

Policy Number: 3-801	Policy Name: University Procurement Code - General Provisions
Policy Revision Dates: 6/2006, 9/00, 4/96, 2/88, 7/85, 12/84	Page 1

H. UNIVERSITY PROCUREMENT CODE

3-80I General Provisions

A. Applicability

1. This Article H (University Procurement Code) shall consist of rules prescribing procurement policies and procedures for the Arizona Board of Regents and the institutions under the Board's jurisdiction in accordance with the requirements of A.R.S. §41-2-501D and E. Such rules shall be known as the "University Procurement Code."
2. This Code shall apply only to procurements initiated after the effective date of this Article unless the parties agree to its application to procurements initiated before the effective date.
3. Except as provided in ABOR Policy 3-801A. 4. and 5. (General Provisions, Applicability) below, this Code shall apply to every expenditure of public monies, including federal assistance monies (subject to requirements of federal law as referred to in ABOR Policy 3-808H (Intergovernmental Procurement)), by the Board or any institution under its jurisdiction. This Code also applies to the disposal of university materials.
4. This Code does not apply to the following:
 - a. To either grants or contracts between the Board and either other state governmental units or other governments except as provided in ABOR Policy 3-808 (Intergovernmental Procurement).
 - b. To contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which the Board or one of its institutions is or may become a party or to a contract for special investigative services for law enforcement purposes.

Policy Number: 3-801	Policy Name: University Procurement Code - General Provisions	
Policy Revision Dates: 6/2006, 9/00, 4/96, 2/88, 7/85, 12/84	Page 2	

- c. To agreements negotiated by legal counsel representing the Board or a university in settlement of litigation or threatened litigation.
 - d. To internal cooperative agreements or consortium agreements existing solely between and among the Board and/or any institution under the jurisdiction of the Board.
 - e. To items purchased by a university for resale.
5. Nothing in this Code shall prevent the Board or its institutions from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement.

B. Written Determinations

- 1. Written determinations required by this Code shall be filed and retained in the appropriate official records file maintained by each university relative to the solicitation or contract to which the determination refers.
- 2. Each written determination shall specify the reasons for the determination made.

C. Definitions

In this Code:

- 1. "Architect Services" means those professional architect services that are within the scope of architectural practice as provided in A.R.S., Title 32, Chapter 1.
- 2. "Board" means the Arizona Board of Regents.
- 3. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, limited liability company or any other private legal entity.

Policy Number: 3-801	Policy Name: University Procurement Code - General Provisions
Policy Revision Dates: 6/2006, 9/00, 4/96, 2/88, 7/85, 12/84	Page 3

4. "Change Order" means a written order signed by a procurement officer which directs the contractor to make changes that the changes clause of the contract authorizes the procurement officer to order.
5. "Code" means the University Procurement Code.
6. "Construction":
 - a. means the process of building, altering, repairing, improving, demolishing or site preparation for any public structure or building, or other public improvements of any kind to any public real property.
 - b. does not include:
 - (1) the routine operation, routine repair or routine maintenance of existing facilities, structures, buildings or real property.
 - (2) the investigation, characterization, restoration or remediation due to an environmental issue of existing facilities, structures, buildings or real property.
7. "Construction-Manager-at-Risk" means a project delivery method in which:
 - a. There is a separate contract for design services and a separate contract for construction services.
 - b. The contract for construction services may be entered into at the same time as the contract for design services or at a later time.
 - c. Design and construction of the project may be in sequential phases or concurrent phases.

