



BFB-BUS-43 Purchases of Goods and Services; Supply Chain Management

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| Responsible Officer: | AVP – Chief Procurement Officer |
| Responsible Office: | PS – Systemwide Procurement Services |
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| Contact: | Systemwide Procurement Services |
| Title: | Chief Procurement Officer |
| Email: | ProcurementAdmin@ucop.edu |
| Website: | https://www.ucop.edu/procurement-services/ |

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I. POLICY SUMMARY

- A. This Presidential Policy (BUS-43) is based on:
1. California Public Contract Code, Part 2, Contracting by State Agencies, Chapter 2.1, University of California Competitive Bidding, Article 2, Materials, Goods, and Services (Public Contract Code Section 10507, et seq.)
 2. The Bylaws and Policies of The Regents of University of California (UC) and

Policies issued by the President of UC.

- B.** In addition, BUS-43 addresses requirements for federal funding and other extramural agreements. This includes:
1. Recognition that the interests of the people of the State of California are paramount and that University Procurement/Supply Chain Management policies and practices must best serve those interests,
 2. Recognition that the purpose of Procurement/Supply Chain Management is to support the teaching, research, and public service missions of the UC in a cost effective manner,
 3. Continuing development and refinement of University procurement policies in accordance with good business judgment and normal business practice as applicable to UC's total operations, and
 4. Maintaining high standards of performance based upon fair, ethical, and professional business practices. To further this end, UC expects each Procurement/Supply Chain Director (P/SCD), and anyone the P/SCD authorizes to make purchases, to abide by the [Principles and Standards of Ethical Supply Management Conduct](#) of the [Institute for Supply Management \(ISM\)](#) and the Code of Ethics of the [National Association of Educational Procurement \(NAEP\)](#).

II. DEFINITIONS

Best Value: The most advantageous balance of price, quality, service, performance, and other elements as defined by UC, achieved through methods in accordance with Public Contract Code Section 10507.8 and determined by objective performance criteria that may include, but not limited to, price, features, long-term functionality, life-cycle costs, overall sustainability, required services, and the reduction of overall operating costs included in the proposal.

Bidder: An entity (individual or an organization) that participates in a University formal bid process.

Commodity Manager: A procurement professional assigned responsibility on a systemwide basis for coordinating standards and specification development covering specific commodities, or groups of commodities.

Competitive Bidding:, this is a formal public process to collect proposals from suppliers for UC goods and services as per legal requirements.

Conditional Sales Contract: A written contract specific to UC Health, executed by UC and the seller, containing the essential terms and conditions under which UC gets possession and the right to use the personal property, though the seller retains title to the property as its security until total payment is made, at which time title passes to UC. At the end of the lease term, the Medical Center may wish to purchase the equipment equal to the fair market value. The fair market value shall be determined by mutual agreement between the Medical Center and the Vendor.

Construction: See [UC Facilities Manual](#) for definition and policy. The Facilities Manual governs construction contracts – not BUS-43.

Consultant/Consulting Services: A consultant is a supplier that provides primarily professional or technical advice. Generally, the University does not control either the manner of performance or the result of the services. Consultants are subject to restrictions in the [Public Contract Code](#) regarding follow-on contracts.

Disabled Veteran: A veteran of the U.S. military, naval, or air service with a service connected disability who is a resident of California. To qualify as a veteran with a service connected disability, the person must be currently declared by the U.S. Department of Veterans Affairs to be 10% or more disabled as a result of service in the armed forces. (California Military and Veterans Code, Article 6, §999 et seq.)

Disabled Veteran Business Enterprise (DVBE): Business certification offered by the State of California Office of Small Business and DVBE Services (OSDS). To be certified as a DVBE firms must meet the following requirements: The business must be at least 51% owned by one or more disabled veterans; if a limited liability company, the business must be wholly owned by one or more disabled veterans; daily business operations must be managed and controlled by one or more disabled veterans.

Escalation Authority: The individual to whom the Policy Exception Authority reports or such individual's designee.

Execute: The act of signing a contract, purchase order or other agreement. A fully executed agreement is one that has been signed by all parties.

Federal Contracts, Grants, and Cooperative Agreements: Agreements using federal funds for the acquisition of goods and/or services.

Incentive: Payment or rebate offered to UC by a supplier to provide additional consideration or compensation to encourage the purchase of goods and/or services from that supplier.

Inventorial Equipment: See [BUS-38: Disposition of Excess Property and Transfer of University-Owned Property](#) for definition.

Laboratory (LBNL): Lawrence Berkeley National Laboratory.

Maintenance: The ongoing upkeep of buildings, equipment, roads, grounds, and utilities required to keep a facility in a condition adequate to support UC's academic, scientific, and public service functions. See [Facilities Manual](#) for additional information.

Near Relative: See [PPSM-21](#) for definition.

Personal Property: Any movable item subject to ownership as opposed to real property (see below).

Personal Services: Technical or unique functions performed by a supplier that is distinctly qualified to render the services. Personal services are of a nature that UC would consider the supplier's experience, qualifications, and skills to be more important than comparative cost when selecting a supplier. Examples of personal

services include translation services, technical editing, technical appraisals, transaction valuation, coaching, interior decorating, and contracts with musicians, artists, and others in the performing arts.

Policy Exception Authority (PEA): The Chief Procurement Officer for a non-UC Health Systemwide or Office of the President contract; the AVP, UC Health Procurement for a UC Health Systemwide contract; and otherwise by the Procurement/Supply Chain Director of the campus, medical center, or Laboratory.

Prevailing Wage: The Prevailing Wage is the specific wage rate set by the [State of California Department of Industrial Relations](#) for all workers on a Public Work according to the type of work and location. The Department also sets specific audit and reporting requirements encompassing production and retention of certified payroll. UC typically complies with these state requirements by policy. The federal government also establishes prevailing wage rates and reporting requirements applicable in certain instances utilizing federal funding. For federally funded services, UC will apply the more stringent prevailing wage requirements between federal and state law.

Price Reasonableness: See Reasonable Price.

Price Schedules: Agreements designated as an optional vehicle for supply of goods or services to UC. Such agreements have not been competitively bid, and therefore are not to be used in lieu of securing competition for all purchases over the bid threshold of \$100,000 annually.

Procurement Contract: A fully executed (signed by all parties) legally binding agreement for the procurement of goods and/or services by UC that defines performance standards, scope of work, and complex terms associated with the purchase of a good or service.

Procurement/Supply Chain Director (P/SCD): UC Location official responsible for Procurement or Supply Chain Management functions, which generally include purchasing, receiving, storehouse operations, and equipment management. This definition also includes designees of a P/SCD.

Professional Services: Highly specialized functions, typically of a technical nature, performed by a supplier that, with respect to the services to be rendered, most commonly a) has a professional license; b) is licensed by a regulatory body; and/or c) is able to obtain professional errors and omissions insurance. Professional Services are of a nature that UC would consider the supplier's experience, qualifications, and skills to be more important than comparative cost when selecting a supplier. Examples of Professional Services include clinical and related medical services, legal, accounting, architectural, and engineering services.

Proprietary Products and Services: A product or service made and marketed by a supplier having the exclusive right to manufacture and sell.

Public Works Project: Construction, maintenance, alteration, demolition, installation, or repair work in excess of \$1,000 done under contract and paid in whole or in part out of public funds. It can include preconstruction and post-construction activities related to a public works project. For a full definition of public

works refer to [Labor Code section 1720](#).

Anyone working on a public works project must be paid prevailing wages as determined by [DIR \(Department of Industrial Relations\)](#).

Purchase Agreement: See Procurement Contract.

Purchase Order: A commercial document issued on a University Purchase Order form (print or electronic) authorizing a supplier to furnish goods and/or services to UC according to the stated terms (descriptions, quantities, prices, payment terms, and shipment/delivery dates). A Purchase Order forms a one-time contract when issued by UC and performed by the supplier; it is only valid for the purchases referenced on the Purchase Order.

Real Property: Land and/or improvements including affixed structures and any other building space or variant of these such as prefabricated structures, mobile or portable, or light tension structures. This definition includes temporary or permanent structures and improvements.

Reasonable Price: Also known as price reasonableness, a reasonable price is one that a prudent person would incur in the conduct of a competitive business. Reasonable price may be established by market test, price or cost analysis, or the experience and judgment of the P/SCD. Such judgment considers total value to UC. There is value to UC in purchases which meet UC's needs, such as those involving quality, quantity, delivery, and service. A reasonable price need not be the lowest price available but is one which offers the highest total value to UC for transactions above \$100,000, reasonable price is established through competition sufficient to ensure an adequate market test, or set by applicable law or regulation, or supported by an appropriate price or cost analysis.

RFx Event: Competitive sourcing event for solicitation of a Request for Proposal, Quotation, or Information.

Responsible Bidder: A bidder who has the capability in all respects to fully perform the contract requirements and whose integrity and reliability will assure good faith performance. Factors considered in evaluating responsibility may include financial resources, past performance, delivery capability, experience, organization, personnel, technical skills, operations controls, equipment, and facilities.

Services: Purchases providing help to UC in subjects such as consulting, accounting, transportation, cleaning, hospitality, traveling or maintenance, among others. (See also Personal and Professional Services or Covered Services.)

Small Business Enterprise (SBE): Business independently owned and operated that meets certification thresholds for small businesses. The business must be certified by the Federal Small Business Administration (SBA), by applicable state or local government agencies or by districts (such as the California Department of General Services Office of Small Business and DVBE Services).

Small Business Officer: A UC employee who acts as a liaison between the business community and Procurement. May participate in local trade fairs, training programs and outreach efforts sponsored by federal agencies to promote contact

with small businesses.

Sole Source Goods and/or Services: Sole source goods and/or services are the only ones that will meet UC's needs because they are: a) unique; b) available from only one source; or c) are designed to match others used in or furnished to a particular / installation, facility, or location. See [SSPR Form](#) for detailed definitions

Strategically Sourced Agreements: Agreements designated for the supply of goods and/or services to UC that were awarded as a result of a competitive bid process or negotiation. These agreements are for indefinite quantities at firm prices, or with an established basis for negotiated price changes, within a set period of time.

Student Employee: An individual who is concurrently a student and a UC employee. Student employees are allowed to contract separately with UC to perform additional campus activities or engagements outside of the scope of their primary University employment per [California Public Contract Code Section 10516](#).

Sub-Award: A collaborative research agreement issued by UC under a prime extramural grant which contains special flow-down provisions for the subrecipient. See [The Contract and Grants Manual](#) for more information on managing sub-awards.

Supplier: A person, business, contractor, or other entity that provides goods and/or services to UC. Supplier may also be called a vendor or contractor.

Supplier Diversity Coordinator: A UC employee who acts as a liaison between the business community and Procurement. May participate in local trade fairs, training programs and outreach efforts sponsored by federal agencies to promote contact with diverse businesses. See also Small Business Officer.

UC Location: A discrete organization or entity governed by the Regents of the University of California. Locations include, but are not limited to, campuses, laboratories, medical centers and health systems, as well as satellite offices, affiliates or other offices in the United States controlled by the Regents of the University of California.

III. POLICY TEXT

Part 1: Purchase Transactions

Part 2: Strategic Sourcing Initiative

Part 3: Supplier Diversity and Federal Planning and Reporting

Part 4: Personal Property/Special Acquisition

Part 5: Employee-Supplier Relationships

Part 6: Procurement Card Program

Part 1: Purchase Transactions:

A. General Policy and Applicability

- 1. Policy:** It is UC's policy to support its mission of education, research, and public service by purchasing goods and/or services that provide the highest total value to UC while complying with applicable law. UC must also afford the

maximum opportunity feasible to those who wish to become suppliers to UC.

