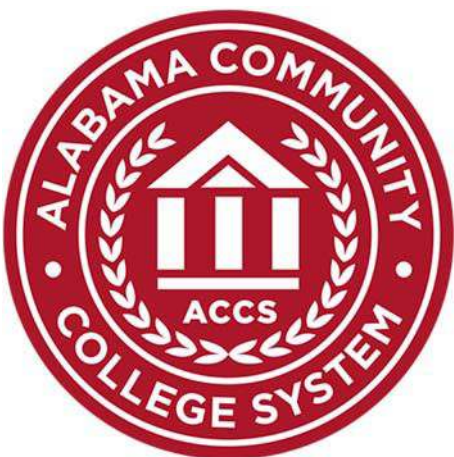


ALABAMA COMMUNITY COLLEGE SYSTEM

System Purchasing Manual



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Jimmy H. Baker, Chancellor

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A successful purchasing program begins with the budgeting process. The Southern Association of Colleges and Schools Commission on Colleges' Criteria for Accreditation states that the budget should be developed in conjunction with the deans, working cooperatively with department heads, appropriate members of the faculty and administration, and representatives of the business office. A purchasing department should be organized to support the basic objectives of the college by providing faculty, staff and students with the necessary supplies, services, and equipment.

Purchasing procedures must be included in each institution's procedures manual. The procedures must be ethical, comply with all State laws and regulations, as well as policies of the ACCS Board of Trustees, and provide accountability for purchases. The policies of an institution may be more restrictive than the following procedures, but the procedures may not be less restrictive.

Laws regarding the use of public funds are very specific, so it is important that purchasing procedures be carefully followed. All expenditures must be institutionally prudent and directly benefit the Institution. The System nor the Institution will assume liability for the payment of purchases which were not made through approved purchasing procedures. The System's procurement policies shall be interpreted in a manner which continues to comply with all other applicable Alabama state laws, federal laws, regulations, and guidelines.

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1. Key Terms

Bid: A formal offer made by suppliers after the Purchasing Department has issued a Request for Bid (RFB) or a Request for Proposal (RFP). If the Institution accepts a bid, it can then become a contract. In compliance with The Alabama Competitive Bid Law ACCS Policy requires that purchases that meet the Board designated bid threshold \$50,000 or more be based on competitive, formal, sealed bids. Bids are opened and publicly read aloud and become a matter of public record after the award of a purchase order (PO) contract.

Change Order: A written modification or addition to a purchase order which amends the originally issued PO in some way (source of funding, add or deleting items, canceling the order). The need for processing the Change Orders must be fully documented, reviewed and appropriately approved by fiscal services and all other pertinent approvers and issued to the applicable vendor in writing BEFORE the vendor can take action on it.

Contract: 1) A legally enforceable promise; 2) a relationship, a legal obligation resulting from the parties' agreement to mutual consideration; 3) an agreement with specific terms between two or more persons or entities in which there is a promise to do something in return for a valuable benefit known as consideration.

Delegated Signature Authority: In order to carry out the day-to-day business of the Institution, the President may delegate signature authority to certain departments and individuals occupying unique positions at the Institution. Those departments/individuals are said to have "delegated signature authority". Signing documents without such delegated signature authority is prohibited and can result in personal liability and/or risk to the Institution.

Emergency: Failure to anticipate or plan for a need is not considered an emergency. For purchasing purposes, an emergency is a circumstance in which damage creates a threat to public health, welfare, or safety to Institution programs, faculty, staff, and student will result if prompt action is not taken. Emergency Purchase Orders are considered on their individual merits. They will be processed as emergencies only when the Purchasing Department determines that it is necessary, based on your written explanation. If approved, Purchasing Department personnel will either place the PO by phone or issue you a PO number to use in placing the order.

An emergency condition is a situation which may arise by reason of floods, epidemics, riots, equipment failures, or such other reasons. The existence of such condition creates an immediate and serious need for supplies or services that cannot be met through normal procurement methods and the lack of which would seriously threaten:

- (a) the functioning of the institution;
- (b) the preservation or protection of property; or
- (c) the health or safety of any person.

Emergency procurement shall be limited to those supplies or services necessary to meet the emergency.

Invoice: An original, itemized bill which includes a description and unit price of the items purchased, an invoice number, invoice date, vendor name and address for remittance.

Lease-Purchase: A lease that actually represents the purchase and/or financing of equipment. Contact the Purchasing Department or the Director of Accounting for assistance in determining if a transaction constitutes a lease-purchase.

Like items: Goods or services that are similar in nature, function, and quality.

