campus in acquisitions that meet the campus needs for quality, quantity, and delivery time, and those that further micro/small business and other reporting goals such as disabled veteran business enterprise (DVBE) and recycled content reports.

PCC 10301;

- 2.51 Confirming Orders: Standard policy does not permit CI departments to place orders directly with vendors and service providers, apart from using the delegation of authority that permits acquisitions to be made under the procurement card program or through the use of a petty cash fund. Req's shall be submitted to Procurement for processing into a PO instead. A confirming order, as used in its technical sense, is a signed commitment issued by the procuring authority that follows a verbal or unofficial request to furnish the same goods or services. There are several potential problems associated with confirming orders, such as the receipt of duplicate shipments, violations of legal requirements, the issuance of redundant payments, missed discounts, delays in settlements, lost items, and unidentified invoices. Certain items or services requested, however, may not need to undergo competitive pricing, negotiations for more favorable terms, scrutiny for compliance with certain requirements, etc., and therefore may qualify for a more streamlined process know as the Direct Payment process. This procedure does not typically require a req to be prepared by the requester, but does necessitate the transmittal of a Request for Direct Payment and the corresponding invoice from the vendor to Accounts Payable for processing and payment (or for reimbursement if the invoice has already been paid).

- 2.52 Emergency Acquisitions: As defined in State statute, an “emergency” means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. When such an emergency requires the immediate issuance of an order that would otherwise require a formal bid solicitation, an approved justification must be prepared and attached to the requester’s req, thereby becoming a permanent part of the file. The form must describe what is being procured, why it is needed, and why formal bids could not be solicited. The requisition must be signed by both the requestor and the campus procurement officer. Such statement shall include an attestation that an immediate threat to the public health, welfare or safety or damage to State property exists.

PCC 1102, 10302; ICSUAM 5209.00.

- 2.53 Financed Acquisitions: Most CI acquisitions that are selected for financing (periodic payments issued against the principal and interest) will qualify as “tax-exempt” under the provisions of federal and state law. Any financing arrangements should be planned and negotiated with care, since any interest charges add to the total cash outlay for the acquisition. Financing arrangements are not typically entered into unless the acquisition has a cost of at least \$100,000. Acquisitions that involve tax-exempt provisions (lease/purchase or installment payment agreements) must follow all the general rules and principles of procurement as stated in ICSUAM 5000 Series policies.

Tax-exempt acquisitions are also subject to additional requirements that assure compliance with federal tax code provisions. Financed acquisitions are identified as tax-exempt whenever the seller/lessor or third party financier intends to claim the interest portion of its proceeds as exempt from federal income tax. Helpful information for the development of contracts that provide for a financed tax-exempt acquisition can be found on the CS&P website at <http://www.calstate.edu/csp/>. Fully developed contracts or purchase orders containing the tax-exempt provisions must be submitted, along with all their related financial documentation, to the Financing & Treasury Department at the Chancellor’s Office for review and approval prior to execution. The Chancellor’s Office is responsible for maintaining records to insure that financiers who issue tax-exempt obligations on behalf of the CSU comply with federal tax reporting obligations. The Chancellor’s Office also maintains pre-negotiated terms and conditions with selected financiers, provides model agreements, and coordinates efforts to obtain legal counsel on tax-exempt issues as they arise.

Ed Code 89036; PCC 10320.5, 12113; ICSUAM 5214.00

- 2.54 Document Numbering Convention: Requesters will submit req’s to Procurement that are sequentially numbered. Once Procurement receives a req, it is translated into a formal transactional document such as a purchase order, service order, contract, or lease. At the beginning of this process a new document number is routinely assigned for ordering, tracking and recording purposes. The requester is provided with a copy of the PO. In listings such as the Open PO Report or other special reports, only the official document number assigned by Procurement will appear.
- 2.55 Purchasing & Contracting Data Reports: Reports on procurement activity data (including PO’s, contracts, and other open orders) can be prepared and printed out for use by Finance or other departmental staff. Procurement staff may create and examine special activity queries.

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

Ed Code 89006; ICSUAM 5210.00 100

- 2.57 Personal Use of University Property or Facilities: No CI employee shall derive personal benefit from the use of State property or facilities, unless a person having custodial responsibility for such property or facilities has authorized such use in writing. This authorization must include a statement that assures that such personal use is of benefit to CI.

ICSUAM 5210.00 100

- 2.58 Misrepresentation: The use of CI procurement facilities or procedures to obtain property or services for personal use, or misrepresentation to vendors or contractors that personal acquisitions are for CI when they are not can result in prosecution for misrepresentation, embezzlement, and theft.

PCC 10334; Penal Code 72; ICSUAM 5210.00 300

- 2.59 Conflict of Interest: It is unlawful for any person to utilize any information, not a matter of public record, that is received by that person by reason of his or her employment by, or contractual relationship with, the Trustees, the California State University, or an auxiliary organization of the California State University, for personal pecuniary gain, not contemplated by the terms of the employment or contract, regardless of whether the person is or is not so employed or under contract at the time the gain is realized.

Consulting agreements must be in compliance with conflict of interest requirements as specified in Policy Section 412.10, Consulting Agreements.

No CSU employee may make or participate in the making of any decision in which the employee has a personal financial interest.

Employees designated in the CSU Conflict of Interest Code must disqualify themselves from making or participating in a decision which would have a material effect on a personal financial interest.

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

Ed Code 89006 and 89909; Government Code 1090, 87100, 87103, and 89503; Public Contracts Code 10830, 10831, 10832, and 10420.2. CCR 18700 et seq, 5CCR 4381;, Contract Resource Library document CRL 056 .ICSUAM 5210.00 400

- 2.60 Endorsement of Products or Services: No person shall, without the permission of the Trustees, use the name “California State University,” “California State University Channel Islands,” “Cal State Channel Islands,” “CI”, or any other abbreviation of it or any name of which these words are a part including all of its trademarks, for endorsements of any commercial product or service through the use of advertisements or promotions.

Ed Code 89005.5(a)(2)(3); Trustees’ Resolution 63-16; ICSUAM 5210.00 500

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

ICSUAM 5210.00 700

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

ICSUAM 2510.00 600

- 2.63 Splitting of PO’s or Contracts: Splitting of purchases or contracts in order to avoid or circumvent legal or policy requirements, including but not limited to competitive solicitation requirements, is prohibited.

PCC 10329; ICSUAM 5210.00 800

- 2.64 Advance Payments: Payment in arrears is the prescribed method of remitting payments for State acquisitions. Documentation is required to be recorded by the accounting manager that appropriate return and/or in-kind value has been received before a disbursement of funds is made. Advance payments on some types of transactions are permitted, however, where it can be determined that there is no other way to obtain the service or commodity, where the advance payment is determined to be in the State’s best interests, or wherever specifically authorized in law.

PCC 10312; Title 2, Sec. 679; Gov. Code 11257; ICSUAM 5210.00 900

- 2.65 Bid Security Deposits: A bid bond that is executed by a State-registered bonding agent on behalf of its client (as a competitive bidder) for a State contract or purchase order is often made a requirement by the campus as a condition for accepting a formal bid. However, in lieu of this requirement, CI may elect to accept a certified cashier’s check, or cash, along with the submitted bid. If this form of bid security deposit is accepted, a signed receipt must be prepared and provided to the bidder. The copy is transmitted along with the deposit to the CI Cashier where a holding account for the deposit is established until after issuance of the purchase order or execution of the contract. All bid security deposits must ultimately be returned to the bidders.

- 2.66 Protests, Disputes, and Complaints: The staff member in Procurement who was assigned to the transaction shall initially address any protest, dispute, or complaint submitted in writing by a bidder, vendor, or contractor. Often, an issue may be resolved simply by providing a clarification of the bid document. However, once it becomes evident that a matter cannot be resolved informally by this means, it must be elevated to the next level. At that point, the procurement director (or delegated representative) formally acknowledges the issue by serving written notification to the bidder, vendor, or contractor that a full and complete formal statement detailing the nature of the problem must be received by the campus within five (5) business days after the notification is issued. Failure to file the formal statement shall be interpreted to mean that the matter has been withdrawn.

Within ten (10) calendar days after expressing its intent to protest an award of a contract, the protesting firm must submit a full and complete written statement specifying the grounds of the protest and the facts in support thereof. Authority to protest may be limited to participating bidders. Once the formal statement is received, the matter shall be reviewed by an impartial evaluator(s) selected by the campus. The evaluator(s) shall review the merits and timeliness of the protest and submit a decision in writing within a reasonable period of time following receipt of the detailed statement of protest. The campus shall issue a decision in writing or otherwise furnish to the protesting firm the decision in such a manner as to ensure receipt. The decision of the campus is final.

If, prior to the award of a contract, and in accordance with the posting of a “Notice to Award”, any bidder files a protest on the grounds that the award is not in conformance with the provisions of the solicitation document, the contract shall not be awarded until either the protest has been withdrawn or a decision has been reached by the appropriate CI authorities as to the action to be taken in response to the protest.

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

PCC 10306, 12102(h); ICSUAM 5212.00 100, 200, 300

- 2.67 Requests to Review Public Records: A vendor or other interested party may request to review a bid, a contract, or other public document. Generally, any record that is subject to review for the public is also subject to be copied for the public, per the Public Records Act. A request may be formal or informal and is to be accommodated in the most reasonable manner, including in advance an agreed reimbursement of costs to CI (if applicable) and a mutually acceptable timeframe in which the review or copy work is to be accomplished. Any formal request must be forwarded to the procurement director, or designee, and then submitted to PR officer and be handled in accordance with the provisions within the Public Records Act.

The right of public review of records does not include any right to disrupt operations. Thus, while bids are generally not available for full review at the time of bid opening, they should be made available at a subsequent time. Likewise, work-in-progress, such as an evaluation committee’s unfinished bid analysis effort, and bidder employee information or financial records, are not subject to a public request for review. However, any of these are subject to subpoena by a court.

True proprietary information submitted by a bidder may be protected from public review, but the mere fact that the bidder marks the information proprietary does not necessarily make the information proprietary and protected by the Public Records Act. If material marked as proprietary is requested for review, the entity or individual claiming it to be proprietary shall be contacted and given the opportunity to demonstrate that it is proprietary. In contested cases, the procurement manager shall be advised. An opinion of the CSU General Counsel's Office may also be requested.

Procurement records being reviewed are to remain under the control of and in the presence of Procurement personnel.

Gov.Code 6251 et seq.

2.68 Contract Language: Quality contracts should have a balance of clear, simple, and concise language with an adequate use of legal terms that help protect the interests of all parties to the contract. Contractual language must always include the basic elements of a transaction. It must satisfactorily answer the following questions:

- a. Is the basic need or reason for the transaction clearly stated?
- b. Are all essential aspects of the transaction fully described?
- c. Is it made clear who shall perform the work?
- d. Have the expected standards of the work, goods, or services been conveyed?
- e. Have any conditions or restrictions of the transaction been stated?
- f. Has the location of the performed work or tendered service (if any) been identified?
- g. Is the effective term (period of performance) specified?
- h. Have the payment provisions been made clear?
- i. Have CI insurance requirements been included?

Other important considerations include:

- j. A focus on the expected end result of the transaction, as opposed to an elaboration on the means and methods by which the contractor is to achieve it;
- k. An accurate reflection—of the contractor's offer (the response to the solicitation);
- l. The uniform application of active rather than passive "voice", whenever practicable;
- m. The use of good grammar, sentence structure, punctuation, and plain English;
- n. An avoidance of gender-specific language;
- o. An understanding of the differences—in contractual application--of the words "shall" (mandatory), "will" (predictive), "must" (obligatory), "may" (discretionary), and "should" (preferential);
- p. A statement of the total number of pages within the contract, along with an accurate & complete sequence of the actual pagination.

CSU CRL.

2.69 Contract Checklist: Prior to having a contract executed, a simple checklist can be employed as an added measure to ensure that nothing required by law, regulations, or policy has been overlooked under the terms & conditions or in the development and processing of the contract. The exhibited checklist can be applied to a variety of transactions including service agreements, some types of purchases, contract amendments, public works and professional services related to public works, and leases.

CSU CRL.

- 2.70 Document Filing & Retention: Per Executive Order 1031, Each campus must ensure that appropriate campus department(s) implements the records/information retention and disposition schedules for that area, including designating official campus custodian(s) for each type of record. Records/information custodians are responsible for controlling the administration of records/information in all media forms and for valuing such records/information in accordance with retention authority requirements. The retention and disposition of records/information are to conform to standards set forth within retention and disposition schedules issued in conjunction with this executive order. The Records Retention & Disposition Schedules are located at <http://www.calstate.edu/recordsretention>

Ed Code 89045; Code of Civil Procedure 337

- 2.71 Internal Compliance Audits: Deleted from ICSUAM 1/24/14
- 2.72 Procurement Cost Savings: Procurement staff members are to strive to achieve cost savings for the requester and for the university in general. Various ways are available to accomplish this, including (1) obtaining a commodity or service at a lesser cost from a provider not shown on the req, (2) negotiating for a lower price from a suggested provider, (3) using available master enabling agreements (MEA's), (4) establishing blanket orders for high volume acquisitions and (5) procurement staff communicating to the requester when a substitution is recommended. If the requester obtained more than one quote, please include all quotes with the req when submitting to procurement to assist staff in further sourcing the item.
- 2.73 Recurring Reports on Procurement Activities: Regular reports are often required by outside entities such as State control agencies, the legislature, and the Chancellor's Office. These include recycled product acquisitions, small business contract awards, disabled veteran business enterprise contract awards and Section 508 Compliance reporting. Procurement coordinates the timely completion of such reports.
- 2.74 Address Errors on Invoices: Vendors and service providers sometimes send invoices to Procurement instead of Accounts Payable. Procurement advises the vendor of the error and forwards the invoice to Accounts Payable.
- 2.75 Bid Openings, Job Walks, Pre-Bid Meetings: Procurement includes in any formal bid solicitation document a statement that affixes a scheduled time and place for a public bid opening intended to result in the award of a contract or purchase order. If such a bid opening is scheduled, it is imperative that only those bids received prior to the time of the scheduled bid opening be considered for the award. Confidentiality shall be maintained regarding each bid until the public opening and reading takes place. For RFP's, confidentiality shall be maintained until the selection of the apparent best proposal is made and announced. After the bid opening (or the RFP selection), all bids or proposals shall be made available for public inspection except for any documents designated or determined by the CI to be confidential in nature—using U.S. or State Privacy laws and/or regulations as the guidelines.

