

Lander University



PROCUREMENT POLICIES and PROCEDURES MANUAL

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AUTHORITY

Procurement Authority and Certification

Lander University's policy concerning the commitment of funds entrusted to the University is provided for by the General Appropriations Act of the State of South Carolina. Lander University Procurement Services is authorized, in accordance with the *South Carolina Consolidated Procurement Code*, to make commitments against University accounts for the procurement of supplies, equipment, and services necessary for the operation of the University. Expenditure of University funds are to be administered by Procurement Services in a manner which results in the greatest good for the State and shall be accomplished in accordance with the Permanent Regulations issued by the South Carolina State Budget and Control Board, under the authority of the *South Carolina Consolidated Procurement Code*, as contained in South Carolina Statute H.4081 of 1993. The President, Vice President for Finance and Administration (or his designee), Director of Procurement and designated Procurement Officers are the only persons authorized to bind the College by contract. The South Carolina State Fiscal Accountability Authority Division of Procurement Services has certified Lander University to make direct purchases of up to \$200,000 for goods and services, construction services and consultant services. Certification also covers direct purchases of up to \$150,000 for information technology. Purchases above this amount are to be made by the State Procurement Office or the Information Technology Management Office within the Division of Procurement Services in Columbia, South Carolina.

Purpose Statement

1. Procurement Services is organized to serve and facilitate the objectives of the University, to make commitments in a consistent and orderly fashion, and to foster a high standard of public relations within the University, with suppliers, and the public.
2. The objectives of Procurement Services include the following:
 - A. To provide all the commodities and services required for the organization's operations at the time and place needed in the proper quantity and quality.
 - B. To secure such commodities and services at the lowest possible cost while establishing and maintaining a reputation for fairness and integrity.
 - C. To provide economic delivery of purchased materials.
 - D. To provide sound inventory management.

- E. To ensure effective planning systems are in place through optimized systems and procedures.
- F. To obtain the greatest possible revenue from the disposal of surplus, damaged, or obsolete materials and equipment.

Determination of Compliance

It is the intent of the Lander University Procurement Services to adhere to and abide by the policies, procedures, and guidelines relating to the procurement, management, control, and disposal of supplies, equipment, and services, as applicable, under the authority of the *South Carolina Consolidated Procurement Code*.

Ethical Standards

Lander University adheres to the Code of Ethics as adopted by the National Association of Educational Buyers:

1. To give first consideration to the objectives and policies of the institution.
2. To strive to obtain the maximum ultimate value of each dollar of expenditure.
3. To cooperate with trade and industrial associations, governmental, and private agencies engaged in the promotion and development of sound business methods.
4. To demand honesty in sales representation whether offered through the medium of a verbal or written statement, an advertisement, or a sample of the product.
5. To decline personal gifts or gratuities.
6. To grant all competitive bidders equal consideration, to regard each transaction on its own merits, to foster and promote fair, ethical, and legal trade practices.
7. To use only by consent original ideas and designs devised by one vendor for competitive purchasing purposes.
8. To be willing to submit to arbitration on any major controversies.
9. To accord a prompt and courteous reception insofar as conditions permit to all who call on

legitimate business missions.

10. To cooperate with peers and promote a spirit of unity among them.

ORGANIZATION

Procurement Organization, Authorities & Responsibilities

1. Director of Procurement
Responsible for coordination and supervision of the Lander University Procurement Services Office; accountable for procurement of supplies, equipment, and services necessary for the operation of the University; designated person authorized to sign commitments for the agency. The Director of Procurement reports directly to the VP of Finance and Administration.
2. Procurement Specialist II
Under the direction of the Director of Procurement, responsible for activities involved in purchasing or rental of equipment, supplies, and services of a complex nature necessary for the operation of the University.
3. Procurement Specialist I (two full-time positions)
Under the direction of the Procurement Specialist II, responsible for data entry of purchase orders, monitoring and maintaining blanket orders, maintaining vendor database, assist with bid process and procurement procedures.

Professional Development

It is the intent of Lander University to promote and sponsor participation in procurement training and certification of procurement personnel.

POLICIES

Methods of Source Selection

The Procurement Services Office has the final responsibility to conduct and conclude all negotiations concerning prices and conditions of sale for all purchases and contemplated purchases. During the bidding process prices secured on a quotation basis are to be considered confidential and should not

be discussed with vendors by department personnel.

Exemptions from the Code

State Procurement has exempted governmental bodies from purchasing certain items through the respective chief procurement officer's area of responsibility. Exemptions have been created for specific supplies, services, information technology, or construction from the purchasing procedures required in Section 11-25-710 for just cause by unanimous written decision limit and may withdraw exemptions provided for in this section. For a current list of exemptions from the Code, see: <https://procurement.sc.gov/files/20190920%20Legal%27s%20Exemption%20Table%20%28booklet%29.pdf>

Notes: These exemptions should not be approached as absolute! For example, the Athletic Funds Exemption references "*funds derived wholly from athletic or other student contests, from the activities of student organizations and from the operation of canteens and bookstores, except as such funds are used for the procurement of construction, architect-engineer, construction management and land surveying services*"

- These funds are not exempt by default – Such funds must be adequately segregated from others and if comingled with non-exempt funds, lose this status and are subject to the Code.
- Fees collected from students do not constitute exempt funds. As state controlled dollars, these funds are subject to the Code.

Small Purchases

In accordance with Section 11-35-1550, these are purchases less than \$50,000 in actual or potential value. Procurements made under these procedures may not be protested.

1. Purchases Not in Excess of \$5,000.00

Small purchases not exceeding \$5,000.00 may be accomplished without securing competitive quotations if the prices are considered to be "fair and reasonable." Therefore, the Lander Community is encouraged to use the State Purchasing VISA Card. Procurement Services shall process requisitions for less than \$5,000.00 when VISA is not accepted or not applicable. The purchasing office must annotate the purchase requisition: "Price is fair and reasonable" and sign. Such purchases shall be distributed equitably among qualified suppliers. When practical, a quotation will be solicited from other than the previous supplier prior to placing a repeat order.

2. Purchases from \$5,000.01 to \$10,000.00

Procurement Services or purchase initiator will solicit written quotes from a minimum of three sources of supply. Documentation of the quotes shall be attached to the purchase

requisition. The award shall be made to the lowest responsive and responsible source. With the enactment of the SC Higher Education Efficiency and Administrative Policies Act of 2011 (HEEAPA), the President's Cabinet approved the usage of the "Procurement Approval Authority" form which allows purchases between \$5,000 and \$10,000 to be made without the 3 quotes provided a member of the Cabinet signs as approval.

3. Purchases from \$10,000.01 to \$50,000.00

Procurement Services or purchase initiator will solicit written quotes from a minimum of three sources of supply. Documentation of the quotes shall be attached to the purchase requisition. The purchase requisition must also be signed by the Cabinet member responsible for the purchasing area or his designee. The award shall be made to the lowest responsive and responsible source, or when a request for proposal process is used, the highest ranking offeror. Vendors quoting on purchases greater than \$10,000 will be offered the opportunity to apply for a procurement preference for South Carolina vendors and products or United States made or manufactured end products. A preference of seven percent will be provided to vendors who are residents of South Carolina or whose

products are made, manufactured, or grown in South Carolina as set forth in Section 11-35-1524 of the South Carolina Procurement Code. A preference of two percent will be provided to vendors of products made, manufactured, or grown in other states of the United States. If a vendor qualifies as a resident vendor and is bidding a product made, manufactured, or grown in South Carolina, an additional three percent preference will be given if claimed by the vendor. These preferences shall not apply when: (1) the price of a single unit is more than \$30,000; (2) any procurements conducted under Article 9 of the Code (construction, architect-engineer, construction management, and surveying services); (3) to any prime contractor or subcontractor providing materials or services relating to permanent improvements to real estate; (4) procurements less than \$10,000; (5) to any solicitation conducted under Section 11-35-1530 of the Code (Competitive Sealed Proposals).

Competitive Sealed Bid, Section 11-35-1520

1. Condition for Use

Contracts amounting to \$50,000 or more shall be awarded by competitive sealed bidding except as otherwise provided in Section 11-35-1510.

2. Invitation for Bids

An invitation for bids shall be issued in an efficient and economical manner to include specifications and all contractual terms and conditions applicable to the procurement.

3. Notice

Adequate notice of the invitation for bids shall be given at a reasonable time prior to the date set for the opening of bids. This notice shall be advertised in the South Carolina Business Opportunities or through a means of central electronic advertising as approved by the Office of Procurement Services.