In order to be considered "like," items must meet the following criteria:

1. They must serve the same purpose and function in a similar manner.
2. They must be of comparable quality, as determined by relevant industry standards and/or the needs of the purchasing organization.
3. They must be reasonably interchangeable with one another.
4. When soliciting bids for "like items," the purchasing organization must provide a clear and detailed description of the goods or services being sought, including any relevant specifications or requirements.

Public Advertisement: A public posting on an Institution's website and/or the ACCS website to reach an adequate number of viewers. Public advertisements are required for Request for Bids (RFB) and Request for Proposals (RFP). An audit trail of documentation should be maintained to include the posting date, location, and RFP/RFB identification.

Purchase Order (PO): The form that the Purchasing Department generates and sends to a vendor which formally states all terms and conditions of a proposed transaction as submitted by the department on a Purchase Requisition. Each Purchase Order reflects the unique PO number assigned to that purchase.

Requisition (Req.): The online form that a department sends to the Purchasing Department (electronically via Banner) which describes the requested materials or services and is the basis for the PO issued by Purchasing Department.

Quotation (or Quote): A quotation or quote is provided by a seller to a prospective buyer. It is a specific statement of price, terms of sale, and description of the goods or services which the seller offers. The Request for Quotation (RFQ) is used by the Purchasing Department to obtain less- formal oral or written offers from vendors. These are used for purchases of less than \$50,000 which do not involve official advertising or sealed bids.

Request for Bid (RFB): A request by the Purchasing Department to potential suppliers (vendors) for a bid on goods or services to be purchased.

Request for Proposal (RFP): A competitive vehicle used by buyers to purchase goods and services where requirements are not often clear or easily specified, allowing suppliers to question and interpret what is being requested. The proposal is the supplier's interpretation of the buyer's solution to its needs. The lowest price is not necessarily the determining criteria.

Sealed Bid: A vendor offer submitted in response to a Request for Bid (RFB) or a Request for Proposal (RFP) issued by the Purchasing Department for the purchase of goods or services. By law, such bids are submitted in sealed envelopes which must be opened and read aloud in a public setting at the time, day and location specified in the RFB/RFP document.

Single (or Sole) Source Purchase: An item that can only be purchased from one supplier because of its unique character. Few purchases fit this definition. Proprietary items is a related term for an item produced exclusively by one firm.

Pre-Approval Travel: A standard submission for a travel request prepared by the traveler to process requests for permission to travel and to encumber travel expenses against department's budget.

Travel Expense Report: A reimbursement of travel expenses that is submitted by the traveler, upon return from the business-related event. The completion of the Travel Expense Report will release the original encumbrance on the department's budget and complete the remittance to the employee for the allowable travel costs.

Vendor: One who sells something; a "seller" or supplier.

2. Purchasing Procedures

The procedure described below must be followed for the acquisition of all materials, supplies, equipment, repair, rent, services, contracts, and other financial obligations of the institution:

Purchase Requisition

Generally, a standard Request for Purchase Order form should be used for all purchase requests, with the exception of maintenance contracts, utilities, travel, and professional services.

The purchase requests should originate from and be prepared by the department requesting an item or service. The items requested should be listed, giving full description, catalogue name, part number, size, weight, estimated cost, contract numbers as applicable and other relative information. If the requesting department wishes to suggest a vendor source, the name, address, and telephone number should be attached to the request.

The department making the request is responsible for verifying that funds are available in the appropriate budget unit. If funds are not available, an approved budget amendment must be attached to the purchase request before submission to the purchasing agent.

Preparation of specifications for items to be purchased through competitive bids will be the joint responsibility of the purchasing agent and the requesting unit.

After the purchase request has been completed and approved, one copy is to be submitted to the purchasing agent.

Purchase Order

A properly executed purchase order, if accepted, constitutes a contract binding to both the college and the vendor. All purchase orders, adjustments, cancellations, and/or revisions to purchase orders must be in writing from the purchasing agent and recorded in Banner. The following procedures apply to all PO Forms:

Prepare the purchasing request in Banner using the Banner Requisition function.

1. Indicate the name and complete address of the vendor, along with the vendor number. If using a new vendor, a completed W-9 Form is required before a vendor number can be assigned.
2. Provide an adequate description of the material or services requested by indicating the quantity, size, color, catalog reference number, and any other pertinent data needed to properly identify the item(s) to be purchased.
3. If using a purchasing contract or bid (i.e. State Contract, Approved NJPA, ACCSJPA) the contract name and contract or bid number must be referenced.
4. List the cost per item of goods or services to be purchased, along with the total amount to be expended.
5. Indicate the Fund, Organization, Account, and Program (FOAP) to be charged.
6. Approval from the applicable division director and final level approver.
7. Separate purchase requests should be prepared for each vendor.
8. Submit your purchase requisition in sufficient time to allow the Business Office to process your request and for the vendor to deliver the item(s) to meet your required delivery date.
9. If a purchase request is travel related (i.e., registration), please ensure to note the registration expenses in travel pre-approval.
10. If purchase requests are incorrect or incomplete, the request may be returned to the department for correction. Failure to follow the procedures for processing purchase requests which have been returned for correction will result in further delays or denial of payment.