Policy Number: 3-801	Policy Name: University Procurement Code - General Provisions
Policy Revision Dates: 6/2006, 9/00, 4/96, 2/88, 7/85, 12/84	Page 4

- d. Finance services, maintenance services, operations services, preconstruction services and other related services may be included.
8. "Construction Services" means either of the following for construction-manager-at-risk, design-build and job-order-contracting project delivery methods:
 - a. Construction, excluding services, through the construction-manager-at-risk or job-order-contracting project delivery methods.
 - b. A combination of construction and, as elected by the university, one or more related services, such as finance services, maintenance services, operations services, design services and preconstruction services, as those services are authorized in the definitions of construction-manager-at-risk, design-build or job-order-contracting in this section.
 9. "Contract" means all types of agreements entered into by the Board, regardless of what they may be called, for the procurement of materials, services, or construction or construction services, or the disposal of materials.
 10. "Contract Modification" means any written alteration in the terms and conditions of any contract accomplished by mutual action of the parties to the contract.
 11. "Contractor" means any person who has a contract with the Board.
 12. "Counsel" means Counsel to the Arizona Board of Regents.
 13. "Data" means documented information, regardless of form or characteristic.
 14. "Days" means calendar days as computed pursuant to A.R.S. §1-243.

Policy Number: 3-801	Policy Name: University Procurement Code - General Provisions
Policy Revision Dates: 6/2006, 9/00, 4/96, 2/88, 7/85, 12/84	Page 5

15. "Design-Bid-Build" means a project delivery method in which:
 - a. There is a sequential award of two separate contracts.
 - b. The first contract is for design services.
 - c. The second contract is for construction.
 - d. Design and construction of the project are in sequential phases.
 - e. Finance services, maintenance services and operations services are not included.

16. "Design-Build" means a project delivery method in which:
 - a. There is a single contract for design services and construction services.
 - b. Design and construction of the project may be in sequential phases or concurrent phases.
 - c. Finance services, maintenance services, operations services, design services, preconstruction services and other related services may be included.

17. "Design Consultant" means a person providing the services of an architect, engineer, land surveyor, assayer, geologist, interior design consultant, and/or landscape architect within the scope of the practice of those respective professional services but does not include special or consulting services not required for the design of the project.

18. "Design Requirements":
 - a. means at a minimum the university's written description of the project or service to be procured, including:

Policy Number: 3-801	Policy Name: University Procurement Code - General Provisions	
Policy Revision Dates: 6/2006, 9/00, 4/96, 2/88, 7/85, 12/84	Page 6	

- (1) The required features, functions, characteristics, qualities and properties, including, when applicable, programming, planning, and site and building development guidelines.
- (2) The anticipated schedule, including start, duration and completion.
- (3) The estimated budgets applicable to the specific procurement for design and construction and, if applicable, for operation and maintenance.

b. may include:

- (1) Drawings and other documents illustrating the scale and relationship of the features, functions and characteristics of the project, which shall all be prepared by an architect or engineer, as appropriate, who is registered pursuant to A.R.S. §32-121.
- (2) Additional design information or documents that the university elects to include.

19. "Design Services" means architect services, engineer services or landscape architect services.
20. "Designee" means a duly authorized representative of a university president.
21. "Employee" means an individual drawing a salary or wage from a university or from the Board, whether elected or not, and any noncompensated individual performing personal services for any university or the Board.
22. "Engineer Services" means those professional engineer services that are within the scope of engineering practice as provided in A.R.S., Title 32, Chapter 1.

Policy Number: 3-801	Policy Name: University Procurement Code - General Provisions
Policy Revision Dates: 6/2006, 9/00, 4/96, 2/88, 7/85, 12/84	Page 7

23. "Finance Services" means financing for a construction services project.
24. "Grant" means the furnishing by the State, the Board or an institution under the jurisdiction of the Board of assistance, whether financial or otherwise, to any person to support a program authorized by law. Grant does not include an agreement whose primary purpose is to secure a specific end product, whether in the form of materials, services or construction. A contract resulting from such an agreement is not a grant but a procurement contract.
25. "Job-Order-Contracting" means a project delivery method in which:
 - a. The contract is a requirements contract for indefinite quantities of construction.
 - b. The construction to be performed is specified in job orders issued during the contract.
 - c. Finance services, maintenance services, operations services, preconstruction services, design services and other related services may be included.
26. "Landscape Architect Services" means those professional landscape architect services that are within the scope of landscape architectural practice as provided in A.R.S., Title 32, Chapter 1.
27. "Maintenance Services" means routine maintenance, repair and replacement of existing facilities, structures, buildings or real property.
28. "Materials"
 - a. means all property, including equipment, supplies, printing, insurance and leases of property.
 - b. does not include land or a permanent interest in land or real property.

