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**UNIVERSITY OF MASSACHUSETTS  
PROCUREMENT POLICY**

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The purpose of this policy is to govern the procurement of all goods, materials, commodities, and services by the University, including but not limited to, vehicles, equipment, library materials, software, real property, operational and consultant services, whether by purchase order, contract, license, lease, or other form of agreement. In accordance with the provisions of Sections 3 and 13 of Chapter 75 of the General Laws, as amended, all purchases irrespective of source of funds, under the provisions of said Section 13 shall be governed by this document subject to subsequent amendment, revision, or repeal, from time to time, by the Trustees. This policy shall apply to each campus and to the President's Office, as well as to multi-campus or system-wide agreements.

This Policy shall not supersede any of the provisions of the Treasurer's Delegations, T97-014.

All University employees must follow T08-028, the Policy on Codes of Conduct for University/Vendor Relationships.

The President shall issue guidelines for the implementation of this Policy. The Senior Vice President for Administration, Finance, and Technology/Treasurer shall recommend such guidelines for the President's action. The Senior Vice President for Administration, Finance, and Technology/Treasurer shall confer on a regular basis with the Purchasing Council and the General Counsel to determine whether revisions are appropriate to comply with University policies or law, and to assure that the University is using best practices to secure its goods and services.

All persons responsible for procuring goods and services governed by this Policy shall confer with the General Counsel as advisable in order to assure compliance with the these terms.

**I. Competitive Procurement Practices:**

The University shall obtain all goods and services covered by this policy at the best over-all value to the University as is consistent with the quantity, quality, durability, availability, serviceability, and other factors affecting service and use as required by the using department of the University. In complying with this policy, the cost of acquisition and the delivery time required shall be considered as well as the cost of the item being purchased. All procurements must (1) have prior approval of the relevant Purchasing Department; and (2) have appropriate delegation and

signatory authority in accordance with University policies and campus or President's Office procedures to bind the University.

To maximize vendor competition and volume discount purchases, departments shall make use of Campus, University, State, or MHEC publicly bid contracts whenever appropriate and practicable. Contracts of other consortia and group purchasing organizations may also be utilized when approved by the University Purchasing Council based on evidence of consortia's sound competitive and ethical procurement practices.

To encourage open and fair competition, advertisement for and receipt of competitive bids shall be used whenever practicable, or when required by law. The University's commitment to the principles of Affirmative Action shall be applied to purchasing with the objective of achieving and fostering greater minority and women-owned business enterprise participation in University procurement activity and encouraging socially or economically disadvantaged business owners to respond to invitations to bid on University business.

## **II. Definitions:**

- A. **Independent Contractors:** Contracts for persons or firms providing consulting or operational services to the University other than in an employment status must meet the requirements for independent contractors under state and federal law, including Mass. Gen L. ch. 149, s. 148B.
- B. **Consulting Services:** Consulting services are those services that are outside the course of the University's usual business, are unique or highly specialized, and are provided by external consultants possessing the skills, knowledge, education, or credentials in relevant areas. Consulting services shall include lobbying services as defined by state or federal law. *Any contract for lobbying services entered into by a campus or the President's Office must be reviewed prior to execution by the General Counsel in order to assure compliance with state law and annual reporting requirements.*
- C. **Operational Services:** Operational services are for the necessary and routine operation of the University and/or the repair or maintenance of University property or facilities that cannot be practicably performed by University employees. Operational services may be provided by persons with professional degrees, licenses, or specialized expertise.
- D. **Legal services:** Attorneys or law firms retained to provide legal advice or representation for the University, a campus, or University employees in matters relating to their official duties. Any legal counsel retained by the University on a permanent, temporary, or consultant basis shall be first approved by, and subject to the continuing supervision of, the General Counsel of the University, pursuant to the vote of the Board of Trustees, May 1, 1974.
- E. **University sub-contracts:** The University, through the President's Office, or any campus, school, college, department, institute or center, may enter into contracts with other persons or entities, including other governmental agencies, by which the University agrees to provide services. In order to fulfill these contractual obligations, the University may enter into sub-contracts with persons or firms. These sub-contracts shall be subject to this policy and any

guidelines developed pursuant to this policy in the same manner as if the University were procuring goods and services for itself, unless other contractual terms apply. Chief procurement/purchasing officers should consult with the General Counsel's office if clarification is needed for any of these definitions.