4. Receipt and Safeguarding of Bids

All bids received prior to the time of opening shall be kept secure and with the exception of unidentified bids, unopened, in a locked file in the Procurement Office. If an invitation for bid is canceled, bids shall be returned to the bidders. When bid samples are submitted, they shall be handled with sufficient care to prevent disclosure of characteristics before bid opening.

5. Unidentified Bids

Unidentified bids may be opened solely for the purpose of identification, and then only by the Director of Procurement or a designee of the Director. If a sealed bid is opened by mistake, the person who opens the bid will immediately write her signature and position on the envelope and deliver it to the Director of Procurement. The Director of Procurement shall immediately write on the envelope an explanation of the opening, the date and time opened, the invitation for bid's number, and their signature, and then shall immediately reseal the envelope.

6. Postponement of Bid Openings

In accordance with regulation 19-445-2050, if it becomes necessary to postpone a bid opening, the procurement officer shall issue the appropriate amendments to the solicitation, postponing or rescheduling the bid opening.

7. Bid Opening

Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the bid invitation. The amount of each bid, the bidder name and other relevant information shall be tabulated. The tabulation shall be open for public inspection at that time.

8. Disclosure of Bid Information

Only the information disclosed by the procurement officer or their designee at a bid opening is considered to be public information under the Freedom of Information Act, Chapter 3 of Title 30, until the award is made.

9. Bid Acceptance and Evaluation

Bids shall be accepted unconditionally without alteration or correction, except as authorized in the Code. The Invitation for Bid shall state the evaluation criteria to be used and only those criteria can be used. When necessary for the best interest of Lander University and the State, bid criteria to determine acceptability may include inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. These criteria will affect the bid price and be considered in evaluation for award shall be measurable costs to include, but not limited to discounts, transportation

costs, total or life cycle costs.

10. Electronic Bids

As a general rule, electronic bids will not be authorized. When, in the judgment of the procurement officer, the date for the opening of the bids will not allow bidders sufficient time to prepare and submit bids on prescribed forms or when prices are subject to frequent changes, electronic bids may be authorized.

11. Rejection of Bids

As a general rule after opening, an invitation for bids should not be canceled and re-advertised due solely to increased requirements for the item being procured; award should be made on the initial invitation for bids and the additional quantity required should be treated as a new procurement. Unless there is a compelling reason to reject one or more bids, the award will be made to the lowest responsible and responsive bidder. Any bid that fails to conform to the essential requirements of the invitation for bids shall be rejected.

12. Alternate Bids

Any bid that does not conform to the specifications contained or referenced in the bid invitation may be rejected, unless the invitation authorized the submission of alternate bids and the supplies offered as alternatives meet the requirements specified in the invitation.

13. Non-responsive Bids

Any bid which fails to conform in all material aspects to the invitation for bid or request for proposal may be rejected. Offerors must be capable in all respects to perform fully the contract requirements and have the integrity and reliability which will assure good faith performance which may be substantiated by past performance.

14. Modification of Requirements by Bidder

Ordinarily a bid will be rejected when the bidder attempts to impose conditions which modify the requirements of the bid or limit their liability. For example, bids should be rejected in which the bidder:

- A. Attempts to protect himself against future changes in conditions, such as increased cost, if total possible cost to the state cannot be determined;

- B. Fails to state a price and in lieu thereof states that price shall be: “price in effect at time of delivery;”
- C. States a price but qualified such price as being subject to “price in effect at time of delivery;”
- D. When not authorized by the invitation, conditions or qualifies his bid by stipulating that his bid is to be considered only if, prior to the date of award, bidder receives (or does not receive) award under separate procurement;
- E. Requires the state to determine that the bidder’s product meets state specifications; or
- F. Limits the rights of the state under any contract clause. The lowest responsive and responsible bidder may be requested to delete objectionable conditions from his bid provided that these conditions do not go to the substance, as distinguished from the form, of the bid or work and in justice on other bidders.

15. Price Unreasonableness

Any bid may be rejected if the procurement officer determines in writing that it is unreasonable as to price.

16. Unsigned Bids

Unsigned bids shall be rejected unless a representative of the company who has the authority to sign is present at the bid opening and if discovery is made prior to reading any bids for that procurement. The representative may be allowed to sign the bid.

17. Exception to Rejection Procedures

Any bid received after the procurement officer has declared that the time set for bid opening has arrived, shall be rejected unless the bid had been delivered to the designated procurement office or the University’s mail room prior to the bid opening.

18. All or None Qualifications

Unless the invitation for bid so provides, a bid is not rendered non-responsive by the fact that the bidder specifies that the award shall be accepted only on all, or a specified group, of the items included in the invitation for bids. However, bidders shall not be

permitted to withdraw or modify “all or none” qualifications after bid opening.

19. Correction or Withdrawal of Bids; Cancellation of Awards

Correction or withdrawal of inadvertently erroneous bids before bid opening; withdrawal of inadvertently erroneous bids after award, or cancellation and re-award of award or contract, after award but prior to performance may be permitted in accordance with the Regulations. After bid opening no changes in bid prices or other provisions prejudicial to the interest of the state or fair competition shall be permitted. Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards, or contracts, after award but prior to performance shall be supported by a written determination by the Director of Procurement. A bidder or offeror must submit a written request to correct a written bid. Each request must document that the bidder’s or offeror’s mistake is clearly an error that will cause him substantial loss.

20. Correction Creates Low Bid

To maintain the integrity of the competitive sealed bidding system, a bidder shall not be permitted to correct a bid mistake after bid opening that would cause such bidder to have the low bid unless the mistake, in the judgment of the procurement officer, is clearly evident from examining the bid document; for example, extension of unit prices or errors in addition.

21. Discussion with Bidders

Discussions with apparent responsive bidders may be conducted for the purpose of clarification to assure full understanding of the requirements of the invitation for bids.

22. Tie Bids

If two or more bidders are tied in price while otherwise meeting all of the required conditions, awards are determined as follows:

- A. If there is a South Carolina firm tied with an out-of-state firm, the award must be made to the South Carolina firm.
- B. Tie bids involving South Carolina produced or manufactured products, when known, and items produced or manufactured out of the state must be resolved in favor of the South Carolina commodity.

- C. Tie bids involving a business certified by the South Carolina Office of Small and Minority Business Assistance as a Minority Business Enterprise must be resolved in favor of the Minority Business Enterprise.
- D. Tie bids involving South Carolina firms must be resolved in favor of the South Carolina firm located in the same taxing jurisdiction as the University.
- E. Tie bids involving South Carolina firms in the same taxing jurisdiction as the University must be resolved by the flip of a coin in the office of the Director of Procurement or designee witnessed by all interested parties
- F. In all other situations where bids are tied, the award will be made by the University to the tied bidder offering the quickest delivery time, or if the bidders have offered the same delivery time, the tie shall be resolved by the flip of a coin in the office of the Director of Procurement or designee and witnessed by all interested parties.

23. Award

Unless all bids are rejected, notice of an intended award of a contract to the lowest responsible and responsive bidder whose bid meets the requirements set forth in the invitation for bid shall be given by posting such notice as noted in the bid. Prior to the posting of the award, the University may negotiate with the lowest bidder to lower his bid within the scope of the invitation for bid. The invitation for bid and the posted notice must contain a statement of the bidder's right to protest under Section 11-35-4210(1) and the date and location of posting must be announced at bid opening.

Written notice of award shall be sent to the successful bidder in procurements over \$50,000.00. Notice of award shall be made available to the public on request and shall be posted at the location announced at the bid opening.

24. Negotiations after Unsuccessful Competitive Sealed Bidding 11-35-1540

When bids received pursuant to IFB under Section 11-35-1520 are considered unreasonable by the University, or are not independently reached in open commitment, or the low bid exceeds available funds and it is determined in writing by the Director of Procurement that time or other circumstances will not permit the delay required to re-solicit competitive sealed bids, a contract may be negotiated pursuant to this section, provided that:

- A. each responsible bidder who submitted a bid under the original solicitation is notified of the determination and is given reasonable opportunity to negotiate;
- B. the negotiated price is lower than the lowest rejected bid under the original solicitation;
- C. the negotiated price is the lowest price offered by any responsible and responsive offeror.

