



2009 Administrative Leadership Conference

UIS Contracts Processing/ Purchasing Compliance Requirements

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Presented By

Mike Bloechle

Director of Purchasing

Please ...

- Please feel free to ask questions at anytime
- Sign the attendance roster.
- Complete the evaluation at the end of the workshop.

UIS Purchasing Department Contract Team

- **Mike Bloechle, Director of Purchasing**
206-6653 mbloe1@uis.edu
- **Jill Menezes, Purchasing Officer II**
206-6651 jmene1@uis.edu
- **Jay Simpson, Purchasing Officer I**
206-6606 jsimp5@uis.edu

CLASS OBJECTIVES FOR CONTRACTS

- Define types of contracts
- Define content requirements
- Explain signature policies & procedures
- Provide forms
- Purchasing compliance requirements

TYPES OF CONTRACTS

- Purchase of goods and general services
- Purchase of Professional & Artistic services
- Revenue Generating Agreements
- Miscellaneous contracts
 - Concessions
 - Sponsorships
 - Business Non-Disclosure Agreements

WHAT IS A CONTRACT?

A University contract is a mutual agreement between the Board of Trustees of the University of Illinois and another entity whereby each party is obliged to perform certain functions to satisfy the agreement.

CONTRACT ELEMENTS

- Identification of parties
 - LEGAL names and addresses
 - Specify the Board of Trustees of the University of Illinois on behalf of ...(unit)
 - Specify the unit's address
- Statement of Purpose
- Statement of Work or Service----SCOPE

CONTRACT ELEMENTS (PAGE 2)

- Terms
 - Date of commencement
 - Termination date
 - Provisions for renewal or extension--no automatic
- Financial Information
 - Basis of payment to or from the University
(such as hourly rate or milestones for payment)
 - Total estimated cost or income to the University
(either actual or “not to exceed amount”)

CONTRACT ELEMENTS (Page 3)

- Responsibilities of both Parties
- Bond or other performance guarantee (if applicable)
- Liability insurance
- Confidentiality
- Ownership of data & intellectual property rights
- Certifications (required by University, State or Federal Government--see handout sheet)

CONTRACT ELEMENTS (Page 4)

- Signature Block on contract
 - Contractor signature
 - University Counsel (approval for form)
 - Comptroller of the University
 - Secretary of The Board of Trustees
 - If the amount is \$250,000 or more:
 - Chief Legal Officer (Thomas Bearrows or designee)
 - Chief Executive Officer (Joe White or designee)

POSSIBLE CONTRACT DEAL BREAKERS

- Governing law other than Illinois
- Other party's legal fees--we do not pay these fees
- Indemnity clauses
- Insurance or liability clauses. Risk Management is consulted
- Liquidated damages
- Need termination provision--prefer termination without cause
- Rights to ownership, copyrights and patent rights
- Confidentiality
- No binding arbitration

CARF SIGNATURE PROCESS

- A Contract Approval Routing Form (CARF)

Use the UIS form located at:

- OBFS website>Purchases>Forms>Contracts
- <http://www.obfs.uillinois.edu/obfshome.cfm?level=2&path=forms&xmldata=purchasesforms>

CARF SIGNATURE PROCESS

- Faculty/Staff Member
- Department Head or Designee: Up to \$25,000
- Dean/Director: Up to \$50,000
- Chancellor/Vice Chancellor: Exceeds \$50,000.00
- University Counsel (contract form review)
- Comptroller or Designee
- Secretary of the Board of Trustees

Current UIS CARF Signature Process

The Chancellor's Cabinet has made the decision that all CARF forms must be signed by the Vice Chancellor of the respective division regardless of dollar amount.

Contract Filing Deadlines

All contracts for \$5,000 or more must be filed with the State Comptroller within 15 days of execution.