All negotiations with the vendor pertaining to prices, terms, conditions, substitutes, deliveries, etc. are to be handled through the purchasing agent.

The purchasing agent should maintain a current list of vendors for materials, supplies, equipment, services, and other categories to be purchased.

The purchasing agent should provide for the consolidation of purchases whenever possible to obtain quantity discounts for volume purchases.

The recommended distribution path of a completed purchase order is as follows:

1. Original to vendor.
2. Copy to purchasing agent.
3. Encumbrance copy to Business Office.
4. One copy to the department where the purchase request originated, and/or Central Receiving.

(Note: Upon receipt of merchandise or service, this copy is to be signed and returned to the purchasing agent.)

Receiving

When the merchandise is received, the responsible employee should immediately open and inspect the shipment to verify the quantity and condition of the items received. If all items received are in acceptable condition, the receiving copy of the purchase order is forwarded to the accounts payable section, compared with the vendor's invoice and placed in line for payment. If discrepancies are

found during the process, they should be called to the attention of the purchasing agent for correction.

The purchasing agent should coordinate with the property manager to assign and attach an inventory number to each item of moveable equipment, which costs \$5,000 or more and has a useful life of at least one year. The treatment of these purchases are governed by the ACCS Fiscal Procedures Manual and the institution's policies and procedures related to capital asset purchases.

Payments to Vendors

In order to process a payment, appropriate documentation is necessary. The documentation must include: a copy of the purchase order (if applicable) and an invoice; additional certification is required that details: the date product was received, the total quantity received, and the signature of employee that acknowledges receipt of goods. These may be included on the PO, invoice or packing slip.

Validation of all payments must reflect the information as provided during the vendor set-up. Vendor file maintenance, to include set-up and changes, must be finalized through the Business Office.

The contract must include the name of the company or individual; the vendor; the mailing address; the amount of the fee; the nature of the services; a notation of applicable expenses; and the date of services. Payee information on the voucher and professional services contract must be consistent with that on vendor record.

3. Vendor Disclosure Statement

In compliance with Alabama State Law Act 2001-955, Section 4(a) (1), (2) and (3), the Institution requires the disclosure of certain information regarding vendors and their relationships with institution. When submitting their bid, contract, proposal, or grant and the intended or actual contract value exceeds \$5,000, vendors should print and complete a detailed [Vendor Disclosure Statement](#) and submit it to [Procurement and Payment Services](#). Forms and additional information may be found at <https://ago.alabama.gov/Documents/File-AL-Vendor-Disclosure-Statement.pdf>.

In the case of competitive bids, this disclosure is only required from the winning bidder. Contracts will not be awarded to any person who refuses to complete the form. Departments should be aware that this law applies to ALL vendors with whom a contract exceeds \$5,000 including those on Professional Service Contracts and Purchase Orders.

Pursuant to Act 2001-955, any person who knowingly provides misleading or incorrect information on a disclosure statement shall be subject to a civil penalty of ten percent (10%) of the amount of the transaction, not to exceed \$10,000. Also, the contract or grant shall be voidable by the awarding entity.

4. Certification for Alabama State and Local Sales, Use, and/or Lease Tax

Act 2006-557 added Section 41-4-142 to the Code of Alabama 1975 to further ensure that vendors, contractors, and their affiliates doing business with the State are in compliance with the State's tax laws. This section requires that each vendor, contractor, or their affiliate offered a contract to do business with a state agency must certify that it is registered to collect and remit sales, use and lease

taxes and submit to that state agency the certification required by the Alabama Department of Revenue.

Alabama Law (Section 41-4-142, Code of Alabama 1975) provides that every bid submitted and contract executed shall contain a certification that the vendor, contractor, and all of its affiliates that make sales for delivery into Alabama or leases for use in Alabama are registered, collecting and remitting Alabama state and local sales, use, and/or lease tax on all taxable sales and leases into Alabama. By submitting this bid, the bidder is certifying that they are in full compliance with Act 2021-296. They are not barred from bidding or entering into a contract pursuant to Section 41-4-116 and acknowledge that the awarding authority may declare the contract void if the certification is false.