To assist potential contractors or service providers in making informed decisions related to their bids, a site visit to participate in a job walk or pre-bid meeting may be announced by Procurement. Such a job walk or pre-bid meeting shall be deemed either required or optional. If participation in the event is required, only those potential bidders who attend the event may submit bids.

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

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

The requirements for successful contract performance should be clearly defined within the contract documents. Risks to the CSU may be reduced by the proper selection of contract type along with performance specifications that define and require successful completion of the contract work. One type of completion contract is the Firm Fixed Price contract. Under a Firm Fixed Price contract the contractor has full responsibility for the successful delivery of goods and/or completion of services at a set total contract price. The contractor is also responsible for the associated performance costs and the resulting profit or loss.

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

ICSUAM 5233.00

Section 3 Requirements Specific to Commodity Transactions

In addition to the special requirements contained in Section 5300.00, requirements in Section 5200.00 also apply to the procurement of personal property. As used in the following policy sections, "personal property" and "goods/commodities" mean all types of tangible personal property, including materials, licenses, supplies and equipment.

PCC 10295, 10430I; Ed Code 89036; ICSUAM 5300.00, 5200.00

3.01 Acquisitions less than \$250,000 from California Certified Small Business or Disabled Veteran Owned Business Enterprise (DVBE):

This is called the Small Business/DVBE Option. Acquisitions of personal property that are estimated to be less than \$250,000 may be awarded to a Certified Small Business or DVBE, as long as the campus obtains price quotations from two or more Certified Small Businesses or two or more DVBE's as referenced in Government Code Section 14838.5.

3.02 Informal Bidding for Orders Less Than \$50,000: Competition is not required for commodities on informal (non-bid) acquisitions of an amount less than \$50,000 unless Procurement determines that competition is necessary to develop sources, validate prices, or for other sound business reasons.

When deemed necessary the attainment of the standard of "fair and reasonable" may be determined by techniques including, but not limited to, one of the following:

- Catalog or Market Price–The price offered is supported by an established and verifiable catalog or market pricing medium issued by a responsible supplier and/or through an established reputable forum. In addition, the pricing structure provided is one that a prudent buyer would accept as a reasonable representation of existing market value.
- Price Comparison –A buyer has obtained quotes or offers within the last 6 month period from other responsible suppliers which provide evidence that a price obtained is deemed fair and reasonable.
- Historical Pricing –A buyer is able to demonstrate that other transactions occurring in the past 18 months show prices for similar acquisitions, which provides evidence that a price obtained is deemed fair and reasonable.
- Controlled Pricing –Law or regulation sets the price offered.

ICSUAM 5301.00 200

3.03 Formal Bidding for Orders Equal to \$50,000 or less than \$100,00:

Acquisitions of personal property that are estimated to be equal to or greater than \$50,000, and equal to or less than \$100,000 may be the result of an informal non-advertised solicitation process. The informal solicitation must be based on a written project scope documenting the requirements and characteristics the goods must possess in order for the proposal to be responsive. Written or verbal responses based on the project scope must be obtained from at least three vendors. If less than three responses are received, campuses must document that sufficient outreach and diligence was undertaken before waiving the requirement for three responses.

Contracts shall be awarded based on the proposal that provides the most value-effective solution to the CSU's requirements. Verbal quotes must be documented. If the award is other than to the lowest priced proposal, campuses shall document the value-based determination for making the award.

PCC 1103, 10301-10306; ICSUAM 5301.00 300

3.04 Acquisitions Greater than \$100,000

Contracts for personal property greater than \$100,000 shall be awarded as the result of a formal solicitation process. The formal solicitation shall comply with all requirements for formal solicitation of goods, as applicable, per ICSUAM Policy 5000 Series.

ICSUAM 5301.00 400

3.05 Use of DVBE or California Certified Small Businesses

Efforts shall be made to procure goods from and meet the goals established for DVBE's or California Certified Small Businesses as set forth in ICSUAM Policy 5215.00 and 5216.00 respectively.

3.06 Standard Contracting Forms: There are specific minimum terms and conditions (referred to as "General Provisions" by the CSU) to which a bidder must agree in order to sell products to the State or the CSU. It is the campus's responsibility to include, in each contract, terms and conditions necessary to protect the interests of the CSU, comply with applicable laws, reasonably mitigate risks and provide best value to the CSU. Standard terms and conditions have been developed for campus use and are available at:

<http://www.calstate.edu/CSP/crl/GP/GP.shtml> The Provisions that are applicable to a given acquisition must become an integral part (whether referenced or stated in print) of every bid solicitation issued. Many of these provisions are pre-printed as "Purchase Order Instructions" on the standard PO located at the bottom left corner of the PO. While the standard terms and conditions may be used for many contracts without modification, it may be necessary to add, delete or modify the terms and conditions for a specific contract to convey a clear understanding of each party's expected role, its obligations, and the parameters in which the activities must be carried out, under the contract.

PCC 10307; CSU CRL ICSUAM 52400.00

3.07 Formal Bidding for Personal Property: The campus is mandated to advertise in the California State Contracts Register the availability of its formal solicitations and interested suppliers upon request shall be furnished with copies of the solicitation. Additionally, public notice of the intent to formally purchase on the open market shall be posted in a location easily accessible to any bidder who may wish to participate in the bidding. The notice is to be posted for a period of at least seven calendar days in advance of the bid opening. Complete copies of the bid solicitation are also to be maintained in Procurement and made available to any bidder upon request. The solicitation notice may also include an announcement in an appropriate newspaper or trade journal, including a brief description of the commodity, the closing date and time for bids to be received, and the location where complete copies of the bid documents may be obtained.

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

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

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

The campus may, if it is in the best interest of the campus, reject all bids at any time prior to the award of the contract. Additionally the bid document must contain provisions for resolution of protests and disputes.

Prior to participating in the solicitation process, all CSU employees involved in the solicitation process must complete a Conflict of Interest and Confidentiality Statement, CRL057. The completed statements should be retained as part of the contract file. A Conflict of Interest and Confidentiality Statement (CRL057) is available at the CS&P Contract Resource Library website.

PCC 10302, ICSUAM 5302.00 100, 200, 300, 400, 500, 600

- 3.08 Office Supply Orders: A full line of office supplies is available to CI through a mandatory CSU multi-campus agreement, typically deliverable within 24-hours. Departmental requesters are provided with computer-accessed and hard copy catalogs for ordering and a direct ordering link with the vendor established with a user name and password. The requester may order office supplies directly using the CI procurement credit card program. However, notification should be provided to the receiving warehouse and delivery should still go to receiving. When supplies are requested that are not available from the current contracted vendor, a req may be transmitted to Procurement and the request filled by an alternate supplier. However, if the requested supplies are available under the multi-campus agreement, that source shall be explored first.
- 3.09 Orders to Bookstore: When a req contains items that cannot be furnished under CSU or Campus Master Agreements, placement of the order with the Bookstore (a non-State entity) becomes a viable option. Orders that can be fulfilled by the CI Bookstore are not subject to competitive bidding since the transportation cost, delivery time, and convenience are factors that need to be considered. For formal orders, the Bookstore may also be invited to bid for the requested product or service whenever it is available from multiple sources. PO's are routed to the Bookstore that clearly specify how delivery is to be made: If the items are to be delivered to receiving the correct FOB designation on the order is "Destination Prepaid." If the items are to be picked up by the requester, the correct FOB designation is "Pick-up by Campus." The CI Bookstore also accepts procurement credit cards for payment.

- 3.10 Restricted Purchases: The purchase of certain products and substances in general is expressly prohibited by CI. Authority to purchase certain other items is restricted to designated offices and/or individuals. Some of these items that are prohibited or restricted include, but are not limited to, live animals, two-way radio equipment and licensed frequencies, fire extinguishers, x-ray machines, firearms and other weapons, hazardous substances such as radioactive materials, solvents, toxic materials, ethyl alcohol, narcotics and dangerous drugs, precious metals, explosives and other classes of chemicals and select agents, pathogens or toxins as defined under the Patriot Act and the Public Health and Bioterrorism Preparedness and Response Act.

Public Law 107.56 – Patriot Act *ICSUAM* 5303.00 300

- 3.11 Direct Receipts of Commodities by Requesters: Requesters receive items directly from a vendor only when the requester or requester's department may pick up an item directly from a vendor whenever such action is appropriate, but pick up must be noted on the req submitted to Procurement as "FOB: Pick-up by campus" and pick up should of course not occur until the vendor has received a PO from Procurement. Pick-up notification is required whether the vendor is an on-campus, or off-campus vendor. Failure to make this notation can result in either a non-shipment or a duplicate shipment of the item. If the requester or requester's department receives the item directly, receiving must be immediately notified of the receipt referencing PO# or that the purchase was made via the procurement card. A failure to notify can result in a late payment to the vendor and a late payment penalty charge against the university.
- 3.12 Multiple RGS's Merged as a Single PO: Two or more req's from a given campus department shall, when required or when deemed practice, be merged into a single purchase order. This procedure is intended to cut administrative processing expenses. Multiple req's may be combined on a purchase order that is initiated automatically within the electronic purchasing system by the Procurement staff member who is processing this group of req's. The resulting PO should clearly identify which requesting department ordered which items.
- 3.13 Vehicle Purchases New and Used: Vehicles are classified as personal property with no special procurement requirements. Refer to *ICSUAM* 5301.00 and 5302.00 for procurement requirements for personal property.
- 3.14 Hazardous Materials: Purchases of hazardous materials are restricted by the university to those offices and individuals only that are specifically authorized and trained by the Director of Environment, Safety and Risk to do so.

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

Campuses should perform a risk identification and evaluation, in accordance with *ICSUAM* Policy 5233.00 and the factors below, as part of its development of the terms and conditions and insurance requirements for purchase orders or contracts for the procurement of products that contain hazardous materials:

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

- The point of delivery.

In the absence of a risk identification and evaluation, the minimum insurance requirements set forth in Executive Order 1069 and Technical Letter RM 2012-01 or their successors shall be used.

Labor Code 6360-6399.7; ICSUAM 5303.00 300

- 3.15 Library Materials and Information: Educational materials and information access resources related to CI University Library services may be purchased without advertising for or soliciting bids. Such materials and resources include books, periodicals, and computerized information for library use, educational films, audiovisual materials, test materials, workbooks and instructional computer software. Requesters are encouraged to solicit competitive bids on such materials and resources whenever practical so that opportunities are realized to optimize potential cost savings and benefits to the university. CI Procurement shall issue purchase documents, including PO's, contracts or agreements on behalf of the University Library as CI has not delegated purchasing authority to the University Library at this time. All electronic and information technology (E&IT) purchases made by or for the library are subject to Section 508 compliance if the purchase impacts a large number of students and faculty on campus as established by the CSU.

ICSUAM 5303.00 400 and 5228.00

- 3.16 Prohibition on Commodities Produced by Slave Labor: Every contract for the procurement of State or university equipment, materials, or supplies, other than those related to public works contracts, shall specify that no foreign-made equipment, materials, or supplies furnished to the State or university pursuant to the contract may be produced in whole or in part by forced labor, convict labor, or indentured labor, under penal sanction. The contractor (or vendor) shall agree to comply with this provision of the contract (or purchase order).

PCC Code 6108; ICSUAM 5303.00 500.

- 3.17 Recycled Products: Campuses shall establish purchasing practices that assure, to the maximum extent economically feasible, the purchase of materials, goods, and supplies that are recycled or have recycled material within their content. Fitness and quality being equal, purchase preference shall be given to recycled products whenever such products are available and the cost of such products is no greater than that of their non-recycled counterparts. The detailed requirements of the Buy Recycle Campaign are established by the State.

Campus responsibilities:

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

3. Attain the RCP procurement mandates. Campus procurement offices shall strive to meet or exceed the legislative goals and timetables prescribed by the California legislature for the acquisition of recycled products.
4. Submit Buy Recycle procurement reports annually. Campus shall submit to the Office of the Chancellor Buy Recycled reports in accordance with due dates specified on the CSU Contract Services and Procurement Policy Reporting Requirements Schedule.
5. Establish purchasing practices that ensure the purchase of materials, goods, and supplies that may be recycled or reused when discarded

PCC 10860, 12150-12226; ICSUAM 3235.00

- 3.18 Purchases of Paper Stock: For the acquisition of recycled paper products, CI shall abide by the same laws and policies established for all other recycled product acquisitions in addition to the specific requirements for paper as stated in PCC 10855.

CSUCI supports the intent of the State legislature to specifically give preference, wherever feasible, to the purchase of paper products containing recycled paper. To encourage the use of post-consumer material in recycled products, CI specifications require recycled paper product contracts to be awarded to the bidder whose paper product contains the greater percentage of post-consumer material if the fitness and quality and price meet the State's requirements.

PCC 10855-10860, 12160-12164.5; ICSUAM 5235.00

- 3.19 Two and Three-Way Matching of P.O. Copies: The matching of purchase order and invoice copies is a step in the process of ordering, receiving and subsequently paying for acquisitions. In essence this step is designed to assure that delivery has been made, that the items received are the items ordered, and that the price is correct, prior to payment being remitted to the vendor. The three entities normally involved with this process are Procurement, Receiving, and Accounts Payable. Accounts Payable, since it receives the invoice from the vendor, performs a three-way match of the invoice to (1) its copy of the purchase order and (2) an electronic receiving record or a second copy of the purchase order from Receiving showing that the item has been received.

An authorized order where the item is picked up directly from the vendor does not require a three-way match of purchase order copies to the invoice since the item is not delivered to central receiving by the vendor. It requires only a two-way match of the invoice against the purchase order. Accounts Payable must be advised that the goods or services have been received. This is normally done by written correspondence acknowledging the receipt and acceptance of the order or by approving and signing the invoice.