- 2. General Applicability:** BUS-43 applies to all UC Locations' purchasing activities, unless otherwise indicated or if the LBNL is following federal policies and procedures.
- 3. Applicability under Federal Contracts and Grants:** BUS-43 applies to federal funds used for the acquisition of goods and/or services. If there is a conflict, then the following take precedence over the requirements in BUS-43:
 - Applicable federal law
 - The standards identified in the Federal Acquisition Regulations (FAR), the Office of Management and Budget (OMB), and the Defense Federal Acquisition Regulations Supplement (DFARS)
 - Any applicable mandatory requirements or provisions imposed by federal awarding agencies
- 4. Classification for Federal Tax Purposes:** UC must follow applicable law regarding the classification of persons or entities providing services to UC. This specifically applies to determining if service providers are UC employees or independent contractors. The department or individual requesting the service must provide completed tax classification forms prior to procurement of services.
- 5. Restrictions on Contracting for Services:**
 - a. Covered Services: [Regents Policy 5402 \(Policy Generally Prohibiting Contracting for Services\)](#) and the American Federation of State, County, and Municipal Employees (AFSCME) EX and SX bargaining unit [Collective Bargaining Agreements' \(CBAs\) Article 5](#) restrict what services UC may contract out. These restrictions apply to services that are performed by the AFSCME titled UC employees in the EX and SX bargaining units (known as covered services). See the [Procurement Services SharePoint portal](#) for more information.
 - b. Services that Displace UC Employees: In addition, California Public Contracting Code (PCC) and UC HR policy require a careful review of any proposed service contract where UC staff would be displaced. The [Guidelines on Contracting for Services](#) state the obligations for each party when there is a proposed service contract that would result in displacing UC staff. Requesting individuals must submit a completed "Formal Notice Pursuant to University Guidelines on Contracting for Services" (p. 8-9 in the [Guidelines on Contracting for Services](#)), and this notice will be reviewed and certified by the Office of Systemwide Human Resources and the Office of the Chief Financial Officer prior to entering into the proposed service contract.
- 6. Procurement Contract vs. Purchase Order (PO):** Procurement contracts and purchase orders have different purposes. Procurement contracts become legally binding documents when both parties sign, and they are used for long term arrangements as well as for complex, highly sensitive engagements where

risk and documentation of commitments or liabilities is important. Purchase orders are commercial documents used for transactions and become legally binding when the supplier accepts the PO either in writing or by providing any of the goods or services listed in the PO. Purchase orders also are used to effect releases against an existing contract.

7. **Contract Duration:** The maximum duration of any UC procurement contract to purchase goods and/or services, including the initial term and all amendments or extensions, must not exceed ten years.
8. **Exceptions to Policy:** Exceptions to BUS-43 must be approved by the appropriate Policy Exception Authority.

B. Expenditure of Less Than \$100,000 Annually for Goods and/or Services:

1. **General Requirements:** Buyers may use negotiation as a tactic in procurements where the agreement or transaction with the specific supplier does not exceed \$100,000 annually.

The P/SCD may also require competition for these procurements if it is necessary to develop a source, validate prices, or if there are other compelling business reasons. Buyers may also use both negotiation and competitive quotes if competition is not feasible or required.

UC supports small businesses through Small Business First, which requires all procurements valued between \$10,000 and \$250,000 annually be awarded to Small Businesses or Disabled Veteran Business Enterprises wherever feasible. See Section III, Part 3, Subsection C. Small Business First below for more details.

2. **Conduct of Negotiations:** Negotiations may be conducted orally or in writing with one or more suppliers. The P/SCD is responsible for determining the number of suppliers to include in negotiations, and the P/SCD may consider complexity of purchase and market conditions when making that determination.
3. **Agreements with Suppliers:** The P/SCD must determine the appropriate contracting vehicle level sufficient to protect UC's interests, and each purchase agreement must be in writing. In addition, the agreement must include the UC Terms & Conditions (UC T&Cs). The buyer must use the UC standard templates available on the Procurement Services Forms & Policies SharePoint portal to craft the agreement as much as possible.¹ If the P/SCD authorizes using the supplier's agreement template for a purchase transaction, then the buyer must document the reason for the exception.

C. Expenditures of \$100,000 or More Annually for Goods and/or Services:

1. **General Requirements:** [California Public Contract Code Section 10507 et](#)

¹ See the [Procurement Services Forms & Policies SharePoint portal](#) for the most current versions of the UC forms and templates.

[seq.](#) requires that UC competitively bid all purchases either valued at \$100,000 or more or with proposed annual expenditure of \$100,000 or more unless an exception applies.

- a. [California Public Contract Code Section 10508.5](#) also allows UC to award purchase agreements valued up to \$250,000 to certified Small Business Enterprises and/or Disabled Veterans Business Enterprises (SBE/DVBE) without competitive bidding. UC must get quotations (quotes) from two or more certified small businesses in order to bypass competitive bidding requirements. UC See Section III, Part 3, Subsection C. Small Business First below for more information.

2. RFX Requirements:

- a. **Specifications:** These must contain descriptions that are adequate to obtain competition. Suppliers must have enough information to provide appropriate responses. In addition, the specifications must provide the same information to all competing suppliers and must not, to the fullest extent feasible, favor one brand, trade name, article, manufacturer, or supplier over others. It is the responsibility of the supplier to ask clarifying questions regarding the specifications if they do not fully understand the requirements.
- b. **Brand or Trade Names:** Specifications may include brand or trade names only when needed for descriptive purposes. If specifications include a brand or trade name, then they must also contain a description of the technical features. The description must be sufficient to determine if other available goods or services are equivalent to the brands or trade names specified.
- c. **Date Needed:** The date must provide a reasonable time to obtain competition, secure timely delivery, or obtain contract performance based on realistic schedules. Requests must avoid requirements, whenever feasible, that may result in payment of premium costs due to abnormally short delivery or performance times.
- d. **Verification of Needs:** Prior to releasing RFX Events, the P/SCD must confirm that specification requirements such as abnormally short delivery or performance times are reasonable and necessary.

3. Supplier Qualification:

- a. Suppliers must qualify as responsible bidders when participating in an RFX event. RFX Event manager must determine whether a bidder is a responsible bidder.
- b. UC may choose to conduct supplier prequalifications separate from the RFX. The RFX Event must specify if bidders are to submit qualifying information prior to submitting bids or with their bids.
- c. Prospective bidders must provide relevant information as required to determine responsibility in order to qualify for bidding. RFX Event teams

must define qualification requirement factors that are relevant to the event and have appropriate levels of complexity, cost, risk, and response time. All potential bidders must be given equal consideration in evaluating qualifications to determine if a supplier is a responsible bidder.

- d. Prequalification is not the final determination of responsible bidder status. The P/SCD may change the qualification status of a bidder based on subsequent information.
- e. The P/SCD may prequalify known suppliers with a current record of satisfactory performance and reliability. This prequalification only applies to goods and services they have previously supplied.

4. Quotation Solicitation:

- a. **Competition:** UC must use competition when soliciting quotes for goods and/or services if estimated annual spend is more than \$100,000 per year. UC must not artificially divide requirements into separate transactions in order to avoid competition.
- b. **Public Access to RFX Information:** For formal RFXs, UC must post all RFX documents to the public where feasible. Such public availability includes but is not limited to:
 - Pushing electronic notices such as email out to appropriate suppliers;
 - Posting an appropriate notice in a place readily accessible to suppliers (e.g. Systemwide and Location websites) who may be interested in submitting a quotation or bid;
 - Using third-party organizations where applicable, to inform potential suppliers of UC's practices, or
 - Making an appropriate newspaper or trade journal announcement, the PP/SCD determines it to be in UC's best interests.

The P/SCD may extend the RFX deadlines for submitting proposals. UC must publicly post the deadline extension and concurrently notify all bidders of the new deadline.

- c. **Solicitation:** If the RFX is not posted publicly, then UC must use as broad a solicitation of qualified potential bidders as feasible for formal competition. UC must solicit at least three sources and, if there is a limited market, the solicitation may include written inquiries to determine supplier interest and capability.
- d. **Form and Content:** The P/SCD may obtain RFX responses electronically or in writing. When soliciting RFX responses, UC must give each supplier the same information for preparing and submitting those responses. The solicitation must specify which evaluation method UC will use. If the award will be based on the Best Value method, then the RFX must list the different factors or criteria to be considered in the evaluation.

UC must establish the number of points as well as the standards for determining the range of points that may be awarded per factor/criteria

prior to quotation opening. UC may choose to disclose how many points are possible per factor/criteria to the bidders. UC may also reserve the right to accept or reject quotes on each item separately, or the quotation as a whole, without further discussion.

5. Processing RFX Responses:

- a. **Acceptance:** UC must accept all RFX responses received on or before the date and time specified in the solicitation. UC may reject any late responses unless UC is responsible for the delay.
- b. **Rejection:** UC is not required to accept any responses, and UC may reject all responses without providing an explanation if UC has not awarded a contract or entered into negotiations with a bidder. In addition, UC may reject all responses when an award would not result in a reasonable price. UC must reject any quotation that is determined to be non-responsive² or from a non-responsible bidder.
- c. **Exceptions:** UC may not allow a bidder to correct an error, take an exception to a specification, or waive an irregularity if it gives that bidder a material advantage over other bidders.
- d. **Quotations:** UC must not open bid documents publicly unless, in the judgment of the P/SCD, a public opening will be advantageous to UC.

6. Award of RFX:

- a. **General Basis:** While California Public Contract Code allows UC to use both Best Value and Lowest Cost methods to evaluate RFX, Best Value is the preferred methodology under UC policy. The [Sustainable Practices Policy](#) requires procurement teams to allocate 15% of evaluation points to sustainability. The [Sustainable Practices Policy](#) also governs granting exceptions to this requirement.

If the apparent awardee(s) refuse or fail to execute the tendered Purchase Agreement, then UC may award the RFX successively to the next responsible bidder, and then to the third in the event of further refusal or failure.

- b. **Best Value:** The weight for the financial component must be at least 25%, and sustainability must be at least 15% in Best Value evaluations.
- c. **Responsive Quotation:** In all bid evaluation methodologies, UC must limit consideration for award to responsive quotations. Quotes are not responsive if the bidder does not provide information on all mandatory items or if the bidder indicates they cannot comply with mandatory items.
- d. **Reasonable Price:** The P/SCD must determine that prices are reasonable before UC can enter into a purchase agreement for awarded RFX. Prices are considered reasonable when the P/SCD determines that

² Bid that is not in substantial conformance with the RFX requirements.

the RFX has resulted in a reasonable market test. Prices are also considered reasonable when set by applicable law or regulation. If neither scenario applies, then UC must determine price reasonableness through appropriate price analysis.

In addition, UC may use pricing techniques from federal regulations in documenting price reasonableness. If using federal pricing techniques, UC must take into account the different character and scale of purchases for which these techniques were developed. UC must comply with FAR and DFARS requirements when using funds from federal grants and contracts. UC must document price reasonableness justifications for audit purposes. The documentation must be traceable, and UC must provide backup to any statements.

- e. **Negotiation:** In some circumstances, it is not possible to specify all of UC's requirements, and UC may use negotiation. The RFX must state that the lowest responsible bidder will be awarded the right to negotiate those requirements with UC. If the parties are unable to reach agreement, UC may go to the next lowest bidder if it wishes but it is not required to do so. UC holds the rights to negotiate with one or all bidders at its discretion, or if it is in the best interest of UC.
- f. **Multiple Awards:** UC may award the RFX to multiple suppliers when the P/SCD determines that a single supplier may not be capable of fulfilling UC's needs. UC must expressly reserve the right to make multiple awards.
- g. **Notification:** At the end of the award process, UC must notify non-awarded bidders in writing that they were not selected.