25. Request for Qualifications

Prior to soliciting bids, the University may issue a request for qualifications from prospective bidders. Such request shall contain at a minimum a description of the goods or services to be solicited by the bid invitation, the general scope of the work, the deadline for submission of information, and how prospective bidders may apply for consideration. The request shall require information concerning the prospective bidders' product specifications, qualifications, experience, and ability to perform the requirements of the contract. Adequate public notice of the request for qualifications shall be given in the manner provided in Section 11-35-1520(3). The use of the request for qualifications is subject to the approval of the Office of General Services. After receipt of the responses to the request for qualifications, the prospective bidders shall be ranked from the most qualified to the least qualified based on the information provided. Bids shall be solicited from at least the top two prospective bidders by means of an invitation for bids. The failure of a prospective bidder to receive the invitation for bids shall not be protested under Section 11-35-4210.

26. Minor Informalities and Irregularities in Bids

A minor informality is one which is merely a matter of form or is some immaterial variation from the exact requirements of the bid invitation having no effect or merely a trivial or negligible effect on total bid price, quality, quantity, or delivery or the supplies or performance of the contract, and the correction or waiver would not be prejudicial to bidders. The procurement officer shall either give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive any such deficiency when it is to the advantage of the University. Such communication or determination shall be in writing. The following are examples and not limited to these only:

- A. failure of a bidder to return the number of copies of signed bids required by the solicitation;
- B. failure of a bidder to furnish the required information concerning the number of the bidder's employees or failure to make a representation concerning its' size.
- C. failure of a bidder to sign its bid, but only if the firm submitting the bid has formally adopted or authorized the execution of documents by typewritten, printed, or rubber stamped signature and submits evidence of such authorization, and the bid carries such a signature or the unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned document, such as the submission of a bid guarantee with the bid or a letter signed by the bidder with the bid referring to and identifying the bid itself;
- D. failure of a bidder to acknowledge receipt of an amendment to a solicitation, but only if
 - a. the bid received indicates in some way that the bidder received the amendment, such as where the amendment added another item to the solicitation and bidder submitted a bid, thereon, provided that the bidder states under oath that it received the amendment prior to bidding and that the bidder will stand by its bid price or,
 - b. the amendment has no effect on price or quantity or merely a trivial or negligible effect on quality, or delivery, and is not prejudicial to bidders, such as an amendment correcting a typographical mistake in the name of the University;
- E. failure of a bidder to furnish an affidavit concerning affiliates;
- F. failure of a bidder to execute the certifications with respect to Equal Opportunity and Affirmative Action Programs;
- G. failure of a bidder to furnish cut sheets or product literature;
- H. failure of a bidder to furnish certificates of insurance;
- I. failure of a bidder to furnish financial statements;

- J. failure of a bidder to furnish its bidder number;
- K. failure of a bidder to furnish references; and
- L. notwithstanding Section 40-11-80, the failure of a bidder to indicate his contractor's license number or other evidence of licensure, provided that no contract shall be awarded to the bidder unless and until the bidder is properly licensed under the laws of South Carolina.

27. Resident Vendor Preference

Section 11-35-1524. (A) For purposes of this section:

- 1. End product' means the tangible product described in the solicitation including all component parts and in final form and ready for the state's intended use.
- 2. Grown' means to produce, cultivate, raise, or harvest timber, agricultural produce, or livestock on the land, or to cultivate, raise, catch, or harvest products or food from the water which results in an end product that is locally derived from the product cultivated, raised, caught, or harvested.
- 3. Labor cost' means salary and fringe benefits.
- 4. Made' means to assemble, fabricate, or process component parts into an end product, the value of which, assembly, fabrication, or processing is a substantial portion of the price of the end product.
- 5. Manufactured' means to make or process raw materials into an end product.
- 6. Office' means a nonmobile place for the regular transaction of business or performance of a particular service which has been operated as such by the bidder for at least one year before the bid opening and during that year the place has been staffed for at least fifty weeks by at least two employees for at least thirty-five hours a week each.
- 7. Services' means services as defined by Section 11-35-310(29) and also includes services as defined in Section 11-35-310(1)(d).

8. South Carolina end product' means an end product made, manufactured, or grown in South Carolina.
9. United States end product' means an end product made, manufactured, or grown in the United States of America.

Section 11-35-1524. (B)

1. When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease by seven percent the price of any offer for a South Carolina end product.
2. When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease by two percent the price of any offer for a United States end product. This preference does not apply to an item to which the South Carolina end product preference has been applied.
3. Whether award is to be made by item or lot, the preferences must be applied to the price of each line item of end product. A preference must not be applied to an item for which a bidder does not qualify.
4. If a contract is awarded to a bidder that received the award as a result of the South Carolina end product or United States end product preference, the contractor may not substitute a nonqualifying end product for a qualified end product. A substitution in violation of this item is grounds for debarment pursuant to Section 11-35-4220. If a contractor violates this provision, the State may terminate the contract for cause and, in addition, the contractor shall pay to the State an amount equal to twice the difference between the price paid by the State and the bidder's evaluated price for a substituted item.
5. If a bidder is requesting this preference, the bidder, upon request of the procurement officer, must provide documentation that establishes the bidder's qualifications for the preference. Bidder's failure to provide this information promptly is grounds to deny the preference and for enforcement pursuant to subsection (E)(6).

Section 11-35-1524. (C)

1. When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease a bidder's price by seven percent if the bidder maintains an office in this State and either (i) maintains at a location in South Carolina at the time of the bid an inventory of expendable items which are representative of the general type of commodities on which the award will be made and which have a minimum total value, based on the bid price, equal to the lesser of fifty thousand dollars or the annual amount of the contract; (ii) is a manufacturer headquartered and having an annual payroll of at least one million dollars in South Carolina and the end product is made or processed from raw materials into a finished end product by that manufacturer or its affiliate (as defined in Section 1563 of the Internal Revenue Code); or (iii) at the time of bidding, directly employs or has a documented commitment with individuals domiciled in South Carolina that will perform services expressly required by the solicitation and the total direct labor cost to bidder for those individuals to provide those services exceeds fifty percent of bidder's total bid price.
2. Whether award is to be made by item or lot, the preferences must be applied to the price of each line item of end product or work, as applicable. A preference must not be applied to an item for which a bidder does not qualify.
3. If a bidder is requesting this preference, the bidder, upon request by the procurement officer, must provide documentation that establishes the bidder's qualifications for the preference and, for the preference claimed pursuant to subsection (C)(1)(iii), must identify the persons domiciled in South Carolina that will perform the services involved in the procurement upon which bidder relies in qualifying for the preference, the services those individuals are to perform, and documentation of the bidder's labor cost for each person identified. Bidder's failure to provide this information promptly is grounds to deny the preference and for enforcement under subsection (E)(6) below.

Section 11-35-1524. (D)

1. When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease a bidder's price

by two percent if:

- a. the bidder has a documented commitment from a single proposed first-tier subcontractor to perform some portion of the services expressly required by the solicitation; and
 - b. at the time of the bidding, the subcontractor directly employs or has a documented commitment with individuals domiciled in South Carolina that will perform services expressly required by the solicitation and the total direct labor cost to subcontractor for those individuals to provide those services exceeds twenty percent of bidder's total bid price.
2. When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease a bidder's price by four percent if:
- a. the bidder has a documented commitment from a single proposed first-tier subcontractor to perform some portion of the services expressly required by the solicitation; and
 - b. at the time of the bidding, the subcontractor directly employs or has a documented commitment with individuals domiciled in South Carolina that will perform services expressly required by the solicitation and the total direct labor cost to subcontractor for those individuals to provide those services exceeds forty percent of bidder's total bid price.
3. Whether award is to be made by item or lot, the preferences must be applied to the price of each line item of work. A preference must not be applied to an item for which a bidder does not qualify.
4. Subject to other limits in this section, an offeror may benefit from applying for more than one of, or from multiple applications of, the preferences allowed by items (1) and (2).
- a. In its bid, a bidder requesting any of the preferences allowed by items (1) and (2) must identify the subcontractor to perform the work, the work the subcontractor is to perform, and the bidder's factual basis for concluding that the subcontractor's work constitutes the required percentage of the work to be performed in the

procurement.