The designation of a proper "purchasing type" code on the order is partly dependent upon knowing whether the item being purchased is being routed through Receiving or has been picked up by (or delivered directly to) the requester. It is important that the RGS contain this information; otherwise a risk is introduced that the order will be duplicated (and possibly paid for twice) or that the vendor may not receive payment at all.

- 3.20 Freight Shipment Charges: It is preferable that the cost of freight be integrated by the vendor as part of an item's cost that is shown on a purchase order. Under this arrangement there would be no separate freight billings and the items are designated F.O.B. Destination. When there is a freight bill to pay (either F.O.B. Shipping Point--Prepay and Add or FOB Destination—Prepay and Add), Accounts Payable will automatically pay it against the requester's funding. A separate P.O. line item may be established on the P.O. and encumbered to pay for the freight. As a State agency, CI may take advantage of any State agreements established for the purpose of cutting costs via reduced shipping rates.

Outgoing shipments from the campus are rare, but there are times when they must be made. Logistical Services is responsible for the movement of material on and off the campus and receives and ships all packages that go through common carriers. While Shipping and Receiving is neither equipped nor staffed to regularly arrange for and process outgoing shipments, it can act as a holding area where items may be dropped off and held until a carrier or trucking line arrives to pick them up. Five days advance notice should be given for any request so that adequate holding space can be arranged and a proper record can be made in advance to help avoid losing track of the item(s). A "Request For Outgoing Freight" form must accompany all shipments. For materials that were shipped wrong, damaged, or over-shipped by a vendor, the vendor must be contacted by Procurement to furnish a Return Material Authorization (RMA) form prior to shipment being made. The RMA also entails the furnishing of call tags to identify each package being returned. If DFS is requested to move the item(s) to Receiving, a request should be submitted to the OPC receiving working days in advance of the date that the move is to be performed. The shipment should be in its original packaging as Shipping and Receiving does not stock boxes. If the original packaging is not available, additional time may be required to order new packaging for an out bound shipment. Special situations with extenuating circumstances can be handled on an emergency basis.

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

Education Code 89036, *ICSUAM 5601.00 superceded by 3150.01*

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

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

ICSUAM 5603.00

Section 4 Requirements Specific to Contracts and Service Orders

In addition to the special requirements contained in this Section 4, requirements in Section 2 also apply to the procurement of contractual services and service orders.

This Section shall apply to the following kinds of contracts:

- a. Service Agreements;
- b. Independent contractor and consulting services;
- c. Service Orders.
- d. Equipment rental or lease agreements.

This Section shall not apply to the following kinds of contracts:

- a. Public Works Agreements;
- b. Professional Services Agreements in connection with a public works project;
- c. Leases, licenses, and sales, purchases or exchanges of real property;
- d. Commodity purchases (goods, supplies or equipment).

Ed Code 89036, 89038, 89048(d), ICSUAM 5400.00

4.01 Acquisitions less than \$250,000 from California Certified Small Business or Disabled Veteran Owned Business Enterprise (DVBE)

This is called the Small Business/DVBE Option. Acquisitions of services that are estimated to be less than \$250,000 may be awarded to a Certified Small Business or DVBE, as long as the campus obtains price quotations from two or more Certified Small Businesses or two or more DVBE's as referenced in Government Code Section 14838.5.

ICSUAM 5401.00 100

4.02 Informal Bidding for Orders Less Than \$50,000: Competition is not required for services on informal (non-bid) acquisitions of an amount less than \$50,000 unless Procurement determines that competition is necessary to develop sources, validate prices, or for other sound business reasons.

When deemed necessary the attainment of the standard of "fair and reasonable" may be determined by techniques including, but not limited to, one of the following:

- **Catalog or Market Price**—The price offered is supported by an established and verifiable catalog or market pricing medium issued by a responsible supplier and/or through an established reputable forum. In addition, the pricing structure provided is one that a prudent buyer would accept as a reasonable representation of existing market value.
- **Price Comparison**—A buyer has obtained quotes or offers within the last 6 month period from other responsible suppliers which provide evidence that a price obtained is deemed fair and reasonable.

- Historical Pricing –A buyer is able to demonstrate that other transactions occurring in the past 18 months show prices for similar acquisitions, which provides evidence that a price obtained is deemed fair and reasonable.
- Controlled Pricing –Law or regulation sets the price offered.

ICSUAM 5401.00 200

- 4.03 Formal Bidding for Orders Equal to \$50,000 or less than \$100,00: Acquisitions of services that are estimated to be equal to or greater than \$50,000, and equal to or less than \$100,000 may be the result of an informal non-advertised solicitation process. The informal solicitation must be based on a written project scope documenting the requirements and characteristics the goods must possess in order for the proposal to be responsive. Written or verbal responses based on the project scope must be obtained from at least three vendors. If less than three responses are received, campuses must document that sufficient outreach and diligence was undertaken before waiving the requirement for three responses.

Contracts shall be awarded based on the proposal that provides the most value-effective solution to the CSU's requirements. Verbal quotes must be documented. If the award is other than to the lowest priced proposal, campuses shall document the value-based determination for making the award.

ICSUAM 5401.00 300

- 4.04 Acquisitions Greater than \$100,000: Contracts for services greater than \$100,000 shall be awarded as the result of a formal solicitation process. The formal solicitation shall comply with all requirements for formal solicitation of goods, as applicable, per ICSUAM Policy 5000 Series.

ICSUAM 5401.00 400

- 4.05 Use of DVBE or California Certified Small Businesses: Efforts shall be made to procure services from and meet the goals established for DVBE's or California Certified Small Businesses as set forth in ICSUAM Policy 5215.00 and 5216.00 respectively.

ICSUAM 5401.00 500

- 4.06 Formal Solicitation for Services: Other requirements notwithstanding, formal procurement for services shall comply with Education Code 89036 and these regulations:

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

2. To promote fair and open competition each formal solicitation for services must attempt to secure at least three competitive bids or proposals. Three competitive bids or proposals are not required in these instances:

- In cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or protection of state property.
- When the campus awarding the contract has advertised the contract in the California State Contracts Register and has solicited all known potential contractors, but has received less than three bids or proposals.
- The contract is with another state agency, a local governmental entity, or an auxiliary organization of the CSU. These contracts, however, may not be used to circumvent the competitive bidding requirements of this article.
- The contract meets the conditions prescribed in Policy Section 206, Limits on Competition.

3. Any solicitation that has received less than three bids or proposals shall document, in a manner prescribed by the procedures of the campus, the firms or individuals it solicited for bids or proposals.

4. Contracts for services may be awarded under a procedure which makes use of a Request for Proposal or Invitation for Bid.

5. The bid or proposal evaluation process and selection criteria shall be stated within the solicitation documents. Deviations may be waived if, in the opinion of the campus, such deviations from requirements do not materially impact the cost, quantity, or quality of the item or service to be provided or do not directly affect the outcome of the bid award.

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

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

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

A public opening must be conducted for proposals, which will be evaluated and awarded to the proposer that represents the best value to the CSU, only if requested by the proposing firms or members of the public. Only the names of the proposing firms need to be read at the time of opening.

All proposals shall be held in the strictest confidence and shall be made public and available immediately after the Notice of Intent to Award has been issued.

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

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

confidential.

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

7. Conflict of Interest and Confidentiality

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

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

ICSUAM 5402.00

- 4.07 Standard Contracting Forms: There are standard CSU contracting forms available for use for a variety of functional applications. There are specific minimum terms and conditions (referred to as “General Provisions” by the CSU) to which a bidder must agree in order to sell products to the State or the CSU. It is the campus’s responsibility to include, in each contract, terms and conditions necessary to protect the interests of the CSU, comply with applicable laws, reasonably mitigate risks and provide best value to the CSU. Standard terms and conditions have been developed for campus use and are available at: <http://www.calstate.edu/CSP/crl/GP/GP.shtml> The Provisions that are applicable to a given acquisition must become an integral part (whether referenced or stated in print) of every bid solicitation issued. Many of these provisions are pre-printed as “Purchase Order Instructions” on the standard PO located at the bottom left corner of the PO. While the standard terms and conditions may be used for many contracts without modification, it may be necessary to add, delete or modify the terms and conditions for a specific contract to convey a clear understanding of each party's expected role, its obligations, and the parameters in which the activities must be carried out, under the contract.

PCC 10307; CSU CRL ICSUAM 52400.00

- 4.08 Service Orders: Service Orders may be used to obtain various kinds of services on an informal basis (the cost must be less than \$50,000) whenever it is determined that there is no need to require both parties to sign a formal agreement (e.g., where minimal legal liabilities exist), or where timing or circumstances make it impractical to employ a formal agreement (such as emergency repair needs).

ICSUAM 5406.00

- 4.09 Contract Language Requirements: Terms and conditions beyond the minimum standards (CSU Standard Agreement format and General Provisions) are incorporated into a contract whenever there is concurrence between CSUCI and the contractor that such terms and conditions are necessary to convey a clear understanding of each party’s role, its obligations, and the parameters in which the activities must be carried out, under the contract. Such additional terms and conditions, whether proposed by CSUCI or by the contractor, must first be determined to comply with all applicable laws, regulations, and policies prior to the contract being executed and may need to be reviewed by CSU Office of General Counsel.

Some guidelines useful in the preparation of contract language are as follows:

- a. Use the correct standard form.
- b. Use simple, clear and concise language.
- c. Use consistent terminology throughout the contract (e.g., “shall” and “will” do not mean the same thing; nor do “vendor” and “contractor”; if campus name is used one place, do not use “campus” or “university” in another; use either the word “Agreement” or “Contract”, but not both when referring to one particular document).
- d. Active voice is preferable to passive voice, and one should try not to mix the two together in the same contract.
- e. Mark exhibits, attachments, addenda, and other parts of a contract clearly, arrange them sequentially, and reference them accurately throughout the text.
- f. State payment terms clearly.
- g. At least one other person should proofread or edit the contract carefully after it has been drafted.

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

ICSUAM 5412.00 100

- 4.11 Compensation for Contracting Work: Payment and consideration provisions depend on the complexity and difficulty of the project, the current rate for similar work both within and outside State service, and the qualifications and experience of the individual(s) or firm awarded the contract. Contracts will list the rate of compensation to be paid for all consideration and other expenses. Reimbursement of transportation costs and an allowance for per diem should be in conformance with the current CSU reimbursement policies applicable to CSU professional employees (CSU Internal Regulations).

ICSUAM 5412.00 200.

- 4.12 Progress Payments: A “progress payment” is defined as any partial payment of the contract price during the progress of the work. If a provision in the contract calls for progress payments to be made, they shall be made at clearly identifiable stages of progress, and be based upon written progress reports submitted with the contractor’s invoices. Progress payments shall not be made in advance of services rendered.

ICSUAM 5412.00 300.

- 4.13 Contracts with Local Government Entities: Where one of the contracting parties is a county, city, district, or other local public body, the contract shall be accompanied by a copy of the resolution, order, motion, or ordinance of the local governing body by law having authority to enter into the proposed contract, approve, and to authorize its execution of the agreement. CI may wish to have such a contract undergo a review by the Office of General Counsel or the person has statutory authorization.

ICSUAM 5703.00

- 4.14 Contracts with State Boards and Commissions: Contracts proposed by State Boards and Commissions in excess of \$1,000 must be accompanied by copies of the resolution, order, or motion authorizing execution of the agreement, unless CI has previously been furnished with evidence of the authority of the person executing the contract, or the person has statutory authorization.

ICSUAM 5704.00

- 4.15 Intra-Agency Agreements: Campuses may enter into agreement with one another for the purpose of providing reimbursed services, or an exchange of services, through the use of the “Memorandum of Understanding” or other appropriate forms. CI policy requires that authority not lower than the President or Vice President of Business and Financial Affairs is required to enter into MOU’s with other entities.

ICSUAM 5702.00

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

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

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

ICSUAM 5705.00

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

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

ICSUAM 5706.00

- 4.18 Contracts with Auxiliary Organizations: The following kinds of contracts shall be subject to ICSUAM Policies 5700.00 Series:
- Service agreements with auxiliaries
 - Interagency agreements
 - Intra-Agency agreements

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

ICSUAM 5700.00

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

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

ICSUAM 5405.00

- 4.20 Services with Special Purchasing Requirements: The CSU is prohibited from entering into a contract with any entity, whether a specific depository institution or an entity that partners with one or more depository institutions, that requires a student to open an account with that entity as a condition of the student receiving his or her financial aid disbursement. All contracts for financial aid disbursement entered into on or after January 1, 2014 must provide that the contracting entity shall initiate the direct deposit within one business day of receipt of the financial aid disbursement moneys from the campus

ICSUAM 5403.00

- 4.21 Copier Services: Copier services are provided to the campus via the Pharos Chargeback program. Campus departments are not permitted to purchase or lease any copier, multifunction printer or any other piece of office equipment that has copying capability. All copiers shall comply with accessibility standards in accordance with Section 508 requirements.

ICSUAM 5501.00 500

- 4.22 Monthly Billing Cut-Offs: About one week prior to the end of each month, the CI Accounting Office closes its work-in-process activities for the month in order to accommodate monthly computer data reports for its financial system. Cut-off dates for processing transactions chargeable to a current month are established for all departments and programs, including Procurement & Contract Services and any charge-back operations. Transactions submitted after a designated cut-off date must be charged to the subsequent month.

- 4.23 Moving Expenses: Since CSU Human Resources, Academic Affairs and/or CI Accounting maintain operating policies and procedures governing moving expenses, Procurement involvement is minimal and normally involves the placement of a standard agreement or service order with the household goods moving company that is specified on a requisition. Negotiated system wide Master Enabling Agreements (MEA's) for personnel relocation are available and are encouraged to be used. A copy of the employee's acceptance letter must be attached to the req. to ensure that the quote for their move is equal to or less than the amount listed for relocation on their letter. If the relocation amount is greater than what is allowed in their acceptance letter, the employee is responsible for paying the difference and must make arrangements directly with the relocation company.

