



PROCUREMENT MANUAL

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SECTION 1 GENERAL INFORMATION

1.1. Introduction and Purpose

This Procurement Manual is designed to provide West Virginia University (“WVU” or “University”) employees a guide outlining procurement policies and procedures and to assist employees in the Department of Procurement, Contracting, and Payment Services (“Procurement”) in determining the proper method for purchasing goods and services on behalf of the University. The goal is to ensure the highest quality products and services are procured at the best available price and in compliance with the laws of the State of West Virginia.

This Procurement Manual applies to all purchasing activities at the University including purchases at West Virginia University Institute of Technology and Potomac State College, as well as University purchases utilizing West Virginia University Foundation funds. In addition, the University has developed, separate from this Procurement Manual, a Construction Service Procurement Manual which details the laws, Rules, policies, and procedures of the University procuring Construction Services from third parties. Finally, the West Virginia University Research Corporation Procurement Manual applies to the purchasing activities of the WVU Research Corporation.

This Procurement Manual is not a complete or final determination of any purchasing matter and may be amended to ensure compliance with state law and the Rules, policies, and procedures of the West Virginia University Board of Governors. No provision in this Procurement Manual shall be deemed to supersede the West Virginia Code.

1.2. Commonly Used Terms

Most terms, when needed, are defined in the relevant sections of this Procurement Manual. However, the following terms are commonly used throughout this Procurement Manual and are defined as follows:

- a. **Contract:** For purposes of this Procurement Manual, a contract is a legal document that is signed by both the buyer and the seller. Once it is signed by both parties, it is a legally binding contract. The seller can only accept the offer by signing the document, not by merely providing the goods or services.
 - i. With a Contract, the parties have worked out their agreement beforehand, and the Contract is the written expression of that agreement.
 - ii. A Contract will contain all the information that would typically be included in a Purchase Order, but it is often a longer document that contains additional details.

- b. **Mountaineer Marketplace:** Mountaineer Marketplace is the University's current electronic procurement system. Mountaineer Marketplace is used throughout this Manual to reference the University's current and any future electronic procurement systems.
- c. **PCard Program:** The University's procurement card program is referenced throughout this Manual as the "PCard Program."
- d. **Purchase Order ("PO"):** A purchase order is an offer to purchase goods. It is created by the prospective buyer and sent to the prospective seller. At the point the PO is sent, it is not a Contract.
 - i. A PO is created before there is an agreement between the parties. The buyer sends the PO to the seller, who then has the choice of whether to accept it.
 - ii. A PO becomes a contract in two ways: (1) if the seller accepts the terms of the purchase order by signing the PO or otherwise expressing acceptance in writing; or (2) the seller begins providing the ordered goods and/or services.
- e. **Originating Department:** The Originating Department is the University unit, department, or college/school purchasing the goods or services.

1.3. Purchasing Authority of the Board of Governors and the Delegation of Said Authority

1.3.1. Authority of the Board of Governors

The West Virginia University Board of Governors ("Board of Governors" or "BOG") is authorized to purchase and acquire materials, supplies, equipment, services, and printing and to enter lease and lease-purchase agreements on behalf of the University, pursuant to West Virginia Code § 18B-5-4 through § 18B-5-9. The Board of Governors has authority to administer the University's purchasing system and adopt rules governing and controlling acquisitions and purchases.

1.3.2. Delegation of Authority to the President

The Board of Governors delegated authority to the President of the University to manage, approve, or disapprove all University procurements and to design and administer a Procurement Program that aligns with the University's mission, vision, and values, pursuant to [BOG Finance and Administration Rule 5.1 – Authorizations and Delegations of Authority for Financial and Administrative Matters](#) and [BOG Finance and Administration Rule 5.9 – Procurement](#). However, certain financial and administrative matters require authorization from the Board of Governors as outlined in BOG Rule 5.1, Section 3.

1.3.3. Delegation of Authority to the Chief Procurement Officer

The President shall appoint a Chief Procurement Officer (“CPO”) who shall assist the President in carrying out the duties and obligations imposed by the Board of Governors for purchasing activities, consistent with state law. The CPO’s appointment shall be made in writing and filed with the West Virginia State Auditor. Unless otherwise stated in writing by the President or as provided in the Board of Governors Rules, policies, and procedures, the CPO shall have full authority to act as the designee of the President for the purchase and acquisition of all materials, supplies, equipment, services, and printing; lease purchases; and receiving, as may be required by the University.

The CPO is responsible for ensuring compliance with state law and the Rules, policies, and procedures of the Board of Governors and to establish guidelines and procedures for purchasing including payment processing to third parties, PCard administration, and any other related processes. Regardless of whether the CPO delegates authority to Buyers and/or University departments, responsibility for ensuring compliance with state law and the Board of Governors’ Rules, policies, and procedures shall be the obligation of the CPO.

1.3.4. Delegation of Authority to a Buyer or Other Designee

To assist the CPO in performing his or her duties and obligations, the CPO may appoint a Director of Procurement and Buyers (currently identified by the University as category managers, category analysts, and purchasing agents) and delegate authority to them as designees (referred to herein individually as “Procurement Official”). In limited circumstances, the CPO may also delegate such authority to individuals in any University department. Any delegations of the CPO’s authority shall be made in writing and in compliance with state law, the Board of Governor’s Rules, policies, procedures, and this Procurement Manual. These delegations of authority by the CPO, and any limits thereon, shall be approved by the General Counsel’s Office and filed with the West Virginia State Auditor. Notwithstanding any provision to the contrary, responsibility for ensuring institutional compliance with state law and Board of Governors’ Rules and policies shall be the responsibility of the CPO.

To be appointed as a Procurement Official for the University, the person under consideration must, at a minimum, be either (a) a graduate of an accredited college or university; or (b) have at least four years’ experience in purchasing for any unit of government or any business.

1.4. Signing Contracts in the Name of the University and Filing with the State Auditor

- 1.4.1.** West Virginia University's formal legal name must appear on all contracts and POs of the University.¹ One of the following names must be used:
- a. "West Virginia University Board of Governors on behalf of West Virginia University;"
 - b. "West Virginia University Board of Governors on behalf of West Virginia University Institute of Technology;" or
 - c. "West Virginia University Board of Governors on behalf of WVU Potomac State College."
- 1.4.2.** Contracts and POs entered on behalf of the University pursuant to West Virginia Code § 18B-5-4 through § 18B-5-7 shall be signed by the University's CPO, or designee, or by another person employed by the University who is lawfully authorized to sign contracts for the acquisition of goods or services. For avoidance of doubt, all agreements for the purchase or acquisition of goods or services shall be signed by a Procurement Official, unless otherwise approved by the General Counsel's Office. See <https://generalcounsel.wvu.edu/delegations-of-signature-authority>.
- 1.4.3.** All contracts related to the purchase of goods or services shall be filed with the West Virginia State Auditor.

1.5. Ethics in Public Purchasing

- 1.5.1.** The West Virginia Governmental Ethics Act ("Ethics Act"), Chapter 6B of the West Virginia Code, is applicable to all purchasing and receiving activities performed under the jurisdiction of the Board of Governors. In addition to the Ethics Act, all University employees must comply with [BOG Governance Rule 1.4 – Ethics, Conflicts of Interest, and Outside Consulting Arrangements](#).
- 1.5.2.** Any person who is not authorized to approve a purchase or Contract, or who does so in a manner that is in violation of state law, may be held personally liable for the cost of such acquisition. Purchases or contracts violating state law shall be void and of no effect.
- 1.5.3.** Except as may be authorized by the provisions of Chapter 6B of the West Virginia Code, the Board of Governors and any employee of the Board of Governors, including the CPO and Procurement Officials (1) shall not be

¹ WVU's financial systems utilize the contracting party names in this Section without "West Virginia University Board of Governors on behalf of" and is formatted as "West Virginia University and its Affiliated Entities," which has been deemed sufficient by the University for the issuance of Purchase Orders (POs) derived from such financial systems.

financially interested, or have any beneficial personal interest, directly or indirectly, in the purchase of any equipment, materials, supplies, services, or printing, nor in any firm, partnership, corporation or association furnishing such purchases; and (2) shall not accept or receive directly or indirectly, from any person, firm or corporation, known by the Board of Governors or such employee to be interested in any solicitation, contract or purchase, by rebate, gift or otherwise, any money or other item or service of value whatsoever or any promise, obligation or contract for future reward or compensation. The provisions of West Virginia Code § 5A-3-28 through 31 shall apply.

1.5.4. The University and its employees shall not endorse a particular product or business. This includes any product or business and includes case studies completed by a supplier. Notwithstanding, a commercial endorsement by WVU of a product or business may be permissible when it results in an overriding public benefit. For additional information, please reference [BOG Governance Rule 1.4 – Ethics, Conflicts of Interest, and Outside Consulting Arrangements](#). Any questions related to WVU BOG Rule 1.4 and/or the Ethics Act should be directed to the General Counsel's Office.

1.5.5. Bribery and corruption are not only against the University's values, but such practices are also illegal and can expose the University and employees to fines and penalties. Bribery is never permitted. The University and its employees, including Procurement Officials, are prohibited from seeking to influence others, either directly or indirectly, by offering or receiving bribes or kickbacks. University employees are expected to decline any opportunity which would place their ethical principles and reputation at risk. Violation of this policy may result in disciplinary action against the offending employee, up to and including termination.

SECTION 2

INITIATING THE PROCUREMENT PROCESS – REQUISITIONS, SPECIFICATIONS, AND SCOPE OF WORK

2.1. Requisitions

2.1.1. A requisition is a document that is typically required to initiate the purchasing process for goods and services from a properly registered and approved supplier and which otherwise does not require a solicitation prior to the requisition phase. The requisition serves to inform the Procurement Official of the needs of the Originating Department and to fully define the goods or services requested. An accurate and well-planned requisition will ensure the timely completion of a procurement transaction that meets the needs and goals of the University.

a. Purchases Anticipated to be Over the Bid Threshold

If the Originating Department has critical or complex requirements or if the cost of goods or services being purchased will be equal to or exceed the competitive bidding threshold (as defined in Section 3.1), the Originating Department must contact Procurement prior to the requisition phase to begin the solicitation process.

Along with other required information, the Originating Department must provide a suitable specification or scope of services (as described herein). This request serves to inform the Procurement Official of the needs of the Originating Department, to fully define the goods or services requested, and may result in the issuance of an Request for Proposals, Request for Bids, or other appropriate procurement process.

b. Purchases Anticipated to be Under the Bid Threshold

If the Originating Department anticipates that the cost of goods or services being purchased will be under the competitive bidding threshold (as defined in Section 3.1), the Originating Department may submit a requisition (also called a non-catalog order requisition form) through Mountaineer Marketplace or utilize the other methods described in Section 3.2.

2.1.2. When a need develops to purchase goods or services, which does not require a solicitation, a requisition should be prepared in Mountaineer Marketplace with the required approval of the Originating Department. It is important for the Originating Department to invest a sufficient amount of time in preparing their requisitions for the products or services needed. Originating Departments must remember that their requisitions will determine what they will receive and how quickly they will receive it. Any additional information supplied to the Procurement Official will help the purchasing process flow smoothly (e.g., manufacturer or model numbers, previous POs, brochures, or literature). However, if the Originating Department has critical or complex requirements, or if this Procurement Manual requires competitive bidding (see Section 3.1), the Originating Department must coordinate with the Procurement Official prior to the issuance of the requisition.

2.1.3. The Procurement Official shall review the requisition and the specifications and/or scope of services contained therein and complete the necessary steps to acquire the goods or services.

2.1.4. Responsibilities of Purchaser in Originating Department

The purchaser in the Originating Department is responsible for following:

- Ensuring that the funds are budgeted and that the purchases fall in line with allotted funds prior to submitting the requisition;
- Ensuring the goods or services are necessary and avoiding acquisitions of unnecessary or duplicative items; and
- Promptly reporting any prohibited personal purchases to Procurement.