5. Types of Institutional Expenditures

Each type of expenditure is handled differently. These include:

- Purchases which require a departmental Purchase Requisition and the creation of a Purchase Order:
 1. Purchases for which funds are to be encumbered.
 2. Purchases that require bids (generally \$50,000 or more or on state contracts).
- Purchases from departmental petty cash.
- Professional services
- Stipends

6. Purchases Involving \$50,000 or More

Code of Alabama 41-4-124 (b)(1) provides the Alabama Community College System Board of Trustees all rights, powers, duties, and authority relating to the procurement of supplies and service for the System, excluding those purchases subject to Code of Alabama, Title 39 for Public Works. The Board of Trustees requires that there be public competition for purchases involving total annual purchases for like-items of more than \$50,000 when the approved National joint purchasing agreements (NJPA), State of Alabama Purchasing Contracts (State Contracts) or ACCS Joint Purchasing Agreement (ACCSJPA) are not utilized. An approved list of NJPAs is available on the ACCS website under the Fiscal Services section of the resource library. Competitive sealed bids are required if the item or service is not already covered through an existing approved NJPA, State Contract or ACCSJPA contract and the total annual purchase prices will exceed \$50,000. Because of the competitive bid requirements, this process can take 40 or more days to complete; advanced planning is required for such purchases. The process may take significantly longer if user review of bids is delayed. For purchases less than \$50,000 that do not occur through approved NJPA contracts, State Contracts, or ACCSJPA contracts, it is recommended that when possible, at least three quotes be obtained, to ensure reasonable, allowable, and allocable use of institutional funds.

Purchases involving \$50,000 or more cannot be divided into smaller purchases in an effort to circumvent the bid requirement. For example, multiple copies of the same or “like-item” should be grouped into one requisition. An item is considered to be a “like-item” if the output or use is interchangeable, with little to no degradation. When planning the purchase of equipment, the department is responsible for ensuring that suitable equipment is not available for use elsewhere on campus.

The purchasing procedures for advertisement and specialized professional services do not required

bidding; however, all purchases must comply with State ethic laws, Board of Trustee approved policies and procedures, and institutional policies and procedures. When awarding bids, institutions should consider if any conflict of interest is present with college or System officials, the possible existence of an agreement or collusion among bidders, and items excluded from the bid law. Contracts entered into in violation of the Board of Trustee's policies and procedures or with public competitive bid requirements shall be void.

Bid specifications, terms of awarding the bid, and other requirements must be clearly stated in a Request for Bid. Specifications for the item(s) requested must be detailed and clearly stated to allow vendors to submit an accurate bid. Clearly stated specifications will assist administrators when deciding to award the contract.

A BID FILE and a BID REGISTER should be established. A file for each bid should contain at least the following:

- A record of vendors from whom a quotation was requested;
- Documentation of the public advertisement to include the posting date, location, and RFP/RFB identification (i.e. dated screen print from Institutional website).
- A copy of the bid specifications;
- All bids received;
- A tabulation of the bids received;
- A copy of the purchase order issued;
- And documentation of reasons, if the contract was not awarded to the lowest responsible bidder.

The department should contact the Business Office for guidance prior to preparing the Purchase Requisition required to initiate the purchasing process.

7. Other Procurement Related Issues

Code of Ethics

The college's purchasing procedures cannot be used for personal acquisitions for faculty, staff, or students. A code of ethical conduct should be established and stated in college publications. Any institution employee involved in purchasing goods or services must fully comply with the following Code of Ethics The following principles are adopted by the National Association of Educational Procurement, and shall be used as a guide:

1. Priority will be given to the objectives and policies of the System and Institution.
2. Seek maximum value for all expenditures.
3. Do not accept any personal gifts or gratuities.
4. Give each supplier fair and equal consideration, within the parameters of State and Federal law and Institution Policy.
5. Foster ethical trade practices and conduct business honestly and with good faith. Demand the same standards from suppliers.
6. Receive consent of originator of proprietary ideas and designs before using for other than the purchasing purposes.
7. Make every reasonable effort to negotiate an equitable and mutually agreeable resolution of controversy with a supplier; and/or be willing to submit any major controversies to a third-party review, insofar as the established policies of my institution permit.

8. Accord a prompt and courteous reception insofar as conditions permit to all who visit on business missions.
9. Cooperate with trade, industrial and professional associations, and with governmental agencies for the purposes of promoting and developing sound business methodology.
10. Foster fair, ethical and legal trade practices.
11. Employees discharge their duties and responsibilities fairly and impartially and shall maintain a standard of conduct that will instill public confidence in the integrity of the institution.