7. Purchase Agreements:

- a. **Written Purchase Agreements:** Purchase Agreements must be in writing and may be in electronic format with digital signatures.
- b. **Inapplicability to Construction and Research Collaboration:** Authority may not be delegated to SCM/Procurement Officials to execute construction and research collaboration agreements, unless limited exception is granted.
- c. **Standard Documents:** Purchase Agreements must be on the most current version of the UC template documents³. UC may not make changes to the templates unless those changes are authorized in the annotated versions of the templates. The Policy Exception Authority or designee, in consultation with UC Legal – Office of the General Counsel (UCL), must approve any changes not authorized in the annotations.
- d. **Special Documents:** Purchase agreements for goods and services that support research and development work, sub-agreements for research,

³ See [Procurement Services Forms & Policies SharePoint portal](#) for UC templates

unusually complex or high-value items or services, or other unusual requirements, may require the use of documents specially created for the purpose. UC must consult the P/SCD and UCL before entering into such purchase agreements.

- e. **Extramural Agreement Provisions:** UC must include UC's Terms and Conditions (UC T&Cs) with standard purchase orders and subcontracts using federal funds. Do not use UC T&Cs when issuing sub-awards for research.

8. Performance and Acceptance:

- a. **Changes:** If an executed purchase agreement must be changed, then UC must negotiate those changes in a way that ensures the amended agreement does not violate the principle of competition or disadvantage UC.
- b. **Receiving and Acceptance:** The end user department is responsible for inspection of purchased goods and services. The department must conduct that inspection upon receipt or performance or as quickly thereafter as is feasible. The department must also reconcile discrepancies promptly with the supplier. The end user must take particular care when accepting complex products such as complex equipment and unusual services. UC must document acceptance tests or other acceptance criteria in the purchase agreement for these types of purchases.

D. Exemptions from Competitively Bidding Goods and Services:

- 1. **General Requirements:** The requirement for competitive bidding of goods and services with expenditures in excess of \$100,000 annually may not apply in the following circumstances:
 - When the P/SCD determines that the goods and/or services are sole source goods and/or services,
 - The Services are Professional or Personal Services,
 - There is an unusual or compelling urgency to obtain the goods or services,
 - The procurement takes place through Small Business First (see Section III, Part 3, Subsection C. below for more details)
 - The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity (in the case of federally funded purchases only), or
 - If after solicitation of a number of sources, the P/SCD determines competition is inadequate.

However, UC Locations are strongly encouraged to seek competition even in cases where the goods and/or services are exempt from the requirement to competitively bid.

- 2. **Governing Requirements:** All other requirements governing the purchases of goods and services also apply to those purchases that are exempt from competition.

3. Solicitation of Quotations (or Proposals):

a. **Pre-Solicitation Investigations:** Before soliciting non-competitive quotes, the P/SCD must develop sufficient information on available goods and services to:

- Permit reasonable consideration of alternatives and evaluation of any technical information required to determine that the product or service is exempt from competitive bidding;
- Assess the capabilities of potential suppliers;
- Aid in design work;
- Develop complex specifications;
- Estimate prices/costs, and/or;
- Establish time for delivery or performance.

P/SCDs must take care to request reasonable supplier effort and to avoid making actual or implied commitments to suppliers while gathering this information.

b. **Specification Development:** End user departments must write requirements in industry standard terms to ensure there is a reasonable basis for securing quotations and adding accurate specifications to purchase agreements.

c. **Form and Content:** Quotations must be in electronic or written form. The end user department must clearly establish the basis for quotes. The buyer must give any information needed to prepare and submit quotes to all potential suppliers. This includes confidentiality and negotiation requirements.

d. **Documentation:** The P/SCDs must use the [Source Selection & Price Reasonableness \(SSPR\) Form](#) for documenting exceptions to competitively bidding goods and services.

4. Processing Quotations Received:

a. **Rejection:** UC may reject all quotes when an award will not result in a reasonable price and/or terms. The P/SCD may also reject quotes determined to lack technical merit or that will not otherwise reasonably satisfy UC's requirements.

b. **Irregularities, and Clerical Errors:** UC may allow bidders to correct irregularities or clerical errors in quotes.

5. Awards of Purchase Contracts:

a. **General Basis:** UC may award purchase agreements once the P/SCD determines that the supplier is a responsible bidder and that the quote has a reasonable price.

b. **Negotiation of Reasonable Prices and Other Terms:** UC may negotiate reasonable prices and terms if the P/SCD determines it is appropriate to do so.

E. Purchase Limitations and Special Requirements:

1. Campus and LBNL:

a. Office of the President Coordination: Local procurement teams must coordinate with the Office of the President in the following matters:

- Transactions that exceeds delegated authority.
- Transactions with the potential for a significant risk, liability, or a high impact indemnification
- Matters such as sensitive policy issues or those with potential or actual claims or disputes involving significantly large amounts.

Local procurement teams must coordinate with Systemwide Procurement Services in these matters. The Chancellor, Vice President of ANR, or LBNL Director will determine format and content required in each case.

b. Prevailing Wages on Public Works in Excess of \$1,000:

1. **General Requirements:** UC requires prevailing wages for all public works maintenance projects. BUS-43 applies to Public Works administered by Procurement Services. The UC Facilities Manual governs Public Works administered by Facilities Management.
2. **Exceptions to Prevailing Wage⁴:** The following are examples of categories exempted from prevailing wage:
 - Routine janitorial or custodial services,
 - Protection of the sort provided by guards, watchmen, or other security forces, or
 - Landscape maintenance work by sheltered workshops where sheltered workshops are non-profit organizations licensed by the Chief of the California Department of Labor Standards Enforcement employing mentally and/or physically disabled workers.
3. **Award Procedures:** UC must:
 - Include certain mandated language in UC's solicitation and contracting documents;
 - Verify that supplier is registered with the Department of Industrial Relations (DIR);
 - Determine the date of the prevailing wage determination applicable to the Public Work (i.e., date of award);
 - Inform DIR of award by filing a PWC 100 form which can be located on the DIR website;
 - Make available the prevailing wage schedule upon request; and

⁴ Exceptions to prevailing wage may be subject to wage and benefit parity requirements under Regents Policy 5402 and Article 5 of AFSCME's EX and SX CBAs.

- Take action upon receiving a report of a suspected prevailing wage violation.
- c. Temporary or Supplementary Staffing Agencies:** To ensure compliance with the Federal Patient Protection and Affordable Care Act, UC requires that all contracts with temporary or supplementary staffing agencies contain a provision substantially in the form of the Patient Protection and Affordable Care Act Employer Shared Responsibility article in the UC Terms and Conditions of Purchase.
- d. Fair Wage/Fair Work:**
1. **General Requirements:** Suppliers providing services at UC Locations must pay a minimum of \$15 per hour to their employees performing those services⁵.
 2. **Contracting Procedures:** All contracts for UC Fair Wage/Fair Work Services must contain the UC Fair Wage/Fair Work Article in the UC T&Cs
 3. **Exceptions:** The PEA must approve any exceptions to BUS-43. End user departments must submit exception requests prior to entering into an agreement for Fair Wage/Fair Work services unless UC determines there is no other supplier available within the required time frame. In such cases the PEA must document approval in writing.
 4. **Audit:** Suppliers must agree to provide verification of an independent audit for compliance with Fair Wage/Fair Work for services provided that exceed \$100,000 within a 12 month period. Suppliers must also make available work papers for Fair Wage/Fair Work services when the UC auditor requests them. This does not apply to services subject to prevailing wage requirements⁶.
- e. Alcohol, Drugs, Hazardous and Radioactive Materials:** Federal and State laws and regulations govern the purchase, control and use of narcotics, dangerous drugs, ethyl alcohol, and radioactive and other hazardous materials. Each UC Location must establish appropriate procedures and controls to ensure compliance with these laws and regulations and with prudent practices in the industry. (See also [BUS-2, Tax-Free Alcohol Permits, Records](#), and Operations and [BUS-50, Controlled Substances](#)).
- f. Product Recall:** Each UC Location must establish a procedure that assigns responsibility for notifying the UC Location of product recalls. The procedure must identify who is responsible for coordinating and documenting the return, repair, or destruction of the defective products.

⁵ UC may also require suppliers to pay wage and benefit parity to employees if they are providing services covered under Regents Policy 5402 and Article 5 of AFSCME's EX and SX bargaining unit CBAs.

⁶ See [Procurement Services Forms & Policies SharePoint Portal](#) for more resources on Fair Wage/Fair Work

- g. Letters of Intent:** At times it may be necessary for the P/SCD to issue a letter of intent in advance of a Purchase Order. Since UC may be legally bound by the letter, it is subject to the same restrictions and policy requirements as other purchase actions including, but not limited to, the requirements for competition, determination of price reasonableness, and appropriate administrative approval.
- h. Incentives:** Agreements containing incentives must adhere to the following:
- All incentives must be identified as such and listed in the Purchase Order or Purchase Agreement. The P/SCD must include the value of the incentive payment when determining price reasonableness.
 - Incentives must be returned to the University as cash rather than credits to make additional purchases whenever feasible. If the Purchase Order or Purchase Agreement only provides for incentive credits, then the UC location must use such credits as soon as possible. The credits must be used to purchase needed goods and services for the program or activity that generated the credits.
 - Patronage and earned incentive checks must be made payable to The Regents of the University of California and remitted to the appropriate Location office as determined by Systemwide Procurement.
 - All incentives and discounts based on the volume (sales, transactions, quantities, dollars, or any other similar measure) of goods and services provided or on prompt payment for goods and services must be credited back in a timely manner to the Federal Sponsor or Federal flow-through source account/fund, or to the sponsoring or cognizant agency, that was directly charged or recharged for the original purchase.
 - The University program or activity receiving the incentive must track the use of incentives.

2. Campuses Only:

- a. Purchasing Goods that Require Installation:** UC must include installation in the same agreement as the purchased goods whenever feasible. See the [UC Facilities Manual](#) for procedures on processing these agreements and guidelines on provisions to include in the agreements.
- b.** There may be instances where it benefits UC to use separate transactions for the purchases of goods and their installation. UC must consider the following factors when deciding to use separate transactions:
- Time, cost, and supplier requirements;
 - Warranty issues;
 - Installation by UC craft labor (depending upon the dollar amount), or
 - Whether or not the installation involves the erection, construction, alteration, repair, or improvement of any University structure; or
 - Whether or not the State of California requires a contractor to have an

active, valid license in order to perform the work.

- c. If the purchase will cost more than \$50,000, then consult [UC Facilities Manual](#) or [UCOP Facilities Management Asset Management and Physical Planning Procedures and Guidelines](#) to determine what type of purchase agreement, purchase order, or construction contract is appropriate.
- d. The UC location's facilities management department must approve all purchase orders that involve alterations to buildings or installations that affect the nature of a building.

F. Resolution of Controversies over the Solicitation or Award of a Contract:

- 1. Escalation Authority:** The Escalation Authority has authority to resolve protests and other controversies of actual or prospective bidders regarding the solicitation or award of an agreement or contract.
- 2. Filing of Protest:** Any actual or prospective bidder who has a complaint regarding the solicitation or award of an agreement must first attempt to resolve the grievance with the procurement or supply chain professional, P/SCD, or other University Contracting Officer involved in the transaction. If the controversy over the solicitation or award of an agreement cannot be resolved at this level, the complainant may file a protest with the Escalation Authority. A protest must be filed promptly and in any event within two calendar weeks after such complainant knows or should have known the facts for initiating a protest. All protests must be in writing.
- 3. Decision:** The Escalation Authority must appoint one or more individuals to investigate the issues involved in the protest, analyze the findings, consult as appropriate with UCL, and promptly issue a decision in writing. A copy of that decision must be furnished to the aggrieved party, and the decision must state the reasons for the action taken.
- 4. Effect of a Protest:** In the event of a timely filed protest, UC may not proceed further with the solicitation or award involved until the protest is resolved or withdrawn. After evaluating the protest, the Escalation Authority may, in consultation with UCL, decide that continuing the procurement is necessary to protect substantial interests of UC. The Escalation Authority must issue this determination in writing and include the reasons for continuing with the procurement.
- 5. Unresolved Controversies:** The Escalation Authority must consult UCL if there are potential or actual claims or disputes that cannot be settled in a fair and equitable manner using the required escalation path.

