

# PURCHASING 101 and USE OF PUBLIC FUNDS POLICY

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## Purchasing Purpose/Mission

The Office of Purchasing and Contract Services strives to make the procurement and contracting process as simple, cost effective and efficient as possible. Our role is to make sure that all procurement and contract activities follow the legal mandates governing procurement (Act 57) while attempting to find solutions and strategies to help expedite and simplify the process.



# Policy

- As a public entity and a member of the Pennsylvania State System of Higher Education (PASSHE) certain bidding requirements are either mandated by law or have been adopted by West Chester University as good business practice.
- Adherence to the following policies and conditions apply to all purchases regardless of amount.



# Policy (con't)

- The Commonwealth Procurement Code commonly known as ACT 57.
- Act 188 – Enabling legislation for PASSHE
- Board Of Governors Policies:
  - 1998-04, Procurement of Goods, Services, Supplies and Construction
  - 1990-04-A, delegation of authority for undertaking design, construction, repair, renovation, and maintenance projects
  - 1990-07-A, Professional Services Contracting

# Contracting Officer

- Act 57 established checks and balances to be certain that more than one individual is involved in the approval process. This Act has designated a Contracting Officer and a Fiscal Officer designation.
- The Chief Financial Officer and Associate Vice President for Finance and Business Services (or designee) has been delegated with contracting officer authority on behalf of the University, without financial limitations.



## Contracting Officer (con't)

- No other individual has contracting signatory authority on behalf of the University unless delegated in advance and in writing by the President of the University.
- The Director of Accounting and Financial Reporting for Finance and Business Services is the Fiscal Officer.

# Procurement Best Practices

- Pursuant to Act 57 and Board of Governor's Policy 1983-02A , all procurements must be authorized **in advance** by the Purchasing and Contract Services Office.
- Purchases under **\$20,100** do not require competitive bidding. However, solicitation of bids is encouraged and will be done at the discretion of Purchasing and Contract Services. Under no circumstances should purchases be split up to avoid this dollar threshold.



# Procurement Best Practices (con't)

- Procurements in amounts of \$4,999.00 or less will usually be handled by the University's Purchasing Card whenever possible and appropriate, as defined under separate policy document for that program.
- The use of a personal credit card is not the same as using a University Purchasing card. The use of personal credit cards is discouraged as it doesn't meet the requirements of the law and WCU's policies.
- Procurement for amounts over \$20,100 require competitive sealed bids/proposals to be solicited by the Purchasing and Contract Services Office, with appropriate public notice (advertising).



# Procurement Best Practices (con't)

- Decentralized solicitation of bids over \$20,100 is prohibited by Commonwealth, PASSHE and West Chester University's policies.
- Any exception to the competitive bidding requirement must be approved in advance by the Contracting Officer or his designee. All such waivers must be justified in written documentation that shall be subject to annual audit requirements.

## Use of Public Funds Policy (con't)

- Issued by the Chancellor as directed by PASSHE Board of Governors Policy 2010-01-A *Expenditures of Public Funds*.
- Establishes guidelines, standards and limits on the use of public funds.
- All monies received by WCU are public funds.



# Use of Public Funds Policy (con't)

- Money that is restricted and unrestricted gifts, restricted and unrestricted grants, ticket sales from athletic, cultural or other events, revenue from athletic camps and conferences, corporate sponsorships and investment income in a University cost center are public funds.
- All expenditures must clearly and directly benefit WCU in support of its purpose to provide education at the lowest possible cost to the students.

# Use of Public Funds Policy (con't)

- The Policy applies to all expenditures whether purchased directly by WCU or reimbursed to an employee.
- All receipts must be itemized clearly indicating the items purchased. A credit card receipt only showing the total is **not** acceptable.
- Reimbursement of the actual cost for meals must state the business purpose and names of the attendees. Receipts for meals for business meetings must show the number of diners, meals that were purchased, location and date. **Under no circumstances will reimbursement or payment be made for alcohol.**



# Waivers and Exceptions

- Sole Source Certifications are used when it is determined that only a single vendor/contractor is capable of providing the needed good or service. A statement of justification must be prepared and sent to the University's legal counsel for approval in advance of entering into a contract.
- The use of the Sole Source certification is limited and is only used when there is sufficient justification. Purchasing and/or legal may request documentation evidencing the nature of the sole source.

## Waivers and Exceptions (con't)

- Goods or services available under State Contracts are exempt from bidding requirements as the requirements have been satisfied at the time the contract was bid and awarded by the Department of General Services. CoStars contracts may be bid amongst the CoStars vendors at the discretion of the Purchasing Department.



# Waivers and Exceptions (con't)

- Emergency contracts are permissible when the Contracting Officer or his designee determines that there is a threat to public health, safety and welfare or circumstances outside the control of the University that create an urgent need which necessitates the suspension of required bidding requirements.
- Under no circumstances will poor planning constitute an emergency. \*

\*Manual for Preparing and Processing Contracts for Goods and Services - Office of Chief Counsel

# Purchasing Card

This program has been established in order to provide a rapid turnaround for low dollar valued goods, reduce paperwork, and streamline processing. The Purchasing Card Program eliminates the traditional requisition - pricing inquiry - order placement - delivery of goods - invoice - voucher review – payment steps. Cardholders who have been issued purchasing cards may initiate transactions in-person, by telephone, fax or internet, within the limits of this procedure and directly receive goods. Policy, details, and training information can be found on A/P website.



