



<b>Policy Name:</b>	Policy on University Contracts and Procurement		
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## **SECTION I: INTRODUCTION**

### **A. Policy Statement**

It is the policy of Mercy University to engage in business transactions that offer not only the best value for the University, but the best services to support the mission of educating its students. With that, the University supports sustaining and promoting a procurement environment based on the understanding that University departments and schools are best positioned to determine their operational needs. The purpose of this Policy is to outline the guidelines by which departments and schools must operate to ensure best business practices, regulatory compliance, and obtaining the best value in the sourcing of products in services, while still maintaining some flexibility depending on the particular needs of a school or department. The guidelines set forth in this Policy are specific to two University-wide transaction types: Business Transactions and Non-Business Transactions. Section II of this Policy will detail the purchasing guidelines and thresholds for these transactions; Section III of this Policy will describe the contracts review, approval and signatory process relating to these transactions.

Details regarding the procedures for implementing this Policy, such as the Request for Proposal (RFP) process, are set forth more fully in the Purchasing Procedures Manual.

### **B. Definitions**

#### **1. Business Transactions at Mercy University pertain to two distinct areas:**

##### **a. Procurement and b. Construction.**

##### **a. *Procurement Transactions* include the following:**

- i. Purchase of Goods, such as commodities, supplies, equipment, subscriptions, and repair services, etc.
- ii. Provision of Services (revenue contracts), such as University facilities rentals, consulting services, etc.
- iii. Service Contracts, such as third-party vendors, annual service agreements, etc.
- iv. Independent Contractors, such as videographers, consulting services, guest speakers, etc. hired at fixed price rate.
- v. Established Term Agreements, utilized for longer terms service contracts such as for maintenance and facilities, information technology, media (video/photography), and legal services, with services provided as needed intermittently through the course of the term.

##### **b. *Construction projects* include:**

- i. Capital projects

- ii. Professional consultants (architects, engineering, etc.)

2. **Non-Business Transactions** are those taking place outside of the purchasing/procurement process, and include, but are not limited to, the following agreements by way of example:

- a. *Grants*
- b. *Academic Agreements*
  - i. Articulation Agreements
  - ii. Student Exchange
  - iii. Affiliation Agreements
- c. *Funding and Partnership Agreements*
  - i. Public Funding Awards
  - ii. MOU's relating to partnerships with external entities

**SECTION II: PROCUREMENT POLICY AND PROCEDURES**

Every employee of Mercy University must make efforts to ensure the University is preserving its resources to the greatest extent possible. Part of this responsibility relates to the purchasing process. Competition between suppliers is one of the most effective ways to ensure the University is obtaining the most favorable price and terms. In light of that, the following guidelines are in effect for all business transactions (except for provision of services transactions). All non-procurement agreements, such as academic agreements, grants, funding and partnership agreements, do not have to go through the procurement process. Rather, they shall be reviewed and approved as set forth in Section III below. Exceptions to this include contracts that commit the University to funds or other resources, such as scholarship funds, hiring an employee or contractor to support a project, etc.

A. Purchasing Threshold Guidelines

<b>Purchase Type</b>	<b>Contract Value</b>	<b>Bidding Required</b>	<b>Documentation Requirement</b>
Micro-Purchase	Under \$20,000 (under \$10,000 for federal grants)	No	a) One (1) quote or documented on-line research, and will be issued a Purchase Order (PO) via Purchasing, or Procured with Purchasing P-Card; or

			b) Individuals with authorization should use corporate credit card for approved items outlined in credit card guidelines up to their approved threshold.
Small Dollar Purchases	\$20,000 - \$200,000 (\$10,000-\$200,000 for federal grants)	No	Minimum of 3 written price quotes on vendor letterhead, obtained within 30 days of procurement date with pricing good for 30 days. PO issued by Purchasing. PO's can only be executed every 6 months to same vendor to avoid split purchasing.
Request for Proposal (RFP)/Request for Qualifications (RFQ)	Greater than \$200,000 for goods or services/ \$250,000 for construction projects	Yes	Purchases of \$200,000 or more require a formal Request for Proposal (RFP) for goods or services or Request for Qualifications (RFQ) for professional services. (Purchases over \$200,000 for goods or services, and \$250,000 for construction projects). Process completed by Purchasing in a sealed bid, non-public opening. CFO shall review the results.
Single/Sole Source	Greater than \$20,000	No	Single/Sole Source Form and relevant supporting documents
Preferred Vendor (such as NYS contracts)	N/A	No	Sole bid/quote, referencing the State Contract ID #, or other contract information.
Consortium Partner	N/A	No	Documentation from sourced contract through consortium to include bids, RFP, final contract, amended contracts