G. Public Records Requests:

- 1. Governing Requirements:** Third parties may request records relating to any University transaction. The P/SCD must immediately forward such requests to the Public Records or Information Practices Coordinator and work with that office in producing records as appropriate. Where records are requested during the course of a procurement process or after an RFP has been cancelled, UC

Locations and Information Practices Coordinators must consult with UCL before releasing responsive records. In many circumstances, there are legal exemptions to protect records from disclosure during the period prior to final award.

H. Unauthorized Purchases:

1. Responsibility: An individual who has not been delegated purchasing authority and who makes an unauthorized purchase of goods or services is financially responsible for the unauthorized transaction. The PEA may choose any of the following:

- Require the unauthorized individual to cancel the transaction and pay any cancellation charges
- Require the unauthorized individual to pay either the full amount or the amount to cover items whose purchase would not otherwise be authorized.
- Require the unauthorized individual to pay the difference between the charges incurred and the charges UC may reasonably have incurred for a properly authorized purchase
- Require the unauthorized individual to personally reimburse UC for unauthorized purchase of good or services.

I. Low-Value Purchases:

1. Policy: UC Locations may develop methods for reducing costs of executing low-value purchases. Such methods must establish definite dollar limits of use and must require compliance with purchasing policies and requirements.

2. Low-Value Purchase Authorization: The P/SCDs may authorize individuals in departments outside the purchasing department to make low-value purchases. Each delegation of authority must be in writing and must contain written guidance adequate to ensure observance of good business practices as well as compliance with UC purchasing policy. The P/SCD at each UC Location determines its Low-Value Purchase Authorization limit amount, and the amount must not exceed \$10,000 per individual transaction or \$100,000 per supplier per year. Designated individuals may execute all purchases under this limit for each department. The P/SCD must ensure that all such authorized individuals are trained in compliance with UC Policy and good business practices.

In addition, the following apply:

- Individuals delegated purchasing authority have a functional responsibility⁷ to the P/SCD;
- Authorized individuals must limit purchase to goods and services not available in UC inventory;

⁷ A functional reporting relationship is established when contracting duties are allocated a dedicated % effort on an individual's job description

- Authorized individuals must purchase through strategically sourced agreements, including eProcurement, when available. Authorized individuals must also use established maintenance agreements or internal resources when available for repairs;
- Transactions must specifically prohibit purchases of goods determined inappropriate by the P/SCD. Examples are inventorial equipment (BUS-29, Management and Control of University Equipment); specially controlled items such as ethyl alcohol (BUS-2, Tax- Free Alcohol Permits, Records, and Operations); narcotics and dangerous drugs (BUS 50, Controlled Substances Program Best Practices Guide); firearms, precious metals, explosives, and other hazardous materials; and Consulting Services;
- Authorized individuals must not artificially divide purchase transactions to avoid the authorization limit; and,
- Internal auditors familiar with procurement policy, or an appropriate designee, must conduct periodic appraisals to ensure authorized individuals are complying with UC purchasing policy. These appraisals may provide a basis for adjusting or discontinuing an individual's authorization.

Check with your local procurement team for more information regarding this section.

3. Purchasing Authority Outside of the Procurement Department: The P/SCD may delegate additional purchasing authority to individuals outside the Purchasing Department, under the following conditions:

- a. Qualifying departments must have an historical level of purchase activity sufficient to ensure that a higher level of authority will result in more cost effective procurement.
- b. Qualifying departments have written procedures for implementing the increased delegation of authority, and the P/SCD has approved these procedures;
- c. Individuals delegated such additional purchasing authority have a functional responsibility to the P/SCD. The P/SCD must ensure that all purchasing activity is conducted in accordance with University policies and procedures. The P/SCD must also ensure that the authorized individuals are trained in compliance with UC policies in order to effectively use the increased authority;
- d. The P/SCD or designee may periodically audit the individual's contracts and supporting documentation. If the P/SCD finds issues with the contracts or documentation, then the P/SCD may work with the individual's primary supervisor to develop a corrective action plan. The P/SCD must revoke the individual's authorization if issues persist;
- e. The amount of additional authority must not exceed the \$100,000 threshold for competition;

- f. Any such delegation must specifically prohibit purchases of goods and services determined inappropriate by the P/SCD. Examples are inventorial equipment (BUS 29, Management and Control of University Equipment); specially controlled items such as ethyl alcohol (BUS 2, Tax-Free Alcohol Permits, Records, and Operations); narcotics and dangerous drugs (BUS 50, Controlled Substances Program); firearms, precious metals, explosives, and other hazardous materials; and Professional Services, including Consulting Services.
4. **Exceptions:** The P/SCD may grant exceptions as to dollar amount and items to be purchased when notified by the responsible official that an emergency situation exists. The exception must be on a transaction by transaction basis.

J. Personal Purchases:

1. **Policy:** Individuals must not use UC credit, purchasing power, facilities, and services to purchase goods or services for individuals or for non-UC activities. A UC administrator with the appropriate delegated authority, and in consultation with UCL, may approve any such purchases if they are for a UC program.
2. **Discretionary Use:** If the Chancellor approves, then organizations and activities closely allied to or officially associated with UC (such as a faculty club or an ASUC organization) may purchase materials not subject to federal tax through their local procurement team.

K. Debarment:

UC may debar a Supplier from doing business with UC by providing the Supplier with written notice stating:

- The reasons that UC intends to debar the Supplier;
- The length of time for the intended debarment; and
- The time frame in which the Supplier must respond if the Supplier disputes UC's rationale for debarment.

The default debarment period is three (3) years but may vary according to the circumstances. The Supplier has two (2) weeks to respond to the notice of intended debarment. UC will review any Supplier response to the debarment notice and inform the Supplier of UC's disposition of the matter. UC Locations are encouraged to consult with the UCL in this regard.

Part 2: Strategic Sourcing Initiative:

- A. **Policy:** It is UC's policy to use planned, quantity purchasing to support its mission of education, research, and public service. To this end, UC must use regional and systemwide purchases, strategically source agreements, and price schedules to the maximum extent feasible.
 1. **Economic Advantage:** The major emphasis of the Strategic Sourcing Initiative is economic benefit to UC. UC must consider both administrative cost avoidance (a reduction of internal administrative costs), cost savings (a reduction of cost for purchase such as a discount on price), and price avoidance (a reduction of price increases for the commodity) in determining economic advantage.

- 2. Agreement Practicality:** UC may establish strategically sourced agreements when administrative cost avoidance, price avoidance, and/or cost savings can be achieved if the responsible official has determined that utilization and estimated dollar value are sufficient to justify such an agreement.

For systemwide agreements, the cost/price reductions must be greater than could be obtained by an individual campus. The cost/price reductions must also exceed the cost of administering the agreement as well as the aggregate costs of individual campus purchase actions.

- 3. Goods and Service Acceptability:** The goods and services purchased through a strategically sourced agreement must meet the same quality standards as any other purchase agreement for those goods and services. The Commodity Manager must take into consideration information gathered from local procurement teams and/or end user departments when determining requirements.
- 4. Lawrence Berkeley National Lab (LBNL) Participation:** The prime contracts which govern LBNL operations require the use of certain government sources not generally available to the campuses. LBNL may use strategic sourcing agreements when they are cost effective and there is no conflict with federal requirements.

B. State Supply Schedules and Contracts:

- 1. Evaluation and Designation:** Commodity Managers must consult with appropriate subject matter experts when evaluating state supply schedules and contracts for use in strategically sourced agreements or price schedules. The Commodity Managers must comply with BUS-43 when using California Multiple Award Schedules (CMAS).
- 2. Liaison with State Procurement Office:** The Associate Vice President and Chief Procurement Officer - Procurement Services and the UC Health Chief Procurement Officer may represent UC in its relations with the State Procurement Office, Department of General Services to secure mutually beneficial supply agreements. Commodity Managers may make reports and suggestions regarding state supply schedules or contracts to the Associate Vice President and Chief Procurement Officer-Procurement Services.

Part 3: Supplier Diversity and Federal Planning and Reporting:

- A. Policy:** This section describes the responsibilities and procedures that each University location must establish and maintain to ensure that no firm seeking to do business with UC is discriminated against on a basis prohibited by law or UC policy (prohibited basis). This section also describes the steps that UC must take for a good faith effort to comply with all state and federal laws, regulations, and policies on non-discrimination.
 1. UC must not discriminate against any firm seeking to do business with UC.
 2. UC recognizes that it has a responsibility to provide procurement

opportunities to a diverse supplier pool⁸ as stated in the [Principles and Standards of Ethical Supply Management Conduct](#), and the [Principles of Sustainability and Social Responsibility](#), which are standards of practice derived from [The Institute of Supply Management \(ISM\)](#) and the Code of Ethics of the [National Association of Educational Procurement \(NAEP\)](#).

3. When applicable, UC must comply with extramural funding requirements and subcontracting plans for specific federal contracts regarding goals for dedicating a portion of UC's business to small, diverse, and disadvantaged businesses. UC may use outreach programs and supplier fairs to promote these goals. Each UC Location must develop supplier diversity plans. These plans must include reporting requirements as outlined in the [UC Sustainable Practices Policy](#) as well as steps for complying with supplier diversity goals and applicable state and federal policies.

B. Small Business First: [UC Sustainable Practices Policy](#) includes the goal of awarding 25% Economically and Socially Responsible (EaSR) spend annually to small and diverse owned businesses. In addition, the PCC allows UC to limit competition and award purchase agreements valued up to \$250,000 to a certified small business (SBE)⁹ or disabled veteran owned business (DVBE) In support of these goals, UC has established the following Small Business First (SB First) policy, effective March 1, 2021:

1. **General Requirements:** When purchasing goods and/or services valued between \$10,000 and \$250,000 annually, UC must first seek to award these procurements to a certified SBE or DVBE.

If the goods and/or services are valued between \$10,000 and \$100,000 annually, then UC must obtain one (1) quote from either a certified SBE or DVBE. UC must obtain at least two (2) quotes from SBEs or DVBEs if the goods and/or services are valued between \$100,000 and \$250,000 annually.

Businesses must be certified by the [California Department of General Services Office of Small Business and DVBE Services](#) (OSDS)¹⁰ or other accepted certifying agency as listed in the SB First section of the [Procurement Services website](#). The SB First section also outlines procedures for procuring goods and/or services through SB First.

2. **Small Business First Waiver:** There are instances where the procurement method described above may not be feasible, or when contracting with businesses other than a certified SBE, or DVBE is justified. Examples include, but are not limited to:
 - a. Industries where at least two (2) SBEs or two (2) DVBEs are not available,

⁸ Supply base diversity and inclusiveness refers to efforts to engage different categories of suppliers in sourcing processes and decisions.

⁹ Any reference to certified Small Businesses includes certified Microbusinesses (MB).

¹⁰ State of California's certifying agency that administers the small business, public works small business, and DVBE certification programs.

or

- b.** Business needs that dictate requirements that cannot be met by a SBE, or DVBE.

For situations such as these, the PEA must approve a SB First waiver prior to making a purchase or entering into an agreement with a supplier who is not certified as an SBE or DVBE. Individuals must consult their local Small Business Officer prior to requesting a waiver, releasing a solicitation, or requesting a quote to ensure that they have taken all reasonable actions to award the procurement to an SBE or DVBE.