2.2. Specifications

The term “specification” refers to the portion of a requisition or solicitation that describes the characteristics of the goods and/or services required by the Originating Department. “Specification” is used interchangeably with the terms, “purchase description,” “purchase specification,” “purchase requirement,” “commercial item description,” and “scope of work.” The purpose of a specification is to serve as the basis for obtaining the goods and services suitable for the needs of the University in a cost-effective manner.

Determining the exact specifications or requirements for goods and services to perform a given function is one of the most important tasks in the procurement process. A specification must describe the type of product or service; the quality level; and special requirements in design, performance, delivery, and usage. A specification must not be restrictive and “lock-in/lock-out” a specific product, thus, limiting competition, or be so vague as to allow a supplier to provide a lower quality product or service. The Originating Department has the initial responsibility to prepare the specification. However, since the purpose of a specification is to translate the Originating Department’s need into the delivery of goods or services, the development of specifications must be a cooperative effort between the Originating Department and the Procurement Official.

2.2.1. Types of Product Specifications

There are several types of product specifications. The development, selection, and use of a particular type of specification, is dependent on the situation, time, information available, and needs of the Originating Department. Procurement Officials are available to assist with determining which type to use. Specification types include, but are not limited to, the following:

- a. A “performance” specification is based on the specific performance needs of the Originating Department. A performance specification is less structured as to how the product is made, and more structured as to how

well it performs. The life cycle cost for operating and maintaining the product should be an element of the specification.

- b. A “brand name or equivalent” specification is based on one or more of a manufacturer’s product description(s), model number(s) and quality level(s). The manufacturer’s product number(s) must be easily identified and available in a current publication that is readily available to most suppliers. Product descriptions must be sufficiently detailed and specify only the required features needed for the application.
- c. A “design” specification concentrates on the dimensional, physical and functional requirements of the item being purchased. The design specification is used when the product must specifically meet the Originating Department’s unique needs.

Combinations of the above may be used to communicate a clear specification to suppliers. For example, a performance specification may refer to a nationally accepted testing procedure for a commodity; a design specification may indicate the physical size and dimension of the commodity; and a brand name or equivalent specification may be used to indicate a desired quality level.

2.2.2. Scope of Work for Services

A scope of work or scope of services is a written description of the contractual requirements for the services needed by the Originating Department. The following is a list of the types of information needed in a scope of work for the purchase of services or goods in combination with services:

- a. General Requirements – Describe the service provider’s responsibility in providing the requested services for the Originating Department.
- b. Specific Requirements and/or Deliverables – Describe the specific tasks, sub-tasks, parameters, and limitations that must be considered in producing the service or final project. Factors such as the following should also be included, if applicable:
 - Background of the requirements;
 - Supplier qualifications;
 - Objectives of solicitation;
 - Expected schedule/time considerations;
 - Details of work environment;
 - Location where service is to be performed;
 - Travel rules and restrictions;
 - Special equipment required;

- Compliance requirements; and
 - Expected deliverables.
- c. Service level commitments may be used to define the scope requirements of a service being purchased. Service level commitments should be specific, well-defined, measurable, and generally known to the supplier base (e.g., “system uptime” for software as a service). Deliverables should be specific and well defined in the case of consulting or other services.

2.2.3. Format of a Specification or Scope of Work

A specification should be submitted by the Originating Department to Procurement to determine the need for a solicitation. The specification should include the information contained in Sections 2.2.1, 2.2.2, and the following, if applicable:

- a. Item number, if available;
- b. Quantity and unit of measure, such as “case,” “each,” “dozen,” etc.;
- c. Description and name of the product if using a brand name or equivalent specification, followed by the manufacturer and model number. After the brand name, the words “or equivalent” should be inserted to inform suppliers that alternative product will be considered. The description should contain the essential requirements that clarify the quality level or indicate the features that are important to the function of the good/service being purchased;
- d. Pricing information;
- e. Delivery dates, methods, and schedules;
- f. Expected warranty of the product or service;
- g. Product sample or service requirements;
- h. Method of ordering or securing services;
- i. Supplier qualifications;
- j. In the case of services, specific deliverables, timeline for delivery, service level commitments, and acceptance criteria; and
- k. Ongoing support included in the delivery of the product or service.

Generally, the following should not be included in the specification, unless specifically approved by the Procurement Official:

- a. “No substitutes;”
- b. “Only nationally known brands accepted;” and
- c. “No alternatives will be accepted without prior approval of the University.”

The Procurement Official should conduct research for standard product specifications, scope of services, deliverables, quality and types of goods

or services from industry related sources. Standard specifications will ensure an acceptable and well-defined solicitation and acquisition.

SECTION 3

UNIVERSITY BID THRESHOLDS AND OVERVIEW OF PROCUREMENT METHODS

The University utilizes an electronic procurement system, currently Mountaineer Marketplace, for all purchases. This Section outlines the various procurement methods available to the University to procure goods and services. All purchases that equal or exceed the University's bid thresholds require a public competitive bidding process unless the purchase falls within an exception as outlined in this Section. This Section also provides various procurement methods available for purchases under the University's bid thresholds.

3.1. University Competitive Bid Thresholds

3.1.1. The University shall require a public competitive solicitation process when goods or services are over certain monetary limits, as established by state law. Public competitive bidding is required in the following circumstances:

- a. The cost of the goods or services, excluding construction, is equal to or exceeds \$50,000.
- b. The cost of the Construction Services (including goods and materials) is equal to or exceeds \$100,000. Construction Services shall be defined as a scope of work put out to public bid to a third-party involving the act, trade, or process of building, constructing, adding, repairing, remodeling, rehabilitating, reconstructing, altering, converting, improving, expanding, or demolishing a building, structure, facility, road, or highway. Please reference the University's Construction Services Procurement Manual for additional information.

Originating Departments shall not divide, structure, or plan procurements related to a project to be under the competitive bid thresholds in an attempt to circumvent the competitive bidding requirements (commonly known as stringing).

See Section 3.4 for exceptions to the public bidding requirements even when the purchase is equal to or exceeds the University's bid thresholds.

3.2. Procurement Methods for Purchases Under the Bid Threshold

The University provides various procurement methods for purchase amounts that do not exceed the bid threshold. Below are various methods available when the purchase amount is under \$50,000:

3.2.1. Catalog Purchases

When possible, catalog purchases shall be made utilizing the catalogs available as part of Mountaineer Marketplace. These catalogs are procured through a competitive bidding process, and Procurement has pre-negotiated pricing agreements with many suppliers that the University uses on a routine basis.

3.2.2. Non-Catalog Purchases

Non-catalog purchases are purchases of items not available through the catalogs in Mountaineer Marketplace and may be made using a non-catalog purchase requisition form. In these situations, multiple quotations for these purchases are highly encouraged. Procurement Officials and the Originating Departments should reference the “**Non-Catalog Purchases Under the Bid Threshold and Essential Services Process & Procedures**” appendix (attached as **Appendix A**) for additional information regarding this process.

3.2.3. Direct Payments for Utilities, Subscriptions, and Essential Services

Direct payments for utilities and some subscriptions and Essential Services do not require a PO or Contract. See Section 3.4.2 and Appendix A for additional information regarding Essential Services and requirements for payment. Please contact WVU Payment Services at pcpsap@mail.wvu.edu with any questions related to direct payments.

3.2.4. Emergency Purchases

An Emergency may create a situation where time is of the essence and conditions warrant prompt action to address the condition. In these instances, pre-approval of such purchase is not required when acting in a responsible and prudent manner. See Section 3.4.4 for Emergency purchase requirements, definitions, and procedures.

3.2.5. PCard

The University’s procurement card program, hereinafter referred to as the University “PCard Program” or “PCard,” is used to make payment for goods and designated services as permitted by this Procurement Manual and the PCard Manual. Please see the University’s [PCard Manual](#) for additional rules and policies related to PCard transactions.

3.3. Procurement Methods for Purchases Equal to or Exceeding the Bid Threshold

Purchases that are equal to or exceed the University's bid thresholds require a competitive public bidding process unless the purchase falls within an exception provided in this Procurement Manual. Please note that all purchases exceeding the bid thresholds must be made by and solicitations may only be issued by the Department of Procurement, Contracting, and Payment Services. The Originating Department shall not conduct their own solicitations.

There are two procurement methods available when the purchase amount exceeds the University's bid threshold: Requests for Bids and Requests for Proposals. Additionally, prior to the commencement of the solicitation process, the University may issue a Request for Information to determine the availability and interest of potential suppliers.

3.3.1. Request for Bid

The Request for Bid ("RFB") method is used when detailed specifications are available and firm pricing can be established without further price negotiations with potential suppliers. Under this method, the lowest responsible and responsive bidder, providing all required information, is awarded the work. Procurement Officials should reference the "**Request for Bids Process**" document (attached as **Appendix B**) for additional information regarding this process.

3.3.2. Request for Proposal

The Request for Proposal ("RFP") is a competitive bidding method used when detailed specifications are unavailable or where price is not the sole or significant factor in determining the award. Under this method, suppliers are invited through public solicitation to submit detailed proposals meeting specific criteria developed by the University. Such criteria usually include the following: price, company profile, information about their goods/services, and other value-added factors. These sealed² proposals are evaluated and scored by a selection committee. Under this method, the supplier(s) proposal(s) with the highest evaluation score is awarded the work. Procurement Officials should reference the "**Request for Proposals Process**" (attached as **Appendix C**) for additional information regarding this process.

3.3.3. Request for Information

The Request for Information is utilized prior to the RFB or RFP process to assess interest of potential suppliers in a project. Procurement Officials should

² Please note that the University utilizes its e-Bidding system to ensure that the proposal remains "sealed" or un-opened until after the due date for proposals.

contact the General Counsel's Office for additional information regarding this process.

3.4. Exceptions to the Public Bidding Requirement

Under certain circumstances, purchases that exceed the University's bid threshold do not require competitive public bidding: (1) Sole Source Procurement; (2) Single Source Procurement; (3) Essential Services; (4) Pressing Need Procurement; and (5) Emergency Procurement. These circumstances and the procurement methods utilized in these situations are addressed below. The Procurement Official must obtain sufficient documentation from the Originating Department to support the utilization of these procurement methods and any such justification must be included in the Procurement File.

3.4.1. Sole/Single Source Procurement

The sole source procurement method is used when there is only one supplier of the product or service. The single source procurement method is used when there are multiple suppliers but purchasing from a particular provider is in the best interest of the University for strategic reasons. A need for a particular proprietary item does not justify sole or single source procurement if there is more than one potential supplier for that item.

Any request that a purchase be restricted to one potential supplier shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need. The Originating Department shall complete the "Single or Sole Source Justification Form" and submit the completed form to Procurement for review and approval. The determination of whether the procurement shall be made as a sole or single source shall be made by the CPO or designee. In cases of reasonable doubt, competition should be solicited. The determination and the basis thereof shall be documented in writing by the CPO or designee and included in the Procurement File.

The Sole/Single Source document is located at the following website: https://procurement.wvu.edu/files/d/ab72bcd6-d65c-4048-aac2-cfea4f8bea03/west-virginia-university-sole-source-document_final.pdf.

The following are examples of circumstances that could necessitate sole/single source procurement:

- a. Where the compatibility of equipment, accessories, or replacement parts is the principal consideration;
- b. The item cannot be obtained through ordinary purchasing procedures and methods;
- c. The item is available from a state spending unit or other institution with preference under the West Virginia Code;

- d. Where specific and unique items are called for on a grant or contract;
- e. The requested product or service has unique design, performance, and/or quality specifications that are essential to a particular research protocol or teaching needs and are not available in comparable products;
- f. The requested product or service is essential to maintaining research continuity; or
- g. Where purchasing the goods or services from a different supplier would void a warranty.