**1. Micro-Dollar Purchases (Under \$20,000 (\$10,000 for federal grants))**

Multiple quotes are not required to purchase goods or services whose aggregate dollar total is less than \$20,000. One (1) quote or documented on-line research to be issued a Purchase Order (PO) via Purchasing or procured with Purchasing P-Card; or individuals with authorization should

use corporate credit card for approved items outlined in credit card guidelines up to their approved threshold. The Purchasing Department is encouraged to utilize the Purchasing Card as much as possible to facilitate regular department purchases. The requester should still seek to ensure that the price is fair and reasonable. Certified Minority and Women-Owned Business Enterprises (M/WBE) vendors are encouraged. Splitting purchases with the same vendor to meet the micro-dollar purchase limit is a violation of this Policy.

For purchases of supplies or services with federal grant funding, the micro-dollar threshold is \$10,000<sup>1</sup> unless otherwise approved by the head agency providing the funding. Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents its files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.

**2. Small Dollar Purchases (Between \$20,000 and \$200,000 (\$10,000 and \$200,000 for federal grant purchases))**

The University requires a minimum of three (3) written price quotes on vendor letterhead, obtained within thirty (30) days of procurement date with pricing good for thirty (30) days for purchases between \$20,000 and \$200,000 (between \$10,000 and \$200,000 for federal grant purchases). The requestor is responsible for obtaining the three (3) legitimate quotes and presenting them to the Purchasing Department. PO issued by Purchasing. POs can only be executed every six (6) months to same vendor to avoid split purchasing. Requestors and business managers for each division are expected to expand acceptable vendor lists, with limited use of sole source rationales.

**3. RFP/RFQ (Purchases Over \$200,000 for Goods or Services, \$250,000 for Construction Projects)**

When the total cost of goods and services is greater than \$200,000 for goods or services, or \$250,000 for construction projects, the University must issue a formal Request for Proposal (RFP) for goods or services, or Request for Qualifications (RFQ) for professional services. The process, more fully set forth in the Purchasing Procedures Manual, involves a sealed bid, non-public opening. For purchases over \$200,000 W/MBE or NYS preferred vendors are encouraged. After review and approval by the University's Chief Financial Officer, a contract shall be issued for these purchases.

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<sup>1</sup> Please note that the University adheres to all policies, procedures and guidelines relating to federal, state and local grants and that these thresholds are subject to change to adhere to such policies, procedures and guidelines. In such cases, Mercy shall abide by those changes (regardless of what is stated in this Policy).

#### **4. Single and Sole Source Purchases**

As part of the requirement for maintaining competitive sourcing, departments must provide ample justification for exemption from the competitive source process. Requests for exemptions from the small-dollar purchases, big dollar purchases and the RFP process must be made as soon as practicable, and shall occur in the following limited circumstances:

- Products or services that can be obtained only from one person or company.
- The product or service must match or be compatible with current equipment, services, inventory, systems, and/or be an upgrades to existing software or the continuation of ongoing services.
- The product is needed specifically required for use in conjunction with a grant.
- The product or service requested is controlled or mandated by the local utility or government.
- The supplier is the only one who can meet the required timeline.
- Competitive bids are solicited, and no responsive bid is received (inadequate competition)
- An unusual or compelling urgency exists; emergency or unforeseen occurrence, condition or situation will not permit a delay resulting from the competitive bid process.
- The sole source is unique in nature such as artistic services.
- The vendor provides significant cost savings to the University.

In these circumstances the department seeking to purchase the goods or services must justify the Sole or Single Source procurement decision by completing the [Single/Sole Source Justification Form](#).

Approved Sole Source requests that are attached to a contract will be good for the initial term of that contract only. Amendments or extensions to the contract may need to be supported by a new Sole Source request.

#### **5. Consortium Partners**

The University is a member of various procurement consortium partnerships that allow the University to take advantage of favorable negotiated contracts with suppliers. Since these contracts have already been through the competitive bidding process, vendors through consortium partners can serve as a source for procuring goods and services or for researching and comparing pricing for bids. See as an example the New York State Office of General Services commodities contracts [listing](#).

## **6. Preferred Vendor Listing**

The University has established set pricing and terms for certain vendors who provide goods and services frequently purchased within the University. The use of these vendors is preferred and can be identified through a preferred vendor listing. No bidding or sole source documentation is required if a preferred vendor is used. The preferred vendor listing will be reviewed at least bi-annually by Procurement to ensure that the University obtains the most competitive and favorable rates.