- b. If a bidder is requesting a preference allowed by items (1) or (2), upon request by the procurement officer, the bidder shall identify the persons domiciled in South Carolina that are to perform the services involved in the procurement upon which bidder relies in qualifying for the preference, the services those individuals are to perform, the employer of those persons, the bidder's relationship with the employer, and documentation of the subcontractor's labor cost for each person identified. Bidder's failure to provide this information promptly will be grounds to deny the preference and for enforcement pursuant to subsection (E)(6) below.
- c. If a contract is awarded to a bidder that received the award as a result of a preference allowed by items (1) or (2), the contractor may not substitute any business for the subcontractor on which bidder relied to qualify for the preference, unless first approved in writing by the procurement officer. A substitution in violation of this subitem is grounds for debarment pursuant to Section 11-35-4220. If a contractor violates this provision, the procurement officer may terminate the contract for cause. If the contract is not terminated, the procurement officer may require the contractor to pay the State an amount equal to twice the difference between the price paid by the State and the price offered by the next lowest bidder, unless the substituted subcontractor qualifies for the preference.

Section 11-35-1524. (E)

- 1. A business is not entitled to any preferences unless the business, to the extent required by law, has:
 - a. paid all taxes assessed by the State; and
 - b. registered with the South Carolina Secretary of State and the South Carolina Department of Revenue.
- 2. The preferences provided in subsections (B) and (C)(1)(i) and (ii) do not apply to a single unit of an item with a price in excess of fifty thousand dollars or a single award with a total potential value in excess of five hundred thousand dollars.

3. The preferences provided in subsections (C)(1)(iii) and (D) do not apply to a bid for an item of work by the bidder if the annual price of the bidder's work exceeds fifty thousand dollars or the total potential price of the bidder's work exceeds five hundred thousand dollars.
4. A solicitation must provide potential bidders an opportunity to request the preferences that apply to a procurement. By submitting a bid and requesting that a preference be applied to that bid, a business certifies that its bid qualifies for the preference for that procurement. For purposes of applying this section, a bidder is not qualified for a preference unless the bidder makes a request for the preference as required in the solicitation. If a solicitation specifies which preferences, if any, apply to a procurement, the applicability of preferences to that procurement is conclusively determined by the solicitation unless the solicitation document is timely protested as provided in Section 11-35-4210. If two or more bidders are tied after the application of the preferences allowed by this section, the tie must be resolved as provided in Section 11-35-1520(9). Price adjustments required by this section for purposes of evaluation and application of the preferences do not change the actual price offered by the bidder.
5. This section does not apply to an acquisition of motor vehicles as defined in Section 56-15-10 or an acquisition of supplies or services relating to construction. This section does not apply to a procurement conducted pursuant to Section 11-35-1550(2)(a) or (b), Section 11-35-1530, or Article 9 of Chapter 35.
6. Pursuant to Section 11-35-4220, a business may be debarred if (i) the business certified that it qualified for a preference, (ii) the business is not qualified for the preference claimed, and (iii) the certification was made in bad faith or under false pretenses. If a contractor has invalidly certified that a preference is applicable, the chief procurement officer may terminate the contract for cause, and the chief procurement officer may require the contractor to pay the State an amount equal to twice the difference between the price paid by the State and the price offered by the next lowest bidder.
7. The sum of all preferences allowed by items (D)(1) and (D)(2), when applied to the price of a line item of work, may not exceed six percent unless the bidder maintains an office in this State.

Under no circumstances may the cumulative preferences applied to the price of a line item exceed ten percent.

8. As used in items (C)(1)(iii), (D)(1)(b), and (D)(2)(b), the term ‘documented commitment’ means a written commitment by the bidder to employ directly an individual, and by the individual to be employed by the bidder, both contingent on the bidder receiving the award.
9. The remedies available in this section are cumulative of and in addition to all other remedies available at law and equity.”

Application of the Consolidated Procurement Code

Compliance with Federal Requirements. Where a procurement involves the expenditure of federal assistance, grant, or contract funds, the governmental body also shall comply with federal laws (including authorized regulations) as are mandatorily applicable and which are not presently reflected in this code. Notwithstanding, where federal assistance, grant, or contract funds are used in a procurement by a governmental body as defined in Section 11-35-310(18), this code, including any requirements that are more restrictive than federal requirements, must be followed, except to the extent such action would render the governmental body ineligible to receive federal funds whose receipt is conditioned on compliance with mandatorily applicable federal law. In those circumstances, the solicitation must identify and explain the impact of such federal laws on the procurement process, including any required deviation from this code.”

Preference for resident design service

Section 11-35-3215. (A)

1. Design services’ means architect-engineer, construction management, or land surveying services as defined in Section 11-35-2910 and awarded pursuant to Section 11-35-3220.
2. Resident’ means a business that employs, either directly or through consultants, an adequate number of persons domiciled in South Carolina to perform a majority of the design services involved in the

procurement.

Section 11-35-3215. (B)

A business responding to an invitation involving design services shall submit a certification with its response stating whether the business is a resident for purposes of the procurement. Submission of a debarment.

Section 11-35-3215. (C)

An award to a nonresident of a contract involving design services must be supported by a written determination explaining why the award was made to the selected firm.

Section 11-35-3215. (D)

In an evaluation conducted pursuant to Section 11-35-3220, a resident firm must be ranked higher than a nonresident firm if the agency selection committee finds the two firms otherwise equally qualified.

Section 11-35-3215. (E)

This section does not apply to a procurement if either the procurement does not involve construction or the design services are a minor accompaniment to a contract for nondesign services.”

Competitive Fixed Price Bidding 11-35-1525

1. Conditions for Use. When the University determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the University, a contract may be entered into by competitive fixed price bidding subject to the provisions of Section 11-35-1520 and the ensuing regulations, unless otherwise provided for in this section.

2. Fixed Price Bidding. The purpose of fixed price bidding is to provide multiple sources of supply for specific goods or services based on a pre-set maximum price which the state will pay for such goods or services.
 - a. Public Notice. Adequate public notice of the solicitation shall be given in the same manner as provided in Section 11-35-1520(3).
 - b. Pricing. The University shall establish, prior to issuance of the fixed price bid, a maximum amount the University will pay for the goods or services desired.
 - c. Evaluation. Vendors' responses to the fixed price bid will be reviewed to determine if they are responsive and responsible.
 - d. Discussion with Responsive Bidders. Discussions may be conducted with apparent responsive bidders to assure understanding of the requirements of the fixed price bid. All bidders, whose bids, in the University's sole judgment, need clarification, shall be accorded such an opportunity.
 - e. Award must be made to all responsive and responsible bidders to the University's request for competitive fixed price bidding. The contract file shall contain the basis on which the award is made and must be sufficient to satisfy external audit.
 - f. Bids Received After Award. Bidders not responding to the initial fixed price bid may be added to the awarded vendors list provided the bidder furnishes evidence of responsibility and responsiveness to the University's original fixed price bid as authorized by the solicitation.
 - g. Remedies. The failure of a specific offeror to receive business, once it has been added to the awarded vendor's list, shall not be grounds for a contract controversy under Section 11-35-4230.

Competitive Best Value Bidding 11-35-1528

1. Conditions for use. When the University determines in writing that the use of competitive sealed bidding is either not practical or not advantageous to the University, a contract may be entered into by competitive best value bidding subject to the provisions of Section 11-35-1520 and the ensuing regulations, unless otherwise provided for in this section.

2. Best Value Bidding. The purpose of best value bidding is to allow factors other than price to be considered in the determination of award for specific goods or services based on pre-determined criteria identified by the University.
3. Public Notice. Adequate public notice of the request for the solicitation shall be given in the same manner as provided in Section 11-35-1520(3).
4. Bid Opening. At the time of the bid opening, the only information released will be the participating vendors. Cost information will be provided after the ranking of bidders and the issuance of award.
5. Evaluation Factors. The best value bid shall state the factors to be used in determination of award and the numerical weighting for each factor. Cost must be a factor in determining the award and cannot be weighted as less than sixty percent. Best value bid evaluation factors may be defined to include, but are not limited to, any of the following as determined by the University in its sole discretion and not subject to protest:
 - a. Operational costs that the University would incur if the bid is accepted;
 - b. Quality of the product or service, or its technical competency;
 - c. Reliability of delivery and implementation schedules;
 - d. Maximum facilitation of data exchange and systems integration;
 - e. Warranties, guarantees, and return policy;
 - f. Vendor financial stability;
 - g. Consistency of the proposed solution with the University's planning documents and announced strategic program direction;
 - h. Quality and effectiveness of business solution and approach;
 - i. Industry and program experience;
 - j. Prior record of vendor performance;
 - k. Vendor expertise with engagement of similar scope and complexity;

- l. Extent and quality of the proposed participation and acceptance by all user groups;
 - m. Proven development methodologies and tools; and
 - n. Innovative use of current technologies and quality results.
6. Discussion with Responsive Bidders. Discussions may be conducted with apparent responsive bidders to assure understanding of the best value bid. All bidders, in the University's sole judgment, need clarification shall be afforded such an opportunity.
 7. Selection and Ranking. Bids shall be evaluated by using only the criteria stated in the best value bid and by adhering to the weighting as assigned. All evaluation factors, other than cost, will be considered prior to determining the effect of cost on the score for each participating bidder. Once the evaluation is complete, all responsive bidders shall be ranked from most advantageous to least advantageous.
 8. Award. Award must be made to the responsive and responsible bidder whose bid is determined, in writing, to be most advantageous to the University, taking into consideration all evaluation factors set forth in the best value bid. The contract file shall contain the basis on which the award is made and must be sufficient to satisfy external audit.