- 4.24 Funding of Acquisitions: All requisitions intended to result in a procurement award must contain complete funding information. Procurement performs a general review of funding data in order to verify the accuracy of the information on requisitions and CFS will also alert procurement staff to certain funding combination errors and the PO cannot be created. If a funding problem is identified on the RGS, the requester is notified to correct or submit a revised requisition.
- 4.25 Independent Contractors: Service contracts between CI and individual contractors are useful for obtaining certain skills and working experience that may not be available from the existing staff for a particular task or that are inaccessible at the time the task is to be performed. Supporting documentation for such contracts must confirm, however, that an independent working relationship will exist between the two parties for the entire term of the agreement. The following guidelines are provided to assist in the distinction between (a) an agency/ independent contractor relationship vs. (b) an employer / employee relationship. These are based upon criteria used by the Internal Revenue Service, the State Employment Development Department, the California State Franchise Tax Board, and other public service agencies. They included the following:
- a. An independent contractor generally is engaged in a distinct occupation or profession, e.g., in the business of providing consulting or other services to the job being contracted.
 - b. Independent contractors perform independently; whereas, under an employer/employee relationship the employer retains the right to direct and control the work being performed, as well as control over the details or techniques of the work.
 - c. The working area, supplies, and/or equipment generally are not furnished to independent contractors.
 - d. Compensation for independent contractors is reflective of the specific work accomplished; whereas, employment relationships are generally compensated by payment of a set sum by the hour, week, or month, based upon established hours of work.
 - e. The work being performed must not be of a type that is integrated into routine or ongoing employer operations.
 - f. The employer must not make direct payments for business, per diem, or travel expenses incurred by the independent contractor.
 - g. An employment relationship exists when the worker can quit or be terminated at any time, whereas, an independent contractor is legally obligated for failure to complete the job unless the agreement is terminated.

Bids may or may not be solicited for an independent contractor depending upon (a) whether the cost of the contract is estimated to be \$50,000 or more, and (b) whether the proposed provider of the service is considered to be a sole source. Procurement finds out from Human Resources Programs whether or not the proposed contractor is an employee of CI. A contract shall not be awarded until this determination is documented.

An advisory must be submitted to Human Resources Programs (HRP) well in advance of the execution of any contract involving personal or other services (including consultancies) that are planned to exceed six months in duration. This policy is to help assure that required advance notification (often 120 days) be issued to any collective bargaining organization that might be affected by such a contract. The terms and conditions of MOU's with collective bargaining organizations vary from one group of employees to the next, so it is generally considered prudent to notify HRP well in advance of the development of a personal services or consultancy contract, regardless of the perceived length of term for the appointment.

A "consultant" is a special kind of independent contractor. A "consulting services contract" is defined as an agreement with an independent contractor to have work performed that is advisory in nature, provides a recommended course of action or personal expertise, and results in an end product that is basically a transmittal of information, either written or verbal. Such a contract shall not include:

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

Consulting agreements are subject to the same policies and procedures as service agreements in general.

Conflict of Interest

If a consultant provides services for the preparation or development of recommendations for any actions required, suggested or otherwise deemed appropriate and which include the provision, acquisition or delivery of products or service; then the consultant must provide full disclosure of any financial interest including but not limited to service agreements, memos of understanding, OEM and/or re-marketing agreements that may allow the consultant to materially benefit from the adoption of the recommendations.

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

ICSUAM 5412.00 900, 1000 & 1100

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

- 4.27 Risk Management & Liability Insurance Requirements: Campuses should perform a risk identification and evaluation, in accordance with policy section 230, as part of its development the insurance requirements for contracts for the procurement of hazardous materials removal services. In the absence of a risk identification and evaluation, the minimum insurance requirements set forth in policy section 230.02 shall be used.

CSU Policy 230 et seq.; Executive Order 743, ICSUAM 5412.00 800.

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

Contracts involving the handling, removal, or disposal of hazardous materials shall comply with all State and Federal requirements and may be developed using the CSU's model contract for hazardous material removal serving as a guide. Changes to the model contract may be made with the concurrence of Risk Management and Environment Health & Safety.

ICSUAM 5412.00 700.

- 4.29 Requisition for Guest Artists and Lecturers: A requisition for a guest artist performance or lecturer's appearance is processed by converting it into a service order. Sole source justification is not required due to the unique nature of the service. Occasionally, the guest or guest's agent will provide a "contract" for signing. The "contract" must be reviewed, approved, and countersigned by Procurement prior to returning it with the service order. Also, the guest or guest's agent must complete a State Vendor Record 204 form at this time. After execution of the "contract", a copy of it shall be retained in Procurement's files with a campus copy of the service order. Direct Payments may be issued to guest artists or lecturers when circumstances warrant it, in which case requisition and/or contracts need not be prepared.
- 4.30 Assignment of Contract to a Different Contractor: An Assignment is a signed legal notification that is required to transfer the responsibility for completing a contract from the original contractor to a subsequent one. This is often because the original contractor is either unable or unwilling to complete the contract.

An Assignment is more than a simple company name change or a redirection of the payment. It is an entire transfer of the contract from one entity to another. After all three parties involved (the assignor, the assignee, and CI) have accepted the Assignment in writing, the normal expectation is that the assignee is to perform the contract and receive payment. Once executed, the Assignment is to be incorporated into the contract by a formal amendment or change order. For a company name change only, an Assignment is not necessary or appropriate. This can be accomplished via an ordinary amendment or change order to the contract (the contractor must present evidence of the official name change, however, such as an approved corporate filing of a name change with the Secretary of State).

An Assignment may be necessary when one entity sells its business to another, when two entities merge into one, or when one entity purchases (or takes over) another. Fresh designations and signatures may be required on certain ancillary documents to the contract such as bonds, powers of attorney, the insurance certification, or other commitments that were originally signed by the assignor. For purposes of internal control, all Assignments, re-designations of payee, and company name changes shall be brought to the attention of Procurement.

- 4.31 Contract Award Report (State Form 16): All State agencies including the CSU are required to give written notice at least quarterly to the Department of Fair Employment and Housing (DFEH), Office of Compliance Programs, of all contract awards (but not purchase orders) having a cost of \$5,000 or more. For each contract awarded, campuses shall provide complete data required on the Contract Award Report (DGS STD016) or computer generated facsimile report. A reporting form for this purpose is generated as a standard report in the CSU financial system, but the State Standard Form 16 may be obtained from the DGS Forms Management Center. The quarterly list may be appended to the form.

Campuses shall submit reports in accordance with due dates specified on the CSU Contract Services and Procurement Policy Reporting Requirements Schedule.

Gov. Code 12990; Title 2, Sec. 8117.5; ICSUAM 5404.00

- 4.32 Americans with Disabilities Act (ADA): It is the policy of the CSU that all Electronic and Information Technology (E&IT) acquisitions made by the CSU adhere to the applicable CSU Executive Order(s) and CSU Coded Memorandum(s) which are developed to assure CSU compliance with the regulations and guidelines issued pursuant to the ADA and Sections 504 and 508 of the Rehabilitation Act of 1973 so as not to deny persons with disabilities the opportunity to participate in University programs, services and activities. Campuses are to develop and maintain procedures to implement this policy.

Each campus shall acquire products that comply with applicable Section 508 standards when such products are available in the commercial marketplace. The most accessible product that meets Section 508 standards, meets functional and business requirements, and complies with other applicable procurement policies and regulations must be procured.

Exceptions to meeting Section 508 standards may be applicable for certain E&IT acquisitions. Such exceptions as defined in the law are to be used with caution and only when all criteria have been met. For any E&IT acquisition that qualifies for an exception to Section 508 standards, alternative access shall be provided for persons with disabilities in a timely and equally effective manner as required by Title II of the ADA and Section 504 of the Rehabilitation Act. Campuses shall document the means by which allowable exceptions are reviewed and granted. (Refer to Resources and Reference Materials - Exceptions to Section 508 Standards.)

Contracts for the acquisition of E&IT products shall include the following statement: "Contractor warrants that it complies with California and federal disabilities laws and

regulations. Contractor hereby warrants that the products or services to be provided under this contract comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. Contractor further agrees to indemnify and hold harmless the CSU from any claims arising out of its failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a material breach and be grounds for termination of this Contract.”

Any public solicitation process developed by campuses shall be compliant with applicable regulations and guidelines issued pursuant to the ADA, Sections 504 and 508 of the Rehabilitation Act of 1973, and California Government Code 11135 so as not to deny persons with disabilities the opportunity to participate in the competition for the contract award.

ICSUAM 5228.00

- 4.33 Child Support Compliance Act: It is the policy of the State of California that anyone who enters into a contract with a State agency shall recognize the importance of child and family support obligations and shall fully comply with all applicable State and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code. Any contract of \$100,000 or more must include the CSU General Provision that references the Child Support Compliance Act.

PCC 7110, ICSUAM 5229.00

- 4.34 Ethnicity, Race, Gender and Sexual Orientation Business Enterprises Participation Contract Requirements: The CSU shall report to the Governor and Legislature on the level of participation of business enterprises, by race, ethnicity, gender and sexual orientation of owner, in contracts as identified.

Campuses shall collect the voluntary information prescribed on the “Voluntary Statistical Data” form on all procurement transactions specified in Section 300 Reporting. The data collected shall be compiled on a fiscal year basis and reported to the Office of the Chancellor.

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

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

- Construction.
- Purchases of materials, supplies, or equipment.

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

Campus shall submit the Ethnicity, Race, Gender, Sexual Orientation (ERGSO) Report to the Office of the Chancellor in accordance with due dates specified on the CSU Contract Services and Procurement Policy Reporting Requirements Schedule.

ICSUAM 5231.00

- 4.35 Expatriate Corporations: The California Taxpayer and Shareholder Protection Act of 2003 defines an expatriate corporation for the purposes of this law (PCC 10286) and policy and prohibits state agencies from entering into any contract with such a corporation or its subsidiary unless certain conditions are met. In compliance with California Taxpayer and Shareholder Protection Act of 2003, as a condition of contracting with the CSU, all vendors must submit a declaration stating that the vendor is eligible to contract with the CSU pursuant to the California Taxpayer and Shareholder Protection Act of 2003. A campus may contract with an expatriate corporation or one of its subsidiaries when it necessary to meet a “compelling public interest”.

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

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

ICSUAM 5232.00

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

ICSUAM 5604.00

- 4.37 Sale of License of Intellectual Property: Campus presidents have the delegated authority from the trustees to transfer intangible intellectual property rights to university faculty, staff, or other entities for valuable consideration.

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

ICSUAM 5602.00

Section 5

Requirements Specific to Information Technology Transactions

In addition to the special requirements contained in this Section 5, requirements in ICSUAM Section 5200 and 5300 also apply to the procurement of Information Technology Resources (ITR).

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

Public Contract Code (PCC) Section 12100.5 requires the Trustees of the CSU to develop and maintain policies that further the legislative policies for ITR procurement as expressed in Sections 12100 et seq. of the PCC. PCC Sections 10295 and 12120 provide that the CSU has an independent procurement authority separate from the State Departments of General Services and Finance.

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

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

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

PCC 12100 et seq.; Ed Code 89036; ICSUAM 5500.00

- 5.01 Solicitation Thresholds for ITR Goods and Services: Except in cases of a sole source procurement made pursuant to ICSUAM Policy 5206.00 Limits on Competition, these solicitation thresholds for acquisition of Information Technology Resources (ITR) goods and services shall apply.

Acquisitions less than \$250,000 from California Certified Small Business or Disabled Veteran-Owned Business Enterprise (DVBE)

This is called the Small Business / DVBE Option. Acquisitions for ITR goods and services that are estimated to be less than \$250,000 may be awarded to a Certified Small Business or DVBE as long as the campus obtains price quotations from two or more Certified Small Businesses or two or more DVBE's as referenced in Government Code Section 14838.5.

Acquisitions Less than \$50,000

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

When deemed necessary, the attainment of the standard of "fair and reasonable" may be determined by techniques including, but not limited to, one of the following:

- Catalog or Market Price – The price offered is supported by an established and verifiable catalog or market pricing medium issued by a responsible supplier and/or through an established reputable forum. In addition, the pricing structure provided is one that a prudent buyer would accept as a reasonable representation of existing market value.
- Price Comparison – A buyer has obtained quotes or offers within the last 6 month period from other responsible suppliers which provide evidence that a price obtained is deemed fair and reasonable.
- Historical Pricing – A buyer is able to demonstrate that other transactions occurring in the past 18- months show prices for similar acquisitions, which provides evidence that a price obtained is deemed fair and reasonable.
- Controlled Pricing – Law or regulation sets the price offered.

Campuses may also define and document other "fair and reasonable" attainment techniques that demonstrate best value to the CSU.

Acquisition of ITR Goods or Services, including Consulting, Equal to or Greater than \$50,000 and Equal to or Less than \$500,000

Acquisition of ITR requirements that are estimated to be equal to or greater than \$50,000, equal to or less than \$500,000 may be the result of an informal non-advertised solicitation process. The informal solicitation must be based on a written project scope documenting the requirements and characteristics the ITR goods or services must possess in order for the proposal to be responsive. Written responses based on the project scope must be obtained from at least three vendors. If less than three responses are received, campuses must document that sufficient outreach and diligence was undertaken before waiving the requirement for three responses.

Contracts shall be awarded based on the proposal that provides the most value-effective solution to the CSU's requirements. Verbal quotes must be documented. If the award is other than to the lowest priced proposal, campuses shall document the value-based determination for making the award.

Acquisitions Greater than \$500,000

Acquisitions of ITR requirements estimated to result in contracts greater than \$500,000 shall be awarded as the result of a formal solicitation process. The formal solicitation shall comply with all requirements for formal solicitation of ITR goods or services, as applicable, contained in ICSUAM Policy 5000 Series.

The CSU Accessible Technology Initiative

Any project scope developed for the solicitation of informal proposals must incorporate the requirements of the CSU Accessible Technology Initiative regarding Section 508 of the Rehabilitation Act of 1973 accessibility standards wherever applicable. Compliance with Section 508 accessibility standards must be included in the best value evaluation, and the award made to a proposal that fully meets accessibility requirements. If no proposal demonstrates full ATI compliance, award shall be made to the response that demonstrates greatest compliance. Exceptions or exemptions regarding Section 508 accessibility requirements must be made and documented in accordance with the campus ATI implementation plan and/or policy.