3.4.2. Essential Services and Non-Competitive Fees and Expenses

Essential Service purchases and certain fees and expenses are routine, non-competitive, repetitive, and essential to the everyday operation of the University. Information regarding purchasing and/or paying for essential services and expenses is located in Appendix A. Authorization to make payment shall be made by the appropriate department head or designee or higher authority, with final approval by the CPO or designee. Examples of the University's Essential Services include, but are not limited to, the following types of services and expenses:

- 1. Accreditation fees and site visit costs;
- 2. Advertising of the University and its programs such as billboards, television, radio, print, or other media. This does not include services to develop such advertising, unless required by the advertising medium;
- 3. Association dues and professional memberships;
- 4. Athletic, Esports, and Academic team travel and related expenses;
- 5. Athletic and Esports conference affiliation agreements;
- 6. Athletic and Esports game contracts;
- 7. Books and related items, including those for libraries;
- 8. Cash advances;
- 9. Contracts for artists, entertainers and speakers with terms and conditions approved by WVU General Counsel and signed by the CPO, or designee, and others who are charging travel expenses only for their services;
- 10. Credit card and bank fees;
- 11. Editing and publishing services and agreements with terms and conditions approved by the General Counsel and signed by the CPO or designee;
- 12. Equipment maintenance contracts with terms and conditions approved by WVU General Counsel and signed by the CPO, or his designee
- 13. Federal, state, county, and municipal fees and assessments;
- 14. Funeral home expenses related to approved research;
- 15. Hospitality expenses;

16. Insurance premiums (after BRIM approval) and deductibles;
17. Inter-library loan charges;
18. Inter/intra-institutional charges and fund transfers;
19. License fees of all types after WVU General Counsel review;
20. Medical and doctor's fees, prescriptions, drugs, medical sundries, fees for human subjects, medical studies, tests, x-rays, CAT Scans, MRIs and emergency medical procedures and tests of all types;
21. Postage;
22. Professional legal services and expenses (WVU General Counsel approval required);
23. Published books, whitepapers, or other original content in paper or electronic form;
24. Real estate brokerage services with terms and conditions approved by WVU General Counsel and WVU Real Estate Operations;
25. Refunds to federal, state, or municipal agencies, and other miscellaneous refunds;
26. Registration and tuition fees;
27. Resale merchandise, sundries, food, related items;
28. ROTC uniform items;
29. Shipping, export control/handling, customs, and freight charges;
30. Software and associated supplier required hardware, software licenses, and software maintenance agreements with terms and conditions approved by WVU General Counsel and WVU Information Technology Services ("ITS") and signed by the CPO, or their designee;
31. Student child care;
32. Student health insurance;
33. Student awards, scholarships, stipends, loans, and grants of all types;
34. Subscriptions, periodicals, and publications;
35. Temporary space agreements of less than six (6) months;
36. University travel expenses, and other reimbursements outlined in the University's Travel Manual, including Education Abroad;
37. Utilities of all types, including cable TV and connections and disconnection; and
38. Vehicle, aircraft and equipment fuel.

3.4.3. Pressing Need

3.4.3.1. A pressing need is a need arising from unforeseen causes, which materially and negatively impacts the operations of the University or would otherwise cause material or economic damage if not remedied immediately, including, but not limited to, interruption of utilities or vital services needed by the University, delay by contractors, delay in transportation, breakdown in machinery, unanticipated volume of work, or critical and time sensitive impacts on core University operations and/or academic programs.

3.4.3.2. Pressing need requests for purchases should be transmitted to Procurement via email (PCPS@mail.wvu.edu) along with a written explanation for the pressing need purchase. If approved, the Procurement Official will solicit quotations; and place the order. If the situation warrants, the Procurement Official may authorize the Originating Department to place the order and then submit the covering requisition with a justification memorandum describing the extraordinary circumstances. Alternatively, if the Originating Department has access to a PCard, they may utilize the PCard, after approval by the CPO or designee, to complete the purchase, subject to the rules in the PCard Manual.

3.4.3.3. Pressing Need purchases shall **not** be used for needs resulting from neglect, poor planning, or lack of organization by the Originating Department.

3.4.4. Emergencies

An emergency may create a situation where time is of the essence and conditions warrant prompt action to address the condition and to maintain a safe operational environment. In these instances, it may not be advantageous or practicable for the University to use a competitive bidding process or to follow the standard administrative processes that could delay expeditious response efforts.

“Emergency Purchases” result from unforeseen circumstances that effect the health, safety, loss of function, or critical services of the University, such as, but not limited to, when there exists a threat to public health, welfare, or safety such as may arise by reason of floods, fire, epidemics, pandemics, riots, equipment failures, loss of essential function of the University; or to meet bona fide emergencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work, provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. Emergency Purchases shall **not** be used for hardships resulting from neglect, poor planning, or lack of organization by the Originating Department.

Emergency Purchases may no longer be utilized once the situation ceases to immediately endanger public health, welfare, safety, or essential functions of the University.

3.4.4.1. Emergency Purchases Under \$50,000

Originating Departments may make Emergency Purchases under \$50,000 without pre-approval from Procurement when acting in a responsible and prudent manner. A written determination of the basis for

the Emergency Purchase and for the selection of a particular supplier shall be made in writing and included in the Procurement File. Emergency Purchases shall be limited to those materials, supplies, equipment, services, printing, repairs and alterations, or construction items necessary to meet the University's immediate needs and/or to address the emergency.

3.4.4.2. Emergency Purchases Exceeding \$50,000

Emergency Purchases exceeding \$50,000 must receive prior approval from the CPO, and if unavailable, from the Associate Vice President of Auxiliary and Business Services or any University administrator holding the title of Vice President (or as soon as otherwise practicable if prior approval cannot be gained due to the nature of the emergency). A written determination of the basis for the Emergency Purchase and for the selection of a particular supplier shall be made in writing and included in the Procurement File. Emergency Purchases shall be limited to those materials, supplies, equipment, services, printing, repairs and alterations, or construction items necessary to meet the immediate needs and/or to address the emergency.

3.4.4.3. Emergency Purchasing Using State Purchase Card

As provided in West Virginia Code §18B-5-9, the University shall maintain one purchase card for use only in and for situations declared to be an emergency by the President. Such emergencies shall include but are not limited to (1) partial or total destruction of a campus facility; (2) loss of a critical component of utility infrastructure; (3) heating, ventilation, or air conditioning failure in a building where life safety or material damage is at risk; (4) loss of campus road, parking lot or campus entrance; or (5) local, regional, or national emergency situation that has a direct impact on the campus. Use of the purchase card for emergency purchases shall be governed by state law and the rules and procedures issued by the State Auditor.

3.4.4.4. Emergency Purchasing Using State Purchase Card with No Formal Declaration of Emergency

In the absence of a formal declaration of an emergency, any purchasing card may be used to ameliorate a life-threatening situation. It is the duty of each individual card holder to procure the minimum essential life and safety goods or services necessary to protect students, employees, and property of the University. Any PCard can be used as a guarantee of payment. The cardholder need only ask the supplier to delay submitting the transaction until the card controls have been adjusted to accommodate the necessary transaction. The cardholder must notify their supervisor and the University PCard Coordinator as soon as possible once the situation has

stabilized. All receipts must accompany a signed statement explaining the urgent use of the card.

3.5. Miscellaneous Provisions

3.5.1. Open End Contracts, Federal Contracts, Contracts Issued by Cooperative Buying Groups and Consortia, Bulk Purchase Contracts, and Contracts Issued through Reverse Bidding and Electronic Marketplaces

WVU may enter open-end contracts, bulk purchase contracts, and contracts issued through reverse bidding and electronic marketplaces for materials, supplies, equipment, services, or printing to supply its needs in the form of blanket orders or price agreements. Once issued, purchases and acquisitions may be made from these contracts without securing any other quotations, bids, or proposals.

WVU may, without securing quotations, bids, or proposals, make purchases from the federal government or from federal government contracts, where authorized; West Virginia public institution of higher education contracts; and contracts issued by national cooperative buying groups and consortia, if the following conditions are met: (1) the contracts allow for such purchase, (2) this manner is the most financially advantageous manner of making such purchases, and (3) the contracts are compliant with or can be made compliant with West Virginia state law.

3.5.2. Motor Vehicle Purchases

Purchasing and leasing of motor vehicles shall be consistent with state law, and the Rules, policies, and procedures of the Board of Governors. All motor vehicle purchases must be coordinated with the WVU Fleet Manager and approved by the CPO or designee. For purposes of this policy, motor vehicles include but are not limited to cars, trucks, all-terrain vehicles, utility task vehicles, tractors, and other vehicles as determined by the WVU Fleet Manager. Motor vehicle titles and registration will be maintained by the WVU Fleet Manager. Please see the University's Fleet Policy for additional information.

3.5.3. Real Estate Transactions and Agreements, including Leases for Grounds, Buildings, Office Space, and/or Other Space

Real estate transactions and agreements, which include, but are not limited to, all manner of leasing of non-University owned or controlled facilities and real property for University-related purposes; all manner of leasing of University-owned or -controlled facilities and real property for use by third parties, including Affiliated Entities; acquisition or disposition of University-owned real property; all manner of easements, licenses, rights-of-way, access agreements, and other memoranda of

understanding relating exclusively to real property or real property interests must be coordinated by WVU Real Estate Operations. The President and Vice President for Strategic Initiatives are the only University officials who are authorized to approve and sign contracts relating to real property; furthermore, in many instances, the Board of Governors must also authorize real estate transactions and agreements.

WVU Real Estate Operations must be contacted prior to any real estate transaction or agreement being negotiated to ensure compliance with state law, and the Rules, policies, and procedures of the Board of Governors. All inquiries related to potential real estate transactions and any proposed agreements must be directed to Real Estate Operations at realestate@mail.wvu.edu for review and processing. Additional procedures or guidelines may be found at the WVU Real Estate Operations website: <https://realestate.wvu.edu>.

For avoidance of doubt, storage rentals are Essential Services and are not managed by WVU Real Estate Operations.

3.5.4. Lease-Purchases of Capital Improvements and Equipment

The Board of Governors may enter into lease-purchase agreements for capital improvements, including equipment. A lease-purchase agreement constitutes a special obligation of the State of West Virginia. Any lease-purchase agreement that exceeds \$100,000 total shall be approved as to form by the West Virginia Attorney General. All lease-purchase agreements must be immediately routed to the General Counsel's Office upon receipt.

3.5.5. Contracting with Affiliated Non-Profit Corporations

If the Board of Governors determines that a contract for financial services is necessary and proper, it may enter a contract with an affiliated nonprofit corporation if it determines that the financial terms are reasonable and proper in the sound administration of their financial responsibilities to the state. In such situations, the affiliated nonprofit corporation shall be deemed a sole source. "Affiliated nonprofit corporation" is defined in West Virginia Code Section 18B-5-3.

3.5.6. Technology Procurement

Purchases of University technology resources shall be consistent with the Rules, policies, and procedures of the West Virginia University Board of Governors as delegated to Information Technology Services in BOG Governance Rule 1.11 – Information Technology Resources and Governance.

3.5.7. Trademark Licensing

Supplier contracts often include language granting rights to the supplier to use the University's trademarks and/or logos. All requests to use the University's

trademarks must be reviewed and approved by the University's Office of Brand and Trademark Licensing by submitting requests to trademarklicensing@mail.wvu.edu, unless otherwise approved by that office. If a vendor submits a request to use University trademarks, the CPO must consult with the Office of Brand and Trademark Licensing.

3.5.8. Procurement File

The CPO shall maintain a public Procurement File for each competitively bid acquisition, which shall contain the following documents, if applicable:

- a. Final Public Solicitation Documents (RFB, RFP, etc.) and any addenda thereto;
- b. The quotations, bids, proposals, or responses to requests for information received in response to the solicitation; however, an unopened quotation, bid, proposal, or response to requests for information, and limited documents or portions of documents in the Procurement File stamped or marked "proprietary" or "confidential" in accordance with the West Virginia Freedom of Information Act, may not be considered a public document or record at the sole discretion of the University;
- c. Pre-proposal conference agendas, sign-in sheets, and other distributed materials.
- d. A bid summary or register of proposals or responses to requests for information;
- e. Notice of Award/Notice of Intent to Award;
- f. Documentation showing why any quotation, bid, proposal, or response to request for information was disqualified from consideration;
- g. Documentation for the reason a solicitation was canceled;
- h. Justification for award (i.e., consensus scoring sheets, etc.);
- i. Final contract entered with the successful supplier;
- j. Supplier protests or complaints;
- k. Protest notification and determination documentation;
- l. Sole/Single source justification form and supporting documentation; and
- m. Disclosure of Interested Parties forms.