Competitive Sealed Proposals 11-35-1530

1. Conditions for Use. When the University determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the University, a contract may be entered into by competitive sealed proposals subject to the provisions of Section 11-35-1520 and the regulations, unless otherwise provided for in this section. Subject to the requirements of Section 1-35-3220, the board may provide by regulation that it is either not practicable or not advantageous to the University to procure specified types of supplies, services, or construction by competitive sealed bidding.
2. Public Notice. Adequate public notice shall be given in the same manner as provided in Section 11-35-1520 (3) for the request for proposals.
3. Receipt of Proposals. Proposals shall be opened publicly in accordance with regulations of the board. A tabulation of proposals shall be prepared in accordance

with regulations promulgated by the board and shall be open for public inspection after contract award.

4. Request for Qualifications. Prior to soliciting proposals, the University acting through the authorized procurement officer, may issue a request for qualifications from perspective offerors. Such requests shall contain at a minimum a description of the goods or services to be solicited by the RFP and the general scope of the work and shall state the deadline for submission of information and how perspective offerors may apply for consideration. The request shall require information only on their qualifications, experience, and ability to perform the requirements of the contract. After receipt of the responses for qualifications, the perspective offerors shall be ranked from most qualified to least qualified on the basis of the information provided. Proposals shall then be solicited from at least the top two perspective offerors by means of an RFP. The failure of a perspective offeror to be selected to receive the request for proposals shall not be grounds for protest under Section 11-35-4210.
5. Evaluation Factors. The RFP shall state the relative importance of the factors to be considered in evaluating proposals but shall not require numerical weighting for each factor. Price may but need not be an evaluation factor.
6. Discussion with Offerors. As provided in the RFP, discussions may be conducted with apparent responsive offerors for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. All offerors whose proposals, in the procurement officer's sole judgment, need clarification must be accorded that opportunity.
7. Selection and Ranking. Proposals shall be evaluated using the criteria stated in the RFP and must be adherence to the weightings previously assigned. Once evaluation is complete, all responsive offerors shall be ranked from most advantageous to least advantageous to the University, considering the evaluation factors stated in the RFP. If price is an initial factor, award shall be made in accordance with Section 11-35-1530(9) below.
8. Negotiations. Whether price was an evaluation factor or not, the University, through the appropriate procurement official, may, in its sole discretion and not subject to challenge through a protest filed under Section 11-35-4210, proceed in any of the manners listed below, except that in no case may confidential information derived from proposals and negotiations submitted by competing offerors be disclosed:
 - A. Negotiate price with the highest ranked offeror, on matters affecting the scope

of the contract so long as the changes are within the general scope of the RFP, or on both. If a satisfactory price cannot be agreed upon, price negotiations may be conducted, in the sole discretion of the procuring agency, with the second, and then the third, etc.

- B. During the negotiation process as outlined above in (A), if the University is unsuccessful in its first round of negotiations, it may reopen negotiations with any offeror with whom it previously negotiated.
 - C. If, after following the procedures set forth in Section 11-35-1530(8), a contract is not able to be negotiated, the general scope of the RFP may be changed in an effort to reduce the cost, and all responsive offerors must be allowed to submit their best and final offers. In conducting negotiations, there must be no disclosure of any confidential information derived from proposals and negotiations submitted by competing offerors.
9. Award. Award must be made to the responsive offeror whose proposal is determined in writing to be the most advantageous to the University, taking into consideration price and the evaluation factors set forth in the RFP, unless the University determines to utilize one of the options provided in Section 11-35-1530(8). The contract file shall contain the basis on which the award is made and must be sufficient to satisfy external audit. Procedures and requirements for the notification of intent to award the contract shall be the same as those stated in Section 11-35-1520(10).

South Carolina Business Opportunities

South Carolina Business Opportunities is the official State government publication and is published bi-weekly by the Division of General Services. The purpose of this publication is to provide a listing of proposed procurements of construction, information technology, supplies, services, and other procurement information of interest to the business community. This publication is available on the web at <http://procurement.sc.gov/PS/general/scbo/PS-scbo-index.phtm> and at all public libraries throughout the State.

Drug Free Workplace

The State of South Carolina has amended Title 44, Code of Laws of South Carolina, 1976, relating to health, by adding Chapter 107, so as to enact the Drug Free Workplace Act. The University will comply with Section 44-107-20 of the Drug Free Workplace Act by requiring vendor certification on

all contracts of \$50,000.00 or more that a drug free workplace has been provided for their employees. This applies to sole source, emergency, interagency, construction, and exempt contracts.

Term Contracts

It is mandatory that the University utilize term contracts established by State Procurement Services. "Term contract" is defined by the South Carolina Consolidated Procurement Code as a contract established by State Procurement Services for a specific product or service for a specified time and for which it is mandatory that all State agencies procure their requirements for the goods/services during its term. If a State agency is offered goods/services at a price that is at least 10% less than the term contract price for the same goods or services, the agency may purchase from the vendor offering the lower price after first offering the vendor holding the term contract the option to meet the lower price. If the vendor holding the term contract meets the lower price, the agency must purchase from the contract vendor. A list of these contracts is maintained on the web at <http://procurement.sc.gov/PS/agency/PS-agency-sw-contracts.phtm>. These contracts are frequently updated by the State.

Blanket Purchase Agreements

A blanket purchase agreement is a simplified method of filling anticipated repetitive needs. The agreement shall contain the following provisions:

1. Description of agreement: a statement that the supplier shall furnish the need during the specified period and not to exceed a stipulated dollar amount.
2. Extent of obligation: a statement that the State is obligated only to the extent of responding to authorized calls.
3. Notice of individuals authorized to place calls and dollar limitations. A provision that a list of names of individuals authorized to place calls under the agreement, identified by organizational component, and the dollar limitation per call for each individual shall be furnished to the supplier by the Procurement Officer.
4. Delivery tickets: all shipments except subscriptions shall be accompanied by delivery tickets or sales receipts. Tickets must include: (1) name of supplier; (2) blanket purchase agreement number; (3) date of call; (4) call number; (5) itemized list of supplies or services furnished; (6) quantity, unit price, and extension of each item less applicable discounts (unit price and extensions need not be shown when incompatible with the use of automated systems, provided that the invoice is itemized to show this information); and (7) date of delivery or

shipment.

5. Invoicing can be done several ways:

- A summary invoice shall be submitted at least monthly or upon expiration of the blanket purchase agreement, whichever occurs first, for all deliveries made during a bill period, identifying the delivery tickets covered therein, stating their total dollar value, and supported by receipted copies of the delivery tickets or such.
- An itemized invoice shall be submitted at least monthly or upon expiration of the blanket purchase agreement, whichever occurs first, for all deliveries made invoices need not be supported by copies of delivery tickets during a billing period and for which payment has not been received.
- When billing procedures provide for an individual invoice for each delivery, these invoices shall be accumulated provided that a consolidated payment will be made for each specified period; and the period of any discounts will commence on final date of billing period or on the date of receipt of invoices for all deliveries accepted during the billing period, whichever is later. This procedure should not be used if the accumulation of the individual invoices materially increases the administrative costs of this purchase method.
- An invoice for subscriptions or other charges for newspapers, magazines, or other periodicals shall show the starting and ending dates and shall state either that orders have been placed in effect or will be placed in effect upon receipt of payment.

Sole Source Procurement

The determination for sole source procurement is made in writing by the Director of Procurement and authorized by the VP for Finance and Administration. Sole source items are those which perform a certain function which no other items are known to exist that can perform the same function, or where the compatibility of equipment, accessories, or replacement parts is the paramount consideration. Sole source procurements are reported on a quarterly basis to the Chief Procurement Officer.