### **III. Delegations of Authority:**

A. **To the President**, with authority to re-delegate to the Treasurer, or any member of the President's Office as the President may determine:

- i. Authority to require the campuses to utilize a system-wide or multi-campus procurement for any purchases covered by this Policy. The President shall issue guidelines for when a system-wide or multi-campus procurement for purchases should be required. A Chancellor who believes such procurement would not be in the best interest of his/her campus shall be entitled to request not to participate in such procurement, but the final decision shall be the President's.
- ii. Authority to sign consultant contracts for the President's Office or any campus which exceed \$300,000 per fiscal year.

B. **To the President**, for President's Office and multi-campus or system-wide procurements, with authority to re-delegate to the Treasurer, and/or such other designees as the President shall determine:

- i. Authority to enter into agreements for goods, materials and commodities;
- ii. Authority to sign any operational services contracts;
- iii. Authority to enter into contracts for labor and materials for repair or construction, including design services, of real property used the President's Office, subject to any applicable requirements under ch. 30 or ch. 149;
- iv. Authority to enter into leases or licenses for any items, including but not limited to, equipment, vehicles, software, and library materials including electronic journals. Procurement of information technology, hardware/software, or peripherals must comply with the Information Technology Acquisition Policy, T08-086;
- v. Authority to enter into agreements relating to the use of real property by the President's Office;
- vi. Authority to enter into agreements for the use of University real property by non-affiliated entities which exceed five years. Any dispositions of University real property must comply with the University's Land and Facilities Use Planning Policy, T93-122 and with the Treasurer's Delegations, T97-014. All agreements relating to real property must be approved by the General Counsel prior to execution;

- vii. Authority to enter into sub-contracts necessary for University or campus service agreements as defined in this policy.

C. **To the Chancellors**, with authority to re-delegate to such campus personnel as the Chancellor may determine:

- i. Authority to the sign consultant service contracts which do not exceed \$300,000 per fiscal year;
- ii. Authority to enter into agreements for goods, materials and commodities;
- iii. Authority to sign any operational services contracts;
- iv. Authority to enter into contracts for labor and materials for repair or construction, including design services, of real property used by the campus, subject to any applicable requirements under ch. 30 or ch. 149;
- v. Authority to enter into leases or licenses for any items, including but not limited to, equipment, vehicles, software, and library materials including electronic journals. Procurement of information technology, hardware/software, or peripherals must comply with the Information Technology Acquisition Policy, T08-086;
- vi. Authority to enter into agreements relating to the use of real property by the campus;
- vii. Authority to enter into agreements for use of campus real property which do not exceed five years. Any dispositions of University real property must comply with the University's Land and Facilities Use Planning Policy, T93-122. All agreements for real property must be approved by the General Counsel prior to execution;
- viii. Authority to enter into sub-contracts necessary for campus service agreements as defined in this policy.

D. **To the General Counsel**, with authority to re-delegate to an attorney in the General Counsel's office as the General Counsel may determine, authority to enter into retainer agreements for attorneys or law firms to provide legal services for the University. Any such attorney and/or law firm shall work under the continuing supervision of the General Counsel.

All sub-delegations of authority pursuant to this Policy shall be made in writing and forwarded to the office of the University Senior Vice President for Administration, Finance, and Technology/Treasurer and to the General Counsel.

**IV. Legal Review:**

- A. The General Counsel shall review the following agreements and contracts entered into by the President's Office, the campuses, including multi-campus or system-wide procurements, prior to execution. Legal review of additional contracts or agreements may be required pursuant to guidelines developed pursuant to this Policy.

- i. Agreements relating to any interest in real property;
- ii. Contracts for consulting services which exceed \$50,000 per fiscal year;
- iii. Sub-contracts for services which exceed \$50,000 per fiscal year;
- iv. Contracts for lobbyist services.

B. The responsible procurement or contracting official for a campus or the President's Office shall confer with the General Counsel when advisable to assure compliance with this Policy.

**V. Guidelines:**

Guidelines issued by the President pursuant to this Policy shall include, but not be limited to, a requirement that the President's Office provide an annual report of all newly executed consulting contracts by any campus and the President's Office over \$100,000 to the Senior Vice President for Administration, Finance and Technology and Treasurer. The report shall include the name of the consultant or firm, contract purpose, total contract amount, and the duration of the contract.