

Fort Hays State University

Procurement Policies

(Effective July 1, 2010)

Revised date: 07/01/10

Fort Hays State University

Procurement Policies

Table of Contents

Section I	Introduction	3
Section II	Authority and Delegation	4
Section III	Purpose	5
Section IV	Applicability	6
Section V	Ethics and Conflict of Interest.....	7
Section VI	Competitive Bids	8
Section VII	Vendor Suspension	10
Section VIII	Vendor Debarment	11
Section IX	Dispute Resolution	12
Section X	Procurement Records	13
Appendix A	Fort Hays State University Purchasing Outline.....	14
Appendix B	Fort Hays State University Procurement Code of Ethics.....	17
Appendix C	Fort Hays State University Conflict of Interest Policy.....	18
Appendix D	Kansas Open Records Act.....	19

Section I Introduction

The 2010 Kansas legislature amended KSA 76-769. This statute exempts universities from the purchasing statutes that are contained in K.S.A. 75-3737a through 75-3744 and the Kansas Correctional Industries statutes contained in K.S.A. 75-5273 through K.S.A. 75-5282. This authorizes universities to develop their own policies and procedures. Once approved by the Kansas Board of Regents, universities will operate under said policies and procedures.

Section II Authority and Delegation

As amended, KSA 76-769, Sections (a) (1), (2) and (3), grants authority to the Kansas Board of Regents to adopt policies regarding the acquisition of any supplies, materials, equipment, goods, property, leases of real property, services, including professional services, required by Universities.

The Board of Regents has directed the President of Fort Hays State University as the Chief Executive Officer of one of the state universities to develop and implement the policies required to administer and operate with all terms, conditions and requirements detailed in KSA 76-769 and Board Policies.

The President of Fort Hays State University may delegate the administration of the policies and procedures developed to the appropriate staff and departments on the campus at his/her sole discretion.

Section II a Administration of the Delegated Authority

Upon the effective date of these Procurement Policies, the President of Fort Hays State University shall delegate to the Fort Hays State University Controller and/or Director of Purchasing all purchasing authority. The FHSU Controller and/or Director of Purchasing may further delegate their authority to persons in university departments for the efficient operation of the university in accordance with the terms of this FHSU Procurement Policies document.

Consistent with the provisions of this Policy document, the FHSU Controller and/or Director of Purchasing may adopt operational procedures governing the internal purchasing functions of the university, including purchases at the department level.

Section III Purpose

This Fort Hays State University Procurement Policies document is intended to establish the parameters of a purchasing program that is specifically designed to support and facilitate the instructional, research, and public service missions of the University by applying best methods and best business practices when the University is acquiring supplies, materials, equipment, goods, property and services.

Within the context of the University environment, these Policies are intended to promote the development and use of purchasing processes that promote the pursuit of excellence and the best interests of the University while maintaining the highest possible integrity, broad based competition, fair and equal treatment of the business community and increased economies and efficiencies in the purchasing process. (See Appendix A) Examples include seeking higher education pricing in lieu of governmental pricing, utilizing procurement process and procedures that allow shorter processing times, developing specifications that are University specific, and dramatically increasing the flexibility of the purchasing process.

The University shall communicate and collaborate with the State of Kansas Division of Purchases and state universities to insure that all procurement opportunities where mutual benefit can be obtained are achieved. Examples include participating in state sponsored contract development meetings, utilizing state contracts when they meet the needs of the University and allowing state agencies and other state universities to access contracts and pricing agreements entered into by the University whenever possible.

The Fort Hays State University Controller and/or Director of Purchasing and members of the FHSU Purchasing Office shall work collaboratively with the University Director of Internal Audit as operating procedures and reporting mechanisms are developed and audits of individual departments are conducted to insure adherence to proper purchasing procedures.

Section IV Applicability

A. General Applicability

These Policies apply to the acquisition of all supplies, materials, equipment, goods, property, leases of real property, services, including professional services that are paid for with funds on deposit with the state treasury.

B. Exclusions

These Policies do not apply to purchases made with Fort Hays State University Endowment Funds.