Emergency Procurement

The determination for an emergency procurement is made in writing and authorized by the Director of Procurement. Emergency procurements are permitted only when there is an immediate threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions as

defined in regulations promulgated by the board; and provided, that such emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. Emergency commitments are made in accordance with Emergency Requisition ordering procedures. Emergency procurements are reported on a quarterly basis to the Chief Procurement Officer.

Procurements at Auction

The University may elect to participate at an auction by: (a) surveying the items being offered at auction to ascertain their condition and usefulness; (b) determining the fair market value for new like items through informal quotes, (c) determining the fair market value for similar items considering age and useful life, and (d) estimating repair cost and delivery cost, if any, of the desired items. Using this information, the University will determine the maximum price that it can pay for each desired item and not exceed this price.

Equipment Leases

1. Lease or rental agreements must be justified in writing and require the use of the State of South Carolina Standard Equipment Agreement. Rental of equipment valued in excess of \$10,000 or which is for more than 90 days requires the use of the State Standard Equipment Agreement. Vendor agreements are not acceptable.
2. Installment purchases must be submitted to State Procurement Services on a purchase requisition along with a written justification for approval and these must then be bid by State Procurement Services. The State Treasurer's Office is responsible for securing the financing and does not allow installment purchases less than \$25,000.

Lease and/or Rental of Office Space and Other Real Property

All requests for lease of office space or other real property must be directed to the Division of General Services, Real Property Management Section, for negotiations. The exception is for leases less than three months duration or total cost of less than \$25,000 in a single fiscal year.

Legal Service

Procurement of such services shall be made in accordance with the *South Carolina Consolidated*

Procurement Code. Prior to the award of any state contract for the services of attorneys, approval for such services shall be obtained from the State Attorney General.

Auditing Services

Prior to the award of any state contract for auditing or accounting services, approval for such services shall be obtained from the State Auditor. Procurement of such services shall be made in accordance with the *South Carolina Consolidated Procurement Code*.

Consultant Services

Consultant services are defined as follows: An individual, partnership, corporation, or any other legally established organization performing consulting services for or providing consulting advice to Lander University over whom the University has the right of control as to the result to be accomplished but not as to the details and means by which the result is to be accomplished. Services which fall within this definition shall be procured in accordance with the *South Carolina Consolidated Procurement Code*.

Food Service Contracts

Any food service contracts entered into by any governmental body shall be solicited by the State Procurement Services Office under Code Section 11-35-1530. Competitive Sealed Proposals and Regulation 19-445-2095. A review panel composed of one representative from Lander University, the State Procurement Services Office, and the Commission on Higher Education shall review such proposals and grant approval prior to contract award.

Procurement of Furnishings Covered Under Section 11-35-450

1. Under section 11-35-450 of the South Carolina Consolidated Procurement Code, the purchase of furniture, floor coverings, wall coverings, or any other decorative or ornamental item by a governmental body for at least one of the following uses will be reported to the Board of Trustees when the cost of the furniture, coverings, or items exceed \$1,000:
 - A. In an office or adjoining reception area utilized by the President or Vice-Presidents;

B. In a board room or a conference room used as a board room.

2. The reports must include the item to be purchased and its price. The Board of Trustees shall approve or disapprove the purchase. These approvals will be retained in the Procurement Services Office to substantiate compliance by the State Procurement Services Office's Audit and Certification Team.

Conference Facilities Procurement

Prior to entering into a contract for both in-state and out-of-state facilities, the following guidelines must be met:

1. Whenever possible, the conference site should be changed from those utilized for previous conferences.
2. South Carolina State Park facilities should be considered whenever they meet conference requirements.
3. A minimum of two hotels/motels shall be contacted in at least two different cities when the conference is to be held in a different city than the one in which the agency's central office is located. If the conference is to be held in the same city in which the agency's central office is located, a minimum of two hotels/motels shall be contacted in that city.
4. A written determination of the site selection shall be made by the using department on the Justification for Conference Site Selection (MMO Form No. 138). This determination must be submitted with the requisition to be retained by the Procurement Services Office for audit purposes by the State Procurement Services Office's Audit and Certification Team.

Trade-In Procedures

In accordance with the South Carolina Consolidated Procurement Code Regulation 19-445-2150, Subsection G, when the original unit purchase price of personal property exceeds \$5,000, the matter is referred to the Procurement Service Division's Surplus Property Management Office for disposition according to State procedures. When the original unit purchase price does not exceed \$5,000, the Director of Procurement for the University will approve the trade-in value of personal property for the purchase of new like items. Trade-in procurements are reported quarterly to the Chief Procurement Officer.

Contracts between State Agencies

In accordance Section 11-35-710 of the South Carolina Consolidated Procurement Code, the Division of Procurement Services has the authority to exempt contracts between State agencies for supplies and services. This approval is secured by providing a cost justification, MMO Form No. 136, to the State Procurement Services Officer. The following types of contracts are exempt and do not require approval: (1) agreements between state agencies which are mandated by federal or state laws; and (2) service agreements between agencies for services authorized by that agency's enabling legislation as its purpose, duty, or mission.

Compensation and Honorariums

It is University practice to compensate for occasional special services such as honorariums and the like by issuance of checks by the Business Office. Forms for payment are initiated by submitting a requisition. Purchase orders may be issued only to compensate bona fide private contractors for services.

Equipment Repair

For equipment repair covered under a maintenance contract, notify the department contact person for service calls. When equipment needs repair and is not covered under a maintenance contract, submit a requisition through proper channels. In case of an emergency, the walk-through process may be used.

Purchase Orders

A purchase order is the preferred procurement instrument when Lander orders or procures supplies or services from a vendor. A purchase order should be used when purchasing from a statewide contract or an agency contract. The use of a purchase order is necessary for agency reporting needs to analyze spend data on contract items and on the purchase of items that warrant a contract. This analysis is essential for efficient purchasing with public funds and allows the State to develop an effective Strategic Sourcing Plan. If a direct pay method is used for a state contract as allowed by this policy, the state contract number must be indicated on the requisition

Standard Purchase Order Document Types

A Standard PO is an order that sets forth the product or service description, quantity, unit of measure (UOM), price, discount, payment terms, date of performance or delivery date, and other associated terms and conditions which becomes a legally binding contract once the supplier accepts the PO.

Blanket Purchase Order Document Types

All blanket PO types set forth the product or service description, dates of performance or multiple delivery dates scheduled over a period of time (and sometimes at predetermined prices), and other associated terms and conditions which becomes a legally binding contract once the supplier accepts the PO. The blanket purchase order is not in standard SAP PO format and was developed to meet business requirements of the State of SC.

General. A blanket purchase agreement is a simplified method of filling repetitive needs for small quantities of miscellaneous supplies, services, or information technology by establishing "charge accounts" with qualified sources of supply. Blanket purchase agreements are designed to reduce administrative costs in accomplishing small purchases by eliminating the need for issuing individual purchase documents.

Direct Payments

The Direct Pay is a financial payment transaction and is used for a direct payment to a vendor for the purchase of certain goods and services in limited circumstances. The Direct Pay process should be used only when the purchase order method is not practicable because the use of Direct Pay limits reporting data necessary for spend analysis by the State and agency. **It should not be used as a matter of convenience as it leads to the reduction in controls and approvals.** The categories below serve as a guide for the use of the Direct Payment method. Goods or services not included in the categories below must be purchased via a purchase order. Direct Payments may include items where individual payments (monthly or other frequency in a FY) are less than \$2,500, however the contract number, if applicable, must be indicated on the requisition. The improper use of the Direct Payments may lead to limitations on an agency's ability to use Direct Payments.

A Direct Pay is a payment method only. It does not establish compliance with the SC Consolidated Procurement Code & Regulations or other State regulations.