For purchases that do not require a solicitation process, the Procurement File may consist of only the PO and/or Contract.

Upon execution of the contract, the Procurement File shall be a public record open to inspection by filing a valid West Virginia Freedom of Information Act request pursuant to the [West Virginia University Freedom of Information Act Procedure](#).

SECTION 4 SUPPLIER'S RIGHTS, RESPONSIBILITIES, AND DUTIES

4.1. Supplier Access to Public Business

Unless otherwise disqualified by other sections of this Procurement Manual, no qualified supplier shall be arbitrarily or capriciously excluded from doing business with the University. Broad supplier participation shall be fostered and encouraged. West Virginia businesses are actively encouraged to participate in University solicitation events.

4.2. Supplier Registration

4.2.1. Registration through the University's Supplier Portal

All suppliers must successfully complete the registration process through the University's Supplier Portal prior to selling goods or services to the University. Suppliers are responsible for meeting all supplier registration requirements established by the University and/or the West Virginia State Purchasing Division. Suppliers must complete the Disclosure of Interested Parties form, if applicable.

4.2.2. Registration with WVU's e-Bidding System

The University utilizes an electronic bidding system (referred to herein as "WVU Public Bid Site"). Suppliers shall be responsible for registering with the WVU Public Bid Site to participate in a WVU solicitation event. Step-by-step instructions for suppliers for registration and responding to a solicitation event can be found at the following website: <https://procurement.wvu.edu/suppliers/public-bids>.

4.3. Supplier Debarment

4.3.1. Suppliers that have been debarred are not eligible to bid on or receive contracts to supply goods and services to the State of West Virginia and its subdivisions for a specified period of time. See W. Va. Code § 18B-5-5(b); § 5A-3-33b, *et seq.*

4.3.2. The Director of the State Purchasing Division has primary responsibility for administering the debarment process which includes: (1) obtaining a list of suppliers declared ineligible under federal laws and regulations and lists of suppliers who are in default on state obligations; (2) notification of all contracting officials for the state and its subdivisions regarding debarred suppliers; (3) compiling and maintaining a current, consolidated list of all Suppliers that have been debarred, the period of debarment, and the reasons for debarment; (4) investigating complaints from the officials of the state and its subdivisions responsible for contracting with Suppliers for goods and services; (5) initiating and conducting debarment procedures;

and (6) proposing rules for legislative approval for operation of the debarment process.

- 4.3.3. Before a contract or purchase order is issued, the Procurement Official is responsible for referencing the debarment list to ensure that a Supplier has not been debarred. If the supplier is listed, the supplier is not eligible for an award, contract or purchase order.

4.4. Suppliers in Default with the Unemployment or Worker's Compensation

- 4.4.1. West Virginia Code § 21A-2-6 and the WorkForce West Virginia regulations (Title 96, Series 1) prohibit granting, issuing, or renewing any contract, license, permit, certificate, or other authority to conduct trade, profession, or business to or with any employing unit whose account is in default with the Bureau of Employment Programs, Unemployment Compensation Division.
- 4.4.2. Before a contract, amendment, purchase order, or change order is executed, renewed, or extended, the Procurement Official is responsible for referencing the Bureau of Employment Programs' database of suppliers in default, which is available at the following website: <https://workforcewv.org/violator-search/>.

SECTION 5 COMPLAINTS, PROTESTS, AND RECONSIDERATION

5.1. Complaints

- 5.1.1. Complaints to the CPO or other Procurement Official about the procurement activities or actions of the University may be made at any time, in writing. The Complaint should identify the number of the RFP, RFB, or RFI the purchase order number, or contract, the reason for the complaint, and the action the complainant is seeking. Complaints shall be sent via email to pcps@mail.wvu.edu.
- 5.1.2. A complaint shall not be considered a protest, but rather an informal expression of dissatisfaction by the complainant about the procurement activities or actions. Complaints shall not be considered sufficient reason to delay or postpone evaluation and award of a contract or purchase order. Complainants should seek resolution of their complaint with the CPO, Procurement Official, or other designee.

5.2. Protests

- 5.2.1. A protest of the award must be filed no later than five (5) calendar days following the issuance of the Notice of Intent to Award or Notice of Award.

The Notice of Intent to Award and Notice of Award are documents notifying the apparent successful proposer and/or the lowest responsive and responsible bidder of the outcome of the solicitation and the University's intent to enter a contractual relationship with a supplier. For purposes of this Section, the five (5) calendar day period does not include the day the Notice of Intent to Award is issued. Protests must be filed no later than 11:59 p.m. ET. Individuals or entities that submitted bids or proposals, or representatives acting on their behalf, may obtain limited information from the CPO including the following prior to the conclusion of the five (5) day period following the Notice of Intent to Award: (1) the RFP, (2) all addendums, (3) any questions received from the proposers and answers provided, unless deemed confidential by the University, and (4) the consensus scoring sheet and accompanying documents. A supplier contemplating a protest has a duty to obtain this information in a timely manner, so that the protest can be submitted within the five (5) calendar day period. Requests for this limited information must be submitted in advance of the five (5) calendar day period to pcps@mail.wvu.edu.

- 5.2.2. Protests should be resolved in accordance with this Procurement Manual before a contract is entered; provided, however, that the CPO may allow the successful supplier to proceed with fulfilling the contract or order without delay if the CPO determines that it is necessary to protect substantial interests of the University.
- 5.2.3. All protests must be submitted to the CPO via email to pcps@mail.wvu.edu and contain the name, address, and email address of the protestor; the number of the RFB, RFP, or RFI; a statement of the grounds for protest and supporting documentation; the relief sought; and if a hearing on the merits of the protest is requested.
- 5.2.4. The CPO will review the protest, in consultation with other interested University officials as necessary, and issue a decision in writing. In the event the protestor requests a hearing on the merits of the protest, the CPO or University Designee in the case of a conflict or recusal shall set a time and place for the hearing. The hearing shall be conducted in an informal manner, and the technical rules of evidence shall not apply. The hearing may be recorded and an official record may be prepared. Following the hearing, the CPO shall issue a written decision.

SECTION 6

SUSPENSION AND RECONSIDERATION

6.1. Suspension

- 6.1.1. The CPO shall have the power and authority to suspend, for a period not exceeding one year, the right and privilege of a supplier to bid on

purchases of the University. Any supplier violating the West Virginia Code or the Rules, policies, and procedures of the Board of Governors may be suspended from the right to bid on or submit a proposal for University purchases for a period of up to one year.

- 6.1.2.** The following shall be considered adequate grounds for suspension of a supplier: (a) a supplier has exhibited a pattern of poor performance in fulfilling its contractual obligation(s) including, but not limited to, providing or furnishing commodities, materials or services late, or at a quantity or quality level below that which is specified in the contract, or repeated instances of poor performance; (b) the supplier has breached any contract; (c) or the supplier has been convicted of any federal or state law punishable as a felony if such conviction is directly related to the performance of a contract; or (d) any non-discriminatory business reason determined sufficient by the CPO. Any such suspension must be imposed within one year of the date of the act, omission, or conviction the suspension is based upon, or within one year of the CPO's discovery of such act, omission, or conviction.
- 6.1.3.** When the CPO determines that sufficient reason or cause exists to warrant suspension of a supplier, the CPO shall:

 - a. Notify the supplier by email of such reason or cause. The email provided by supplier when registering for the University's e-Bidding system shall be used to provide any such notice; and
 - b. Give the supplier sufficient time, but no less than ten (10) calendar days after receipt of the CPO's email, to respond in writing, or to make a written request for a hearing before the CPO.
- 6.1.4.** If the supplier responds in writing but does not request a hearing, the CPO shall consider the supplier's response and what bearing, if any, it may have on his or her decision to suspend the supplier. The CPO may request additional information from the supplier prior to making a decision. If the CPO decides that the suspension should be made, notice of such suspension and the reason(s) therefore shall be sent to the supplier by email.
- 6.1.5.** If the supplier responds in writing and requests a hearing, the CPO shall schedule such hearing within a reasonable amount of time and notify the supplier by email of the date, time, and place for the hearing. Virtual hearings are acceptable and may be scheduled on platforms such as Zoom or Teams.
- 6.1.6.** The CPO shall act as hearing examiner at any hearing held. An opportunity shall be afforded to all parties to present evidence and arguments with

respect to the matters and issues involved. The affected supplier shall have the right to be represented by a representative of his or her choice. The hearing shall be conducted in an informal manner; technical rules of evidence shall not apply.

- 6.1.7.** Decisions rendered by the CPO shall be in writing or stated in the record and shall be accompanied by findings of fact and references to any applicable Rules, codes and/or or policies. A copy of the decision and accompanying findings and conclusions shall be provided to each party and his or her representative of record, if any, by email.

6.2. Notification of Suspension to State Purchasing Division

When the University suspends the right and privilege of a supplier to bid on purchases of the University, the CPO shall forward a copy of the suspension notice to the Director of the State Purchasing Division.

SECTION 7 RECEIVING AND INVENTORY MANAGEMENT

7.1. Receiving

The CPO shall establish guidelines and procedures for receiving and distributing materials, supplies, equipment, and services and shall be consistent with state law, and the Rules, policies, and procedures of the Board of Governors. The CPO may establish thresholds to reduce inordinate effort to receive small dollar purchases as approved by the Board of Governors.

The purpose of receiving and inspection is to ensure that suppliers furnish the goods ordered and that the requirements set forth in the purchase order or contract are met. Receiving of the goods or services purchased from a supplier must be completed within Mountaineer Marketplace, in accordance with approved receiving thresholds. Please contact Payment Services for additional information or assistance with the receiving process.

7.2. Receiving Report Required for Goods Received

The CPO shall ensure that required information is submitted to the State Auditor verifying the receipt of commodities by the University, as required by West Virginia Code § 12-3-10f. Receiving shall be completed electronically through Mountaineer Marketplace. Commodities as defined in this Section include, but are not limited to, the following: materials, equipment, supplies, printing and automated data processing hardware and software.

The University may not issue a requisition to the West Virginia State Auditor for payment of a claim for goods received unless required receiving information accompanies the claim for payment. The Originating Department is liable for a debt improperly incurred or for a payment improperly made if the receiving report was not filed with the State Auditor.

SECTION 8 PAYMENT

8.1. Payment Function

The University's Department of Payment Services is responsible for paying supplier invoices in accordance with state law and University Rules, policies, and procedures.

8.2. Paying Invoices

Except for certain essential service categories, payment of supplier invoices should be accomplished by the traditional "three-way match" (a match between the Purchase Order and/or Contract, the receiving ticket or electronic receiver, and the invoice). That is, a Purchase Order or Contract should be issued, receipt of the goods shall be reported by the receiving department through Mountaineer Marketplace, and an invoice shall be submitted to Payment Services electronically. Each of those three items shall match in terms of price, quantity, and stated goods and/or services.

Invoices must be itemized and should contain, at a minimum, the following: supplier name, supplier remit to address, invoice number, invoice date, itemized description, purchase order number, and service dates if applicable.

Invoices will be paid based on the University's standard payment terms unless other payment terms are dictated by necessity or contractual terms. Invoices must be provided electronically.

8.3. Payments

Payments are made by ACH (preferred), check, e-payables, or PCard. Checks will only be issued when electronic methods cannot be reasonably accommodated. Payments made via check will be mailed directly to the remit to address listed on the invoice. On certain, rare occasions, a check must be picked up by the supplier rather than being mailed. A request for the check to be picked up must be approved in advance by WVU Payment Services. Requesting check pickup should only be used when absolutely necessary, as it greatly increases the cost of processing a payment and reduces standard internal controls. In certain limited situations, invoices are paid via wire transfer. Wire transfers require approval by the Director of Procure to Pay Operations and are reserved for very limited situations.

SECTION 9 PROCUREMENT AUDIT

9.1. Legislative Performance Audit

The Joint Committee on Government and Finance shall conduct an independent performance audit of the purchasing functions and duties performed at West Virginia University once each three (3) fiscal years. The Board of Governors shall be responsible for paying the cost of such audits from funds appropriated to it.