Waivers must clearly document the steps taken and research completed to sufficiently justify exemption from SB First. Local procurement teams must ensure that waivers are stored in the relevant procurement file and maintained per UC retention policy. Waivers must also be available if the file is audited for compliance with SB First.

- 3. Program Exemptions:** The following purchase and/or agreement types are exempt from the Small Business First policy and do not require a waiver:

- Strategically sourced agreements
- Federally funded procurements,
- Research sub-awards,
- Local government awards,
- Agreements with higher education institutions,
- Revenue/reimbursement contracts,
- Medical and patient care agreements,
- Agreements needed to respond to an emergency, and
- Sole source agreements

SB First does not apply to circumstances where federal and grant requirements, court decisions, or courts orders dictate how funds can be expended.

- C. Governing Requirements:** All other University, State, and Federal requirements governing the purchase of goods and services apply to the Small Business First Program.

Part 4: Personal Property/Special Acquisitions:

- A. Policy:** If using external financial loans to the Regents for purchasing personal property, then UC must follow Capital Markets Finance guidelines. For any other agreements for personal property (procurement contracts, leases, or conditional sales contracts), the following apply:

- 1. Availability of Funds:** UC may only acquire personal property when there is an established fund source or The Regents' approval has been secured. When funds are available for only a limited time, such as State funds appropriated on an annual basis, procurement contracts must provide for cancellation and return of property if funding is no longer available. In no case may the general credit of The Regents be pledged as security.

2. **Contract Period:** Procurement contracts for personal property must provide for a contract period that is equal to, or less than, the useful life indicated in UC Useful Life Schedule. The schedule is available from campus Equipment Management units.
3. **Capital Markets Finance:** Capital Markets Finance must approve the rate or interest factor in leases greater than \$50,000 before they are awarded. Capital Markets Finance is responsible for conducting the tax due diligence for all tax-exempt leases.
4. **Policy Compliance:** Procurement contracts for personal property must meet requirements for competition, and UC must follow established guidelines for any negotiations. The P/SCD, or designee, must determine that rates or prices in the agreement are reasonable in the particular circumstances.
5. **Systemwide Acquisitions:** UC must follow locally established procedures for systemwide personal property acquisitions. These local procedures will be determined by the UC location where the systemwide program is headquartered. If local procedures require Chancellor approval of these acquisitions, then the President must approve personal property acquisitions for the systemwide program.

- B. Reimbursement Declaration:** Whenever UC intends to make an expenditure of capital funds and repay the expenditure at a later date by entering into a lease-purchase or similar agreement, it must execute and file a Declaration of Official Intent of The Regents of the University of California to Reimburse Certain Expenditures from proceeds of Taxable or Tax-Exempt Indebtedness.

If a UC Location anticipates that an expenditure of capital funds will later be converted to a lease or similar agreement, then that UC Location must follow the procedures outlined in the Delegation of Authority-Declaration of Intent to Reimburse Capital Expenditures from Proceeds of Indebtedness (DA 2055).

- C. Reports:** Locations must report to the Assistant Vice President, Financial Services and Controls, all personal property acquisitions funded by lease-purchase agreements or Conditional Sales Contracts for inclusion in UC's Financial Position Report.

Part 5: Employee-Supplier Relationships:

- A. Policy:** Part 5 sets forth special limitations and requirements for procurement transactions that involve an employee-supplier relationship. [PPSM-82 \(Conflict of Interest\)](#), and other Human Resource policies, govern employer-employee relationships.
- B. Employee-supplier relationship:** An employee-supplier relationship includes any of the following:
 - An employee, acting alone, proposes for a consideration to lease or sell goods or to provide services to University of California departments; or
 - An employee who owns or controls more than 10% interest in any business which proposes for a consideration to lease or sell goods or to provide

- services to University of California departments; or
- A former employee acting alone, proposes for a consideration to lease or sell goods or to provide services to University departments; or
 - The near relative of an employee, acting alone, proposes for a consideration to lease or sell goods or to provide services to University departments, when the employee has, in any connections with their University employment, any responsibility for or will be involved in any manner, in the department's decision to accomplish or approve the transactions; or
 - The near relative of an employee owns or controls more than a 10% interest in a business, which proposes for a consideration to lease or sell goods or to provide services to University departments, when the employee has, in any connection with their University employment, any responsibility for or will be involved in any manner in the department's decision to accomplish or approve the transactions
- C. Separation of Interests:** UC must keep separate an employee's University and private interests in order to safeguard UC and its employees from charges of favoritism.
- 1. Conflict of Interest:** [The California Political Reform Act](#) and [California Government Code Section 81000-81016](#) prohibit an employee from making or participating in the making of a decision if they have a personal financial interest. UC must comply with [University Conflict of Interest Code](#) as well as [PPSM-82 \(Conflict of Interest\)](#) when purchasing goods and services.
 - 2. Restrictions on Purchases/Leases/Contracts:** The following rules apply when there is an employee-supplier relationship:
 - a. Employee:** UC may not enter into a purchase or lease agreement with a UC employee who has an employee-supplier relationship. However, UC may enter into an agreement with an employee who has teaching or research responsibilities or with a student employee if the P/SCD (or designee) determines that the goods or services are not available from commercial sources or within UC.
 - b. Former Employee:** UC may not purchase, lease goods from, or contract for services with, any former employee (including those who had teaching or research responsibilities) if any of the following apply:
 - The former employee left UC less than two years ago, and the former employee, while at UC, participated in the decision-making process relevant to selecting the supplier. This includes engaging in negotiations, making procurement transactions, or planning for purchases.
 - The former employee left UC less than one year (12 months) ago, and the former employee had policy-making responsibilities for the same general subject area as the proposed agreement while at UC.
- UC may enter into a contract for services with a retiree immediately upon retirement if the retiree, while employed at UC, did not participate in the

decision-making process to select the contract for services. UC must abide by the restrictions noted above for former UC employees if the retiree proposes to sell or lease goods to UC.

- c. Near Relative:** UC may purchase, lease goods from, or purchase services with the near relative of any employee provided that the P/SCD or designee determines that the goods or services are not available from UC's own facilities and that the employee does not, or has not, participated in the decision-making process for selecting the supplier. The employee also must not have a personal financial interest in the procurement transaction and must not own or control more than a 10% interest in the proposed supplier's business.
 - 3. Inspection and Verification of Supplier Status:** Whenever it becomes necessary to ensure an understanding of the facts presented, the PEA (or designee) must inspect the business premises and records of a prospective employee-supplier or a near-relative supplier.
 - 4. Exceptions:** Within constraints imposed by the Political Reform Act and Public Contract Code §§10515 et seq., each Executing Official or designee is delegated authority to approve exceptions to BUS-S43 under unusual or extenuating circumstances.
- D. Certification Requirement:**
- 1. Circumstances Requiring Certification:** Any individual defined as having an employee-supplier relationship with UC must include a written and signed certification stating they comply with the above requirements as part of any quotation or proposal to UC.
 - 2. Contents:** The certification statement must:

 - a.** Indicate UC department(s) and position(s) of the UC employee. In addition, former employees must state the date they left UC employment.
 - b.** Disclose the employee's, former employee's, or employee's near-relative's financial interest in the proposal.
 - c.** Specify the UC employee's and/or near relative's relationship to or financial interest in any business entity involved in making the quotation or proposal.
 - d.** Indicate whether the employee has any responsibility for or will be involved in any manner in the departmental decision to accomplish or approve the transaction. In the case of a former employee, indicate whether the employee had any responsibility for or was involved in any manner in the departmental decision to accomplish or approve the transaction.
 - e.** Certify that no University time, material, equipment, or facilities have been or will be used in connection with any resulting procurement transaction.

Part 6: Procurement Card Program: Part Six applies to all UC locations except LBNL. LBNL has a separate procurement card policy.

A. Definitions:

Cardholder: An individual who has been delegated written authority to use a procurement card by the campus Procurement/Supply Chain Director.

Card Program Authorized Signer: Individual(s) designated by the Chancellor or the VP of ANR (or his/her designee) to authorize issuance of procurement cards and to implement card limits and controls.

Card Program Reviewer / Approver: An individual(s) at a supervisory level who is responsible for reviewing and/or approving purchases made by the Cardholder. Reviewers may not be in a subordinate relationship to the cardholder.

Procurement Card: A commercial credit card authorized by the University of California to designated employees to enable the timely purchase of goods or services. Procurement cards are issued with University credit and are routinely accepted by merchants over payment networks such as Visa or Mastercard. The card is a corporate (e.g., University) liability card, issued to an employee only for University purposes.

Procurement Card Program Administrator: An individual who is responsible for the day-to-day management and operation of the procurement card program at each Location.

B. Policy: UC must ensure that transactions under its procurement card program have adequate management controls to guard against fraud, waste, or abuse. UC must also take care to prevent unallowable costs under federal contracts and grants.

All other details for implementing procurement card services, such as establishing individual cards and determining expenditure limits, reporting requirements, and data transmissions, may be negotiated directly between the campus and the issuing bank, according to the needs of the UC Location.

C. General Information:

1. Procurement Card Program: A procurement card is a commercial credit card authorized by UC as a way for designated employees to make timely purchases of low-value goods or services. The procurement card is a corporate (e.g., UC) liability card, and UC employees may only use it for UC purposes. Its use is subject to strict cardholder purchasing controls that cannot be exceeded without authorization. Settlement is executed electronically on the settlement date to avoid processing costs.

UC's procurement card program is managed by each UC Locations' purchasing unit, in consultation with the Controller.

2. Designation of an Administrator: At each UC Location, the card program manager must designate an Administrator oversee the local procurement card program. The Administrator is responsible for monitoring compliance with

policies and procedures. The Administrator also is the liaison between the issuing bank and the Procurement Services Department at the Office of the President.

D. Specific Transactional Responsibilities and Separation of Duties:

- 1. Separation of Duties:** Individuals who are authorized to make procurement card purchases must not also have the responsibility to review those purchases and must not be the subordinate of any cardholder in order to ensure an independent verification process. In general this means department heads and management service officers may not be cardholders.
- 2. Administrative Review:** The procurement card program reviewer must periodically perform an administrative review of selected purchase documents to verify that the expenditures listed on the daily procurement card transaction report are supported by the required internal documentation.
- 3. Source Documentation:** Source documentation from the Supplier must provide enough detail to allow verification of all expenditures.
 - a. Purchases Made in Person:** To document purchases made in person, the cardholder must provide a credit card slip (customer copy) or other itemized list that can be used to confirm receipt of purchases. Packing slips, electronic confirmation of purchases, cash register tapes are examples of acceptable itemized lists.
 - b. Mail, Telephone, or Internet Orders:** To document mail, telephone, or internet orders, the department must obtain pricing/billing information on a document such as a packing slip or electronic order confirmation that contains an itemized list of purchases. The document must provide enough information to allow verification of the items purchased.
- 4. Internal Reviews:** As part of the review process, a department must perform the following internal reviews.
 - a. Department Review:** Department reviewers must perform an independent administrative review of all purchase transactions for cardholders that are assigned to them. If the department is too small to assign a reviewer, a reviewer from an outside department may be assigned. The reviews ensure the following:
 - The expenditure has proper authorization
 - The expenditure is fully described on one or more documents (no “miscellaneous supplies” for example)
 - There is proof the items purchased were received
 - The expenditure is appropriate to the funding source. Although administrative personnel are not expected to understand exactly what technical items are to be used for, they should be able to identify inappropriate furniture, etc.
 - b. Administrative Review of Documentation:** The reviewer must sign and date the administrative review. The signature may be digital or on paper.

The reviewer must also conduct the review within a defined period of time as per individual UC Location requirements.