Conflict of Interest

Any institution employee involved in procuring goods or services must not make purchases from a vendor with whom he/she has a significant financial interest.

Debarred/Suspended Vendors

When using Federal funds for purchases expected to meet or exceed \$25,000, the System does not conduct business with vendors or individuals who have been debarred, suspended, or declared ineligible as defined in the Code of Federal Regulations CFR Title 2, Chapter 1, Part 180.

Freight

When making any purchase which will require shipping - you should have an understanding of whether shipping charges are to be paid by the supplier or the department. Your Purchase Requisition should include the approximate costs of charges to be paid by the department. When possible, avoid paying freight by specifying FOB your institution.

Freight Terms:

1. Destination - This term indicates that the Institution assumes responsibility for goods only when they have been delivered in satisfactory condition unless otherwise stated.
2. Shipping Point - The Institution assumes responsibility for the goods when they have been delivered to a common carrier. It does not waive the Institution's rights to refuse the goods if they are not in an acceptable condition.
3. Prepaid - The shipper pays for delivery.
4. Prepaid/Add to Invoice - The Institution pays for delivery. The shipper will pay costs and then bill the Institution. The cost will either be included on the invoice with purchased items or billed separately.
5. Collect - The Institution pays the carrier directly for shipping costs.
6. Delivered/Installed - The vendor pays delivery costs and installs the goods.
7. Payment of Freight - Freight charges should be coded the same as the item purchased.

Other terms may specify the method of shipment, the common carrier, and the responsible party.

Purchases of Used Equipment

Used equipment of suitable quality may be purchased when it saves money. A requisition for used equipment should state that:

- The requester has inspected the equipment;
- The equipment is in suitable condition;
- The Institution's best interests will be served by the purchase of this equipment.

The Purchasing Department is responsible for assuring that the purchase price is reasonable. Competitive bidding is to be used when used equipment costs exceed \$50,000.

Purchases of Government Surplus and Live Work

System institutions may purchase government surplus through GovDeals.com

System institutions may purchase from Alabama State agencies, Alabama City and County Municipalities, and System Institutions.

Prepayment of Purchase Orders and Contracts

It is generally the policy of the System not to pay for an item before it is received. There are no general provisions of law authorizing or legalizing prepayments other than Section 40-2-9, Code of Alabama, 1975, which provides advance travel for Examiners of the Department of Revenue. The State Constitution reads "nor shall any officer of the State bind the State to the payment of any sum of money but by authority of law." In the absence of law to the contrary, there is no authority for prepayment. There is also no authority allowing the institution to pay for purchases made by an employee who has not received proper written approval by the institution. The institution is responsible for establishing internal controls that prohibit this practice. Prepayment of purchases is made only with the approval of the Chief Financial Officer for the following exceptions:

- Subscriptions, including software, as required.
- Institutional memberships.
- Registration fees for conferences and official meetings.
- State Surplus Property (requires a PO).
- Customized equipment purchases
- Insurance and other industry-standard required pre-payments

Performance bonds or other guarantees may be required in such instances.

Sales & Use Tax Exemption

Institutions in the Alabama Community College System are exempt from Alabama Sales and Use Tax, under the Alabama Code, Section 40-23-4. The Department of Revenue furnishes information that defines the role of schools and vendors in the tax process where contracts are let for labor and materials.

8. Use of Funds

All expenditures must be prudent and directly benefit the System institution. Documentation as to this benefit should be made available, regardless of the types of funds (e.g., gift, state, foundation) used to pay expenditures. In addition, only purchases for business purposes are allowed. Purchases of items for personal gain and/or the purchase of items expressly prohibited by the State (e.g., alcoholic beverages) are not allowed. Below are some expenditures which are frequently questioned and may require special attention. Please note that contract or grant restrictions may be more stringent than those imposed by the State and the Institution. When spending contract or grant funds, it is the responsibility of the college program or division manager to make sure that all expenditures are made in accordance with all restrictions.

Contract and Non-Federal Grant Restrictions

Restrictions imposed by a grantor or contractor may be more stringent than those imposed by the State and Institution. It is the responsibility of the Principal Investigator to make sure that all expenditures are made in accordance with State and Institution restrictions, as well as meeting all conditions imposed by the granting or contracting agency.

When differences exist between institution and contract/grant policies/provisions, the more restrictive of the policies prevails.

Federal Grant Restrictions

OMB 2 CFR, Part 200: An Institution must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The Institution's documented procurement procedures must conform to the procurement standards identified in §§ 200.317 through 200.327.