# Payment Request Form

- Payment to an employee, student, or non-employee for a reimbursement.
- Original form, signatures, and receipts are required
- No Services can be paid via a PRF
- W-9s are required for Honorariums
- Max value of a PRF is \$4,999.00.
- Sales & Use must be excluded from reimbursement
- Form is online under A/P website

# Types of Contracts and Purchase Orders

- *Purchase Orders* are used for the purchase of goods (i.e. computers, furniture, books). The Purchase Order is signed by the Contracting Officer or his designee.
- *Service Purchase Contracts* are used for straight forward purchases of services (i.e. consultants, speakers, performers, maintenance and repair). Service Purchase Contracts are signed by the vendor, University and legal counsel based on the dollar amount of the contract.



# Types of Contracts and Purchase Orders

(con't)

- *Blue Back Contracts* are used for more complicated procurements with complicated transactions (Elevator Maintenance, Bus transportation, Waste and Recycling). Blue Back Contracts are signed by the vendor, University, legal counsel, Office of the Attorney General and Office of General Counsel based on the dollar amount of the contract.
- *Construction Contracts* are used for construction projects (i.e. new construction, renovations and improvements to buildings). Construction Contracts are signed by the contractor, University, legal counsel, Office of the Attorney General and Office of General Counsel based on the dollar amount of the contract.

# Types of Contracts and Purchase Orders

(con't)

- The procurement of all goods and services must be approved in advance and have a fully executed Purchase Order or Service Contract in place prior to the purchase of the good or service.



# Legal Review and Signature Requirements for Contracts

- The Commonwealth Attorney Act authorizes the Office of the Attorney General (OAG) to review and approve all contracts. The OAG delegated this signatory authority to University Legal Counsel up to a certain dollar limit.
- Service Purchase Contracts:
  - **\$0 - \$5,000** must be signed by the **Contracting Officer**
  - **\$5,001 - \$20,000** must be signed by the **University's Legal Counsel**
  - **\$20,000 - \$500,000** must be signed by the **Office of the Attorney General and University Legal Counsel**.
  - **\$500,00 and above** must be signed by the **Office of the Attorney General, University Legal Counsel and the Office of General Counsel**.

# Legal Review and Signature Requirements for Contracts (con't)

## Blue Back Contracts:

- **\$0 - \$500,000** must be signed by **University Legal Counsel** and the **Office of the Attorney General**.
- **\$500,000 and above** must be signed by the **Office of the Attorney General**, **University Legal Counsel** and the **Office of General Counsel**.

## Construction Contracts:

- **\$0 - \$500,000** must be signed by **University Legal Counsel** and the **Office of the Attorney General**.
- **\$500,000 and above** must be signed by the **Office of the Attorney General**, **University Legal Counsel** and the **Office of General Counsel**.



## What Not To Do

- A person without delegation who signs a contract is acting outside the scope of his/her employment and can be held personally liable for the obligation(s) created by the inappropriate signing of contract.
- This is also true for “after the fact” contracts (i.e. procuring a good or service without the advance approval of Purchasing). WCU cannot pay on an “unlawful” contract and the contractor’s only remedy is to proceed against WCU via the Board of Claims.

## Adverse Interest Act (con't)

- The State Adverse Interest Act provides that “no state employee shall have an adverse interest in any contract with the State agency by which he is employed.” “State employee” is broadly defined as an employee in the service of a State agency and who receives a salary or wage for such service. “Contract” is also broadly defined as a contract or arrangement for the acquisition of services, supplies, materials, equipment, land or other personal or real property.



## Adverse Interest Act (con't)

The Act defines the phrase “have an adverse interest” as to “be the party to a contract or . . . a stockholder, partner, member, agent, representative or employee of such party.” The Act only regulates the conduct of the employee and not the State agency. A violation by an employee could result in criminal penalties of fine not to exceed \$1,000 or imprisonment for a term not exceeding one year. The Act also **mandates** that the employee shall automatically forfeit his/her employment with the State agency.

## Adverse Interest Act (con't)

In other words WCU is prohibited from entering into a contract with an employee or a company owned by the employee, and it is likely that an employee would be in violation of the Adverse Interest Act if the employee or a company owned by an employee entered into a contract with WCU.



## Good News

- The established best practices work to ensure a smooth procurement function at West Chester University.
- The staff in Purchasing and Contract Services are procurement professionals with many years experience whose job involves knowing all the “rules and regulations”. The campus community does not have to remember all the rules and regulations. ..

***That's procurement's job!***

# Contact Information

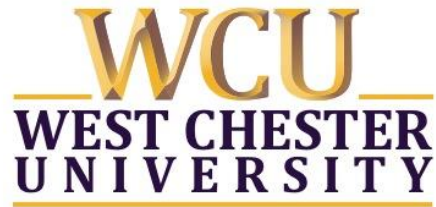
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Thank you and Questions