Policy Number: 3-801	Policy Name: University Procurement Code - General Provisions
Policy Revision Dates: 6/2006, 9/00, 4/96, 2/88, 7/85, 12/84	Page 8

29. "Operations Services" means routine operation of existing facilities, structures, buildings or real property.
30. "Person" means any corporation, business, individual, union, committee, club, other organization or group of individuals.
31. "Preconstruction Services" means advice during the design phase.
32. "President" or "university president" means the president of a university or the executive director of the central office of the Board.
33. "Procurement":
 - a. means buying, purchasing, renting, leasing or otherwise acquiring any materials, services, construction or construction services.
 - b. includes all functions that pertain to obtaining of any materials, services, construction, or construction services, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
34. "Procurement officer" means a university's procurement officer as designated by its president. For any university, the procurement officer may differ depending upon the type of procurement.
35. "Professional Design Services" means the services of a design consultant or a professional programmer.
36. "Professional Services" means architect services, engineer services, landscape architect services, assayer services, geologist services and land surveying services and any combination of those services.
37. "Responsible bidder or offeror" means a person who has the capability, including necessary experience, to perform the contract

Policy Number: 3-801	Policy Name: University Procurement Code - General Provisions
Policy Revision Dates: 6/2006, 9/00, 4/96, 2/88, 7/85, 12/84	Page 9

requirements; who has the integrity and reliability which will ensure good faith performance and appropriate quality of the materials, services, construction or construction services, to be provided; and who is in compliance with any and all licensing requirements of the State of Arizona.

38. "Responsive bidder or offeror" means a person who submits a bid which conforms in all material respects to the invitation for bids or request for proposals.
39. "Services"
 - a. means the furnishing of labor, time or effort by a contractor which does not involve the delivery of a specific end product other than required reports and performance.
 - b. does not include employment agreements or collective bargaining agreements.
40. "Small business" means a concern, including its affiliates, which is independently owned and operated and which either (a) employs one hundred full-time employees or fewer, or (b) had gross annual receipts of four million dollars or less in its last fiscal year.
41. "Specific single project" means one or more facilities at a single location, at a common location or, if for a single purpose, at multiple locations.
42. "State governmental unit" means any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of this State except the Board and the institutions under its jurisdiction.
43. "Subcontractor" means a person who contracts to perform work or render service to a contractor or to another subcontractor as part of a contract with a university.

Policy Number: 3-801	Policy Name: University Procurement Code - General Provisions
Policy Revision Dates: 6/2006, 9/00, 4/96, 2/88, 7/85, 12/84	Page 10

44. "University" means an institution governed by and under the jurisdiction of the Board. The term also refers to the Central Office staff of the Arizona Board of Regents to the extent that the Central Office is directly involved in procurement activities on behalf of the Board or the universities.

D. Miscellaneous Provisions

1. The term "may" denotes the permissive. The term "shall" denotes the imperative.
2. To the extent that the provisions of this Code are inconsistent with or conflict with other policies of the Board, the provisions of this Code shall control.
3. Unless displaced by the particular provisions of this Code, the principles of law and equity, including the Uniform Commercial Code of this state, the common law of contracts as applied in this state and law relative to agency, fraud, misrepresentation, duress, coercion, and mistake supplement the provisions of this Code.
4. A university president may designate an individual or individuals to act on behalf of the procurement officer in the absence or unavailability of such officer.