Direct Payments may be used for payment of the following types of expenditures by submitting a requisition and/or invoice through the proper channels to Procurement Services:

- A. Supplies, services, information technology, or construction exempt from the SC Consolidated Procurement Code & Regulations. See <https://procurement.sc.gov/files/20190920%20Legal%27s%20Exemption%20Table%20%28booklet%29.pdf> for a current list of exemptions from the Code.
****This allowance is suspended** Exempt purchases will be processed with a purchase order specifying which exemption is being applied and documenting the segregation of exempt funds as applicable until further notice.**
 - B. IRF trust fund expenses paid in compliance with the SC Consolidated Procurement Code & Regulations
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- C. Court ordered interpreters
- D. Honorariums & stipends
- E. Emergency (versus contracted) medical expenses for clients
- F. Inter-Departmental Transfers (IDT)
- G. Inter-Governmental expenditures paid by check
- H. P-Card statements
- I. Federal criminal background checks paid to external governmental agencies
- J. Small payments <\$2,500; **Small payments related to state or agency contracts MUST have the contract number entered in the line item text. The ten digit contract number must be indicated on the requisition.** The Procurement requirements must not be artificially divided by governmental bodies so as to constitute a small purchase pursuant to this section.(Section 11-35-1550 of SC Consolidated Procurement Code). Agencies should assess their own needs and risk tolerance to determine if a lower direct pay threshold may be more appropriate for their agency.
- K. Late invoices after FYE cut-off (If applicable, the contract number must be indicated on the requisition)
- L. Payments made through the State Fleet Management Commercial Vehicle Repair Program (CVRP)
- M. Items leased/direct financed through the State Treasurer's Office *Master Lease Program* offered under Code § 1-1-1020

Commitments

The Procurement Services Office is the sole agency authorized to make commitments for supplies,

equipment, and services necessary for the operation of the University. Commitments are made in accordance with requisition ordering procedures.

Unauthorized Procurement

An unauthorized procurement is an act of obligating the State and Lander University in a contract or procurement by any person without the requisite authority to do so in accordance with Lander University procurement policies and procedures.

In accordance with the South Carolina Consolidated Procurement Code Section 11-35-540 and Procurement Regulation 19-445.2015, an unauthorized procurement must be ratified by the President of Lander University before a purchase order can be issued and payment made. The department in violation submits a requisition and a detailed determination to the Director of Procurement stating the facts and circumstances surrounding this act. The Director of Procurement prepares a detailed explanation stating the corrective action taken to prevent recurrence, documentation that the price paid is fair and reasonable, and routes it through appropriate channels to include the VP for Finance and Administration and finally to the President of Lander University for approval. Once the president has reviewed and ratified this unauthorized procurement, a copy of that approval is forwarded to Procurement Services and a purchase order is created and a payment can be processed to the vendor.

A person who is not authorized in writing by individual departments may not commit University funds to purchase goods or services. If an unauthorized person attempts to commit University funds, Lander may consider the acquisition effort null and void and decline to pay an invoice that may be issued. The authority of Lander University may refuse to ratify such transactions which could result in the supplier looking to the individual placing the order for payment or reimbursement.

Budget Accounts & Funds

Designated funds and budget accounts are established by the Budget Director. Financial managers are able to view their respective area funds and budgets real time via Banner Self Service on the Bearcat web.

Conflict of Interest

It is the responsibility of each staff member in Procurement Services to take all appropriate steps to ensure that the University does not knowingly enter into any purchase commitment which could result in a conflict of interest situation.

Correspondence with Vendors

Correspondence with vendors concerning prices may be secured in accordance with the South Carolina Consolidated Procurement Code by the requisitioning unit and submitted to the Procurement Services Office. However, it is University practice that the Procurement Services Office has final responsibility to verify and conclude all negotiations concerning prices and conditions of all purchases and contemplated purchases. Furthermore, all correspondence pertaining to a purchase order which has been placed, and which involves prices, terms, conditions, delivery, quantity, substitutions, complaints, or anything whatsoever involving the commitment, shall be carried on by Procurement Services.

Personal Purchases

The Procurement Services Office does not enter into any negotiations or become involved in any transactions for the purchase of anything whatsoever for the personal account of University employees. Certain items which might be classified as personal in nature and are suspect as inappropriate expenses from University funds may be questioned or disallowed.

Requests for Catalogs and Literature

The Procurement Services Office maintains a very limited catalog file, however, upon request, will make available or secure catalogs and literature necessary for department reference to satisfy University requirements. It is permissible for departments to solicit such material independently providing the communication is restricted to a request for free material only and does not involve any

commitment on the part of the University. Procurement Services suggest internet search for a more through listing of products.

Specification Considerations

The specification for the requirement considered essential to satisfy the user's need is the initial prerogative of the requisitioning unit. Procurement Services will assist, when requested, in formulating the specification. The final decision on the specification for the purchase is a joint responsibility and requires the joint approval of the requisitioning unit and Procurement Services. It is University practice to submit specifications in a manner which will permit fair and equitable consideration from all known sources qualified to meet University requirements. Procurement Services will consult with administrative officers, competent specialists, or secure such technical assistance as is required to arrive at a decision.

Source Selection

It is the practice of Procurement Services to recognize the potential of the "Free Enterprise System," and to select those sources which can best serve the interests of the University. Procurement Services reserves final decision in the selection of sources and justification is required from the requisitioning unit for any transactions where, in the judgment of the Procurement Services Office, a justification is warranted.

Conditions for Use of Multi-Term Contracts

A multi-term contract is used when it is in the best interest of Lander University and the State to obtain uninterrupted services extended over one fiscal period. This procedure applies only to contracts for supplies or services. The maximum time for any multi-term contract is five years. Contract terms up to seven years may be approved by the State Office of Procurement Services. The Director of Procurement will determine, in writing, whether a contract should be classified as a multi-term contract.

1. A multi-term contract may be used if, prior to issuance of the solicitation, the Procurement Officer determines in writing that:
 - A. Special production of definite quantities or the furnishing of long-term services are required to meet state needs; or
 - B. A multi-term contract will serve the best interests of the state by encouraging effective

competition or otherwise promoting economies in state procurement.

2. The following factors are among those relevant to such a determination:
 - A. Firms which are not willing or able to compete because of high start up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;
 - B. Lower production cost because of larger quantity or service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;
 - C. Stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality;
 - D. The cost and burden of contract solicitation, award, and administration of the procurement may be reduced.
 - E. The determination must contain sufficient factual grounds and reasoning to provide an informed objective explanation for the decision.

Determinations & Reports

Determinations as listed in Sections 11-35-2410, 2420, 2440, 3820, and 5260 of the South Carolina Consolidated Procurement Code are completed, attached to the procurement records and filed in the office of Procurement Services. A report listing contracts covered under Sections 11-35-2410, 2440, and 3830 are submitted to the Chief Procurement Officer on a quarterly basis and contracts covered under Section 11-35-5260 are reported to the Governor.

Retention of Procurement Records

All procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the Department of Archives and History after consultation with the Attorney General. All retained documents shall be made available to the Attorney General or a designee upon request and proper receipt thereof.

OPERATING PROCEDURES

Ordering Procedures

1. The requisition form for supplies, equipment, and miscellaneous services more than is the official University document used to initiate a purchase transaction. These forms are available on the Procurement Services web site at <http://www.lander.edu/sites/procurement-services> or the Business Office web site at <http://www.lander.edu/sites/business-office>. This requisition form is to be typed, properly completed with Banner index and account codes, and must have the appropriate approval signatures before being submitted to the Procurement Services Office. The requisition must contain specific and complete details on the commodity or service desired. It must be correct as to quantity, item(s), specifications and required delivery date. When any item requisitioned must be compatible with existing equipment, the reason must be clearly explained and the requisition with a specific brand or model (permitting no substitution) must be accompanied by a letter of justification.
2. Upon receipt of the requisition in the Procurement Services Office the process of procurement is determined in accordance with the *South Carolina Consolidated Procurement Code*. The Lander University purchase order is created on Banner where a number is automatically generated. The purchase order and related documents always remain in the Banner System. Once typed and proofread the purchase order is faxed to the vendor. The original purchase order is attached to the original requisition with all supporting documentation and filed alphabetically by vendor. A copy of the purchase order is forwarded to the Accounts Payable Office for payment. When the ordered items have been received by the department and the invoice is received by Procurement Services a scanned copy of the invoice is sent electronically to the requesting department for approval to pay. The requestor verifies for accuracy and electronically forwards approval back to Procurement Services.
3. Procurements over the authorized dollar limit for Lander University are requisitioned on a State Requisition Form by the Lander Procurement Services Office and submitted to State Procurement Services. State Procurement then secures bids and sends an award statement to the Lander Procurement Services Office for issuance of a University purchase order. Normal procedures are then followed.

Amendment to Purchase Orders (Banner Change Order)

An amendment (**change order**) to a purchase order will be issued:

1. when the dollar amount exceeds the original purchase order amount such as price increase.
2. when changes in original specifications are needed such as a model change or item substitution.