The University shall make the Procurement Files for items that were purchased during a given fiscal year available to the auditor. Procurement, Contracting, and Payment Services may be called upon to provide the auditor with additional information, as needed.

9.2. Internal Purchasing Audits Performed by the CPO & University Internal Auditor

The CPO or the University's Internal Auditor may, at their discretion, or in the absence of a Legislative Performance Audit for any fiscal year, provide for an independent audit of the University's Procurement Services function, and for any delegations of purchasing authority. The CPO or the University's Internal Auditor may also carry out the audit at the request of the President or the Vice President for Business and Auxiliary Services.

Any internal audit conducted shall be documented in an internal report, detailing any irregularities and any recommendations for improving purchasing procedures. This report is to be made available to the performance auditor. The CPO shall be responsible for the method of conducting the internal audit.

APPENDICES

APPENDIX A

Non-Catalog Purchases Under the Bid Threshold and Essential Services Process & Procedures

II. Definitions

- a. Contract: For purposes of this guidance, a contract is a legal document that is **signed** by both the buyer and the seller. Once it is signed by both parties, it is a **legally binding contract**. The seller can **only** accept the offer by signing the document, not by merely providing the goods or services.
 - i. With a Contract, the parties have worked out their agreement beforehand, and the Contract is the written expression of that agreement.
 - ii. A Contract will contain all of the information that would typically be included in a PO, but it is often a longer document that contains additional details.
- b. Mountaineer Marketplace: Mountaineer Marketplace is the University's current electronic procurement system. Mountaineer Marketplace is used throughout this document to reference the University's current and any future electronic procurement systems.
- c. Purchase Order ("PO"): A purchase order is an offer to purchase goods. It is created by the prospective buyer and sent to the prospective seller. At the point the PO is sent, it is not a Contract.
 - i. A PO is created before there is an agreement between the parties. The buyer sends the PO to the seller, who then has the choice of whether to accept it.
 - ii. A PO becomes a contract in two ways: (1) if the seller accepts the terms of the purchase order by signing the PO or otherwise expressing acceptance in writing; or (2) the seller begins providing the ordered goods and/or services.

III. Description of Non-Catalog Purchases

- a. Mountaineer Marketplace catalogs should be used whenever possible to purchase goods or services. If an item is not found in the Mountaineer Marketplace supplier catalog and is under the bid threshold of \$50,000, a non-catalog purchase requisition form is used to request a PO or to begin the contracting process with a supplier. A PO and/or Contract must be issued before the goods and services are delivered or performed.
- b. Note that competitive bidding may be used to purchase goods and services under the bid threshold; however, it is not required.

- c. The Procurement Official shall be responsible for determining whether the estimated cost of the procurement is under the bid threshold.
- d. The department purchasing the goods or services (“Originating Department”) must review the [Purchasing and Payment Guidelines](#) document and the [PCard Manual](#) to determine if a PCard may be used for the purchase and payment.

IV. Process & Procedures

A. Non-Catalog Purchase Process

1. A non-catalog purchase requisition form must be submitted by the Originating Department in Mountaineer Marketplace. Suppliers must be registered in Mountaineer Marketplace before the Originating Department can submit a non-catalog purchase requisition form (See #2 below). The Originating Department is required to obtain at least one (1) quote or pricing for the goods and/or services. If the cost of the goods and/or services exceeds \$5,000, Procurement encourages the solicitation of at least three (3) quotes for these purchases. Once completed by the Originating Department, the requisition will automatically be routed for necessary approvals through Mountaineer Marketplace.
2. When submitting the non-catalog purchase requisition form, the Originating Department must search for the supplier’s name in Mountaineer Marketplace. If the supplier is not in Mountaineer Marketplace, the Department must submit a “Supplier Request Form” to register the supplier in Mountaineer Marketplace prior to submission of the non-catalog purchase requisition form. A Procurement Official will then work with the supplier to set up the supplier in Mountaineer Marketplace and obtain the necessary documentation.
3. The Procurement Official will then prepare and send a PO and/or a Contract (see Section 4 below for steps for negotiating the contract) to the supplier. The PO and/or Contract must document the specifications and/or scope of the purchase and/or service, the terms and conditions, and the agreed upon price.
4. If a Contract is needed, the Procurement Official shall follow the steps in the current internal contracting guidance to negotiate and finalize the Contract.
 - a. The Procurement Official shall negotiate the terms and conditions of the Contract in consultation with the Originating Department, the General Counsel’s Office, and additional stakeholders, as necessary.
 - b. No contract may be issued without review and approval by the General Counsel’s Office, unless specifically authorized.

B. Confirming Order

- Confirming orders are requisitions submitted to PCPS after the order has been placed with the supplier outside of Mountaineer Marketplace or after the University has received the goods and/or services.
- **Confirming orders are not allowed, unless specifically authorized.** Inappropriate use of confirming orders not only negates the effect of budgetary approval, but also removes the ability to properly track budget encumbrances and hinders the ability to forecast cash flow. Confirming orders should be reserved for emergencies only or certain rare and specific circumstances. **Employees may be held responsible for confirming orders for non-emergency purchases or in cases not specifically approved by the CPO or designee prior to such purchase.**
- To pay a confirming order, the following steps must be followed:
 1. If the goods/services have already been delivered, the Originating Department must submit a confirming order form through Mountaineer Marketplace. An invoice and quote or agreement, that shows the amount agreed upon with the supplier before goods/services were delivered, must be included.
 2. When submitting the confirming order form, the Originating Department must enter the supplier's name in Mountaineer Marketplace. If the supplier is not in Mountaineer Marketplace, the Originating Department must submit a "Supplier Request Form" to register the supplier in Mountaineer Marketplace. A Procurement Official will then work with the supplier to set up its profile in Mountaineer Marketplace and obtain the necessary documentation. After the supplier is registered, the department can proceed with submitting the confirming order form.

C. Essential Services and Non-Competitive Fees and Expenses

Essential Service purchases and certain types of fees and expenses are essential to the everyday operation of the University and are typically non-competitive in nature. A competitive bidding process is not required for essential services; however, a PO or Contract may be required based on the type of goods purchased or services rendered.

The following Essential Services and expenses may be purchased and paid for via the Direct Pay form in Mountaineer Marketplace or via PCard, if allowable in the University's PCard Manual:

1. Accreditation fees and site visit costs;

2. Advertising of the University and its programs such as billboards, television, radio, print, or other media. This does not include services to develop such advertising, unless required by the advertising medium;
3. Association dues and professional memberships;
4. Athletic and Academic team travel and related expenses;
5. Athletics and Esports conference affiliation agreements;
6. Athletics and Esports game contracts;
7. Books and related items, including those for libraries;
8. Published books, whitepapers or other original content in paper or electronic form. Editing and publishing services and agreements with terms and conditions approved by the general counsel and signed by the CPO or their designee.
9. Cash advances;
10. Credit card fees and bank fees;
11. Federal, state, county, and municipal fees and assessments;
12. Hospitality expenses;
13. Insurance premiums (after BRIM approval);
14. Inter-library loan charges;
15. Inter/intra-institutional charges and fund transfers;
16. License fees of all types after WVU General Counsel review;
17. Medical and doctor's fees, prescriptions, drugs, medical sundries, fees for human subjects, medical studies, tests, x-rays, CAT Scans, MRIs and emergency medical procedures and test of all types, funeral home expenses related to research;
18. Postage;
19. Refunds to federal, state, or municipal agencies, and miscellaneous refunds;
20. Registration and tuition fees;
21. Resale merchandise, sundries, food, related items;
22. ROTC uniform items;
23. Shipping, handling, export control/handling, and freight charges;
24. Student awards, scholarships, stipends, loans, and grants of all types;
25. Subscriptions, periodicals, and publications;
26. University travel expenses, and other reimbursements outlined in the University's Travel Manual, including Education Abroad;
27. Utilities of all types, including cable TV and connections and disconnections; and
28. Vehicle, equipment and aircraft fuel.

*If any of the items listed above reference a Contract, a non-catalog purchase requisition form must be submitted before the goods and/or services are provided, unless approved to purchase via a PCard.

The following Essential Services and expenses require a Contract and a non-catalog purchase requisition form be submitted before the goods or services are provided, unless approved to purchase via a PCard:

1. Contracts for artists, entertainers and speakers with terms and conditions approved by WVU General Counsel and signed by the CPO or their designee;
2. Editing and publishing services and agreements with terms and conditions approved by the General Counsel and signed by the CPO or designee;
3. Equipment maintenance contracts with terms and conditions approved by WVU General Counsel and signed by the CPO or their designee;
4. Professional legal services and expenses (WVU General Counsel approval required);
5. Real estate brokerage services with terms and conditions approved by WVU General Counsel and WVU Real Estate Operations;
6. Temporary space rentals agreements of less than six (6) months;
7. Software and associated supplier required hardware, software licenses, and software maintenance agreements with terms and conditions approved by WVU General Counsel and WVU Information Technology Services (ITS) and signed by the CPO or designee;
8. Student health insurance; and
9. Student child care.

APPENDIX B

Request for Bids Process Rules & Procedures

I. Request for Bids Definition & Overview of Use

- a. The Request for Bid (“RFB”) is the preferred competitive bidding method and is used when detailed specifications are available and firm pricing can be established without further price negotiations with vendors. Under this method, the lowest responsible and responsive bidder providing all required information receives the award.
- b. If the department purchasing the goods or services (“Originating Department”) has critical or complex requirements or if the cost of the goods or services will be equal to or exceed the competitive bid threshold (\$50,000), the Originating Department must contact Procurement, Contracting, and Payment Services (“Procurement”) prior to the requisition phase to determine whether an RFB is the appropriate competitive bidding method for a particular purchase.

II. RFB Process & Procedures

Below is the typical process followed by the University when issuing an RFB. Please note, however, that the University has discretion to modify this process if the Chief Procurement Officer (“CPO”), or designee, determines it is in the best interest of the University.

A. Development of Specifications / Scope of Work

1. The Procurement Official must work with the Originating Department to develop the specifications and/or scope of work. Additional information regarding requirements for specifications and types of information typically found in a detailed scope of work is located in Section 2 of the Procurement Manual. The specifications and/or scope of work shall include, at a minimum, the following, if applicable:
 - a. Item number, if available;
 - b. Quantity and unit of measure;
 - c. Description and name of the product if using a brand name or equivalent specification, followed by the manufacturer and model number.
 - d. Pricing information;
 - e. Delivery dates, methods and schedules;
 - f. Expected warranty of the product or service;
 - g. Product sample or service requirements;
 - h. Method of ordering or securing services;
 - i. Supplier qualifications;

- j. In the case of services, specific deliverables, timeline for delivery, service level commitments, and acceptance criteria;
 - k. Compliance requirements; and
 - l. Ongoing support included in the delivery of the product or service.
2. The Procurement Official should conduct market research on the products and/or services and identify potential suppliers and any value-added requirements not initially addressed by the Originating Department.

B. Complete RFB Template

1. The Procurement Official must complete all sections of the RFB template. The Procurement Official must use the current template and not a previously completed RFB.
2. Pre-Bid Conference
 - a. The Procurement Official must determine whether a Pre-bid Conference is necessary. If a Pre-bid Conference is necessary, the date, time, and location (including virtual platform, if applicable) of the Pre-bid Conference must be included in the RFB. The RFB must also indicate whether the Pre-bid Conference is mandatory or optional by the bidders. Please see Section IV.C. for additional rules related to the Prebid Conference.
3. “Due Date”: The Procurement Official shall determine the Due Date and Time (herein referred to as the “Due Date”) for the bids giving a reasonable time for submission of bids while also being conscious of the Originating Department’s needs.
4. The Procurement Official will submit the RFB to the Originating Department and then to the General Counsel’s Office for review.
5. Upon approval by the General Counsel’s Office, the Procurement Official must conduct a final review of the RFB before posting. Upon finalization of the document, it will be published on the University’s e-Bidding System (“WVU Public Bid Site”).