Use of DVBE or California Certified Small Businesses

Efforts shall be made to procure ITR goods and/or services from and meet the goals established for DVBE's or California Certified Small Businesses as set forth in ICSUAM Policy 5215.00 and 5216.00 respectively.

ICSUAM 5501.00

5.02 Formal Solicitations for ITR Goods and Services: Other requirements notwithstanding, formal procurement for ITR goods and services shall comply with the following:

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

2. To promote fair and open competition, each formal solicitation for ITR goods and services must attempt to secure competitive bids or proposals. The requirement for fair and open competition shall have been met or is not required in the following instances:

- a. In cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or protection of state property.
- b. When the campus awarding the contract has advertised the contract in the California State
- c. Contracts Register and has solicited all known potential contractors.
- d. The contract is with another state agency, a local governmental entity, or an auxiliary
- e. Organization of the CSU. These contracts, however, may not be used to circumvent the competitive bidding requirements of this article.

- f. The contract meets the conditions prescribed in Policy 5206, Limits on Competition.
3. Any solicitation that has received less than three bids or proposals shall document, in a manner prescribed by the procedures of the campus, the firms or individuals it solicited for bids or proposals.
 4. Contracts shall be awarded based on the proposal or bid that provides the most value-effective solution to the CSU's requirements. Request for Proposal or Invitation for Bid solicitation methodologies may be used in determining contract award.
 5. The bid or proposal evaluation process and selection criteria shall be stated within the Solicitation documents. Bids or proposals shall be evaluated to determine which bids or proposals meet, and which do not meet, the requirements as specified in the solicitation document. Deviations, in the opinion of the campus, from requirements which do not materially impact the cost, quantity, or quality of the item or service to be provided or do not directly affect the outcome of the contract award may be waived. Proposals shall be evaluated based on quantified evaluation criteria.

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

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

Best Value Solicitations

- a. If the Section 508 accessibility standards are applicable to the E&IT goods being procured and the solicitation is based on best value criteria, then compliance with Section 508 accessibility standards must also be included into the best value evaluation using the relative weightings specified in the RFP document. Contracts shall be awarded based on the proposal that provides the most value-effective solution to the CSU's requirements, including, unless exempted, Section 508 accessibility standards requirements.
- b. Invitation for Bids
For solicitations where award is based on lowest priced responsive bid and Section 508 accessibility standards are applicable to the E&IT goods being procured then the bid's compliance to these standards must also be evaluated. Award must be made to the firm that submitted the lowest priced responsive bid that also meets or exceeds the acceptable level of Section 508 compliance as defined by campus authority for Section 508 compliance.

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

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

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

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

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

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

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

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

Conflict of Interest and Confidentiality

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

ICSUAM 5502.00

- 5.03 Information Technology Resources (ITR) Project Solicitation Plans: A Solicitation Plan is required for all ITR projects that fall within the scope of CSU Executive Order 862 related to feasibility studies. Any requisitions for acquisitions that require a formal solicitation or that are considered high risk and/or critical to the success of the project must include an approved Solicitation Plan.

E.O 862; ICSUAM 5503.00

- 5.04 Special Provisions: This policy articulates the CSU's requirements related to acquisition of telecommunications goods and services and used or remanufactured Information Technology Resources (ITR) equipment to ensure procurement and contracting activities are in compliance with applicable regulations.

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

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

ICSUAM 5507.00

5.05 Competitive Bidding: It is the policy of CI that all transactions made under the CSU procurement authority are designed to encourage active competition among those who wish to become the suppliers of goods and services to the campuses.

There is no single competitive procurement methodology universally suited to all kinds of ITR acquisitions. CI recognizes that the same competitive processes used for obtaining non-ITR goods and services such as the Invitation for Bid and the Request for Proposal may be effective for IT acquisitions as well. There are, however, other techniques that could be tailored to support the unique characteristics of an ITR acquisition.

Contract awards for all large-scale systems integration projects shall be based on the proposal that provides the most value-effective solution to CSU's requirements. However, hardware purchased independent of a large-scale system integration project may be made on the basis of lowest cost meeting all other specifications. When an acquisition is based upon cost alone, an award shall be made to the lowest responsible bidder meeting the specifications. [Ref. 12102(b,c)]

Best Value (Value-Effective) Acquisitions: The "Best Value" technique for IT acquisitions of goods and services shall be used to the maximum extent practical. Any acquisition that employs Best Value selection criteria shall result in intent to award to the respondent achieving the highest score in a weighted evaluation process. There is no specific formula or regimen prescribed for examining the criteria in a Best Value award, but it is important that the award be consistent with the terms of the solicitation and that any price premium is justified by specific technical or value-added enhancements.

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

- a. Operational costs.
- b. Quality or technical competency of the bidder's product or service.
- c. Delivery and implementation timetables including incentives for early delivery.
- d. Warranties, guarantees, and return policies.
- e. Costs associated with financing provisions or alternatives.
- f. Vendor's financial stability.
- g. Consistency of proposed product or service with the planned application.
- h. Quality and effectiveness of the proposed product or service.
- i. Vendor's industry or program experience.
- j. Vendor's past performance record with similar installations.
- k. Risk assessment.
- l. Value-added services or options.
- m. Innovative use of current technologies and quality results.
- n. Proven methodologies and tools used for servicing the product or program.
- o. Maximum facilitation of data exchange and systems integration.
- p. Accessible Technology Initiative Section 508 compliance

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

PCC 12102(b), 12100.7; ICSUAM 5505.00.

Section 6 Requirements for Developing a Public Works Project

Content: The following information is intended to summarize in a sequential manner the steps that should be taken when developing a typical public works project. For minor projects, many of the steps need not be carried out. Conversely, for a typical major project, every conceivable detail is not described within a given step; therefore, CI personnel involved with the development of a project and contract award are invited to consult with Procurement or DFS staff whenever the need for added detail arises.

Authority: The authority for the Trustees of the CSU to undertake, develop, and manage public works projects resides in Sections 10700 et seq., and 10800 et seq., of the California Public Contract Code. These two Sections jointly are cited as the California State University Contract Law. Funding for public works projects can be derived from a number of different sources, including Legislative appropriations as authorized within the annual State Budget Acts, in-system resource allotments and allocations, and outside contract or grant awards (federal, state, or local governments, auxiliary organizations, private donors, etc.).

This authority has been further delegated to the university presidents via Chancellor's Office Executive Order 672.

References cited: *Italicized* references are used at the ends of Section 6 paragraphs as throughout the rest of this manual. Among others, they include: *PCC* (CA Public Contract Code); *Civil Code* (CA); *Labor Code* (CA); ICSUAM (State University Administrative Manual—public works) <http://www.calstate.edu/tier3/suam>; and *CPPppm*

General Responsibilities: The working titles used herein may vary from one campus to the next. The two campus administrators who typically share many of the functional responsibilities for a public works project are termed the “Construction Administrator” (CA) and the “Contracts Specialist” (CS). It is possible that the project responsibilities described under either of these two titles may in fact be distributed among several individuals. Regardless how the responsibilities are distributed, the functions of these two can be described as follows:

- a. Construction Administrator (CA): This person is selected by the university administration to undertake the responsibility for managing most aspects of the design development and construction activities, for either a single given project or for all public works projects. This role is commonly assigned to an executive dean, the facilities planning manager, the director of plant operations, or a specialist project manager. Individual project responsibility for construction may also be delegated to any other appropriate person on campus having an understanding of statutory, regulatory, and policy requirements as well as the practical considerations related to construction. The Construction Administrator and the Contract Specialist, work together to prepare (1) documents for the bid solicitation & advertisements, (2) the contract contents, and (3) other notices/materials related to the execution, performance, and completion of the contract. Interaction with Capital Planning, Design and Construction (CPDC) of the Chancellor's Office is routine for the CA.

- b. Contract Specialist (CS): This person is an individual trained to assume the responsibility for developing, bidding, awarding, and enforcing the provisions of all campus contracts, including those for public works. This responsibility may be assigned to the campus procurement officer or to a staff member within Procurement. The CS works with the CA or a project manager to develop (1) information and data needed for the bid solicitations & advertisements, (2) the contract contents, and (3) other notices or materials related to the execution, performance, and completion of the contract. The CS interacts and coordinates contract-related activities with other campus offices such as accounting, budget, and risk management. The CS also routinely interacts with both Contract Services and Procurement (CS&P) and Capital Planning, Design and Construction (CPDC) of the Chancellor's Office.

PCC 10700 et seq., 10800 et seq.; CPPppm (vii).

- 6.01 Establishing a Need for the Project: a project applicant or a user group conceives the idea for a project. The concept is proposed & developed, reduced to writing and sketches, and evaluated for feasibility. If the concept appears feasible, it is transmitted to the DFS department for further evaluation and permits.

PCC 1101, 10701(a); SUAM 9011, 9013; CPPppm I(1).

- 6.02 Feasibility Study and Project Description: An initial feasibility study is performed through discussions with the applicant or user group. A project description is developed, along with a scope and estimated cost. If the concept remains feasible and affordable, the feasibility study and/or project description is submitted to the Campus Planning Committee for review and discussion.

SUAM 9011, 9028; CPPppm I(2)

- 6.03 Formal Conceptual Study: After the feasibility study and project description are performed and reviewed by the Campus Planning Committee, a detailed conceptual project scope and budget are developed, funding options are evaluated with potential funding sources identified in writing, programming and spatial relationships are considered, adherence to the campus Master Plan is assured, and a set of Preliminary Plans are drawn either by campus architect or a contracted architect. Project documents should then be submitted to the Campus Planning Committee for discussion as the project evolves. Again, these project documents must always be considered with respect to the campus Master Plan. Then, the committee makes a recommendation to the President in the form of a resolution. The President may approve or not approve a project. If approved, an updated cost estimate then becomes part of the campus' projected budget. Major Capital Outlay (Major Cap) {greater than \$400,000} budget proposal documents, including Preliminary Plans, must be submitted for further review and approvals to Capital Planning, Design and Construction (CPDC) at the Chancellor's Office.

SUAM 9007-9014, 9131; CPPppm I(3).

- 6.04 Project Approval and Funding: Approval of Major Cap projects is coordinated by the campus and CPDC to secure necessary approvals from the CSU Trustees, the State Public Works Board, the Department of Finance, and the Legislature (depending upon the funding source). Minor Capital Outlay (Minor Cap) {less than \$400,000} projects are approved

either by the campus or by CPDC, depending upon the funding source. CPDC transmits copies of the Project proposal, along with the Preliminary Plans and all other project documents, to the state Department of Finance (DOF) and the Legislative Analyst's Office (LAO) for review of scope and cost. After securing an approval in principle, CPDC arranges with the DOF for funding (bonds or budgeted line item appropriations). The State Public Works Board must then approve the Preliminary Plans as to cost and scope. If approved, the budgeted project will ultimately appear in the State Budget Act as a line item. The project funding is appropriated to the CSU (CPDC receives it) and a campus project manager (or the CA) is selected to oversee the Project. Funds are then allocated (in prescribed increments, when required) by CPDC to the campus for project use.

SUAM 9001, 9025-9033, 9202; CPPppm I(4).

- 6.05 Project Budget: The campus' projected budget for the approved project(s) is revised to reflect the approved budget as reported by CPDC. For Major Cap projects, the funded amount is applied to a campus long-range budget plan; for Minor Cap projects, the funded amount is entered into a campus current or subsequent year's budget. Campus accounts for the project are then set up accordingly.

SUAM 9034-9039; CPPppm I(5).

- 6.06 Project File: All planned project budget expenditures are entered into a Capital Project File system. All figures are reconciled to the amounts established within the Project account(s). The project file should include project milestones.

SUAM 9792, 9800 et seq.; CPPppm I(6).

- 6.07 Professional Services Solicitation: OPC may elect to offer the appointment for engineering, architectural, or landscape services to the Campus Consulting Engineer, Campus Consulting Architect or Campus Landscape Architect. In this event, negotiations for the services may be undertaken. If the offer is declined, then the CS and the CA may solicit other proposals and should use the RFP process if the value of the proposed contract is to be greater than \$5,000. Under either scenario, however, a project requisition and attached proposal(s), if available, containing detailed information is submitted to the CS for each professional service needed. Such services may include surveying, soil testing, architectural design & activities, engineering design & activities, landscaping design, general studies, construction management, project inspection, etc. The requisition should contain a brief description of the service needed, project number or other identifier as needed, cost estimates, account(s) to be charged, and beginning & ending dates for the service. Other information placed on the requisition can be useful, such as suggestions for desired advertising media (if known), pre-qualification requirements (if any), pre-bid conference or job walks requirements. A project requisition should present a clear preview of the terms & conditions in the contract—the five Ws: who, what, when, where and why.

If the project is Major Cap, potential service providers must be selected from pre-qualified listings maintained by CPDC. For Minor Cap projects, CI may pre-qualify its own selected potential service providers if desired.

If an RFP needs to be developed, the project requisition serves as the source of basic information. The CS develops the RFP. The RFP shall include a project description, a construction cost estimate, scope of services required, insurance and bonding requirements

and a copy of the agreement form to be used. The CA assists the CS in developing the text for an advertisement whenever the selection field of potential service providers needs to be expanded. Once the text is developed, the CS places the advertisement in the appropriate media. Once the RFP is complete, the CS distributes copies both to advertisement respondents and to any other professional service providers in the CMS vendor database or directly solicited.

PCC 10701(c), 10707; Gov. Code 4525, 4526; SUAM 9004, 9200 et seq., 9700.03; CPPppm I(7).

- 6.08 Selection of a Professional Services Provider: Proposals from potential professional service providers are received by the CS, an RFP review committee is formed and the proposals are submitted to the CA/CS and RFP evaluation committee for review. The RFP evaluation committee ranks the respondents according to already established criteria presented in the RFP documents. A short-list of potential providers may be considered for interview. After interviews are conducted, the candidates may be ranked in order of preference and negotiations are pursued to arrive at a mutually acceptable fee. If negotiations are unsuccessful with the highest ranked candidate, new negotiations may be initiated with the next highest ranked candidate, and so on, in order of ranking. When negotiations are successfully concluded, a formal offer to award the agreement is made. The provider then responds with a formal acceptance. For Major Cap projects, the CS must notify CPDC of the selection.