PURCHASING CONTRACTS

Whenever possible, use standard forms:

Purchase Order

Contract for Professional and Artistic services

< \$5,000.00

University Contract Form

Forms can be found on the OBFS web site located at:

OBFS website>Purchases>Forms>Contracts

<http://www.obfs.uillinois.edu/obfshome.cfm?level=2&path=forms&xmldata=purchasesforms>

PURCHASING CONTRACTS

- Independent Contractors and other firms sometimes ask the University to sign contracts they have drafted—or to sign permissions or other documents related to the purchase of goods or services.
- If you receive such a request **STOP** and contact the UIS Purchasing department as soon as possible.
- **Only the Comptroller and the Secretary of the Board of Trustees or their designees are allowed to sign documents and obligate the University.**

PURCHASING CONTRACTS

- What are Professional & Artistic contracts (P & A)?
 - For procurement purposes they are primarily intellectual or creative in nature—such as a performance or a speaker.
 - Services that involve manual skills and labor **are not** considered P & A services.

Professional & Artistic Contracts

- Services provided under contract to the University by a person or business acting as an independent contractor, **qualified by education, qualified by experience, and qualified by technical ability**
- Services are provided by a firm or an individual who is not an employee of the University
- The method of providing the service is left to the discretion of the contractor
- The contractor (non-University employee) is not supervised by the University
- The principle outcome of the service is not a tangible good but a report, recommendation or written product
- The contractor has special talent, training or experience that is not available from University employees

Examples of Professional and Artistic Service Categories

- Accounting
- Artistic
 - Musicians, Entertainers
- Clinical Psychology
- Data Processing
- Dentistry
- Law
- Management or Administrative Services
 - Billing & Collection, Training (software, systems etc.)
- Marketing/Media Services
 - Editor, Graphic designer
- Medicine

INDEPENDENT CONTRACTOR OR EMPLOYEE

- Does the individual provide essentially the same service as an employee of the University?
- Has the individual previously been paid as a University employee to perform essentially these same tasks?
- Does the University have a legal right to control how the individual will perform or accomplish the service?
- Will the individual supervise or direct University employees as a part of the service provided?
- Is it expected that the University will hire this employee immediately following the termination of the contractual service provided?

If the answer is **YES** to any above questions, the IRS considers the person an employee of the University, not an independent contractor.

Contract Formats

Pre-approved contract formats are available on the OBFS website for:

\$0 - \$4,999--contract for Professional & Artistic services without HIPAA or with HIPAA

(Health Insurance Portability and Accountability Act)

\$5,000 to \$19,999--U of I standard contract

\$20,000 or more for life of the contract: Bid or Request for Proposal (RFP)/U of I Contract

Contract for P&A Services

\$0 to \$4,999

- Limit is \$4,999 for duration of the project, including any renewal periods
- Simple two-party contract form pre-approved by University Legal Counsel
- Download Contract for Professional and Artistic services for <5,000.00 from: [OBFS web site](#)>Purchases>Forms>Contracts
- Complete **TWO ORIGINALS—PRIOR TO THE COMMENCEMENT OF SERVICES**
- Obtain contractor and department/unit signatures
- Contractor & Department retains one original copy each
- Prepare invoice voucher for payment

Contract for P & A or General Services \$5,000 to \$19,999

Department Actions:

- Complete CARF and PASIF (Professional and Artistic Information Form) see handout
- Submit CARF, contract elements/details and/or PASIF to Purchasing
- Department to complete Banner requisition

Contracts for P & A or General Services \$5,000 to 19,999

Purchasing Actions:

- Review contract content, best practices, compliance with policies, uniformity etc.
- Negotiates with contractor
- Obtains contractor signature
- Obtains official University signatures on contract
- Completes purchase order
- Distributes executed contracts to appropriate parties

SERVICES MUST NOT BEGIN UNTIL CONTRACT IS FULLY EXECUTED

Contract for P & A Services of \$20,000 or more

- Competitive selection process is required for procurements over \$20,000 for duration of a contract including renewals when more than one contractor is available to provide services
- The Request for Proposal (RFP) process allows department to select best qualified/best value vs. lowest price

Revenue Generating Contracts

Revenue Generating agreements are written contracts, signed by both parties, which cover University income-producing activities.

Revenue Generating Agreements

WHAT ARE THEY?