Section V Ethics and Conflict of Interest

A. Code of Ethics

All parties involved in the negotiation, performance, or administration of the acquisition of any supplies, materials, equipment, goods, property, leases of real property, services, including professional services, required by the University are bound to act in good faith. Any person employed by the University who purchases supplies, materials, equipment, goods, property, leases of real property, services, including professional services, , or is involved in the purchasing process for the University, shall be held to the highest degree of trust and shall be bound to the Fort Hays State University Procurement Code of Ethics. (See Appendix B)

B. Conflict of Interest

The Fort Hays State University “Conflict of Interest Policy” defines the processes to be followed in articulating and resolving conflicts of interest at the University. When the FHSU Controller and/or Director of Purchasing has reason to believe that a conflict of interest may exist in the acquisition of goods and services, he/she will direct the affected department to comply with the procedures described in this policy. (See Appendix C)

Section VI Competitive Bids

A. Competitive Bid Policy

It shall be the policy of the University to purchase all required supplies, materials, equipment, goods, property and services in a manner that affords vendors a fair and equal opportunity to compete.

B. Competitive Bid Thresholds

1. Informal Bid Solicitation from \$5,000 to \$24,999 – The FHSU Controller and/or Director of Purchasing may delegate authority to campus departments for all purchases of required supplies, materials, equipment, goods, property, leases of real property, services, including professional services, in accordance with KSA 75-37, 131 and KSA76-769 and approved purchasing procedures.

2. Formal Bid Solicitation \$25,000 and over – purchases of required supplies, materials, equipment, goods, property, leases of real property, services, including professional services, shall be accomplished by utilizing an approved competitive solicitation type, or by an approved non-competitive process as determined by the FHSU Controller and/or Director of Purchasing in accordance with the terms of this Policy document and approved purchasing procedures.

C. Competitive Bid Notification

All competitive bid transactions, regardless of type of competitive solicitation utilized, shall be advertised in a manner that provides reasonable notice to the public of the competitive bid opportunity. Reasonable notice may include but is not limited to electronic bulletin boards, posting of hard copy documents in a public location, publication in appropriate newspapers and trade journals and other means as deemed appropriate by the FHSU Controller and/or Director of Purchasing in accordance with approved purchasing procedures.

D. Specifications

Specifications shall be developed in a manner that is not unduly restrictive while recognizing the purpose of these Policies as detailed in Section III of this document.

E. Competitive Bid Openings

Competitive transaction bid openings shall be open to the public in accordance with approved purchasing procedures.

F. Evaluations and Award

All competitive bid responses shall be evaluated as outlined in the competitive transaction documents. The FHSU Controller and/or Director of Purchasing shall ensure the award decision treats all vendors equitably and is made in accordance with the specification, terms and conditions utilized for the competitive transaction as well as the terms of this policy document and approved purchasing procedures. Unless otherwise specified in approved purchasing procedures and in the specific bid documents governing a transaction, the criteria for award shall be on the basis of lowest responsible bidder meeting the specifications, terms and conditions established in the bid documents.

G. Determinations Required

Any decision or finding required to administer the scope of the purchasing program shall be supported by a written determination prepared or approved by the FHSU Controller and/or Director of Purchasing in accordance with approved purchasing procedures.

Section VII Vendor Suspension

The FHSU Director of Purchasing may issue a written determination to suspend a vendor from doing business with the University pending an investigation to determine whether cause exists for debarment in accordance with approved operating procedures.

A written notice of the suspension, including a copy of the determination, shall be sent to the suspended vendor with a copy to the FHSU Controller.

The suspension period will be effective upon issuance of the notice of suspension.

Section VIII Vendor Debarment

A. A vendor may be debarred for any of the following reasons:

1. Conviction of a criminal offense in relation to obtaining or attempting to obtain a University contract or in the performance of such contract;
2. Conviction under State of Kansas or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records or receiving stolen property;
3. Conviction under State of Kansas or Federal antitrust statutes arising out of the submission of bids or proposals;
4. Failure to perform in accordance with the terms of one or more contracts following notice of such failure, or a history of failure to perform, or of unsatisfactory performance of one or more contracts;
5. The vendor is currently under debarment by any other governmental entity that is based upon a settlement agreement or a final administrative or judicial determination issued by a federal, state or local governmental entity.

Following completion of the investigation to determine whether a vendor has engaged in activities that are cause for debarment, the FHSU Controller and/or Director of Purchasing may debar the vendor for a period of time commensurate with the seriousness of the findings.

B. A written notice of debarment shall be sent to the vendor. The notice shall:

1. State the debarment period; and
2. Inform the debarred vendor that any person(s) representing the debarred vendor during the debarment period may conduct no business with the University and that any solicitation responses received from the debarred vendor during the debarment period shall not be considered.

- C. The debarment period will be effective the date of the written notice being sent to the debarred vendor and all University departments.