PCC 6106; SUAM 9207 et seq.; CPPppm I(8).

- 6.09 Award of a Professional Services Agreement: CA requests the CS to prepare a formal agreement to the selected professional service provider, using information collected from the selection process, the project RGS, completed forms required under CSU policy, and any other agreed-upon matters. Two counterparts of the agreement are prepared and signed by both parties. These two counterparts are then forwarded to the Office of General Counsel for examination (regardless of the amount). General Counsel either endorses or rejects the agreement and, if endorsed, scans the document before returning both counterparts back to the CS as a legal and binding document. The two counterparts are distributed, one original to the service provider and an original is retained in Procurement files, and a copy is made for OPC and/or the CA.

PCC 10707, 10820; SUAM 9208-9210.; CPPppm I(9).

- 6.10 Extra Services or Design Change Authorizations: The scope of a desired change (as authorized within the Agreement) is identified and reviewed with the professional service provider. If agreed, generally OPC requests that an “Extra Services Authorization Letter” be prepared. The CS prepares the letter, secures an approval with authorized signature, and forwards a copy of the signed letter to the service provider.

SUAM 9210.02; CPPppm I(10).

- 6.11 Emergency Contracts: When the campus determines that an emergency exists due to force majeure, earthquake, flood, storm, fire, landslide, **acts of terror**, public disturbance, vandalism, or other unexpected cause which results in damage to a State-owned building, State-owned real property, or any improvements thereon, an emergency contract may be awarded to perform remedial work without the solicitation of formal bids. More than one

informal price quote may be solicited when practical. Emergency work is defined in law to mean a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

PCC 1102, 10722.

- 6.12 Design/Build Projects: For conventional D/B projects, the campus should conclude all project programming and conceptual planning activities prior to issuing an RFP to interested contractors. For modified D/B projects, planning activities are taken through the Schematic Design Phase for incorporation into the RFP. D/B projects, if funded by Major Cap, must be advertised. An interested contractor must be financially pre-qualified before submitting a proposal. An RFP committee evaluates proposals and the determination of a contract award is made on the basis of “best value.”

PCC 10708; SUAM 9701.07; CPPppm I(11)

- 6.13 Job Order Contracts (JOC): Section 10710 of the PCC authorizes the CSU to award annual “unit price” contracts not exceeding \$3 million per contract per one-year period for repair jobs, facility renovations or modifications, and other kinds of jobs including repetitive work. JOC awards, when utilized, must be issued to the lowest responsible bidder, and shall be based primarily on plans and specifications for “typical work,” as described in the bid solicitation document. These contracts are not to be used for capital outlay projects for which total project costs exceed the dollar limitation for awarding a Minor Cap contract. “Unit price” refers to the amount paid for a single unit of work. “Typical work” means a work description applicable universally or applicable to a large number of individual projects at a single campus. “Repetitive work” is interpreted to mean jobs that require periodic attention and are assigned routinely by the campus. All JOC project awards require contractor pre-qualifications to be submitted. Office of General Counsel approval is required for all JOC awards.

PCC 10710, 10724; SUAM 9701.03.

- 6.14 Schematic Design Phase and Job Start Meeting: Following the Project approval by CPDC, receipt of funding, and General Counsel’s endorsement of the architect/engineer (A/E) Agreement, a “job start” meeting is scheduled with the Project Architect/Engineer and other team members. Important issues such as programming, design, site development, staging, campus impact and other related Project matters are discussed.

Documents and reports required by law or CSU policy are initiated and pursued by the Project Architect, the Construction Administrator, and the Project Manager (if such a person is designated). These include schematic drawings and blueprints; the development of detailed specifications and special conditions; plan checks, site surveys, soil tests, hazard materials reports, fire marshal approvals, and other useful analyses and studies related to the Project. The Preliminary Design Phase is also initiated at the job start meeting.

SUAM 9233 et seq.; CPPppm I(12)

- 6.15 Preliminary Design Phase: After campus approval of the Schematic Design, the A/E is directed by the CA to commence work on the Preliminary Design. This Phase includes the development of formal plans & blueprints, outline specifications & measurements, cost

estimates, form processing procedures, refined project milestones, value-engineering breakpoints, additive or deductive alternates, filing of required regulatory compliance documents, the fixing of dates for the Pre-bid Conference or Job Walk (for construction), the Bid Opening, potential issues with public utility companies, and state, county and city code and ordinance requirements.

PCC 1104; SUAM 9203, 9232, 9234 et seq.; CPPppm I(13)

- 6.16 Construction Documents Phase: Following campus approval of the Preliminary Design documents, development of the construction documents is initiated. These address all elements of the project design, function, and construction. These documents are used for securing bids and constructing the project. The bid documents in the Package include, but are not necessarily limited to, the following: Bid Cover and Title Page, Notice To Contractors, Bid Proposal Form (exhibit) and Signature Page, Contract General Conditions, Supplementary General Conditions, Detailed Plans & Specifications, Bidders' Bond (exhibit), Certificate of Appropriate License and California Company, List of Proposed Subcontractors (sample form), Expanded Subcontractor List (sample form), Small Business Preference and Certification Request, Certification form (of signature authority), Non-collusion Affidavit, and DVBE Supplementary General Conditions.

During this phase the project Architect and the CA jointly determine the sequence of work to be performed, time schedules, requirements, etc., for the construction activities. Any remaining issues with campus consultants, utility companies, regulatory offices and agencies, or other public or private entities are also resolved at this stage of project activity. A preference for materials, brand or trade names, and detailed specifications also is determined. A provision for substitutes or "equal" products, if any, is made.

At the beginning of this phase, 50% and 90% "milestone" progress junctures for the architectural design work are established for the purpose of providing the campus with opportunities to review the Architect's ongoing work. At the conclusion of this phase, a full Bid Proposal Package (including the Construction Phase Documents) should be drafted, assembled and prepared by the CS prior to having it printed.

PCC 7106, 10720, 10765; Bus. & Prof. Code 16600 et seq.; SUAM 9235 et seq.; CPPppm I(14).

- 6.17 Outside Review of Construction Phase Documents, Drawings, and Specifications: Input from state and local regulatory agencies, CPDC, or other entities having authority for, or interest in, the project may call for revisions. If so, these revisions are incorporated into the Bid Proposal Package.

Health & Safety Code 13108(c, 13143, 18901-18949.6; Gov. Code 13332.11; SUAM 9232; CPPppm I(15)

- 6.18 Pre-bid (internal) Meeting: This step typically begins after the 90% review milestone has been conducted on the Project Architect's work and may require a series of meetings rather than just one. Prior to printing and advertising the Bid Proposal Package, any final determinations and revisions must be made at this meeting and be incorporated into the Bid Proposal Package. These may include such things as the proposed length of the contract term, a liquidated damages daily rate, special worksite or scheduling conditions imposed by

the campus, prevailing wage rates, key action dates for bidders (pre-bid conference, job walk, a question and answer deadline, bid opening date, etc.).

PCC 10826; Labor Code 1720, 1771, 1771.5; SUAM 9721; CPPppm I(16).

- 6.19 Additive or Deductive Alternates and Approval To Bid: To prepare for the possibility that construction bids will come in lower (use additive alternates) or higher (use deductive alternates) than anticipated or budgeted, such alternates may be developed and included in the Bid Documents as mandatory bid supplements. If the project is Major Cap funded, bid alternates must be pre-approved by CPDC and the State Department of Finance (DOF). Once approved, the alternates are incorporated into the Bid Proposal Package. The campus CA sends a “Request for Approval to Proceed to Bid” letter to CPDC. This letter certifies that all required plan checks are completed, that the campus has reviewed the documents, and that they are in compliance with the approved project program scope and budget. Any deviations must be clearly identified and explained. If the “Request for Approval to Proceed to Bid” letter is approved by CPDC, the campus CA is officially notified and the project Architect, the CA, the CS and/or other members of the project team jointly undertake a final review of the Bid Proposal Package.

Gov. Code 13332.11; PCC 10780.5; SUAM 9721 et seq.; CPPppm I(17).

- 6.20 Final Bid Proposal Package Review: Prior to printing the Bid Proposal Package and advertising the project in newspapers and other printed media as required, a final inspection of all contents of the Bid Proposal Package is conducted jointly by the project team to correct errors, misprints, and omissions.

SUAM 9731 et seq., 9746; CPPppm I(18).

- 6.21 Developing, Printing, Advertising, and Release of the Bid Proposal Package: Once a final review has been performed of all contents in the Bid Proposal Package, the CA prepares a set of “Approval To Advertise For Bids” documents and submits them to the appropriate campus authorities for signature. Once signed, the documents are placed into the project file for future reference. Minor Cap projects, or other projects not funded by Major Cap funds, require campus approvals only. For all projects, the CA and CS jointly prepare an advertisement for the solicitation of bids. The CS submits the ad for placement into appropriate newspapers and other media as required. Interested contractors who respond are listed for purposes of receiving a Bid Proposal Package. Advertising is not required if the project is Minor Cap and known contractors are invited to submit bids.

A number shall be assigned to each Bid Proposal Package printed, and the number recorded in a log for further tracking purposes. As the sets are later issued to the potential bidders, the recorded number shall be identifiable with the name of the bidder. A refundable or non-refundable deposit for each Bid Proposal Package issued may be required to help offset printing costs.

PCC 10740 et seq.; Gov. Code 14825; SUAM 9723 et seq., 9730 et seq., 9731 et seq.; CPPppm II(1,3).

- 6.22 Pre-bid Conference or Job Walk: If specified in the Notice To Contractors document in the Bid Proposal Package, a Pre-bid Conference or Job Walk (job site inspection) can be

designated for either mandatory or optional attendance. This event must be scheduled to take place after the Bid Proposal Package has been disseminated. If for unexpected reasons the event must be rescheduled, a documented notification must be issued to all plan holders who have expressed interest. The campus representative, at the event, must utilize an attendance log. Also, bidder questions posed during the event, if responded to, must be answered so that every attendee can hear the answer. Such questions and answers must also be transmitted in writing to all attendees after the event, in the form of an addendum to the Bid Proposal Package. If questions are submitted in writing after the event, copies of these questions with the answers must also be provided to the attendees on the addendum. Bidders must be reminded at the event of the date of the bid opening and that they must be pre-qualified to bid, if that has been established as a requirement in the Bid Documents. The CA and the CS (or their designated representatives) shall attend the Pre-bid Conference or Job Walk.

PCC 6610; SUAM 9723; CPPppm II(4,6,).

- 6.23 Issuing Addenda to the Bid Proposal Package: When bidder inquiries or campus discoveries of errors or oversights lead to the necessity of issuing addenda to holders of the Bid Proposal Packages, each addendum shall be assigned a sequential number by the campus. Each addendum becomes an integral part of the Bid Documents, and receipt of each is required to be acknowledged by any contractor who ultimately submits a bid.

SUAM 9747; CPPppm II(5)

- 6.24 Pre-qualifying the Bidders: A financial pre-qualification of bidders is required for Major Cap projects estimated to cost \$400,000 or more. It is optional for projects having lower cost estimates. The financial pre-qualifying process must be undertaken and successfully completed before bid proposal forms are issued to the prospective bidders and the bids opened. Some bidders may already have gone through this process during a prior bid invitation for a CSU project and are currently listed as approved. For those who are not pre-qualified, the pre-qualifying forms and documents are requested from CPDC, completed, and submitted back to CPDC for approval. The CS coordinates this with CPDC during the pre-bid period and, once approved, a potential bidder may request a Bid Proposal Package after producing evidence of pre-qualification. CSUCI or CPDC may additionally elect to pre-qualify bidders on the basis of their skills and experience.

PCC 10760, 10763; SUAM 9740-9745; CPPppm II(2).

- 6.25 Bid Opening: The Notice To Contractors must state when and where sealed bids are to be opened. The CS (or a CS representative) must receive all bid proposals prior to the scheduled time. A single campus representative is designated to conduct the meeting and open the bids at the scheduled time and place. This person is responsible for the initial review of each bid proposal to determine if it appears to be responsive. A second person is designated to record the bid information as the bids are opened. A third person (a monitor) must be made responsible to keep track of all the bid materials before and after the Bid Opening. Bids are opened one at a time, announcing: (a) bidder's name and address; (b) compliance with the 10% bid security requirement; (c) listed subcontractors; (d) any Small Business preference; (e) whether bidder qualifies as a California company, and (f) the amount of bid including any additive or deductive alternates, or unit prices. A summary or "Abstract of Bids" is prepared either during or after the Bid Opening. The apparent low

bidder's name is announced at the conclusion of the Bid Opening. It is optional to announce the apparent next-lowest bidder's name, as well.

PCC 4100 et seq., 6107, 10765-10767; Gov. Code 14835; SUAM 9750-9765; CPPppm II(7).

- 6.26 Determination of the Lowest Responsible Bidder: The CS evaluates the bid documentation submitted by each bidder to ensure it is generally responsive to the contract bid requirements (excluding the DVBE documents temporarily). Only those bids that are determined to have met the entire bid requirements become eligible for further consideration in receiving the contract award. The apparent low bidder is determined by the CS to be either "responsible" or "not responsible," under the legal definition as stated in Section 1103 of the California Public Contract Code. If "not responsible," the bid is rejected, and the same determination is made on the second-lowest bidder, etc.

The lowest responsible bidder must present documented evidence of being properly licensed to do the work. Optionally, a pocket license may be presented if the contractor swears under oath that it is current, valid, and appropriate. If no pocket license is presented, the CS must verify authenticity of the license with the Contractors' State License Board.

The CS examines the bid bond (bid security) of the lowest responsible bidder to ensure that an agent officially registered with the State of California has issued it.