- Professional services by University departments provided to outside entities such as consulting, educational programs, survey research and training
- Outsourced dining services (Mary Jane's Café), vending services (beverage & food vending machines), franchised operations
- Entertainment and other events on University premises
- Leases or rentals of University property, such as real estate, facilities or equipment

Revenue Generating Agreements

Departments should consider the following in evaluating the feasibility of providing services and/or facilities

- Relevance of providing services/facilities to the University's mission
- Insurance
- Availability of department resources to provide the requested services (personnel, facilities, time equipment, etc.)
- Cost of providing services/facilities compared to the anticipated return
- Client's financial liability and ability to pay

Revenue Generating Agreements

- Contract Templates are available on the OBFS website>Purchase>Forms>Contracts
- Services generating less than \$5,000
 - Agreements may be executed by the unit head (reference example)
- Services generating \$5,000 or more
 - Agreements must be routed through Purchasing and the contract signature process

Reference Policies & Procedures manual section 5.12:

http://www.obfs.uillinois.edu/manual/central_p/sec5-12.html

Revenue Generating Agreements

- **Competitive Selection Process**

It is in the University's best interest to enter into revenue generating agreements based upon a competitive selection process. The process produces the potential of greater revenue when potential clients have to compete. The UIS Purchasing Department is responsible for conducting this process.

- **Responsibility for Management of Agreement**

The department is responsible for the management and administration of each revenue generating agreement in its area:

- Conduct periodic meetings with client to review the scope of services
- Review the agreement in advance of termination date
- Properly record the revenue and corresponding Accounts Receivable in Banner
- Utilize the University's centralized billing and collection system

Miscellaneous Contracts

- Concessions
 - A concession is the use of University property by third parties, independent of services provided by the University, for which the University receives compensation.
 - Licenses of University trademarks & athletic logos
 - Agreements that generate royalty income
- Sponsorships
 - Sponsorships are money, goods or services from organizations or individuals outside the University provided to underwrite specific activities by the University.

Miscellaneous Contracts

- Business Non-Disclosure Agreements
 - Background
 - Purpose--to protect a party's confidential information
 - Separate agreement or part of a larger agreement
 - Unilateral or Bilateral
 - Issues to Consider
 - Definition of Confidential Information
 - Duration of Confidentiality Obligation--normally 3-5 years from disclosure
 - Fact/Existence of agreement cannot be confidential but certain terms may be confidential

Contract Compliance

- Purchase agreements
 - Document performance
 - Monitor payments to vendor
- Revenue Generating Agreements
 - Monitor payments received
 - Withhold deliverables for non-payment

Purchasing Contracts Quiz

- There are a number of basic elements that make up a contract.
 - Can you name one?

Purchasing Contracts Quiz

What is the difference between Professional and Artistic Services (P & A) and General Services?

Purchasing Contracts Quiz

- Where can you find the Contract Approval Routing Form (CARF)?

Purchasing Contracts Quiz

- What are the only two names that are allowed to sign a contract for the University of Illinois?

If the contract amount exceeds \$250,000, then what other University names are required to sign?

Illinois Procurement Code

- All procedures used by the Purchasing Department are established according to the Illinois Procurement Code [30 ILCS 300]
- In accordance with the Code, The Chief Procurement Officer of Higher Education sets the bid authorization levels. Annual adjustments are based upon the Consumer Price Index. The current levels are:
 - Supplies/services (including equipment) \$50,000
 - Construction \$70,000
 - Professional/Artistic services \$20,000
- Illinois State Procurement laws mandate that Bids/RFP's/Sole Source procurements be advertised for a minimum of 14 full days on the Illinois Public Higher Education Procurement Bulletin

Sealed Bid Specifications

- Sealed Bids are used when price is the most important criteria in making an award. It is the requisitioner's responsibility to provide full and complete specifications for the products they are requesting to be purchased.
- Information should minimally include:
 - Description/product #
 - Quantity and units
 - Cost estimate/budget
 - Desired delivery dates/schedule
 - Delivery information
 - Names and addresses of potential respondents

Request for Proposal (RFP)