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Section IX Dispute Resolution

- A. The FHSU Controller and/or Director of Purchasing is authorized to resolve, in accordance with approved operating procedures, any protests regarding any and all purchasing matters including but not limited to:
 - 1. Any protest concerning the solicitation or award of a contract or purchase order; and
 - 2. Any controversy arising between the University and a contractor by virtue of a contract or purchase order between them, including, without limitation, controversies based upon breach of contract, mistake, misrepresentation, or any other cause for contract modification or rescission.
- B. The FHSU Controller and/or Director of Purchasing shall render a written decision regarding the protest within seven (7) working days after the protest and/or any subsequently submitted information is received. The FHSU Controller and/or Director of Purchasing shall furnish a copy of the decision to the protestor in writing in accordance with approved purchasing procedures.
- C. The protesting party may appeal the written determination of the FHSU Controller and/or Director of Purchasing. If the protesting party desires to appeal, he/she must submit his/her written request for appeal to the FHSU Vice President of Administration and Finance within seven (7) calendar days after receipt of the written determination of the FHSU Controller and/or Director of Purchasing. The decision of the Vice President of Administration and Finance shall constitute the Final Agency Order regarding the matter.

Section X Procurement Records

Procurement records are subject to disclosure pursuant to the provisions of the Kansas Open Records Act. (See Appendix D)

Procurement records shall be retained and disposed of in accordance with applicable records retention policies of the State of Kansas and Fort Hays State University.

Appendix A

Fort Hays State University Purchasing Outline

Listed below are guidelines to follow beginning July 1, 2010, when FHSU becomes exempt from certain purchasing regulations imposed by the State of Kansas.

1. The following processes for purchases and University procedures to attain goods and services remain unchanged:
 - a. All computers, printers, parts, and software are processed through a Lotus Notes CTC Request Form. This includes sole source boxed software, software maintenance and software licensing.
 - b. All printing requests are processed through Printing Services.
 - c. All FHSU designs on promotional items require approval by University Relations before the order is placed.
 - d. All current FHSU established contracts are in effect until renegotiated or expired, i.e., Chartwells, Follett, Pepsi.
 - e. State Use items such as toner cartridges, binders, and other selected office supplies must be purchased from designated state use vendors. These items and all other office supplies are still purchased through Central Purchasing.
(Refer to www.fhsu.edu/purchasing/State-Use/)
 - f. Professional and consultant service contracts exceeding \$5,000 shall be bid by the University Purchasing Office unless determined to be a sole source. (Refer to www.fhsu.edu/purchasing/prior-authorization/.)
 - g. The university retains the ability to use State contracts for any and all purchases and should use such contracts if it provides the desired quality of goods at the lowest possible price. Please see a complete list of State contracts at www.fhsu.edu/purchasing/contracts/.
 - h. Travel transactions, including registration, lodging, airfare, etc. follow previously established guidelines. Motor Pool/Enterprise comparison form is now called FHSU Vehicle Rental Comparison. It will be completed for private vehicle mileage reimbursement purposes only. The traveler is not required to use Enterprise as a rental company.
(Refer to http://www.fhsu.edu/bus_off/vehicle-comparison/)
 - i. Subscriptions, memberships, and other non-commodity items follow previously established guidelines.
 - j. The P-Card will be used for purchases. An IFAS PR will be submitted if the vendor does not accept credit cards.
 - k. Lease of Real Property between a state educational institution and any other party for vacant space that is less than 10,000 square feet or between a state educational institution and any other party for a term not to exceed 24 months in accordance with amended Senate KSA 76-769.
2. Certain departments within the Physical Plant including grounds operations, plumbers, electricians, motor pool, and carpenters will be responsible for purchasing within that trade or department and maintaining an inventory of regularly purchased items to satisfy the daily needs of the staff within the particular trade. Storage space will be provided in

Central Purchasing or other locations as appropriate. Efficiency should be improved by reducing daily purchases within certain areas.