The CS then examines the Expanded List of Sub-contractors (this must be submitted within two days after the Bid Opening) to ensure that the names are the same as those provided in the bidder's Bid Proposal and that the license numbers and other information listed match to the Registry maintained by the State Contractor's License Board.

Once the aforementioned determinations have been concluded, the CS proceeds to verify the lowest bidder's compliance with DVBE requirements. Optionally, this may also be done on the second lowest responsible bidder's DVBE documentation.

PCC 1103, 3300, 5100 et seq., 6100, 10722, 10762, 10765; 10780, 10785; Bus. & Prof. Code 7028.15; SUAM 9774; CPPppm II(8).

- 6.27 Disabled Veteran Business Enterprise (DVBE) Requirements: The CS collects and examines the DVBE certification documents from the two apparent lowest bidders. The materials and data submitted must have been gathered, and the requirements met, prior to the bid opening. If all DVBE documents are in order, the lowest responsible bidder (as ascertained by the amounts submitted on the Bid Proposal Forms and compliance with all bid requirements) becomes the proposed contractor. The CA is informed of the results and the CS begins assembling the contract.

PCC 10115 et seq.; SUAM 9720.02, 9763, 9774; CPPppm II(9).

- 6.28 Proposed Substitution of Materials or Specified Brand/Trade Name Products: If the proposed contractor, prior to the contract award, wishes to use materials or products other than those specified in the Bid Documents, a request must first be proposed in writing to the CA. Then the CA must consult with project team members (outside experts may also be used) to confirm that the proposed substitute is “equal” to the item specified. If the CA is advised that the substitute is not equal and therefore unacceptable, the proposed contractor must either withdraw the request or be disqualified from further consideration on that project. Once the proposed substitution is accepted, the proposed contractor is notified, the CS is advised of any changes needed to the proposed contract, and the award procedure continues.

PCC 3400; SUAM 9721.01, 9721.02; CPPppm II(10).

- 6.29 Announcement of Intent To Award a Contract: A printed announcement, with the name of the lowest responsible bidder appearing on it, is prepared by the CS for release. It should be posted in or near Procurement in an area that is available to the general public for viewing. Optionally (or additionally) it may be transmitted to all bidders. Usually three business days should be allowed to permit receipt of any bid award protests.

SUAM 9780-9780.02; CPPppm II(12).

- 6.30 Bid Award Protests: The CS is normally the person designated to resolve bid award protests. A number of options exist for resolving these protests, depending upon their significance and complexity. The CS may elect to resolve a bid award protest personally, or by delegating the responsibility to a single individual. The protest may be resolved simply by providing a clarification within the Bid Documents. However, once it becomes evident that a matter cannot be resolved informally by this means, it must be taken to the next step. At this point, the CS (or designated representative) formally acknowledges the issue by serving written notification to the protester that a full and complete formal statement detailing the nature of the problem must be received by the campus within five (5) working days after the notification is issued. Failure to file the formal statement shall be interpreted to mean that the matter has been withdrawn.

Once the formal statement is received, the matter may be addressed in several different ways, including:

- a. Personal resolution by the CS or a designated representative;
- b. Escalation to a higher level in the campus administration;
- c. Assistance from the Chancellor’s Office;
- d. Review and resolution by an appointed protest review panel.

If a protest review panel is appointed, its members should not be directly involved with the award of the contract.

The written formal statement shall be examined and the actions of both the campus and the lowest responsible bidder taken into account to determine whether each acted in a manner consistent with the requirements stated in the Bid Documents. After all factors have been analyzed, a decision shall be issued in a timely fashion. The protest must either be upheld or denied. That decision shall be in writing and mailed or otherwise furnished to the protester in such a manner as to ensure its receipt. If the protest is denied, the award to the lowest

responsible bidder shall proceed. If the protest is upheld, the Intent To Award announcement must be nullified and all bidders notified. A new Intent To Award announcement may be prepared in favor of the next lowest responsible bidder, or all bids may be rejected. The decision of the campus is final.

SUAM 9775; CPPppm II(13).

- 6.31 Award of Contract: After protests (if any) have been resolved, and approval to award a contract has been received from CPDC (Major Cap) or the Vice President for Finance and Administration (Minor Cap), the lowest responsible bidder is advised in writing that a contract is now officially forthcoming.

PCC 10725, 10781-10783; SUAM 9780-9780.02; CPPppm II(14)

- 6.32 Bid Document Files: The CA and the CS may jointly develop a complete file of Bid Documents on the Project for internal use and for transmittal to CPDC (if it is a Major Cap) for review. A duplicate file should be prepared and retained in Procurement while the original Bid Document file is transmitted to CPDC for review. The file may include, but not be limited to a bid summary tabulation and other pertinent bid documents.

SUAM 9780.03; CPPppm II(11).

- 6.33 Completion of Required Supporting (Ancillary) Contract Forms: The bidder receiving the contract award must submit several signed and sealed documents that are required by law prior to entering into a State contract. These are as follows: evidence of the appropriate contractor's license, notarized payment & performance bonds with related Powers of Attorney, Insurance Coverage Certification, Apprenticeship Standards declaration form, DVBE certification responses (when required), Vendor Data Record (Form 204), and a Drug-Free Workplace Certification.

PCC 7103, 10821-10825; Civil Code 3247-3252; SUAM 9780.03; CPPppm II(15).

- 6.34 Contract Development & Assembly: The contract is developed and assembled by the CS. Its components typically include the Agreement Form (the face page of the contract) signature page, Notice To Contractors, the signed Bid Proposal, the plans and specifications (plus any addenda), Contract General Conditions, Supplementary General Conditions, and Special Conditions. These and other contract documents are referenced on the face page of the contract as defined in Article 1.00 of the Contract General Conditions, and because of this reference all do not need to be included with the contract when it is circulated for full execution.

The Bonds, Insurance Certification, and other supporting or "ancillary" documents to the contract do not need to be integrated as components of the contract itself. The Agreement Form must include (in addition to a description of the work to be performed and a listing of the contract's contents) provisions related to the remuneration for the work (progress payments vs. a lump sum); the term of the contract (usually a given number of days following the issuance of a Notice To Proceed; a daily rate for liquidated damages; funding sources and account numbers used; and a requirement to withhold at least 5% of the payments made as a retention—payable after the Notice of Completion has been filed with the County Recorder's Office. Two fully developed counterparts of the contract are then prepared for signatures.

PCC 10826; SUAM 9780.03; CPPppm II(15, 16).

- 6.35 State Form 13—Extract of Public Works Contract Award: State Form 13 must be filled out and submitted by the CS to the State DIR Division of Apprenticeship Standards (DAS). This Form, among other things, assures the DAS that the Contract includes all the apprenticeship compliance language within it as required under Labor Code sections 1776 and 1777. The Form must be filed with DAS after the award is made, but before the Contract is executed.

Labor Code 1773.3; SUAM 9780.07; CPPppm II(23).

- 6.36 Contract Execution: After two fully developed unsigned counterparts of the contract have been assembled, the CS transmits these to the proposed contractor to complete and sign. When completed documents are returned, the CS examines them to assure that all documents have been properly processed and that no changes or alterations have been made. If none, the CS signs them. The Contract is now “executed,” but not yet “legal and binding” until they are endorsed by the CSU Office of General Counsel.

SUAM 9780.03, 9780.04; CPPppm II(16).

- 6.37 Contract “Agreement Certification” or “Contract Transmittal Form”: To convey key data and for ready comprehension of the Contract (its purpose, a description of the work, how it is funded, and other important details) the CS prepares an Agreement Certification or a Contract Transmittal Form (optional for Minor Cap projects). Such forms should accompany the Contract counterparts as they are transmitted to others, including the Office of General Counsel, for review and approval.

SUAM 9780.03; CPPppm II(17).

- 6.38 Contract Checklist (optional): The CS may complete a Contract Checklist to assure that all statutory, regulatory, policy, and processing steps have been satisfied prior to submitting the executed contract for legal endorsement. Only Major Cap contracts must be reviewed and endorsed by the Office of General Counsel.

SUAM 9780.03; CPPppm II(18).

- 6.39 Endorsement of Contract by the CSU Office of General Counsel: This step is required under P.C.C. 10820 for Major Cap projects. The assembled and signed contract counterparts along with the Agreement Certification, Contract Checklist (optional), and all ancillary documents are transmitted by the CS to the CSU Office of General Counsel for review and endorsement. If all requirements have not yet been met, the counterparts are returned to the CS to hold until all have been satisfied. Once the contract has met all requirements, the Office of General Counsel signs the counterparts, thus making the contract legal and binding upon both parties. Two counterparts are then returned to the CS for distribution to the appropriate parties.

PCC 10820; SUAM 9780.03; CPPppm II(19).

- 6.40 Distribution of the Executed Contract: Upon receiving the signed counterparts of the contract back from the Office of General Counsel, the CS retains one counterpart for the file, and distributes the other original to the contractor, and copies if needed.

SUAM 9780.03; CPPppm II(20).

- 6.41 Contract Award Report: For all contracts of \$5,000 or greater, State Form 16 must be filled out and submitted to the State Dept. of Fair Employment & Housing (DFEH) or (optionally) the award data required on Form 16 must be recorded for periodic submittal with other awards on a consolidated quarterly report to the DFEH. Form 16 recaps the details of the award, with the data on it being captured by DFEH to help measure the State's overall contract awarding activity with small businesses.

SUAM 9780.06; CPPppm II(24).

- 6.42 Return of the Bid Security Deposits: The bidders not receiving the contract award have either an active bid bond on file with the campus or some other form of bid security deposit held in abeyance or deposited in campus accounts awaiting refund. Once the contract has been executed, all bid bonds, including the one deposited by the contractor, must be released. If another form of security from a bidder was placed on deposit, it must now be released or refunded as well. If the campus originally placed any of these bid security deposits in the form of cash, check, bank draft, etc., into its accounts, an identical amount must be returned by the campus in the form of a check or warrant.

PCC 10784, 10804; SUAM 9780.05; CPPppm II(21).

- 6.43 Retention Funds: A minimum of 5% of each monthly progress payment requested by the contractor shall be retained until after the work has been completed and accepted by the campus and a Notice of Completion has been filed with the County Recorder's Office. The CA verifies with the campus accounting manager what the contractually specified proportion (in percentage) of each future progress payment to the contractor is that must be withheld until the final payment. This amount is known as the "retention funds." These funds are ultimately released only after all Stop Notices have been withdrawn (unless contractor has "bonded around" them, as required under Civil Code Section 3196, prior to progress payments being made). Establishing a contractor's escrow account--at the request of the contractor--can also satisfy the legal requirement for stop notices, in lieu of withholding retention funds from the progress payments.

PCC 7107, 10851; Civil Code 3103-3197; SUAM 9803, 9805; CPPppm II(25).

- 6.44 Escrow Accounts: By requesting that the campus establish an escrow account with assistance from the State Treasurer's Office, the contractor is presented with an optional way to receive full progress payments without having retention funds deducted from them by the campus. Under this arrangement, the major requirement of the Contractor is to deposit into a State holding account negotiable stocks, bonds, or other securities, of an amount equal in value to the required amount of retention funds. The Treasurer's Office then plays the role of an escrow agent. The CS is responsible for getting the escrow account established and is also responsible for closing it at the project's completion.

PCC 6106.5, 10852; SUAM 9804; CPPppm II(26).

- 6.45 Pre-construction Meeting: This meeting is scheduled prior to the start of construction and issuance of the Notice To Proceed. Attendees should include the Project Architect, Project Engineer, contractor, Project Manager and/or CA, CS, other OPC staff representatives, and anyone else necessary to the project. All issues regarding the roles and responsibilities of

Project team members, the paperwork process, submittals, change orders, Payment Requests, site protocol and access, utility interruptions, project phasing, planned construction activities (work plan), and the Notice To Proceed date are discussed at this meeting. A Construction Inspector for the project may be selected or contracted prior to the meeting. Additional meetings may be held as needed.

In preparation for the meeting, the CS develops pre-construction packages and agenda for distribution at this meeting. The CS prepares contract labels for two sets of the official contract documents for joint signature by the contractor. Each attendee must also sign an attendance sheet (to become a part of the Project File) at the beginning of the meeting. Following the Meeting (or series of meetings) the Contractor shall prepare and submit to the CA a draft "Schedule of Values" upon which any progress payments can be based. In order to reach mutual agreement on it, this Schedule may be revised whenever necessary. The CA shall endorse it within three weeks after the Notice To Proceed is issued.

SUAM 9791; CPPppm III(1).

- 6.46 Contractor's Initial Construction Schedule: The Contractor prepares an initial construction schedule reflecting all the Contractor's planned work activities during the period of construction. The Critical Path Method (CPM) is required for all projects in excess of \$1 million. For other projects costing less, a sufficiently detailed bar chart is acceptable. Once drafted, the CPM is submitted to the CA for review in consultation with the Project Architect, Project Manager, and other selected individuals. Any needed revisions are discussed in the company of the Contractor. The Contractor makes changes to the CPM, as collectively agreed, and resubmits it to the CA for final approval. The approved CPM schedule becomes the baseline schedule and is used as an instrument for monitoring the Contractor's work. It is updated as required for periodic Progress Schedule Reports.

SUAM 9800.01; CPPppm III(2).

- 6.47 Notice To Proceed: After the Contract has been fully executed; the CS issues the Notice To Proceed. The issuance is generally based upon discussion among the Project team members at the pre-construction meeting(s) and a start date mutually agreed upon by the CA and Contractor. This Notice should provide the Contractor a period of five (5) days advance notification prior to the beginning of work. Copies of the Notice should be distributed to others who play key roles in the construction work.

SUAM 9781; CPPppm III(3).

- 6.48 Project File and Reporting Activities: The CS must examine the project file periodically to ensure that it contains all documents and materials essential for an accurate review of the project's history. Any project documents not in the file must at least be referenced there. The initial construction schedule, as collectively approved, becomes the baseline schedule and is used to update the project file. Periodic progress schedule report updates, as required from the Contractor, are used to further update the project file. For Major Cap projects, these or similar campus reports are transmitted to CPDC for informational purposes. CPDC uses the reports to prepare its quarterly report to the State Department of Finance on Major Cap project appropriations.