- c. Program Review:** The local purchasing unit must conduct periodic reviews of the departmental purchases. Each campus must establish procedures to review compliance with the procurement card program that describe the types and frequency of reviews, sampling methodology, and data retention requirements. These procedures may include:
- Review of a statistical sample of cardholder records (source documentation) to determine compliance with local procurement card policies and procedures
 - System edits, data mining, and/or visual inspection of transaction records to identify questionable transactions, sufficiency of purchase descriptions and transaction amounts, potentially unallowable costs, purchases of restricted items, split transactions, or potential fraud, waste, or abuse
 - Audit of the administrative review procedures to ensure they are properly conducted
 - Documentation of corrective action taken for any program violations uncovered during the review

- 5. Improper Use of a Procurement Card:** Local procurement teams must develop written procedures for preventing, investigating, and reporting unauthorized use of procurement cards. The Controller or Office of Record must approve these procedures prior to implementation of the procurement card program. The procedures must include the BUS-43 requirements regarding unauthorized transactions.

To establish that a particular expenditure was improperly made, a department must complete the appropriate documentation, mark it File Copy Only – Credit Must Be Issued, and forward a copy to the local purchasing unit. The UC Location may approve a transmission method that does not involve sending a paper copy to the purchasing unit. The original documentation may be retained in the department or a central office as designated by the Controller or Office of Record.

- 6. Sanctions:** Each UC Location must establish guidelines for appropriate sanctions to address any abuse or misuse of procurement cards by cardholders or reviewers. All sanctions must be carried out in a timely manner.

Sanctions must be imposed for any unallowable cost, fraud, waste, or abuse, or any other serious or chronic misuse of a procurement card by a cardholder or reviewer. Any suspected fraud, waste, or abuse must be immediately referred to the appropriate campus security and/or Internal Audit organization for appropriate action.

Improper use of a procurement card by an employee may be grounds for disciplinary action and must result in cancellation of the individual's card.

- 7. Retention of Documentation:** Records will be retained for as long as designated in the [UC Records Retention Schedule](#). All records pertaining to pending, foreseeable or ongoing litigation; an investigation, an ongoing audit, or a request for records, cannot be destroyed until these actions have been completed or resolved. These records will be maintained according to UC's Records Management Program and instructions from legal counsel.
- 8. Documentation Exceptions:** The procurement card program administrator will maintain documentation of all policy exceptions made including a brief description of why the exception was necessary. This documentation will be available to the Controller and the Office of Ethics, Compliance, and Audit Services upon request.

IV. COMPLIANCE / RESPONSIBILITIES

Part I: Purchase Transactions

Part 2: Strategic Sourcing Initiative

Part 3: Supplier Diversity and Federal Planning and Reporting

Part 4: Employee-Supplier Relationships

Part 5: Procurement Card Program

Part 1: Responsibility and Authority for the Purchase of Goods and Service/ Purchase Transactions:

A. Responsibility:

- 1. Campus, ANR and LBNL:** Each Chancellor, the Vice President of Agriculture and Natural Resources, and the LBNL Director is responsible for purchasing and providing the goods and services required in a manner consistent with BUS-43 and with the following requirements:
 - a. Strategic Sourcing Initiative:** Maximize the economies of scale in purchasing quantities where needs can properly be met through use of systemwide and regional pool purchases, strategically sourced agreements, and price schedules.
 - b. Cost Effectiveness:** Institute programs to ensure lowest total cost consistent with need through standardization, value and cost analysis, simplifying low-cost purchases, etc.
 - c. Solicitation of Supplier and Service Provider Interest:** Stimulate interest in becoming a supplier to UC through participating in trade fairs and other business meetings, distributing brochures describing campus or LBNL needs and, as appropriate, utilizing newspaper and trade journal notices periodically to invite inquiries.
 - d. Purchase Transactions:** Ensure UC Location meets competition requirements, conducts negotiations according to established guidelines, and confirms price reasonableness in local procurements.

- e. **Procedures and Controls:** Develop and maintain written procedures and controls for implementing UC procurement policy.
 - f. **Equal Opportunity in Business:** Make every effort to ensure that all persons, regardless of race, religion, sex, color, ethnicity, national origin and other protected characteristics, have equal access to procurement opportunities at the UC Location.
 - g. **LBNL Compliance:** LBNL uses the procurement systems negotiated with and approved by the Department of Energy (DOE) under the management contracts between DOE and UC. The approved policies and procedures supporting this DOE-approved system are included in the LBNL Procurement Policy and Standard Practices Manual, which is published and maintained by the LBNL Management Office. The requirements in the LBNL manual take precedence over UC policies due to federal funding regulations.
- 2. The Office of the President:** The role of the Office of the President in Procurement/Supply Chain Management is to recommend and develop policies, monitor compliance, provide effective coordination and counsel, administer the Strategic Sourcing Initiative, maintain the CALCODE (the coding system for equipment management), represent UC with external agencies, analyze proposed State and Federal regulations, formulate long-range planning, conduct special studies as needed, and staff task forces and cross-functional work groups. To this end, the Associate Vice President and UCOP Chief Procurement Officer is responsible in the following areas:
- a. **Strategic Sourcing:** Manage and Administer the Strategic Sourcing Initiative.
 - b. **Purchase Agreements and Related Documents:** Provide staff support for maintaining UC terms and conditions, price schedules, systemwide procurement templates and forms, and their related documents in consultation with UCL.
 - c. **Regents' Agenda Items:** Work in tandem with the Office of the CFO to prepare required Regents' agenda items and to secure approval of purchase agreements and related documents that exceed the authority of the President.
 - d. **Program Management:** Manage initiatives and programs that assist UC in becoming a premier institution known for its Procurement Excellence.
 - e. **Policy:** Develop and refine UC procurement policies, including the procedures in BUS-43, in collaboration with campus and LBNL colleagues.
 - f. **Limitations on Authority:** Compile and distribute to the UC Locations all current, relevant information available on limitations on authority to execute purchase contracts and related documents imposed by State or Federal law or other relevant provisions.

- g. Re-delegation of Purchasing Authority:** Grant re-delegation of purchasing authority to other than the P/SCD for the purchase of goods and services and, within their area of jurisdiction, to other than the Librarian, as it pertains to the purchases of books and periodicals.
- h. Liaison:** Maintain liaison with State and Federal agencies relating to Procurement/Supply Chain Management activities, analyze pending legislation and new regulations for potential impact on UC, disseminate relevant information, and consult with UC colleagues on other governmental matters of interest.
- i. Reporting to the State of California:** Collect and analyze data related to Small Business Utilization and complete the Annual Small Business Utilization Report which is submitted annually to the Governor's Office.
- j. Policy Compliance:** Monitor compliance with BUS-43 and other procurement policies in conjunction with the Office of Ethics, Compliance & Audit Services. Provide guidance in policy interpretation and recommend to responsible officials corrective action when indicated.

B. Authority:

- 1. Authority of the Regents:** The California Constitution vests in The Regents full powers of organization and governance of UC, subject only to certain limited legislative controls. One such control is California Public Contract Code Sections 10507, et seq. Thus, those authorized through the delegation process to commit UC may do so only when the requirements for competition, as set forth herein, have been met.
- 2. Authority of the President:** Bylaw 30 delegates to the President the authority to administer the day to day central and/or systemwide functions of UC, except those activities within the responsibility of the Principal Officers. This includes executing on behalf of UC all contracts and other documents necessary in the exercise of the President's duties:
 - a. Liability:** The President has broad authority to enter into contracts by which UC assumes liability for the conduct of persons other than UC officers, agents, employees, students, invitees, and guests. This includes agreements made in circumstances where the President, in consultation with the General Counsel, deems it necessary to provide express contractual indemnification for those individuals who, at UC's request, have agreed to serve as advisors on operational matters within their area of expertise.
 - b. Delegations to Chancellors, LBNL Director, and the VP of ANR:** The President has delegated authority to Chancellors per Bylaw 31, LBNL Director, and the VP of ANR to execute Purchase Agreements for goods and services, and the additional provisions of the Presidential Delegation of Authority DA 2100.

Part 2: Responsibility and Authority for Strategic Sourcing Initiative:

- A. The Associate Vice President and UCOP Chief Procurement Officer:** Has overall responsibility for the management of the Strategic Sourcing Initiative and the outcomes of this program. The Associate Vice President and Chief Procurement Officer develops long-range plans, determining which commodities UC will bid out and in what order. Collaboratively with the Procurement Leadership Council, the Associate Vice President and Chief Procurement Officer ensures the successful execution of this program and the implementation of the resulting systemwide agreements for goods and services. The Associate Vice President and Chief Procurement Officer has full authority, delegated by the Executive Vice President and Chief Financial Officer, for signatory rights for all Office of the President and systemwide agreements, including agreements for goods and services.
- B. The Strategic Sourcing Director:** Has overall responsibility for the successful execution of the Strategic Sourcing Initiative and the resulting systemwide agreements. Although the Director cannot sign these Agreements, the Director has the responsibility to review them thoroughly before having the Associate Vice President and Chief Procurement Officer sign them. The Responsible Procurement Authority has signature authority for departmental expenses, UC subawards, and may be requested to be the officer to sign other agreements in the Associate Vice President and Chief Procurement Officer's absence. The Director is responsible for all budgetary tasks and documents for the Procurement Services Department. The Director is also responsible for supervising the Commodity Managers, providing feedback and performance management, as well as hiring and disciplining staff as necessary. The Director provides input to the Procurement Services Staff regarding questions related to strategic sourcing agreements, price schedule agreements, commodity planning, and procurement related questions.

Part 3: Responsibility and Authority for Supplier Diversity and Federal Planning and Reporting:

- A. Implementation of the Policy:** The P/SCDs at all UC Locations are responsible for the implementation of this Policy.
- 1. Revisions to the Policy:** The Executive Vice President-Chief Financial Officer owns this Policy and has the authority to interpret and implement changes to the Policy.
 - 2. Campus Responsible Parties:**
 - a. The Escalation Authority (or the comparable position):** The primary campus/medical center leader with delegated responsibility for the administration of policies related to small business and supplier diversity.
 - b. Location Reporting Requirements:** Each UC Location will also maintain and collect the data and provide it to the Office of the President, Procurement Services Office annually, or as necessary, to report to the Federal Government and the State of California.
 - 3. The Procurement Services Office:** Procurement Services Office in UC's

Office of the President will work with the UC Locations' P/SCDs or their designees to give guidance for the implementation of the Policy and the collection of the Small Business and Supplier Diversity procurement data.

Part 4: Responsibility and Authority for Employee-Supplier Relationships:

Approvals: The P/SCD or designee is responsible for collecting the required certification for Employee-Supplier Relationships. When the work involves an intercampus or LBNL transaction, the P/SCD at the UC Location where the request originates is responsible for collecting the required certification. In addition, the P/SCD is responsible for collecting new certification prior to the extension/renewal of the terms of an employee-supplier contract. The P/SCD is responsible for notifying the submitting department of approvals or denials of requests involving employee-supplier relationships.

Part 5: Responsibility and Authority for Procurement Card Program:

A. Campus Controller or Office of Record:

- Approve campus guidelines for use of a Procurement Card as a payment mechanism;
- Approve procedures for preventing and investigating and reporting unauthorized use of Procurement Card;
- Approve requests to issue Procurement Cards to central purchasing unit employees;

B. Procurement Card Manager:

- Oversee the Procurement Card Program;
- Designated by the Chancellor, or the ANR VP, to authorize new cardholders to commit funds for UC in accordance with this policy's provisions regarding low-value purchases;
- Plan and provide for regularly scheduled audits, reviews, and/or oversight;
- Approve spending limits;
- Ensure that sanctions are imposed for the abuse or misuse of a Procurement Card by a cardholder or reviewer;
- Cooperate with investigations of suspected fraud, waste, or abuse;
- Ensure adherence with the requirements of the Procurement Card Program;
- Approve more than ten (10) cardholders per reviewer; and
- Approve exception to reviewer reporting relationship.