- The Institution must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.
- The Institution's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase.
- To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the Institution is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
- The Institution is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- The Institution is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.
- The Institution must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.
- The Institution must maintain records sufficient to detail the history of procurement.
- The Institution may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to an Institution is the sum of:
 - (i) The actual cost of materials; and
 - (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk.

- The Institution alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements.
- All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of [§ 200.319](#) and [§ 200.320](#).

Methods of Procurement

The Institution must have and use documented procurement procedures, consistent with the standards of sections [§§ 200.317- 200.320](#) for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

(a) Informal procurement methods. When the value of the procurement for property or services under a Federal award does not exceed the simplified acquisition threshold (SAT), as defined in § 200.1, or a lower threshold established by an Institution, formal procurement methods are not required. The Institution may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

(1) Micro-purchases -

- (i) Distribution. The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of micro-purchase in § 200.1). To the maximum extent practicable, the Institution should distribute micro-purchases equitably among qualified suppliers.
- (ii) Micro-purchase awards. Micro-purchases may be awarded without soliciting competitive price or rate quotations if the Institution considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase/credit cards can be used for micro-purchases if procedures are documented and approved by the Institution.
- (iii) Micro-purchase thresholds. The Institution is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the Institution must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of this section.
- (iv) Non-Federal entity increase to the micro-purchase threshold up to \$50,000. Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The Institution may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with § 200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:
 - (A) A qualification as a low-risk auditee, in accordance with the criteria in § 200.520 for the most recent audit;
 - (B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
 - (C) For public institutions, a higher threshold consistent with State law.

Unless the System institution annually declines, in writing, the micro-purchase threshold of \$50,000, the purchasing certification memo released by the System Office and published on the System Office website will provide the annual self-certification commitment for all System institutions. However, if any System institution is unable to qualify as a “low risk auditee,” they are automatically excluded from the System certification and the

institution must initiate and maintain their annual self-certification, until they are considered a “low risk auditee.” Presidents of each System institution retain the authority to make purchasing threshold more restrictive, however, they are not authorized to make purchasing threshold exceed ACCS Policy and/or State of Alabama law.

- (v) Non-Federal entity increase to the micro-purchase threshold over \$50,000. Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.

(2) Small purchases

- (i) Small purchase procedures. The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the Institution.
- (ii) Simplified acquisition thresholds. The Institution is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the Institution must be authorized or not prohibited under State, local, or tribal laws or regulations.

- (b) Formal procurement methods.** When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a Institution, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with § 200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the Institution determines to be appropriate:

- (1) Sealed bids.** A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.
 - (i) In order for sealed bidding to be feasible, the following conditions should be present:
 - (A) A complete, adequate, and realistic specification or purchase description is available;
 - (B) Two or more responsible bidders are willing and able to compete effectively for the business; and
 - (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 - (ii) If sealed bids are used, the following requirements apply:
 - (A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids and, for local and

- tribal governments, the invitation for bids must be publicly advertised;
- (B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (E) Any or all bids may be rejected if there is a sound documented reason.

(2) Proposals. A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

- (i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (ii) The Institution must have a written method for conducting technical evaluations of the proposals received and making selections;
- (iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the Institution, with price and other factors considered; and
- (iv) The Institution may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms that are a potential source to perform the proposed effort.

(c) Noncompetitive procurement. There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

- (1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);
- (2) The item is available only from a single source;
- (3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
- (4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the Institution; or
- (5) After solicitation of a number of sources, competition is determined inadequate.

(d) Special Procurement. Special Procurements may be initiated when an unusual or unique situation exists that makes the application of all requirements of competitive sealed bidding or competitive sealed proposals contrary to the public interest. The Purchasing agent shall

determine when Special Procurements may be utilized, and when so utilized, the head of a Purchasing must prepare a written determination describing why the method was used to be included in the purchasing file.

Purchases of Equipment

Consideration should be given to purchases of products and services that are: metrically-measured; conserve natural resources, protect the environment, and are energy efficient; and, where practical, may be obtained through small, minority and/or women-owned businesses.

Avoid requesting items that are available from other departments or may be obtained through Surplus Property.

Uniform Purchases

Based on apparel guidelines set forth by the Internal Revenue Service (IRS) only clothing items that comply with the following can be purchased using Institutional funds:

- The employee must wear the clothes as a condition of employment, i.e. for identification purposes, for safety, or as protective clothing.
- The clothes are not suitable for everyday wear.
- The Institution retains protective clothing and outerwear after termination of employment.

Prior approval from the Business Office must be obtained before making apparel purchases.