SUAM 9792, 9800-9801; CPPppm III(4).

- 6.49 As-Built Drawings: While construction work is on going, the Contractor must maintain a set of As-Built Drawings that document any deviations from the contract documents. These drawings show how the work has been accomplished to date. Simultaneously, the Construction Inspector independently maintains a set of Inspection Drawings that record that same information plus notations indicating which components of the project have been inspected and approved. The Project Architect and Construction Inspector periodically review the Contractor's As-Built Drawings to ensure that they are being maintained in an accurate and orderly fashion. At the conclusion of the project, the Contractor submits the As-Built Drawings to the Project Architect for review. Once accepted, the As-Built data is entered into the original construction documents by the Project Architect and become the "Record Drawings". These are then submitted to the CS for safekeeping in the project file.

SUAM 9800.06, 9832.01; CPPppm III(5)

- 6.50 Stop Notices and Preliminary Notices: A Stop Notice is a written notification to an awarding body that a legal action by a supplier or subcontractor has been taken that requires a specified amount (plus an additional 25%) to be withheld from payments due to the Contractor. To be valid, a 20-Day Preliminary Notice must first be filed with the campus whenever the supplier or subcontractor is not a first-tier sub, i.e., one that has no direct contractual relationship with the Contractor. The twenty-day limitation period is counted down from the time the supplies or labor are furnished to the Contractor.

A Stop Notice is usually filed when the Contractor does not make a timely payment for goods or services, but one can be filed under other conditions, as well. The CS is responsible for receiving and keeping a file copy of all Preliminary Notices and Stop Notices. The CS also coordinates with the CA to monitor the status of the Stop Notice as Contractor either pays what is owed or "bonds around" the Stop Notice while construction on the Project proceeds.

Civil Code 3098, 3179-3214; SUAM 9811-9814; CPPppm III(6).

- 6.51 Progress Payments: As certain elements of the work are completed, progress payments (less the specified retentions) to the Contractor are appropriate. These payments must be in accord with the amounts specified under the contract following the completion of designated phases or milestones on the project work. To authorize such a payment, the Contractor first submits a payment request to be discussed with the CA prior to approval. Once the payment request is approved (with or without changes) the Contractor submits a formal Request For Payment to the CA. The CA confirms with the Project Architect and Construction Inspector that the payment is proper and due, and corresponds to the previously agreed-upon Schedule of Values. The CA then approves the Request For Payment and transmits one copy to the campus Accounting Office. A check or warrant is then issued to the Contractor. The CA makes proper distribution of all remaining copies of the payment request and updates the project file.

PCC 9203; 10851; SUAM 9803; CPPppm III(7).

- 6.52 Change Orders (and Field Instructions): To ensure continuing campus control over the project activities, only the CA may initiate changes in the work during construction. The campus, the Project Architect, or the Contractor may request such changes. Change Orders (and Field Instructions) are the only authorized means available for altering an existing contract. Such changes may include but are not limited to changes in the project's scope,

methodologies or techniques prescribed, the completion date, work schedule changes, the number or amount of progress payments, and specifications for materials or brand & trade name products. A Change Order (or a Field Instruction) must be mutually acceptable to both contracting parties and can be executed only by their signatures.

Whenever there is a perceived need for a significant change to the contract, a Contract Change Proposal (CCP) is first prepared. The CA reviews the nature of the change and its budgetary implications with appropriate campus officials and determines whether or not to proceed with it. If the CA approves the CCP, copies of it are distributed to the Project Manager, the Project Architect (or Engineer), and the Construction Inspector. The Project Architect then prepares a Cost Request Bulletin (CRB) that asks for detailed cost figures from the Contractor. Informational copies of the CRB are also distributed to the CA, the Project Manager, and others as appropriate. The Contractor's proposed costs are developed on the CRB and submitted back to the Project Architect. The costs are then evaluated by the Project Architect, the Project Manager, the Construction Inspector, and possibly an independent estimator. If the cost proposal is found to be reasonable, it is forwarded to the CA for examination. Once the CA deems the cost proposal acceptable, the CS is notified and a Change Order is prepared. The unsigned Change Order is transmitted back to the CA for a final review whereupon it is returned to the CS for transmittal to the Contractor for signature. After signing, the Contractor returns the Change Order to the CS. Then both the CA and CS sign the Change Order, making it an executed document. Copies are distributed to the Contractor, the Accounting Office, the Project Architect, the Project Manager, the Construction Inspector, and any others as appropriate. CS retains original in project file.

If the proposed change appears not to impact cost, detailed specifications, or the terms & conditions in the contract, a less formal approach may be used by agreeing to implement a Field Instruction. The Field Instruction does not entail preparation of a CRB by the Project Architect. Its use may also avoid possible delay by relying upon an informal cost not-to-exceed figure and a general agreement among the CA, the Contractor, the Project Architect, and the Project Manager about the details involved in implementing the needed change. Only the CA and Contractor must approve the Field Instruction. Copies are transmitted to the CS and Accounts Payable for incorporation into their respective contract files, thus assuring that the change information and cost data are documented for purposes of payment justification to the Contractor.

PCC 7101, 10827, 10840-10842; SUAM 9820 et seq.; CPPppm III(8).

- 6.53 Pre-final Inspection and "Punch List" Process: Once the Contractor determines that the project appears to be complete, the CA is so advised. The CA then notifies the Project Manager, the Project Architect, the Construction Inspector, OPC, and other desired or available experts to conduct a pre-final inspection. Any unfinished tasks are noted on a standard "punch list." The punch list should describe in detail all things left unfinished on the contracted work. The CA presents a copy of the punch list to the Contractor along with a stated timeframe in which to complete the punch list items. Contractor completes the work on the listed items and then notifies the CA in writing.

SUAM 9830 et seq.; CPPppm III(9)

- 6.54 Final Inspection, Acceptance, and Project: A Final Inspection is conducted after all punch list items have been completed by the Contractor. The CA instructs the project inspection team, headed by the Project Manager or the Construction Inspector, to perform the final

inspection as soon afterward as it can be scheduled. Outside agencies such as the State or local Fire Marshal's Office, OSHA, State Architect, FEMA, or others may need to be asked to participate in the final inspection. The CA is then notified of any identified deficiencies, in turn notifying the Contractor to correct them, if there are. The inspection team then performs a site survey, conducted to rid the construction site of any tools, hazards, etc., that may remain. After Contractor removes such obstacles, the CA advises the inspection team members once again, and each member must then submit back a statement that the facility is in compliance with the contract and free from apparent defects.

The CA issues a certified Acceptance Notification to the Contractor, concurrently instructing Contractor to submit back a progress payment request (for 100% completion of work) along with a copy of the As-Built Drawings. The Contractor may be permitted by the CA to submit a list of "Items To Complete" which is comprised of non-critical matters that may be completed by the Contractor after the facility becomes usable. The facility may be utilized.

After the Acceptance Notification has been transmitted to the Contractor, the CA notifies CSUCI's director of Environment, Safety and Risk of pending occupancy for purposes of insurance and a transfer of liability coverage to the CSU Risk Pool.

The contractor prepares and collects all operating and maintenance manuals, and submits them to the CA or OPC personnel for appropriate distribution to campus personnel. The CA is also to be advised of any surplus or excess materials left over from the project in order to arrange for proper disposition. The contractor may also be instructed to schedule and conduct equipment systems demonstration training sessions(s) with campus personnel.

Written statements that the project (as constructed) is in compliance with the contract documents are prepared and submitted to the CA by the Project Architect, the Project Manager, and the Construction Inspector. The Project Manager or the Construction Inspector must complete a Project closeout checklist and forward it on to the CA for enclosure in the Project File. The CA advises the Contractor to submit a 100% payment request along with deliverance of the As-Built Drawings (a copy shall suffice) and warranties (if any) on the project or any of its components. The CA prepares a list of "Items to Complete", if any, that may be addressed by the Contractor at a later time.

PCC 10849; Code of Civil Procedure 337.15; SUAM 9830.03, 9831; CPPppm III(11).

- 6.55 Beneficial Occupancy: In some instances, the campus may wish to utilize the project facility (or a portion of it) before it has undergone final inspection or before a Notice of Completion has been filed with the County Recorder's Office. This is normally alluded to as "taking beneficial occupancy." To do this, the CA, in consultation with the Project Architect, Construction Inspector, and CSUCI's director of Environment, Safety and Risk should first thoroughly weigh the ramifications of assuming the Contractor's risk and liability for on-site accidents before the facility officially becomes the property of the campus. Other potentialities that should be considered first are undetected defects and uncompleted work, potential effects upon the specified warranty period, and unresolved disputes or claims that could affect the project costs. If the decision is made to go forward with beneficial occupancy, the CA works with the Project Manager, the Project Architect, and the CS to survey and perform a punch list review for the area to be occupied (plus any other "affected" areas) and prepare a Beneficial Occupancy Change Order to the Contract. The Project Manager secures signatures from the Architect and Contractor and returns the Change Order to the CA and CS for final signatures. Signed copies are then distributed appropriately to all

parties concerned. One copy is placed in the project file. After this process is completed, the campus may occupy the facility area, effective as of the date and time stipulated in the Change Order.

SUAM 9830.02; CPPppm III(10).

- 6.56 Notice Of Completion: The CA requests that the CS prepare a Notice Of Completion for signature. The CS delivers the Notice to the County Recorder's Office for local property listing. One stamped copy of the filed Notice is delivered to the CS, and one to CSUCI's director of Environment, Safety and Risk. Upon receipt of the Notice the CS issues a letter to the Contractor (with a copy of the filed Notice attached) requesting submittal of the retention payment request within thirty (30) days following the recordation date of the Notice. Stop Notices (if any) must be filed with the campus within the 30-day period after the Notice is filed with the Recorder's Office. After the 30-day period has passed and all Stop Notices have been settled and released, the CS places the recorded (stamped) notice into the project file and, unless there is a dispute, a claim, an uncompleted punch list or closeout item remaining, the way is cleared for issuing the final payment (retention funds) to the Contractor.

Civil Code 3092, 3093, 3184; SUAM 9830.04, 9830.05, 9840, 9841; CPPppm III(12).

- 6.57 Release of Retention Funds and Final Payment: The contract retention monies payable to the Contractor (a minimum of 5% face value of the Contract plus 125% of the amounts specified on any outstanding Stop Notices) have been retained as required by law. At this point, the CA must be satisfied that the Contractor has satisfactorily concluded all project closeout requirements. If a warranty issue or any other contractual matter remains unsettled, the CA may arrange to have 150% of the estimated dollar value of the dispute withheld from the "final" payment, pending an eventual settlement. The Contractor must be so advised. Once these considerations are made, and after the CA has issued a letter to the Contractor that officially accepts the project, the Contractor may submit a final Request for Payment to the CA for the release of the available retention funds. The CA holds the request for thirty (30) days following the filing of the Notice Of Completion and until any outstanding Stop notices are cleared. The CA then signs and approves the request and forwards it to Accounts Payable, after which a check or warrant may be issued in the amount remaining free for disbursement within the Project retention funds.

PCC 7107; Civil Code 3186; SUAM 9834.01; CPPppm III(13).

- 6.58 CSU Claims Review Board: a CSU Claims Review Board must settle any dispute or claim by the Contractor or campus that arises during the life of the Contract and cannot be resolved between the two parties. A formal hearing is scheduled and held. The Board members evaluate the dispute or claim and, as one body, prepare a finding. The finding is issued to both parties. The campus is obliged, by Trustees' policy, to accept the Board's ruling. However, the contractor may continue the claim or dispute through any court of competent jurisdiction within the State's judicial system if the Contractor so elects.

PCC 9201; 10843, 10844, 10845, 10848; SUAM 9833 et seq.; CPPppm III(14).

- 6.59 Post-Project Performance Review: The contractor's performance should be evaluated and recorded by the CA or Project Manager, for future reference. This must be done if the work performed was on a Major Cap project, and a copy shall be transmitted to CPDC for future

reference in establishing system-wide pre-qualification lists. If the work was satisfactory, the CSU or the campus may wish to invite the Contractor to bid again on future contracts. The signed performance report is placed into the project file.

PCC 1103; SUAM 9835 et seq.; CPPppm III(15).

- 6.60 Internal Closure and the Preservation of Project File Contents for Audit: After the project has been completed, the CA updates the project file to establish the project budget and show that all work has been performed and that all expenditures assignable to the Project have been made against it. Any unspent balances that are indicated should be compared with the Accounting Office's project budgetary and expenditure accounts. If there is an agreement between the project file and the project accounts, any residual amounts are presumed to be budgetary savings. If the project is Minor Cap, these savings are retained in campus accounts for possible use in subsequent projects. If the project is Major Cap, the savings must be transmitted to CPDC for contingency application to system-wide claim settlements. Finally, the CA and the CS assure that all project documents, including a copy of the Project Record Drawings, are inserted into the project file for future reference and audits. This file must remain intact and available for a minimum of ten (10) years.

PCC 10849; SUAM 9842; CPPppm III(16).

- 6.61 Project Capitalization: After receiving the filed (stamped) Notice of Completion from the County Recorder's Office, the CS transmits a copy of the Notice to Accounting for the express purpose of capitalizing the project into a campus asset on the General Ledger. All recorded costs directly related to the project are totaled and recorded as a consolidated debit entry to the Capital Assets account (with balancing credit entries made to close out the project expenditure accounts). For State or CSU Trustees' projects that are split-funded with one or more other funding sources such as a Foundation or another campus auxiliary organization, the project capitalization must nevertheless be shown as a single asset on the campus General Ledger.

If the non-State entity has made payments directly to the Project Contractor(s) for its share of the project costs instead of transferring its share of the funding to the State-side project account(s), it may necessitate a transfer of ownership interest in the project from the non-State funding source to the campus in exchange for an on-going or limited-term beneficial use, leaseback, or shared occupancy of the finished project. Such terms as these, however, must be stated as such in the original ground lease or agreement between the parties prior to the start of the project. The transfer of ownership interest can be accomplished via a gift, donation, or bequest from the non-State entity to the campus.

SUAM 9870-9874.