## **7. Independent Contract Agreements**

Independent Contractors are hired on an hourly basis to provide services to the University. The University has the right to control or direct the result of the work done by an independent contractor and not what will be done and how it will be done. Contracts must be used and shall abide by the *Guidelines for Evaluating and Engaging Independent Contractors at Mercy University*, and Independent Contractors shall only be hired in consultation with the General Counsel and the Executive Director of Human Resources, as necessary. Mercy shall ensure that services have been satisfactorily rendered by the independent contractor before final payment is made. Contract owners are responsible for ensuring completion of services. Note that contractors hired in connection with federal grants shall adhere to specific requirements set forth in the Grants Management Handbook.

## **8. Established Term Agreements**

Independent Contractors can be hired for term agreements to engage and complete numerous specific projects. The agreement will be issued for a period of one year with the option to renew for two additional years with the mutual agreement of the contracting parties. The maximum aggregate amount for one year will be \$200,000 for up to three years for a total maximum contract value of \$500,000 per Contract. The Purchasing Threshold Guidelines apply to these contracts.

### **B. Unauthorized Purchases**

Purchases made without timely or appropriate departmental approval or university-approved purchase order are deemed unauthorized. Timely is defined as having the required approval before the order is placed, the service rendered, or the invoice received. Any person, regardless of their purchasing authority, who makes an unauthorized purchase of goods and services may be responsible for paying the total charges or cancellation fees associated with that transaction and/or returning the product. Additionally, abuse of this policy could lead to the revocation of the individual's procurement authority, removal of access to procurement systems, and additional disciplinary action up to and including termination of employment.



## **SECTION III: CONTRACT APPROVAL AND SIGNATORY AUTHORITIES**

### **A. Policy Overview**

No officer or member of the University community has the authority to sign contracts or indicate acceptance of a proposed contract on behalf of the University, or its program, department, or division without signatory authority or authority delegated by the President. Nor should contracts should be entered into that do not align, or are in direct conflict, with the mission of the University.

### **B. Administrative Review and Approval**

All procurement contracts to purchase goods or services (Business Transactions) for the University must be submitted through the procurement system for proper contract application, administrative review, and approval. No procurement contract except for micro-purchases should be signed or executed outside this process. Contract owners should ensure that there is no performance under the contract, acceptance of any terms, or signatures on a contract before it has been administratively and approved through the procurement system.

Unless expressly noted or a pre-approved contract template is used without any substantive changes, all contracts or leases that do not get processed through the procurement system (such a micro-purchases) must be sent to the Office of General Counsel for review. Review by the General Counsel's Office shall be limited to those provisions which are legal in nature, pose a substantial risk to the University or are new, non-standardized clauses which the initiating departments' representative is not familiar and/or comfortable with. The Contract Initiator should review the contract before sharing it with the General Counsel's Office.

### **C. Delegation of Authority by the President**

The following employees have signatory approval: the President, the Provost, the Chief Financial Officer, the Chief of Staff, and the Vice President of Operations & Facilities. The remaining vice presidents and staff officers, as well as deans of each school, shall have signatory approval to bind the University in the limited circumstances set forth in Section D below.

Temporary delegation requests are made for those with contract authority who are unable to complete their responsibilities due to vacation, leave of absence, illness, etc. Temporary delegations require formal approval from the President and must be made known to the General Counsel.

No officer or member of the University community may sign or otherwise execute a contract that binds the University or its schools or departments unless they have been delegated signature authority as set forth in thus Policy. Contracts signed by officers or employees without written

signature authority may be deemed void. Individuals in such circumstances may be personally liable for the obligations assumed under such contracts and be subject to disciplinary action, including termination of employment.

**D. Contract Thresholds for Review, Approval and Signatory Responsibilities**

<b>Contract Type and Value</b>	<b>Approval Authority</b>	<b>Signatory Authority</b>
Special Procurement Contracts Under \$200,000	Any contracts or agreements with a value under \$200,000 must be reviewed by legal counsel if is not a standard contract (i.e. template approved in advance by legal affairs) and approved by the Vice President for Operations and Facilities.	Contracts or agreements in value under \$200,000 will be signed by the Vice President for Operations and Facilities, or other designated signatory as needed.
Special Contracts Over \$200,000 (Construction Over \$250,000)	All contracts in value greater than \$200,000 (\$250,000 for construction projects) and up to \$1,000,000 must be reviewed by legal counsel if is not a standard contract (i.e. template approved in advance by legal affairs) and approved by the Vice President for Operations and Facilities.	Contracts or agreements in value greater than \$200,000 (over \$250,000 for construction projects) will be signed by the Vice President for Operations and Facilities, or other designated signatory as needed.
Contracts over \$1,000,000	All contracts in value greater than \$1,000,000 must be reviewed by legal counsel and approved by the Vice President for Operations and Facilities.	Contracts in value greater than \$1,000,000 will be signed by the President.
Contracts over \$2,000,000	After review by legal counsel and the Vice President for Operations and Facilities, contracts that either (1) exceed \$2 million in a single year or, (2) have a multi-year term with an aggregate value	After review by Finance and Control, the contract will be signed by the President.