C. Publishing the RFB

1. The Procurement Official shall publish the RFB on the WVU Public Bid Site.
2. The RFB shall be published and made available to all registered Suppliers through the WVU Public Bid Site no later than five (5) calendar days prior to the bid Due Date. The day the RFB is posted does not count toward the five (5) calendar days.

3. The RFB and any exhibits/attachments shall be posted as one (1) PDF file whenever possible. Addendums added after the RFB is published should be posted as separate documents.
4. Electronic notice will automatically be provided to Suppliers who have registered to do business with the University in applicable commodity classifications through the WVU Public Bid Site. The Procurement Official should do market research and discuss potential Suppliers with the Originating Department to notify other potential interested Suppliers and assist such Suppliers in accessing and responding to the RFB.

D. Solicitation Management

1. The Procurement Official shall collect questions submitted by prospective bidders and publish the responses on the WVU Public Bid Site. Unless confidential, the responses shall be publicly available to all prospective bidders. Bidders are encouraged to utilize the Q&A Board on the WVU Public Bid Site.
2. If the need arises to amend an RFB, the Procurement Official must prepare and post an Addendum on the WVU Public Bid Site. See Section IV.B. for additional information regarding addendums.
3. No Addendums or responses to questions should be posted within forty-eight (48) hours of the Due Date unless deemed by the Procurement Official as being necessary and in the best interest of the University. If any additional information is required to be submitted to the prospective bidders within this timeframe, then the Procurement Official may, if deemed necessary, extend the Due Date in order to preserve the forty-eight (48) hour requirement.

E. Receipt of Bids

1. The Procurement Official will receive all bids through the WVU Public Bid Site until the date and time announced for closing (“Due Date”). The electronic clock on the WVU Public Bid Site shall be considered the official time used to determine whether a bid was submitted on time. If the bid arrives after the Due Date and Time, the Procurement Official shall document the date and time of receipt and retain it in the Procurement File unopened or return it unopened at the request of the bidder. The bid cannot be accepted unless the University’s electronic submission method is found to be at fault. If a bidder encounters technical difficulty, the bidder may contact the Procurement Official prior to the submission due date and time to potentially arrange other submission methods. A record should be kept in the Procurement File of its late receipt and its disposition.
2. The Procurement Official will conduct an initial review to determine if the bids received are responsive to the RFB and whether the bidder meets all

qualifications to be a responsible bidder to potentially enter a Contract. The Procurement Official must determine whether an omission of any requirement in the solicitation document is material. The University has the right to reject bids that cannot be made responsive.

3. The Procurement Official shall tabulate and record the bids on the Bid Tabulation Form.
4. The Procurement Official shall post the unofficial tabulation of bids on the WVU Public Bid Site.

F. Method of Award to Successful Bidder

1. The Procurement Official will notify the Originating Department and review the results and potential award.
2. The contract shall be awarded to the lowest responsible and responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the RFB.
3. The Procurement Official will send a “Notice of Intent to Award” to the lowest responsible and responsive bidder and notice shall be provided to the other bidders through the WVU Public Bid Site and/or via email.
4. The Procurement Official shall sign the official bid tabulation.

G. Negotiation and Issuance of Contract

The Procurement Official should follow the steps in the current internal contracting guidance to negotiate and finalize the Contract, if applicable.

- a. The Procurement Official shall negotiate the terms and conditions of the Contract in consultation with the Originating Department, the General Counsel’s Office, and additional stakeholders, as necessary.
- b. No contract may be issued without review and approval by the General Counsel’s Office, unless specifically authorized.
- c. If no contract with the apparent successful bidder can be agreed upon, the Procurement Official may begin negotiations with the next lowest responsible and responsive bidder or such RFB may be cancelled.

III. Procurement Close-Out

- A. The Procurement Official shall post the official tabulation of bids noting the successful bidder to which the University contracted with for such RFB solicitation on the WVU Public Bid Site.
- B. The Procurement Official shall complete the Procurement File Checklist and ensure that the file is complete and housed in one central location. Only those documents listed on the Procurement File Checklist shall be maintained in the Procurement File.

IV. Rules Applicable to the RFB Process

A. Bidding Time

- 1. The minimum period of time between the date of posting of the RFB and the Due Date for bids is five (5) calendar days. The day the RFB is posted does not count toward the five (5) calendar days.
- 2. Upon initiation of an RFB, a final Due Date shall be established and posted on the WVU Public Bid Site. Once the Due Date is reached, the WVU Public Bid Site shall automatically cut-off all bid submissions, modifications, and withdrawals.

B. Amendment of RFBs

- 1. An Addendum may be issued for many reasons including, but not limited to, (a) making changes or corrections to the RFB; (b) clarifications, revisions, additions or deletions to the goods or services specifications; (c) providing information necessary to ensure fair and competitive bidding (to be used in cases where one bidder has received information that other bidders have not); (d) extension or postponement of the Due Date, or other RFB date, due to University need or bidder request; or (e) any other reason determined by the Procurement Official to be necessary or advantageous to the University.
- 2. No changes shall be made to an RFB, except through an Addendum to the RFB posted on the WVU Public Bid Site.
- 3. If the Procurement Official determines that an Addendum to an RFB is necessary or advantageous to the University, the Procurement Official may issue an Addendum that shall reference the part(s) of the RFB amended, added, or clarified.
- 4. Addendums shall be published through the WVU Public Bid Site and distributed to all prospective bidders and allow prospective bidders enough time to consider it in preparing their bids. If needed to allow sufficient time, the bid Due

Date may be extended by Addendum. Typically, no Addendums or responses to questions shall be posted within forty-eight (48) hours of the Due Date unless deemed by the Procurement Official as being necessary and in the best interest of the University. If an Addendum is required to be submitted to the prospective bidders within this timeframe, then the Procurement Official may, if deemed necessary, extend the Due Date in order to preserve the forty-eight (48) hour requirement.

C. Pre-bid Conference

1. Pre-bid conferences may be held at the discretion of the Procurement Official in conjunction with the Originating Department to more thoroughly explain the RFB. Such conferences may be conducted in-person or virtually through interactive video conferencing software, including but not limited to Zoom or Microsoft Teams.
2. Pre-bid conference dates shall be announced to all prospective bidders within the RFB document or via Addendum.
3. The timing of the conference should allow prospective bidders to become familiar with the core elements of the RFB, prior to the conference, while also allowing bidders enough time afterward to consider conference information and results in preparing their bid.
4. If the Prebid Conference is mandatory, only those prospective bidders who attend the conference are eligible to submit a bid. A list of the attendees shall be added as an Addendum to the RFB and included in the Procurement File. Addenda and supplemental information issued after the mandatory Prebid Conference should be distributed to only those prospective bidders who are eligible to bid. Mandatory Prebid Conferences should be held when bidders need to be made aware of unique circumstances, conditions, and situations that cannot adequately be explained in the RFB.
5. If a conference summary report is made, it shall be distributed as an Addendum and placed in the Procurement File.

D. Submission, Modification, and Withdrawal of Bids

1. All submissions, modifications, and withdrawals of bids shall be submitted through the WVU Public Bid Site by the bidder prior to the Due Date by an authorized agent of the bidder who has full authority to bind the bidder as to necessary elements of the bid. Once withdrawn, the bidder may modify and resubmit their bid before the event Due Date.
2. Any modification submitted shall not reveal the price of the bid.

3. If a bid is withdrawn, the bid security, if any, shall be returned to the bidder.
4. All documents relating to the modification or withdrawal of a bid shall be made a part of the Procurement File.

E. Requests for Extensions

1. Bidders who contact the Procurement Official prior to the bid Due Date, may, at the University's discretion, request to have a bid Due Date extended. Prior to granting the extension, the Originating Department should be contacted to ensure the delay will not have operational ramifications. Generally, this should be a reasonable extension.

F. Late Bids, Late Modifications, Late Withdrawals

1. Any bid, withdrawal, or modification received after the Due Date is late and will not be considered, unless the WVU Public Bid Site is found to be at fault. If a bidder encounters technical difficulty, the bidder may contact the Procurement Official prior to the Due Date to potentially arrange other submission methods.
2. The electronic clock on the WVU Public Bid Site shall be considered the official timepiece used to determine whether the bid, withdrawal, or modification was late.

G. Receipt and Safeguarding Bids

1. All bids will be received electronically via the WVU Public Bid Site. The WVU Public Bid Site will automatically timestamp all bid submissions with the date and time of receipt. The WVU Public Bid Site will also ensure that bids remain secure until the Procurement Official accesses the bids.

H. Postponement of Due Date

1. The Procurement Official may postpone the Due Date, if the Procurement Official determines that doing so is in the best interest of the University. Such postponement shall be accomplished through an Addendum to the RFB, which shall be published and distributed through the WVU Public Bid Site.
2. Upon postponement of the Due Date, the WVU Public Bid Site shall be updated to reflect the new Due Date.

I. Opening Bids

1. Bids, modifications, and withdrawals shall be accessed via the WVU Public Bid Site after the Due Date.

J. Errors in Bids

1. Before the Due Date, bidders may correct their bids through the modification process outlined above.
2. After the Due Date, a bid correction or withdrawal because of an inadvertent mistake is permissible if not contrary to the interest of the University or the fair treatment of other bidders. However, the bid may not be corrected if the mistake is attributable to an error in judgment.
3. If there is a conflict between the extension price and the unit price, the unit price shall prevail.
4. When the Procurement Official knows or has reason to conclude that a mistake has been or may have been made, a request should be made to the bidder to confirm the bid.
5. If the bidder alleges a mistake, the bid may be corrected or withdrawn if the conditions set forth below are met:
 - a. Minor Informalities or Irregularities: Minor informalities or irregularities, or mistakes that can be waived or corrected without prejudice to other bidders, which are evident after examining the bid, are considered matters of form rather than substance; that is, the effect on price, quantity, quality, or terms and conditions is negligible. The CPO may waive such informalities or irregularities or allow the bidder to correct such mistakes, depending on which is in the best interest of the University. An example is the lack of specifications on alternate bids. Additional specifications may be requested to make an accurate determination.
 - b. Mistakes Where Intended Correct Bid Is Evident: If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.
 - c. Mistakes Where Intended Correct Bid Is Not Evident: A bidder may be permitted to withdraw a low bid if:

- i. The mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident; or
 - ii. The bidder submits proof of evidentiary value which clearly and convincingly demonstrates the mistake.
6. The Procurement Official may reject an erroneous bid after the Due Date upon request of the bidder if all of the following conditions exist: (a) an error was made; (b) the error materially affected the bid or proposal; (c) rejection of the bid or proposal would not cause a hardship on the University other than losing an opportunity to receive materials, supplies, equipment, services, construction and/or printing at a reduced cost; and (d) enforcement of the part of the bid or proposal in error would be unconscionable. In order to reject a bid or proposal, the Procurement File must contain documented evidence that all of the above conditions exist.
7. Material mistakes discovered after the award may be corrected only where the CPO makes a written determination that it would be unconscionable not to allow correction.

K. Bid Evaluation and Award

1. The contract is to be awarded to the lowest responsible and responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the RFB.
2. In determining the lowest responsible and responsive bidder, consideration will be given to such factors as quality (meeting specifications), price, time of delivery, cost of delivery, and other terms and conditions considered prudent, as set forth in the RFB. Unit prices shall prevail in all cases when there is a conflict between the unit price and the extended price.
3. Multiple or split awards may be made if determined by the CPO to be in the best interest of the University.
4. Occasionally, purchase orders may be issued which impose no obligation to take delivery of a product or service and as such, these purchase orders shall be issued as blanket purchase orders or price agreements.
5. A bid may be rejected if: (a) the product quoted does not meet compatibility requirements; (b) where a partial bid or all-or-nothing bid is submitted but is not acceptable; (c) when timely delivery requirements are significant to the purchase; or (d) when the bidder fails to comply with the stated terms and conditions.