- The RFP is the appropriate competitive process for purchasing goods or services when price is not the most important criteria to be considered for awarding the contract
- The RFP is awarded to the supplier who best meets the qualifications and criteria specified in the RFP
- It may involve negotiating technical requirements, scheduling, type of contract, terms and conditions, and price, including Best and Final offers--In contrast, a sealed bid is awarded to the lowest responsible bidder
- It is the responsibility of the department to provide Purchasing with complete specifications for the products or services requested

Sole Source Purchases

- Requirement is only available from a single supplier/contractor
- Only one supplier/contractor is deemed economically feasible
- Complete and submit a Sole Source Justification form to Purchasing located on the OBFS website
 - www.obfs.uillinois.edu/purchases/solepurchasejustificationform.doc
- Sole Sources are not renewable--justification must be submitted and reviewed annually

Activities Involved for Bid/RFP Process

- Banner or i-Buy requisition
- Develop RFP/Sealed Bid/Invitation for Bid
- Advertise RFP/Sealed Bid/Invitation for Bid
- Pre-proposal conference/University site visit if required
- Bid Opening/Bid qualification
- Department evaluation of proposals/bids
- Proposer Presentations
- Best and Final Offers
- Department Award Recommendation
- Post award on Bulletin and receive waiver from PPB
- CARF & Contract
- BOT approval if required
- University executes contract/issues a Purchase Order

Non-Conforming Orders

- Non-Conforming orders were highlighted in the State of Illinois audit and the University was directed to establish a procedure to prevent after-the-fact purchases.
- A Non-Conforming order is an after-the-fact purchase and means that the request for purchase order, contract and change order or procurement action is submitted to Purchasing after the receipt of goods or services by the end user.
- A purchase order is a contract document. The Policies and Procedures manual, Section 2.3, states that a fully executed document is required **BEFORE** goods or services can be obtained.

Procurement Policy Board (PPB)

- All procurements and awards made pursuant to a competitive bid process, as well as Sole Source procurements are subject to a review by the PPB.
- The PPB was established as an independent State agency with the authority to hold hearings regarding the implementation and administration of the Illinois Procurement Code, to review specific procurement transactions, and to recommend policy regarding those transactions.
- The PPB is required by law to review procurements (Sole Source, Bid/RFP) that are posted on the Illinois Public Higher Education Procurement Bulletin prior to the issuance of a contract or purchase order. They have 30 days to grant a purchase waiver, request more information about the transaction or conduct a more in-depth review. A purchase order or contract cannot be issued until approval has been received from the PPB or the 30-day review period has ended.

BOARD OF TRUSTEES

- The following purchase transactions require approval by the Board of Trustees:
 - Professional & Artistic services requiring payment by the University in one fiscal year: $\geq \$100,000$
 - Supplies, equipment and general services requiring payment by the University in one fiscal year: $\geq \$200,000$
 - Change notices: $\geq \$50,000$

Purchasing Quiz

What is the State of Illinois bid limit for Professional and Artistic Services?

Purchasing Quiz

What is the name of the State of Illinois agency which is charged with the responsibility to review procurement awards?

Purchasing Quiz

Illinois State Law mandates that all Bids/RFP's
and Sole Source procurements be advertised
in what publication?

Bonus Point:

How many days must it be published?

Additional Information

- OBFS Policies and Procedures Manual
 - <http://obfs.uillinois.edu/manual/>
 - Section 2.2--Approval of Financial Documents
 - Section 2.3--University Contracts & Leases
 - Section 5.12--Revenue Generating Activities
 - Section 7.1--through 7.6 Purchasing & P-Card
 - Section 17--Consultants, Independent Contractors and Honoraria
 - OBFS Web site: www.obfs.uillinois.edu

UIS Purchasing Goal

- UIS Purchasing goal is to provide a high level of customer service to the campus community
- Customer service does not mean that we will ignore the rules to help departments—Please don't shoot the messenger
- Customer Service means that we take all actions necessary to help departments accomplish their procurement requirements by advising them about purchasing rules and best business practices and help them to navigate through the purchasing rules
- Our job is to protect you

TEAMWORK

- The UIS Purchasing Department works as a team to fulfill your procurement requirements
- Call Mike, Jill or Jay and we will assist you

PURCHASING GUIDE

Reference Handout

QUESTIONS?