The amended purchase order or **change order** becomes the same as the original purchase order with amendment notations. The vendor is faxed a copy of the change order if necessary.

Emergency Requisition Ordering Procedures

A properly executed requisition form must be submitted to the Procurement Services Office by the most expeditious means consistent with the emergency. In the case of critical emergencies where telephone communication is feasible, and where pricing can be accommodated by telephone, contact Procurement Services stating the requirement and the date the service or material is needed. Upon receipt of the requisition, the Procurement Services Office will determine how to procure the requirement and assign a purchase order number to initiate the transaction. The purchase order will be clearly marked "CONFIRMATION OF ORDER" and faxed to the vendor.

Requisition Form Instructions

To facilitate the processing of requisitions and accomplish the greatest level of service available, the Procurement Services Office offers the following recommendations:

1. Prepare the requisition in typed form for clarification. Use an additional sheet when necessary.
2. In the designated spaces provide the exact Banner index and account to be used to acquire the materials/or services.
3. Give an adequate description of the materials or services required, indicating quantity, size, color, etc. (where applicable), and give catalog number(s) whenever possible. Be sure to include the exact unit prices(s).
4. Provide the requisitioning department's name and phone number.
5. Furnish separate requisitions for materials/services to be ordered from different sources of

supply.

6. Indicate a suggested vendor. (The Procurement Services Office reserves the right to order from the most economical sources offering the identical item/service and delivery required by the University.)
7. Requisitions should be submitted in sufficient time to permit Procurement Services to secure competitive quotations and/or to verify quoted requests.
8. The requisition must have all needed approval signatures.

Printed Material Requisition

The official University printing request form is used to initiate all printing. These forms are available from Printing Services. Upon submission of requisition through proper authorization Printing Services coordinates with Procurement Services as to the method of procurement according to the South Carolina Government Printing Services Manual and University standards.

Construction Procurement

All construction procurements shall be initiated by Engineering Services according to Section 11-35-3020 (2) of the SC Consolidated Procurement Code. The Director of Engineering Services serves as liaison with the State Engineer's Office; also acts as the owner's representative on all construction projects.

Minority Business Enterprise (MBE) Utilization Plan

Minority Business Mission Statement: It is the intent of Lander University to utilize minority-owned businesses for purchases of goods and services whenever feasibly possible, provided the goods and services meet the required needs of the procurement.

The South Carolina Consolidated Procurement Code requires that all State agencies formulate a Minority Business Enterprise Utilization (MBE) Plan. Under the plan, procedures have been established to assist minority-owned businesses in fully participating in all parts of the procurement process so that balanced economic and community growth may occur throughout the State.

The Director of Procurement is the MBE Liaison Officer and reports directly to the VP for Finance and Administration. The duties of the MBE Liaison Officer include:

- A. Maintaining all records and reports required by Section 11-35-5240 of the Procurement Code.
- B. Developing, managing, and implementing the MBE program on a day-to-day basis.
- C. Establishing and maintaining a directory of minority firms who wish to do business with the State.
- D. Disseminating information on available business opportunities so that MBEs are provided an equal opportunity to bid on services, supplies, and construction projects.
- E. Establishing and maintaining records on the number of Requests for Quotations and Requests for Proposals sent to minority firms, answers received, and contracts awarded (when applicable to the dollar procurement limit of the agency).
- F. Maintaining an informal vendor list consisting of certified local minority firms interested in conducting business with the State. The primary purpose of this list is to ensure that certified minority firms are given an equal opportunity to quote on all purchases.
- G. Records shall be maintained to indicate the number and dollar value of purchases made from certified minority firms, including local purchase orders, service orders, and verbal contracts.

Receiving/Delivery

It is University practice to direct shipments to Central Receiving at 204 West Henrietta Avenue. However in some instances shipments may be directed to the appropriate building or office. In either case, it is the responsibility of the individual who submitted the requisition to immediately inspect and report to Procurement Services any problems with the shipment. Refer to the section on complaints, damage, and shortage reports. Upon receipt of shipments, Central Receiving sorts and records each package by vendor and University department address. Shipment is then delivered to the requisitioning department where an acknowledgment of receipt is signed. .

Shipping

Procurement Services will handle shipments when an official purchase order is involved. Orders being returned should be taken to Central Receiving for packaging and shipping accompanied by a Returned Goods Notice. Weight will determine the method of shipment. Return shipping costs will be charged to the requisitioning department.

Damage and Shortage Reports

It is imperative to strictly adhere to the following guidelines in order to comply with Interstate Commerce Regulations in making claims against either common carriers or vendors.

1. If the shipment is received in a damaged condition:
 - A. If damage is apparent at the time of delivery, the driver of the delivering carrier will be asked to note the damage on both copies of the freight bill.
 - B. The signed freight bill, noting damage, will be forwarded to Procurement Services for follow-up correspondence with the vendor concerning re-shipment or replacement.
2. Damage discovered after receipt of shipment:
 - A. Concealed damage (that which is not immediately apparent) must be reported to the delivery carrier within 10 working days after the date of delivery.
 - B. Hold merchandise and all packing material for the carrier's inspection.
 - C. Send a memorandum to Procurement Services describing the exact type of damage and location of the material so that the transportation company inspector may be notified to make an inspection. The claim may be declined if the carrier does not inspect the packing material as well as the damaged article.
3. To collect damage claims promptly from the carrier, the following must occur:
 - A. A completed claim form showing, in detail, the amount of the claim.
 - B. The original bill of lading and original invoice or certified copy.
4. The surrender of both freight bill and bill of lading is required to prevent duplicate claims being filed by both shipper and consignee.
5. In no case should damaged merchandise be returned to the vendor without authorization and shipping instructions from Procurement Services.
6. If shipment is received short:
 - A. If shortage is noticed at time of delivery, Central Receiving will insist that the driver

note shortage on both copies of the freight bill.

- B. Wait three days for delivery of missing package which may appear on a Free Astray Freight Bill.
- C. If the missing package does not show up in due time, the vendor will then be notified by the Procurement Services.

- 7. All freight bills will be forwarded from Central Receiving to Procurement Services for payment when appropriate.

Equipment Inventory Control

Inventory control is the responsibility of the Coordinator of Financial Services in the Budget Office.

Determining Inventorial Equipment

Inventoried equipment is defined as any movable item costing more than \$5,000 with a useful life expectancy of at least one year.

Disposal of Surplus Property and Supplies

The department completes a Disposal Request Form to have an item transferred from their department to Surplus Property. The form can be found on Procurement Services web site.

Items that are in usable condition but are no longer needed by the department to which they were previously assigned will be available for use elsewhere in the University.

Obsolete supplies, equipment, scrap materials and items that are worn out and can no longer be used by any department within the University will be classified "junk" and will be disposed of according to State Surplus Property Regulations.

.Procurement Services will determine the method of disposal of surplus property, as required by State Regulations.

Agency Complaints

Procurement Services handles all types of complaints involving purchase order transactions. Examples of such complaints are: over-shipments, shortages, errors in material shipped, rejected material, errors in invoices that require adjustments or credit, and material received in a damaged condition. In the case of receipt of damaged material, special procedures are essential; see section on damage and shortage reports.

Submit complaints to Procurement Services by written memorandum. The communication must state the purchase order number, the name of the vendor, and an explicit statement of the complaint. In cases where the complaint requests return of material, it is imperative to specifically state the reasons for return. Procurement Services is the only department authorized to make returns against a purchase order. Procurement Services exclusively administers all adjustments and credits as a result of complaints. Procurement Services makes all vendor contacts against complaints involving purchase orders issued by Lander University. Cancellation of purchase order and vendor removal from bidder's list may occur if Procurement Services determines settlement not within a reasonable time frame.

Vendor Grievance

Register grievances initiated by a vendor with Procurement Services or appropriate procurement officer. Determination of the validity of the complaint occurs after securing and documenting all pertinent information. Procurement Services will negotiate settlement most beneficial to all parties.

LANDER UNIVERSITY
PROCUREMENT ORGANIZATION

VICE PRESIDENT OF FINANCE AND
ADMINISTRATION
Joseph Greenthal

DIRECTOR OF PROCUREMENT SERVICES
Scott Pilgrim

~~PROCUREMENT SPECIALIST II~~
~~Lois Amick~~

PROCUREMENT SPECIALIST I
Robin Moore

PROCUREMENT SPECIALIST I
Zach Kennedy