Questions concerning the appropriateness of any expenditure of Institution funds should be directed to Business Services Office. Apparel purchases, such as coveralls and work shirts, shall include the name and/or Institution logo.

9. Memberships

The System encourages faculty and staff memberships in organizations that will promote advancement of instruction, research, and public service and enhance the professional standing and development of its faculty and staff. With the approval of the dean or corresponding non-academic area head, faculty and staff memberships that are within the guidelines outlined below are allowable.

Faculty and staff memberships paid for with departmental funds should return demonstrable benefits to the division/department in terms of its mission. In general, memberships must be in the name of the Institution with no benefits accruing to any particular individual or department.

However, in cases where an individual membership will benefit the Institution, individual membership will be allowable. The benefits to the Institution through both institutional and individual memberships should include:

- Receipt of scholarly journals, professional publications, and employment information
- Professional development
- Exchange of information with other professionals in the area of interest
- Instructional enhancement

Institutions may establish more restrictive guidelines for the payment of individual memberships within the guidelines presented above.

10. Professional Service Agreements

(Payment of Non-Institution Personnel for Professional Services)

A Professional Services Agreements is used when the services of firms or individuals outside the Institution are required to undertake a project requiring that individual's or organization's expertise. The contractor is responsible for accomplishing the work called for in the contract and will not be supervised or controlled by the Institution.

To aid departments in determining when it is appropriate to obtain services through a PSC rather than through a purchase requisition (Req.)/purchase order (PO), the following guidance is provided:

A Purchase Order (PO) is used for any product purchase or trade service. Trade services include those provided by dealers, distributors, merchants, or other sellers that are necessary for supporting Institution programs, including auxiliary services related to sponsored research. Examples of trade services include plumbing, electrical work, maintenance and repair, roofing, tree trimming, automotive repair, and security systems.

A Professional Service Contract (PSC) is used for all professional services provided by individuals with specialized knowledge or expertise. The contractor is responsible for completing the work specified in the contract and will not be supervised or controlled by the Institution. Examples of professional services include legal services, consulting, architecture, speaking engagements, performances, medical services, and security.

A Purchase Order or Professional Service Contract may be required for purchases or services of \$5,000 or more, or for trade services of \$600 or more per year, regardless of whether a more detailed contract exists. A more detailed contract may be appropriate for services valued at over \$15,000.

Optional uses for Purchase Orders or Professional Service Contracts include purchases or services valued at less than \$5,000 that need to be encumbered.

Because independent contractors are not employees of the Institution, neither they nor their work is covered by the Institution's insurance. Some types of services require specific types and levels of insurance.

Those service providers must provide written proof of that insurance to us. Please contact the Business Office for additional guidance on this issue.

A Professional Services Contract may not be used with anyone who is a current Institution employee or with anyone who will become an Institution employee in the foreseeable future. In most cases retired/former employees will also not meet the IRS regulations to qualify as an independent contractor with the Institution.

This procedure should not bypass Institution's employment policies or provide a service that is available through existing Institution resources. Any payment to an Institution employee for personal services must be made through the Institution payroll system.

IRS standards strictly limit who may be classified as an independent contractor. [Independent Contractor \(IC\) Form - EIC 2203](#) can assist you in determining whether a person providing services should be classified as an employee or an independent contractor. Read more about [IRS Guidelines for Independent Contractors/Employees](#) (excerpted from [IRS Publication 15-A](#)). An IC questionnaire must be completed and submitted as part of the PSC for only those Independent Contractors who are individuals or sole proprietors. The IC questionnaire is not required for companies providing services to institution.

Professional Services < \$600

Upon review of the professional service agreement, the Business Office will determine if the relationship complies with IRS guidelines regarding independent contractor vs. employee status. Questions regarding Independent Contractor status should be routed to the Business Office.

Professional Services \$600 and greater

A Professional Services Agreement must be completed and approved by the Business Office prior to the beginning of the service and will be used to support the payment after the services are completed. A single Professional Service Contract may be submitted to cover recurring small dollar services related payments during the course of one fiscal year.

Professional Service Agreement Payments

It is recommended that Professional Service Agreements are structured to provide a lump sum amount inclusive of professional service fee and travel expenses. This alleviates the contractor of providing travel receipts to the Institution. However, if travel expenses must be paid separately, travel expenses and professional service fees should be submitted by the contractor on a signed, itemized statement for preparation of payment.

A copy of the Professional Services Agreement, any relevant correspondence (if applicable), with a signed statement of travel expenses (if applicable) must be attached to the voucher. If travel expenses are paid separately the expenses should be itemized. Receipts are required for commercial transportation, lodging, and meals. Authorized transportation expenses will be reimbursed following standard Institution guidelines and must comply with State of Alabama travel laws.