C. Procurement Card Administrator: The Administrator (or other individual approved by the Controller) must:

- Administer the Procurement Card Program consistent with this section of BUS-43;
- Interface with the Procurement Card Issuing Bank;
- Develop and conduct mandatory initial and refresher training for Procurement Card holders and reviewers;
- Process and approve requests for issuance of new Procurement Cards;

- Maintain an up-to-date listing of all authorized cardholders, their Delegations of Authority, and their respective reviewers;
- Monitor departmental reconciliation activity and unresolved disputes;
- Report discrepancies to the Procurement Unit Manager and recommend appropriate sanctions;
- Verify that proper incentive amounts are received under UC program with the Procurement Card Issuing Bank;
- Perform periodic reconciliation of bank statements and financial systems;
- Ensure the Procurement Cards are cancelled and surrendered by the cardholder upon termination of a cardholder's need or termination of employment; and
- Cooperate with investigations of suspected fraud, waste, or abuse.

D. Reviewer: The Reviewer must:

- Successfully complete mandatory initial and annual refresher training;
- Review on a timely basis, documentation related to all purchase and approve all cardholder transactions to confirm appropriateness and receipt of the goods and services ordered;
- Notify the Procurement Card Administrator or Procurement Unit Manager of any cardholder non-compliance.
- Cooperate with investigations of suspected fraud, waste, or abuse; and
- Take or recommend corrective action in cases where Procurement Cards have been used inappropriately, including disciplinary action.

E. Cardholder: The Cardholder must:

- Successfully complete mandatory new cardholder and annual refresher training;
- Sign a Cardholder Agreement form that includes cardholder requirements associated with proper use of the Procurement Card;
- Comply with campus policies, procedures, and program updates related to the use of Procurement Cards, including limitations on transaction limits, monthly and/or annual spending limits, and prohibited items;
- Cooperate with investigation of suspected fraud, waste, or abuse.
- Obtain proper documentation associated with Procurement Card transactions;
- Reconcile the statement of account on a timely basis; and
- Promptly process all Procurement Card transactions including prompt resolution of merchant and bank disputes.

V. PROCEDURES

Part I: Purchase Transactions

Part 2: Supplier Diversity and Federal Planning and Reporting

Part 1: Purchase Transactions

A. Unsatisfactory Performance: Unsatisfactory, unusual, or significant supplier or

product performance deficiencies must be reported promptly to the Commodity Manager involved so that appropriate, timely action may be taken to correct the deficiency.

- B. Systemwide Price Schedules:** Systemwide commodity managers produce systemwide price schedules to take advantage of special discounts on proprietary products or when a commodity agreement is not practical. Systemwide commodity managers must indicate if a systemwide price schedule is not competitively bid by submitting an SSPR form to justify lack of competition. Each location determines when additional documentation is needed at the local level to use a systemwide price schedule.

Part 2: Supplier Diversity and Federal Planning and Reporting:

- A. Campus Reporting/Management of Plans and Reporting for Federal Contracts of Subcontracts Exceeding \$700,000:** The University recognizes its obligation with regard to extramural contracts and grants by incorporating the requirements of all relevant statutes, Executive Orders, and regulations into its procurement activities.

- 1. Small Business Subcontracting Plan Requirements:** Federal solicitations, contracts and subcontracts to the University exceeding \$700,000 and expected to have subcontracting opportunities will usually require that the University prepare a Small Business Subcontracting Plan. The Campus Small Business Officer or Supplier Diversity Coordinator in collaboration with the originating department and the Contracts and Grant/Sponsored Projects Office are responsible for the development of the Small Business Subcontracting Plan.

The plan must include the total percentages and dollar amounts to be spent with both large and small businesses for materials and supplies, equipment over \$5,000, and travel. This plan is either requested at the time that an initial proposal is submitted, or it can be requested when the funding has been awarded. Once approved by the federal agency awarding the funding, the Subcontracting Plan goals become a contractual obligation which the Principal Investigator must make a good faith effort to achieve.

Principal Investigators and Contract Administrators must provide the following documentation to the designated Campus Small Business Officer or Supplier Diversity Coordinator when potential small business spend for materials and supplies, equipment over \$5,000, and/or travel exists:

- a. Agency proposal or award number,
- b. Title of proposal or award,
- c. The Statement of Work,
- d. High-level budget information,
- e. A worksheet detailing totals for materials and supplies, equipment over \$5,000, and travel to be purchased from suppliers, and
- f. The Small Business Plan Worksheet describing materials and supplies,

equipment over \$5,000, and travel that can be purchased from small businesses, the dollar amounts for these items, and names of small businesses from which they can be purchased.

- 2. Good Faith Effort - Locating Small Business Sources:** Each Principal Investigator (PI) of a federally funded contract containing a Small Business Subcontracting Plan approved by the awarding federal agency must encourage maximum participation by the types of small businesses in the plan for which they set specific percentages and dollar amounts. To do so, they must work with their support staff to:
 - a. Reasonable Effort:** Make every reasonable effort to find additional small business entities which have the classification types set in the goals and which can meet the technical specifications required for the project. Such efforts include working with the designated Campus person assigned to Supplier Diversity, contacting the federal agency to get a list of approved small business suppliers, and by using the SBA Small Business Dynamic Search Database. Alternate data bases from third party suppliers that some Locations have access to may also be utilized as an alternative to the SBA Small Business Dynamic Search Database.
 - b. Supplier Contacts:** Contact small, diverse, and disadvantaged, suppliers when soliciting prospective suppliers via Requests for Information, Quotation, or Proposal for the project.
 - c. Required Documentation:** Document in writing in the project's records on an ongoing basis any failure to purchase from small suppliers as stated in the Small Business Subcontracting Plan. Report these reasons to the Supplier Diversity Program Coordinator in writing in advance of the April 1 and October 1 federal reporting dates.
 - d. Other Assistance:** Notify the Small Business or Diversity Supplier Coordinator to assist in finding other appropriate small businesses. The Small Business or Diversity Supplier Coordinator must also include the reason for zero utilization, whenever a federal report is filed with the federal agency.
- 3. Post Award Small Business Program Re-Representation:** If FAR Part 52.219 - Small Business Programs Provisions and Clauses is included in the contract and the conditions in the clause for re-representation are met, the designated employee must:
 - a.** Require the contractor that represented itself as a small business concern prior to award of the contract re-represent its size status via its registration in the federal System for Award Management and using the corresponding North American Industry Classification System code, or via a separate certification containing this information; and
 - b.** Permit a contractor that represented itself as other than a small business concern prior to award to re-represent its size status.
- 4. Data Collection and Reporting Requirements:** Locations must monitor and

report the extent of small business participation in their federal funded contracts exceeding \$700,000, when a Small Business Subcontracting Plan has been approved by taking the following actions:

- a. Require each prospective small business to certify whether it is a small business with one or several of the government classification types or self-certify (for all others) on the Federal Central Contractor Registration.
- b. Accurately track the participation by small businesses (by classification type) in terms of the total value of Purchase Orders placed in that classification during each fiscal year.
- c. Report utilization to the appropriate federal agencies as required.

5. Report Types and Reporting Periods:

- a. **Individual Subcontracting Report (ISR):** This report collects prime contractor and subcontractor subcontract award data for specific Federal Government agencies (see b. ii. and b. iii.). **This is the former SF-294 Report.**

Designated staff at each campus must file an *Individual Subcontracting Federal Report (ISR)* for each contract or sub-contract in the Electronic Subcontracting Reporting System (eSRS) to the appropriate federal agency in the following reporting periods:

- October 1st of the prior year through March 31th of the current year (six months)/due by April 30th and;
- October 1st of the prior year through September 30th of the current year (fiscal year)/ due October 31st;
- A final ISR is completed within 30 days of the expiration date of the contract or sub- contract.

- b. **Summary Subcontracting Report (SSR):** This report provides an annual summary of subcontracts awarded by prime and subcontractors for a specific Federal Government agency that required an Individual Subcontracting Plan for the previous fiscal year.

Designated staff must also file a Summary Subcontracting Report/SSR with each federal agency when the Campus:

- Holds one or more contracts or subcontracts over \$700,000 and,
- Is required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), Women-Owned Small Business (WOSB), HUBZone Small Business (HUBZone SB), and Veteran-Owned Small Business (VOSB), Service-Disabled Veteran- Owned Small Business (SDVOSB), ANCs and Tribes concerns under a Subcontracting Plan with the Federal government, and
- Is required to report subcontract awards for Historically Black Colleges and Universities (HBCUs), Minority Institutions (MI), for the Department

of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, and

- Also has reporting periods for civilian agencies [non-Department of Defense (DOD) or NASA)], annual submission:
 - a) October 1st of the prior year through September 30th of the current year (fiscal year)/due October 31st.
 - b) For contracts with the Department of Defense and the National Aeronautics and Space Administration twice per year (same as for *ISR*'s above):
 - 1) October 1st of the prior year through March 31st of the current year (six months)/due by April 30th, and,
 - 2) October 1st of the prior year through September 30th of the current year (fiscal year)/ due October 31st.

c. Small Disadvantaged Business Report: Disadvantaged Status and Reporting; If a Small Disadvantaged Business (SDB) goal was included in the Small Business Subcontracting Plan, per FAR 52-219-25 Small Disadvantaged Business Participation the University must report on the participation of SDB concerns at contract completion or as provided in the terms and conditions of the contract.

d. Failure to Make a Good Effort–Liquidated Damages: FAR 52.219-16 deals with Liquidated Damages and a “Failure to make a good effort to comply with the subcontracting plan” which means a willful or intentional failure to perform-or- willful or intentional action to frustrate the plan in accordance with the requirements of the subcontracting plan approved by a federal agency.

Federal agencies measure performance toward the Small Business Subcontracting goals by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro-rata share of actual subcontracting dollars attributable to government contracts covered by the commercial plan.

If the Small Business Subcontracting Plan goals have not been met by the contract completion or in the case of the commercial plan, at fiscal year close for which the plan is applicable, the Federal Contracting Officer will determine if the Contractor has failed to make a good faith effort to comply with the Subcontracting Plan. The Contracting Officer will give the Campus written notice specifying the failure and permitting the campus on behalf of the UC Regents, to demonstrate the Good Faith Effort that has been made and to discuss the situation with the federal agency. A failure to respond to the notice may be taken as an admission that a valid explanation does not exist.

If the Contracting Officer has considered all pertinent data and finds that the campus or the Regents did fail to make a good faith effort, the Officer

must issue a final decision to that effect and require the Campus on behalf of the Regents to pay the Federal Government liquidated damages for the difference between the proposed goals and the actual dollars spent.

- e. **Defense Federal Acquisition Regulations (DFARS):** In addition to the FAR regulations, the Defense Federal Acquisition Regulations (DFARS) develop and maintain acquisition rules and guidance to facilitate purchasing staff as they acquire the goods and services required for Department of Defense contracts. These regulations apply whenever the University has a DOD research contract exceeding \$650,000 and requires the use of small businesses.

f. **Campus Reporting to the Environmental Protection Agency Grant Awards with Fair Share Objectives-Title 40/Protection of the Environment, Chapter 1, Subchapter B, Part 35/Participation by Disadvantaged Business Enterprises:**

Federal Disadvantaged Business Enterprise (DBE) provisions affect procurement actions under EPA financial assistance agreements/grants.

The Environmental Protection Agency requires a Disadvantaged Business Enterprise Rule and Program provision in the Terms and Conditions of the grant agreement. The University departments holding these contracts and grants are required to make a good faith effort to achieve the requirements as stated.

The key functional components of the EPA Disadvantaged Business Enterprise Rule and Program are the following:

- DBE Overview Fact Sheet;
- Fair Share Objectives;
- Six Good Faith Efforts and Contract Administration Requirements;
- MBE/WBE Reporting; and
- MBE/WBE Certification.