6. Nothing in this section shall preclude an award to a bidder submitting a higher quality product or item than that designated in the RFB if such bidder submitted the lowest bid.
7. Before a contract or purchase order is issued/executed, the Procurement Official shall check the debarment list and the Bureau of Employment programs' default database to ensure a Supplier is not listed. If the Supplier is listed, the Supplier is not eligible for a contract or purchase order. The Bureau of Employment Programs database of suppliers in default is located at the following website: <https://workforcewv.org/unemployment/employers/violators-list>.
8. Prior to the award, except when only a single responsive and responsible bid is received, negotiation with a bidder or bidders is not permitted; however, clarifications that do not alter a bid are permitted.

L. Tie Bids

1. When tie bids or bids are received, the tie shall be broken, and an award made by allowing the tied bidders to make a "best and final offer." If a tie bid is not broken by a "best and final offer," then the tie may be broken by a flip of a coin, or any other impartial method deemed prudent by the CPO.

M. Fewer than Three Bids

1. If fewer than three bids are received, the CPO, or designee, may choose to make an award from among those bids received or reject all bids. If all bids are rejected, the CPO, or designee, may initiate a new RFB and begin a new bidding process.

N. Rejection of Bids

1. Any bid may be rejected, in whole or in part, if the CPO or designee believes it to be in the best interest of the University. If any bid is rejected, a written explanation prepared by the CPO, designee, shall be noted in the Procurement File.

APPENDIX C

Requests for Proposals Process Rules & Procedures

I. Request for Proposals Definition & Overview of Use

- The Request for Proposal (“RFP”) is a competitive bidding method used when detailed specifications are unavailable or where price is not the sole or significant factor in determining the award. With this method, Suppliers are invited, through public solicitation, to submit detailed proposals designed to meet specific performance and/or technical criteria and qualification evaluation factors developed by the University. Such criteria usually include the following: price, company profile, experience, information about their goods/services, and other value-added factors. These proposals are constructed, evaluated, scored, and awarded based on the most advantageous proposal as determined by a selection or evaluation committee.
- If the department purchasing the goods or services (“Originating Department”) has critical or complex requirements or if the cost of goods or services being purchased will be equal to or exceed the competitive bidding threshold (\$50,000), the Originating Department must contact Procurement, Contracting, and Payment Services (“Procurement”) prior to the requisition phase to determine whether an RFP is the appropriate competitive bidding method for a particular purpose.

II. RFP Process & Procedures

Below is the typical process followed by the University when issuing an RFP. Please note, however, that the University has discretion to modify this process if the Chief Procurement Officer (“CPO”) or designee determines it is in the best interest of the university.

A. Development of Performance Specifications/Scope of Work

1. The Procurement Official must work with the Originating Department to prepare detailed performance and technical specifications and/or the scope of work. Additional information regarding specifications and scope of work is located in Section 2 of the Procurement Manual. The specifications must describe the service provider’s responsibility in providing the requested services and/or goods for the Originating Department. Additionally, the specifications must include the specific requirements and/or deliverables including the specific tasks, sub-tasks, parameters, and limitations that must be considered in producing the service or final project. Factors such as the following should also be included, if applicable:

- a. Background of the requirements;
 - b. Supplier qualifications;
 - c. Objectives of the RFP;
 - d. The expected schedule/time considerations;
 - e. Details of work environment;
 - f. Location where service is to be performed;
 - g. Travel rules and restrictions;
 - h. Special equipment required;
 - i. Compliance requirements;
 - j. Expected deliverables; and
 - k. Service level commitments.
2. The Procurement Official should conduct market research on the products/services and identify potential suppliers and any value-added requirements not initially addressed by the Originating Department.
 3. The objective and scope should be defined in very specific terms yet leave room for reasonable variances. Be specific and confirm that the performance specifications and/or scope of work capture all of the Originating Department's needs and objectives.
 4. All RFPs will provide the contract term resulting from the award, i.e., whether the RFP will result in a one-time purchase or a term contract including any provisions for renewal.

B. Development of Evaluation Criteria/Weighting

1. The Procurement Official must work with the Originating Department to determine the weighted evaluation criteria that will establish standards by which to measure how the supplier's proposal meets the needs of the Originating Department. Examples include, but are not limited to, the following: Price, Experience, Approach, and Quality. Each RFP shall state the relative importance of the evaluation factors to the award based upon a point system of 100-point total availability. Under certain circumstances, an alternative evaluation structure and scoring system may be utilized if approved by the CPO or designee.
2. The establishment of the evaluation criteria is critical since only those standards listed in the RFP shall be considered in the evaluation of the proposals. The evaluation criteria and weighting must be identical in the RFP and the Scoring Sheet.
3. The Procurement Official will create a Scoring Sheet containing a detailed breakdown of the criteria to be used in evaluating the proposals. The score sheet must reflect the requirements as stated in the RFP and contain the range

of points available to score each evaluation factor. The “Evaluation Criteria” included on the score sheet and the weight of each factor must be identical to the criteria and weights listed in the RFP, as amended by any addendums, if applicable.

C. Selection of Evaluation Committee

1. The Procurement Official must work with the Originating Department to identify and select members of the Evaluation Committee.
2. The Evaluation Committee shall consist of three (3) or more stakeholders from the Originating Department and other interested parties.
3. Each member of the Evaluation Committee should possess specific knowledge, skills, or unique perspective essential to the RFP evaluation. Subject matter or technical experts are non-scoring ad-hoc groups who serve as technical advisors to the Evaluation Committee. Subject matter or technical experts may be convened as needed and upon request of the Evaluation Committee.
4. No person should serve on an Evaluation Committee where the action of that committee might benefit that person or their immediate family members or any organization or business with which that person is associated.
5. The Procurement Official shall provide Evaluation Committee members with a nondisclosure form for signature.

D. Complete the RFP Template

1. The Procurement Official must complete all sections of the RFP template. The Procurement Official must use the current template and not a previously completed RFP.

2. Pre-Proposal Conference

The Procurement Official must determine whether a Pre-Proposal Conference is necessary. If a Pre-Proposal Conference is necessary, the date, time, and location (including virtual platform, if applicable) of the Pre-Proposal Conference must be included in the RFP. The RFP must also indicate whether the Pre-Proposal Conference is mandatory or optional for the proposers. Please see Section IV.C. for additional rules related to the Pre-Proposal Conference.

3. “Due Date”: The Procurement Official shall determine the Due Date and time giving a reasonable time for submission of proposals while also being conscious of the Originating Department’s needs.

4. The Procurement Official will submit the RFP to the Originating Department and then to the General Counsel's Office for review.
5. Upon approval by the General Counsel's Office, the Procurement Official must conduct a final review of the RFP before posting. Upon finalization of the document, it will be published on the University's e-Bidding System ("WVU Public Bid Site").

E. Publishing the RFP

1. The Procurement Official shall publish the RFP on the WVU Public Bid Site.
2. The RFP shall be published and made available to all registered Suppliers through the WVU Public Bid Site no later than five (5) calendar days prior to the proposal Due Date. The day the RFP is posted does not count toward the five (5) calendar days.
3. The RFP and any exhibits/attachments shall be posted as one (1) PDF file, whenever possible. Addendums added after the RFP is published should be posted as separate documents.
4. Electronic notice will automatically be provided to Suppliers who have registered to do business with the University in applicable commodity classifications through the WVU Public Bid Site. The Procurement Official should research and discuss potential Suppliers with the Originating Department in order to notify other potential interested Suppliers and assist such Suppliers in accessing and responding to the RFP.

F. Solicitation Management

1. The Procurement Official shall collect questions submitted by prospective proposers and publish the responses on the WVU Public Bid Site. Unless deemed confidential at the University's discretion, the responses shall be publicly available to all prospective proposers. Proposers are encouraged to utilize the Q&A Board on the WVU Public Bid Site.
2. If the need arises to amend an RFP, the Procurement Official must prepare and post an Addendum on the WVU Public Bid Site. See Section IV.B. for additional information regarding Addendums.
3. No Addendums or responses to questions should be posted within forty-eight (48) hours of the Due Date unless such is deemed by the Procurement Official as being necessary and in the best interest of the University. If any additional information is required to be submitted to the prospective proposers within this

timeframe, then the Procurement Official shall extend the Due Date in order to preserve the forty-eight (48) hour requirement.

G. Receipt of Proposals

1. The Procurement Official will receive all proposals through WVU Public Bid Site until the date and time announced for closing (“Due Date”). The electronic clock on the WVU Public Bid Site shall be considered the official time used to determine whether a proposal was submitted on time. If the proposal arrives after the Due Date, the Procurement Official shall document the date and time of receipt and retain it in the Procurement File unopened or return it unopened at the request of the proposer. The proposal cannot be accepted unless the University’s electronic submission method is found to be at fault. If Supplier encounters technical difficulty; Supplier may contact the RFP Procurement Official prior to the submission due date and time to potentially arrange other submission methods. A record should be kept in the Procurement File of its late receipt and its disposition.
2. The Procurement Official will conduct a preliminary review of proposals received by the Due Date to ensure all required components are included and that accepted proposals meet all mandatory requirements, where applicable. Generally, no proposer may modify a proposal after the Due Date. However, the Procurement Official may clarify, through written request to a proposer, components of a proposal to ensure the University can validate the proposal’s responsiveness to mandatory requirements.

H. Evaluation Process/Scoring

1. The Procurement Official will forward copies of the RFP, the responsive proposals, and the Scoring Sheet to the Evaluation Committee members.
2. The Procurement Official will determine whether the pricing information should be distributed to the Evaluation Committee before the technical and functional evaluation factor scoring is complete. Although pricing information may be distributed to the Evaluation Committee, in most circumstances, the Procurement Official will calculate the price scoring based on a scaling model of lowest to highest price.
3. Communication among committee members, including the Procurement Official, is generally limited to scheduled committee meetings, group written communication, or conference calls.
4. The integrity of the evaluation and therefore the procurement is based on full disclosure of procurement and evaluation information shared equally among all members. Occasionally, individual committee members may have questions or

concerns regarding the procurement that occur outside of scheduled meetings. Evaluation committee member questions or clarifications must be forwarded to the Procurement Official who will ensure that all members are informed.

5. Committee members will independently read and evaluate the proposals prior to the Evaluation Committee's first meeting. The Evaluation Committee members should use the Scoring Sheet during their independent review. The Committee members must independently evaluate, score, and rank the proposals using the evaluation criteria and refrain from discussions with any other member of the evaluation process until the Evaluation Committee meets as a whole to discuss scoring.
6. The Evaluation Committee will meet to evaluate and score the proposals ("Initial Consensus Scoring Meeting"). The Evaluation Committee must apply the scoring criteria impartially to each proposal. Consensus Scoring will be used for the individual criteria as well as the overall rating.
 - a. Consensus Scoring: The Evaluation Committee develops a collective score for each evaluation factor based on the weighted points listed in the RFP. The discussions on each proposal and the resulting deliberations are the means by which the committee can ultimately arrive at a collective decision. Consensus Scoring is utilized because it solicits perspectives and opinions from all voting members. For example, committee members may have understood a concept or approach differently than other committee members' perceptions. The Evaluation Committee shall deliberate until they reach a Consensus Score for all evaluation factors of each proposal.
 - Consensus Scoring represents a more accurate assessment of the submitted proposals than a mathematical averaging of individual evaluator scores.
 - b. Following the Initial Consensus Scoring Meeting, the Procurement Official may assist the Evaluation Committee as follows:
 - Determine if, after evaluation, a selection can be made without any further discussions or proposal evaluation activities.
 - Determine which proposals may reasonably be considered for award. Documentation is required for proposals eliminated from further evaluation.
 - Further communication with remaining proposers may be conducted, in an equitable manner, to provide an opportunity to discuss their proposals. The University may permit revisions to proposal content and to cost by proposers on the condition that the revisions do not alter the scope or content of the original solicitation to a degree that will affect the justification that was used to eliminate other proposers from evaluation.