	exceeding \$3 million, or (3) are outside the ordinary course of business, shall require the review of the Finance and Control Committee of the Board.	
Grants, public funding awards and academic agreements, such as partnerships, study abroad MOUs, affiliation and articulation agreements, that bring funding to the University, are cost neutral, or cost below \$20,000	Review by legal counsel and the relevant office impacted	Signed by the Provost
Clinical affiliation agreements	Review by legal counsel (or use of pre-approved template)	Signed by the Dean of the relevant school
Funding and partnership agreements, such as MOUs relating to partnerships with external entities (for admission discounts, international recruitment, workforce partnerships, agreements, engagement letters, etc.)	Reviewed by legal counsel (or use of pre-approved template) and the Provost's Office if there is any academic component	Signed by the relevant department Vice President/Staff Officer

**SECTION IV. INSURANCE REQUIREMENTS**

In most transactions involving the purchase of services, provision of services and professional services, clinical partners, etc., proof of insurance is required, either from the outside party or by the outside party, depending on the nature of the services.

A. Certificate of Insurance Required by Outside Parties

Mercy University is often requested by outside parties to provide proof of insurance evidencing the University's insurance coverage. Requests for Certificates of Insurance (COI) must be made in writing, with the specific insurance requirements, to the University's General Counsel's Office.

#### B. Certificate of Insurance Required by Mercy University

Contractors, suppliers, or other outside parties who will be performing work for or services to the University, or using University facilities, are required to enter into a contract reflecting the insurance and relevant indemnification requirements, and to provide evidence of the insurance required by the University.

### **SECTION V. ETHICS AND CONFLICT OF INTEREST**

The procurement of goods and services should comply with all applicable federal laws, and the University's policies and procedures, including the [Conflict of Interest and Gifts Policy for Faculty and Staff](#). Procurement Services and the Director of Compliance, Ethics, and Privacy will review all conflicts of interest with vendors.

### **SECTION VI. TERMINATION AND PERFORMANCE OF CONTRACTS**

Contract owners should be familiar with the contract terms such that they can monitor performance and ensure the vendor or other party is properly performing under the contract. The contract owner is responsible to monitor performance under contracts after execution unless they designate another Mercy faculty or staff member to monitor performance in their stead. If performance under the contract is deficient or there is any conduct that would amount to a possible breach of the contract, the contract owners should contact the signatory to the contract and the Office of General Counsel in order to address the lack of performance and possible remedies.

Contract owners are responsible for reviewing and understanding any extension and termination requirements in the contract to ensure the contract is properly extended or terminated at the end of the term.

### **SECTION VII. IT SECURITY**

Mercy University is committed to protecting its community members, partners, and clients from damaging acts that are intentional or unintentional. The lack of supplier attention to quality management could compromise Mercy University's reputation. Lack of physical or cybersecurity at supplier sites could result in a breach of corporate data systems or information corruption.

Effective security is a team effort involving the participation and support of every vendor that interacts with Mercy University data and/or systems. As such, all contracts that could have potential IT security implications must be reviewed by the General Counsel and shall adhere to the IT Vendor Risk Management Procedures, which establishes accountability, procedures, and standards for the selection and management of vendors.

### **SECTION VIII. THIRD PARTY PROVIDER CONTRACTS**

In addition, Mercy University is responsible for ensuring the quality, integrity, and transparency of all activities conducted in its name, including services and educational programming delivered by third-party providers (“TPP”). Under the University’s *Third Party Provider Policy*, Mercy is committed to the thorough review of the quality and integrity of institutional services and programs delivered through partnerships with TPP’s. As such, any contracts that could impact any academic programs must be reviewed by the General Counsel and the Provost.

### **SECTION IX. RETENTION OF EXECUTED CONTRACTS**

Once a contract for goods, services or construction projects is fully executed (that is, signed by all parties to a contract), the employee initiating the contract is responsible for emailing a copy to the Purchasing Director, who shall retain a copy. Employee initiating the contract shall also be responsible for maintaining an executed contract for their department files. Academic and other affiliation contracts, such as clinical contracts, are maintained by the department. The General Counsel’s Office shall have access to all contract databases maintained throughout the University.