3. As the University gathers experience working with the University Purchasing Program, adjustments may be made to the processes and additional contract information made available. (Refer to www.fhsu.edu/purchasing/.)
4. The University Purchasing Program does not include capital improvement, renovation, new construction, or any other project that currently requires review by the Department of Facilities Management, a department within the Department of Administration. This also includes major IT projects requiring review by the Kansas Information Technology Office (KITO).
5. When vendors contact FHSU staff about their products, please remember that state employees must comply with the latest ethics directive of the Governor's Office by not accepting gifts, meals, etc.
6. The goals are to maintain a high level of accountability, purchase all goods and services at the best quality for the lowest possible price, and simplify the purchasing process.
7. The following procedures in Central Purchasing are part of the University Purchasing Program:
 - a. Central Purchasing will not maintain a full inventory. The university may want to maintain some type of warehouse operation within Central Purchasing to take advantage of the ability to save by making bulk purchases. It is anticipated, in the event the university can take advantage of bulk purchases, student labor will be used to make deliveries to departments as necessary. Department budgets would be charged an appropriate amount based on the cost of the bulk purchase.
 - b. Staff from Central Purchasing will be purchasing office supplies below \$5,000 for all departments and will assist in ordering furniture and other miscellaneous supplies.
 - c. Other functions that will be maintained by Central Purchasing staff include delivery of large items, managing large truck traffic on campus, establishing central delivery of items with incomplete addresses, and processing outgoing freight.
8. The University will work with any vendor willing/wanting to do business. The vendor must understand that the university is only going to do business with those that provide the best quality at the lowest price. Comparison to current State contracts will be completed for each vendor offer to insure the University is getting the best price for comparable products.
 - a. A vendor meeting will be held to provide information concerning the new purchasing procedures.
 - b. Vendors wishing to do business with the University will be asked to provide up-to-date price lists of items such as office supplies, plumbing supplies, auto parts and supplies, and electrical supplies to name a few.

- c. Vendors will be asked to provide contact information including name, address, phone numbers, individuals, etc., for use when informal bids are required.
 - d. Vendors will be provided information on how and where to access information concerning informal and formal bids i.e., the FHSU Purchasing website, the Kansas Register, or local media.
- 10. Continued training will be provided by Administration and Finance staff. Emphasis will be placed on the dollar limits, need for savings, being able to document savings, etc. Processes will be defined with responsibilities and accountability requirements.
 - a. A number of training sessions will be provided and attendance will be required of all those providing purchasing support for departments.
 - b. Documentation will be provided outlining the processes and requirements related to the University Purchasing Program.
- 11. It is anticipated that the University may initiate purchasing agreements/contracts that would specify a particular vendor for specific products and/or services for an established period of time.
- 12. To enhance the University's ability to purchase the best quality of goods and services at the lowest possible price, the following guidelines have been established:
 - a. Up to \$999.99.....FHSU Departments are required to purchase the best quality of goods and services at the lowest possible price with no documentation required.
 - b. \$1,000 to \$4,999.99FHSU Departments are required to purchase the best quality of goods and services at the lowest possible price. Documentation is only necessary when purchase price is higher than state contract price.
 - c. \$5,000 to \$24,999.99FHSU Departments are required to obtain three bids. Further instructions will be listed on the FHSU Purchasing web site: <http://www.fhsu.edu/-purchasing>
 - d. \$25,000 and aboveFHSU Departments are required to go through a formal bid process which requires posting on the web for at least seven (7) business days. Further instructions will be listed on the FHSU Purchasing web site: <http://www.fhsu.edu/purchasing>

Appendix B.

Fort Hays State University Procurement Code of Ethics

The conduct of all persons involved in the procurement process at Fort Hays State University should be characterized by integrity and dignity, and he or she should expect and encourage such conduct by others.

All persons should adopt and be faithful to personal values that

- accord respect to self and others;
- preserve honesty in actions and utterances;
- give fair and just treatment to all;
- accept intellectual and moral responsibility;
- aspire to achieve quality;
- refuse conflict, or the appearance of conflict, between personal and institutional interests; and
- engender forthright expression of one's own views and tolerance for the views of others.

All persons should act with competence and should strive to advance competence, both in self and in others.

All persons should understand and support his or her institution's objectives and policies, should be capable of interpreting them within and beyond the institution, and should contribute constructively to their ongoing evaluation and reformulation.

All persons should communicate to institutional colleagues the content of this Code of Ethics and should strive to ensure that the standards of professional conduct contained therein are met.

In discharging his or her duties in accordance with this Code of Ethics, all persons should enjoy the following rights:

- the right to work in a professional and supportive environment;
- the right to have a clear, written statement of the conditions of his or her employment, procedures for professional review, and a job description outlining duties and responsibilities;
- within the scope of his or her authority and policy, the right to exercise judgment and perform duties without disruption or harassment; and
- freedom of conscience and the right to refuse to engage in actions that violate the ethical principles contained in this Code or provisions of law.

Appendix C

Fort Hays State University Conflict of Interest Policy

Please refer to the Kansas Board of Regents Policy and Procedure Manual, Chapter II, Section F (14).

http://www.kansasregents.org/resources/PDF/890-041510PolicyManualrevisedlinks_2_.pdf

Appendix D

Kansas Open Records Act

The terms of this act may be found in KSA 45-215 through KSA 45-223:

<http://www.kslegislature.org/li/statute/>