- Determine the need and schedule interviews, on-site reviews, etc. of the top group of proposers.
 - For purposes of clarification, the Procurement Official may discuss the requirements of the offer with the proposer and permit a proposer to revise the proposal to ensure responsiveness to those requirements. Discussions will be in writing or if oral, discussions will be summarized in writing.
 - Where the RFP provided for the possibility of a best and final offer (“BAFO”) to be conducted, the Procurement Official may engage the proposer(s) which may reasonably be considered for award to participate in the BAFO process.
 - The Procurement Officer in the evaluation, discussion, negotiation, and selection process, will ensure that no disclosure of any information from one proposer to another occurs.
- c. If any activities described in b. above occur which aid in the evaluation of the technical/functional proposals, the Evaluation Committee shall meet and confer on whether or not such additional activities and information modifies the Consensus Scoring of the initial evaluation of the proposals under consideration. The Procurement Official or Evaluation Committee shall make any and all revisions to the price and other criteria evaluation as necessary.
- d. The consensus Scoring Sheet is an official document that will become part of the Procurement File and should be signed by the Evaluation Committee members. Individual Evaluation Committee member score sheets and notes shall be destroyed or deleted once the Consensus Scoring is completed.

I. Committee Award Selection

1. The Evaluation Committee will document the justification for the award and the Procurement Official will place the report, as well as supporting documentation, in the Procurement File. All Committee Members must sign off on the selection by signature to the Scoring Sheet.
2. The apparent successful proposer is then notified by the Procurement Official. For RFPs for services, a Notice of Intent to Award is issued. For RFPs for goods, a Notice of Award is issued. The Notice of Intent to Award or Notice of Award must be published through the WVU Public Bid Site and/or sent via email.
3. Proposal records and other RFP records may not be available for public inspection before the contract is awarded.

4. The specifications and/or scope of work listed in the RFP will correspond to the specifications that appear in the resulting contract. Any major deviation from original specifications in the resulting contract is grounds for withdrawal of Procurement authorization.
5. The Procurement Official will begin the contract negotiation process with apparent successful proposer. See Section J below for additional information about the contracting process.
6. If a contract cannot be reached, the Procurement Official may begin contract negotiations with the next highest ranked proposer. This process shall continue until an agreement is reached, all proposals are rejected, or the RFP is cancelled.

J. Negotiation and Issuance of Contract

The Procurement Official should follow the steps in the current internal contracting guidance to negotiate and finalize the Contract.

- a. The Procurement Official shall negotiate the terms and conditions of the Contract in consultation with the Originating Department, the General Counsel's Office, and additional stakeholders, as necessary.
- b. No contract may be issued without review and approval by the General Counsel's Office, unless specifically authorized.

K. Publishing of Selection

1. The Procurement Official will notify all proposers of the Supplier selection for which a contract was issued through the WVU Public Bid Site and/or via email.

III. Procurement Close-Out

- A. The Procurement Official shall complete the Procurement File Checklist and ensure that the file is complete and housed in one central location. Only those documents listed in the Procurement File checklist shall be maintained in the official Procurement File.

IV. Rules Applicable to the RFP Process

A. Submission and Receipt Time

1. The minimum period of time between the date of posting of the RFP and the Due Date for proposals is five (5) calendar days. The day the RFP is posted does not count toward the five (5) calendar days.

2. Upon initiation of an RFP, a final Due Date and Time shall be established in the RFP and on the WVU Public Bid Site. Once the Due Date and Time is reached, the WVU Public Bid Site shall automatically cut-off all proposal submissions, modifications, and withdrawals.
3. All proposals will be received electronically via the WVU Public Bid Site. The WVU Public Bid Site system will automatically timestamp all proposal submissions with the date and time of receipt. The WVU Public Bid Site will also ensure that proposals remain secure until proposal files are opened by the Procurement Official after the Due Date.

B. Amendment of RFPs

1. An Addendum may be issued for many reasons including, but not limited to, (a) making changes or corrections to the RFP; (b) clarifications, revisions, additions or deletions to the goods or services specifications; (c) providing information necessary to ensure fair and competitive solicitation (i.e. used in cases where one proposer has received information that other proposers have not); (d) extension or postponement of the Due Date, or other RFP date, due to University need or proposer request; or (e) any other reason determined by the Procurement Official to be necessary or advantageous to the University.
2. No changes shall be made to an RFP, except through an Addendum to the RFP posted on the WVU Public Bid Site.
3. If the Procurement Official determines that an Addendum to an RFP is necessary or advantageous to the University, the Procurement Official may issue an Addendum that shall reference the part(s) of the RFP amended, added, or clarified.
4. Addendums shall be published through the WVU Public Bid Site and allow prospective proposers enough time to consider it in preparing their proposal. If needed to allow sufficient time, the proposal Due Date may be extended by Addendum. Typically, no Addendums or responses to questions shall be posted within forty-eight (48) hours of the Due Date unless deemed by the Procurement Official as being necessary and in the best interest of the University. If an Addendum is required to be submitted to the prospective proposers within this timeframe, then the Procurement Official may, if deemed necessary, extend the Due Date in order to preserve the forty-eight (48) hour requirement.

C. Pre-Proposal Conference

1. Pre-Proposal conferences may be held at the discretion of the Procurement Official in conjunction with the Originating Department to more thoroughly explain the Request for proposals. Such conferences may be conducted in-

person or virtually through interactive video conferencing software, including but not limited to Zoom or Microsoft Teams.

2. Pre-Proposal conference dates shall be announced to all prospective respondents within the RFP document or via Addendum.
3. The timing of conference should allow prospective proposers to become familiar with the core elements of the RFP, prior to the conference, while also allowing proposers enough time afterward to consider conference information and results in preparing their proposal.
4. If the Pre-Proposal Conference is mandatory, only those proposers who attend the conference are eligible to submit a proposal. A list of the attendees shall be added as an Addendum to the RFP and included in the Procurement File. Addenda and supplemental information issued after the mandatory Pre-Proposal Conference should be distributed to only those proposers who are eligible to submit a proposal. Mandatory Pre-Proposal conferences should be held when respondents need to be made aware of unique circumstances, conditions, and situations that cannot adequately be explained in the RFP.
5. If a conference summary report is made, it shall be placed in the Procurement File and become a matter of public record.

D. Submission, Modification, and Withdrawal of Proposals

1. All submissions, modifications, and withdrawals of proposals shall be submitted through the WVU Public Bid Site by the proposer prior to the Due Date by an authorized agent of the proposer who has full authority to bind the proposer as to the necessary elements of the proposal. Once withdrawn, the proposer may modify and resubmit their proposal before the event deadline.
2. Any modification of a proposal should be prepared on the proposer's company letterhead, signed by an authorized representative, and state that the new document supersedes or modifies the prior proposals.
3. All documents relating to the modification or withdrawal of a proposal shall be made a part of the Procurement File.

E. Requests for Extensions

1. Suppliers who contact the Procurement Official prior to the proposal Due Date, may, at the University's discretion, request to extend the Due Date. Prior to granting the extension, the Originating Department should be contacted to

ensure the delay will not have operational ramifications. Generally, this should be a reasonable extension.

F. Late Proposals, Late Modifications, Late Withdrawals

1. Any proposal, withdrawal, or modification received after the Due Date will not be considered, unless the WVU Public Bid Site is found to be at fault. If Supplier encounters technical difficulty, Supplier may contact the Procurement Official prior to the Due Date to potentially arrange other submission methods.
2. The electronic clock on the WVU Public Bid Site shall be considered the official timepiece used to determine whether the proposal, withdrawal, or modification was late.

G. Receipt and Safeguarding Proposals

1. All proposals will be received electronically via the WVU Public Bid Site. The WVU Public Bid Site will automatically timestamp all proposal submissions with the date and time of receipt. The WVU Public Bid Site will also ensure that proposals remain secure until the Procurement Official accesses the proposals after the Due Date.

H. Postponement of Due Date

1. The Procurement Official may postpone the Due Date, if doing so is in the best interest of the University. Such postponement shall be accomplished through an Addendum to the RFP, which shall be published and distributed through the WVU Public Bid Site.
2. Upon postponement of the proposal Due Date, the WVU Public Bid Site shall be updated to reflect the new Due Date.

I. Opening Proposals

1. Proposals, modifications, and withdrawals shall be opened via the WVU Public Bid Site after the Due Date.

J. Errors in Proposals

1. Before the Due Date and Time, proposers may correct their proposals through the modification process outlined above.

2. After the Due Date, a proposal correction or withdrawal because of an inadvertent mistake is permissible if not contrary to the interest of the University or the fair treatment of other proposers. However, the proposal may not be corrected if the mistake is attributable to an error in judgment.
3. If there is a conflict between the extension price and the unit price, the unit price shall prevail.
4. When the Procurement Official knows or has reason to conclude that a mistake has been or may have been made, a request should be made to the proposer to confirm the proposal.
5. If the proposer alleges a mistake, the proposal may be corrected or withdrawn if the conditions set forth below are met:
 - a. Minor Informalities or Irregularities: Minor informalities or irregularities, or mistakes that can be waived or corrected without prejudice to other proposers, which are evident after examining the proposal, are considered matters of form rather than substance; that is, the effect on price, quantity, quality, or terms and conditions is negligible. The CPO, or designee, may waive such informalities or irregularities or allow the proposer to correct such mistakes, depending on which is in the best interest of the University. Additional specifications may be requested to make an accurate determination.
 - b. Mistakes Where Intended Correct Proposal Is Evident: If the mistake and the intended correct proposal are clearly evident on the face of the proposal document, the proposal shall be corrected to the intended correct proposal and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the proposal document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.
 - c. Mistakes Where Intended Correct Proposal Is Not Evident: A proposer may be permitted to withdraw a proposal if:
 - i. mistake is clearly evident on the face of the proposal document, but the intended correct proposal is not similarly evident; or
 - ii. the proposer submits proof of evidentiary value which clearly and convincingly demonstrates the mistake.
6. The Procurement Official may reject an erroneous proposal after the Proposal Due Date upon request of the proposer if all of the following conditions exist: (a) an error was made; (b) the error materially affected the proposal; (c) rejection of the proposal would not cause a hardship on the institution other than losing an opportunity to receive materials, supplies, equipment, services,

construction and/or printing at a reduced cost; and (d) enforcement of the part of the proposal in error would be unconscionable. In order to reject a proposal, the Procurement File must contain documented evidence that all of the above conditions exist.

7. Mistakes discovered after the award may be corrected only where the CPO, or designee, makes a written determination that it would be unconscionable not to allow correction.

K. Proposal Evaluation and Award

1. The contract is to be awarded to the proposer determined to be most advantageous to the University. No proposal shall be evaluated for any requirements or criteria that are not disclosed in the RFP.
2. Multiple or split awards may be made if determined by the Procurement Official to be in the best interest of the University.
3. A proposal may be rejected if: (a) the product quoted does not meet compatibility requirements; (b) where a partial proposal or all-or-nothing proposal is submitted but is not acceptable; (c) when timely delivery requirements are significant to the purchase; or (d) when the proposer fails to comply with the stated terms and conditions.
4. Before a contract or purchase order is issued/executed, the Procurement Official shall check the debarment list and the Bureau of Employment programs' default database to ensure a Supplier is not listed. If the Supplier is listed, the Supplier is not eligible for a contract or purchase order. The Bureau of Employment Programs database of suppliers in default is located at the following website: <https://workforcewv.org/violator-search/>.
5. Prior to the award, except when only a single responsive and responsible proposal is received, negotiation with a proposer or proposers is not permitted; however, clarifications or best and final offers that do not alter a proposal other than price are permitted.

L. Tie Evaluations

1. When proposals are evaluated and two or more proposers receive the same Consensus Score, the tie shall be broken, and an award made by allowing the tied proposers to make an additional "best and final offer." If a tie is not broken by a "best and final offer," then the tie may be broken by a flip of a coin, or any other impartial method deemed prudent by the CPO.

M. Receipt of Less than Three Proposals

1. If fewer than three proposals are received, the CPO, or designee, may choose to make an award from among those proposals received or reject all proposals. If all proposals are rejected, the CPO, or designee, may initiate a new RFP and begin a new solicitation process.

N. Rejection of Proposals

1. Any proposal may be rejected, in whole or in part, if the CPO, or designee, or designee believes it to be in the best interest of the University. If any proposal is rejected, a written explanation prepared by the CPO, or designee, shall be noted in the Procurement File.