11. Contracting Services

Contracts for the purchase of personal property or contractual services other than personal services shall be let for periods not greater than five years. Any contract that generates funds or will reduce annual costs by awarding for a longer term than a period of one year which is let by or on behalf of a System institution may be let for periods not greater than ten years. A contract awarded for a term of less than ten years may be extended for a period not to exceed ten years from the initial awarding of the contract provided that the terms of the contract shall not be altered or renegotiated during the period for which the contract is extended. An opt-out clause with at least an annual opportunity to opt-out is required for all contracts.

Functions and services which might be contracted include:

- Operation and maintenance of grounds
- Operation and maintenance of buildings
- Architectural services
- Bookstore
- Computing services
- Construction; including Roofing – Code of Alabama, Title 39
- Custodial services
- Elevator maintenance
- Engineering services
- Fire and burglar alarm services
- Food services
- Garbage and trash collection Grounds maintenance services
- Office equipment maintenance Painting
- Pest control
- Printing services
- Telephone maintenance
- Television cable
- Security services
- Travel

All contracts and service agreements must, if practical, include the State of Alabama additional terms and conditions (Appendix A) and include a termination clause of at least 15 days' notice of termination by either party, by written notice.

12. Reimbursement for Travel

The Code of Alabama 1975, Section 41-4-57 states, "All officers and employees who travel at the expense of the state or any of its departments, agencies, boards, bureaus, or commissions shall file with the comptroller an itemized statement of expenses incurred including those for transportation in connection with such travel at the expense of the state agency, institution, board, bureau, or commission, verified by affidavit, before any warrant shall be issued for such expenses." Note: as the System institutions are under the direction of the Chancellor, per Board of Trustee Policy 102.01, and the System Office is a body corporate agency, per Act 2017-171, the Chancellor has the approving authority for System Office policies. Reimbursements will be routed per the Institution's established approval paths and not the State Comptroller. Documentation should include meeting agendas, program brochures, or other appropriate documentation.

13. Capital Asset Purchases

Each institution shall capitalize all property acquired by the institution in accordance with the amount prescribed by current federal government regulations for capitalization.

Each institution shall conduct an annual physical inventory of capitalized items and reconcile to the financial statement for the corresponding fiscal year.

14. Public School and College Authority Funds (PSCA)

The PSCA was established by Act No. 93, Second Special Session, 1963. This statute authorizes the formation of a public corporation for the purpose of providing funds for the purchase of equipment and capital improvements at community and technical colleges and institutions of higher learning. Colleges receiving PSCA funds must submit projects to the Chancellor's office for coordination with the State Finance Department.

Appendix A

Additional Terms and Conditions

The following provisions shall take precedence over any and all contrary or conflicting provisions of the agreement between the parties and shall govern the rights and obligations of the parties:

This agreement shall be governed by and construed in accordance with the laws of the State of Alabama without giving effect to any choice- or conflict- of- laws, provisions, or rules (whether of the State of Alabama or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Alabama.

It is further agreed that the terms and commitments contained herein shall not constitute a debt of the State of Alabama in violation of Section 213 of the Constitution of Alabama of 1901, as amended by Amendment Number 26. If any provision of this agreement shall contravene any statute or constitutional provision, either now in effect or which may be enacted during the term of this agreement, then the conflicting provision of this agreement shall be deemed null and void. Contracting party understands, acknowledges, and agrees that its sole and exclusive remedy for any claim which may arise from or relate to this agreement is to file a claim with the Board of Adjustment of the State of Alabama.

By signing this contract, the contracting parties affirm, for the duration of this agreement, that they will not violate federal immigration law or knowingly employ, hire, for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of this agreement and shall be responsible for all damages resulting there from.

This agreement constitutes the sole and entire agreement of the parties to this agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, negotiations, and agreements, both oral and written, with respect to such subject matter. In accordance with the recommendations of the Governor and the Attorney General of the State of Alabama, the parties shall consider settling all disputes arising from or related to this agreement by using appropriate forms of non-binding alternative dispute resolution.

In the event of proration of the fund from which payment under which this agreement is to be made, the agreement will be subject to termination. This agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

In compliance with Act 2016-312, the contractor hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

Notwithstanding anything herein to the contrary, either party may terminate this Agreement by providing fifteen (15) days' written notice to the other party. In the event of termination under this provision, the contractor shall pay the Consultant for all services rendered and all out-of-pocket expenses incurred through the effective date of the termination.

It is understood that there is no entitlement to any state merit system benefits to anyone working under this agreement.