6. **Office of the President - Procurement Services Department Required Reporting-State of California Small Business Report:** The University of California complies with all reporting requirements issued by the State of California. During the month of September the Office of the President - Procurement Services Small Business Coordinator collects purchasing, design, and construction small business data from campuses, medical centers, Agriculture and Natural Resources, and the Laboratory. The Coordinator then prepares the annual Small Business Utilization report for the California Governor's Office.

VI. RELATED INFORMATION

[California Public Contract Code Division 2 - General Provisions, Part 2, Contracting](#)

[by State Agencies, Chapter 2.1, University of California Competitive Bidding Article 2 - Materials, Goods, and Services \(§§10507.5-10510\) Article 4 - Conflict of Interest \(§§10515-10518\)](#)

[Article 5, Remedies and Penalties \(10520-10526\)](#)

[California Labor Code Part 8, Public Works and Public Agencies, Chapter 1, Public Works and Public Agencies](#)

[Article 1: Scope and Operation \(§§ 1720\)](#)

[Article 2: Wages \(§§ 1770, 1771, 1773, and 1776\)](#)

[State of California Department of Industrial Relations](#)

[Regents Bylaw 12, Composition and Powers](#)

[Regents Bylaw 30, President of the University](#)

[Regents Policy on Procurement of Foreign-Made Equipment, Materials, or Supplies Produced by Forced, Convict, or Indentured Labor](#)

[Regents Policy 5402 \(Generally Prohibiting Contracting for Services\)](#)

[AFSCME Collective Bargaining Agreement Article 5](#)

[Policy on HIPAA Business Associates IS-3 Electronic Information Security](#)

[University Guidelines on Contracting for Services and Formal Notice Policy to](#)

[Ensure Equal Opportunity in University Business Contracting Policy Regarding](#)

[Employee-Vendor Relationships](#)

[The Contract and Grant Manual](#)

[Administrative Guidelines on the Procurement of Foreign-Made Equipment, Materials, or Supplies. Produced by Forced, Convict, or Indentured Labor](#)

[Record Retention Schedule](#)

[Sustainable Practices Policy](#)

[Sustainable Procurement Guidelines UC Facilities Manual](#)

[UC Conflict of Interest Code](#)

[BUS-2, Tax-Free Alcohol Permits, Records, and Operations](#)

[BUS-29, Management and Control of University Equipment](#)

[BUS-38, Disposition of Excess Property and Transfer of University-Owned Property](#)

[BUS-50, Controlled Substances Program](#)

[BUS-54, Operating Guidelines for University Supply Inventories](#)

[BUS-56, Procurement/ Supply Chain Management: Purchases from Entities Violating State or Federal Water or Air Pollution Laws](#)

[BUS-63, Insurance Requirements - Certificates of Insurance](#)

[BUS-81, Insurance Programs](#)

[PPSM-21, Selection and Appointment](#)

[PPSM-82, Conflict of Interest](#)

Additional Resources for Small and Diverse Businesses:

Diverse Business Classifications by Governmental Source

| TERM | SOURCE |
|---------------------|---|
| Small Business (SB) | State of California Department of General Services (DGS) Procurement Division, Small Business Eligibility Requirements. |

| TERM | SOURCE |
|---|--|
| Disadvantaged Business Enterprise (DBE) | Proposition 209 modified the California Constitution to make contracting on the basis of race and gender unconstitutional. This proposition was upheld by the Ninth Circuit Court of Appeals case, Monterey Mechanical that determined MBE/WBE contracting was unconstitutional. The effect on Public Contract Code Section 10115.15 was to leave the DVBE program intact. Therefore, such businesses are considered Disadvantaged Business Enterprises. |
| Disabled Veteran Business Enterprise (DVBE) | State of California Department of General Services (DGS) Procurement Division Disable Veteran Business Enterprise (DVBE) Certification Eligibility Requirements |

| | |
|--|---|
| Code of Federal Regulations (CFR) | |
| Title 13 Code of Federal Regulations (CFR) – Small Business Administration | |
| Federal Regulations (FAR) | |
| i. FAR Part 19 - Small Business Programs | |
| ii. FAR Part 52.219 - Small Business Programs Provisions and Clauses | |
| Small Business (SB) | U.S. Small Business Administration (SBA) |
| Small Disadvantaged Business (SDB) 8(a) | U.S. Small Business Administration (SBA) 8(a) Business Development Program |
| HUBZone | U.S. Small Business Administration (SBA) Office of the HUBZone Program |
| Service-Disabled Veteran-Owned Small Business (SDVOSB) | U.S. Small Business Administration (SBA) Veteran-Owned Businesses |
| Veteran Owned Small Business (VOSB) | U.S. Small Business Administration (SBA) Veteran-Owned Businesses |
| Historically Black Colleges/Minority Institutions (HBCU/MI) | DFARS Notice of Historically Black College or University and Minority Institution Set-Aside (1994) |
| Alaska Native Corporations (ANC) | U.S. Small Business Administration 8(a) Business Development (BD) Program for Alaskan Native Corporation-Owned Concerns |
| Environmental Protection Agency (EPA) | |

| | |
|---|--|
| Disadvantaged Business Enterprise (DBE) | Environmental Protection Agency (EPA) Disadvantages Business Enterprise (DBE) Program (Includes Minority Business Enterprise (MBE) and Women Business Enterprise(WBE)) |
| Fair Share Objectives | Environmental Protection Agency (EPA) Fair Share Objectives |
| Good Faith Efforts | Environmental Protection Agency (EPA) Good Faith Efforts |

VII. FREQUENTLY ASKED QUESTIONS

Not applicable.

VIII. REVISION HISTORY

This Policy is also reformatted to meet Web Content Accessibility Guidelines (WCAG) 2.0

June 11, 2021: Small Business First was formally approved for incorporation into BUS-43. The effective date is March 1, 2021.

December 14, 2020: This policy was updated to add UC’s new Small Business First Program requiring that all applicable purchases for UC campuses (excluding UC Health and Design & Construction) valued annually between \$10,000-\$250,000 be awarded to small businesses, wherever practicable. This revised policy was approved by the President as **Interim Policy** effective December 14, 2020 while it goes through the systemwide review.

April 21, 2020: This policy was revised to: 1) update the definitions of procurement contract, purchase order, and purchase agreement in Section II: Definitions and 2) add language on when to use a procurement contract or purchase order in Section III, Part 1: Purchase Transactions.

December 20, 2019: Technical revision, December 20, 2019: replaced the inaccurate information found in Section III, Part 6, D.6: Retention of Documentation with the approved standard policy language on Records Retention Schedule Information.

April 12, 2019: This Policy was updated on April 12, 2019 to: 1) update the terminology relating to Procurement/Supply Chain Manager to Procurement/Supply Chain Director; 2) update the definitions relating to formal competitive bidding from issued publicly by UC to issued publicly by Campus Procurement or qualified entity (e.g. GPO); 3) update the definitions relating to informal competitive quotation by removing submitted in accordance with solicitation from the Procurement/Supply Chain Manager, Commodity Manager or Buyer; 4) update the definitions relating to Small Business Officer to include biannual federal e-SRS reporting on Subcontract plans; 5) add a policy relating to negotiating with bidders; 6) update the exemption from the requirement to competitively bid goods and services section to include usage of the

source selection & price reasonableness form; 7) update the unauthorized purchases section to include reimbursement or payment of unauthorized purchases require policy exception authority and/or designee(s); 8) update low value purchases section by removing shall apply to granted additional purchasing authority; 9) update low value purchases section by adding definition of functional reporting; 10) update low value purchases section by adding the amount of additional authority; 11) update procurement card program section by adding or office of record; 12)) update procurement card program section by adding the retention of documentation to seven years after award close out or end of project research; 13) changed the title of responsible procurement authority section to strategic sourcing director; 14) changed the campus controller section to campus controller or office of record; 15) added the \$250,000 small business purchase threshold in the supplier diversity and federal planning and reporting section and 16) generally update the Policy's language and make it consistent.

November 17, 2017: This Policy was updated on November 17 2017 to: 1) update the definitions relating to exceptions from the requirement to competitively goods and/or services contracts for more than \$100,000 annually; 2) encourage competition even when an exception applies, and require documentation of the decision to apply an exception; 3) require approval when the University's template documents are not used; 4) provide that Locations and their Public Records or Information Practices Coordinators should consult with the Office of General Counsel if they receive Public Records Act requests during the course of a procurement process or after an RFP is cancelled; 5) add a policy relating to debarring suppliers; 6) update the dollar threshold applicable to Prevailing Wage Services; 7) limit the circumstances under which "after the fact" Fair Wage/Fair Work exceptions may be approved; 8) provide that contract duration (including the initial term plus all amendments or renewals) may not exceed ten years unless an exception to policy is approved; 9) provide that price may not have less than a 25% weight when the Best Value evaluation method is used; 10) update provisions pertaining to leases; 11) increase the low-value purchase ceiling for individual purchases from \$5,000 per transaction, to \$10,000; 12) update language applicable to purchases that are federally funded; 13) generally update the Policy's language and make it consistent; and 14) eliminate most hyperlinks.

This Policy was remediated in accordance with Web Content Accessibility Guidelines (WCAG) 2.0.

October 19, 2016: Revision to update the Fair Wage/Fair Work policy that is applied to services performed at locations owned or leased by UC, including certain endowment or investment properties, annual audit requirement will not apply to Fair Wage/Fair Work services that are subject to State of California prevailing wage law, since these service providers are already highly regulated by the Department of Industrial Relations, effective October 19, 2016.

October 1, 2015: Revision to BUS-43 Procurement/ Supply Chain Management to address the Affordable Care Act, Prevailing Wage Legislation, and the Fair Wage/Fair Work Initiative, effective October 1, 2015.

April 10, 2014: Revision to BUS-43/Procurement/ Supply Chain Management to address some legal changes, to remove the attachments to this Policy which are all now residing on the home department's websites, and to update links, professional titles, and references, April 10, 2014.

February 1, 2013: Addition of policy and procedure related to the passage of SB 1280 (adding Public Contract Code 10507.8) and update some of the language in the Policy, February 1, 2013.

July 1, 2012: Revision to BUS-43/Procurement/ Supply Chain Management to put the Policy into the standard University of California template effective July 1, 2012.

July 7, 2011: Revision to BUS-43/Procurement/ Supply Chain Management

June 12, 2011: Revision to BUS-43/Procurement/ Supply Chain Management

December 15, 2010: Revision to BUS-43/Procurement/ Supply Chain Management

November 10, 2010: Revision to BUS-43/Procurement/ Supply Chain Management

October 1, 2010: Revision to BUS-43/Procurement/ Supply Chain Management

August 10, 2010: Revision to BUS-43/Procurement/ Supply Chain Management

May 7, 2010: Revision to BUS-43/Procurement/ Supply Chain Management

April 15, 2010: Revision to BUS-43/Procurement/ Supply Chain Management

March 31, 2010: Revision to BUS-43/Procurement/ Supply Chain Management

December 10, 2008: Revision to BUS-43/Procurement/ Supply Chain Management

August 6, 2007: Revision to BUS-43/Procurement/ Supply Chain Management **May**

15, 2007: Revision to BUS-43/Procurement/ Supply Chain Management **March 23,**

2006: Revision to BUS-43/Procurement/ Supply Chain Management **June 24, 2005:**

Revision to BUS-43/Procurement/ Supply Chain Management

August 5, 2004: Revision to BUS-43/Procurement/ Supply Chain Management

February 5, 2004: Revision to BUS-43/Procurement/ Supply Chain Management

May 31, 2000: Revision to BUS-43/Procurement/ Supply Chain Management

August 1, 1999: Revision to BUS-43/Procurement/ Supply Chain Management