



Policy Title	Competitive Solicitation Policy
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Responsible Office	Vice President for Operations/Chief Business Officer
Contact Information	Office of Procurement and Contracting (OPC) Phone: 470-578-4355 Email: purchasing@kennesaw.edu

## 1. Policy Purpose Statement

The purpose of this policy is to establish requirements for the competitive solicitation of non-public works purchases for Kennesaw State University (KSU or the University) valuing \$25,000 or more.

## 2. Background

The administrative rules provided in *the Georgia Procurement Manual* (GPM) govern the purchasing activities of all state government entities, subject to the authority of the Georgia Department of Administrative Services (DOAS) pursuant to the State Purchasing Act, including state offices, agencies, departments, boards, commissions, institutions, and other entities of the state, unless specifically exempted by statute or regulation (see Section 7 Associated Policies/Regulations).

The administrative rules published in the GPM are intended to support the following purposes:

- a. Simplify and clarify the state of Georgia law governing procurement;
- b. Establish consistent procurement regulations among the various state government entities;
- c. Provide increased public confidence in the procedures followed in public procurement;
- d. Ensure the fair and equitable treatment of all persons who deal with the procurement system of Georgia;
- e. Provide increased economy in state procurement activities and maximize to the fullest extent possible the purchasing value of public funds;
- f. Obtain, in a cost-effective and responsive manner, the materials, services, and construction, required by state entities, in order for those state entities to better serve Georgia's businesses and residents;
- g. Foster effective broad-based competition in the marketplace; and
- h. Provide safeguards for the maintenance, quality, and integrity of the procurement system.

### Public Works Projects

Policy governing competitive solicitation requirements for public works projects are governed by the Board of Regents (BOR) *Building Projects and Procedures Manual* (BPPM). The link to the BPPM is provided below in Section 7. Associated Policies/Regulations.

### Competitive Bidding

All purchases made by a state entity should be based on competitive bidding whenever possible. Although competition is not required for open-market purchases under \$25,000, with the passing of House Bill 259, which passed the Senate on March 27, 2015, and is effective on July 1, 2015, the Georgia DOAS State Purchasing Division (SPD) recommends the comparison of products and prices from at least three suppliers, including any applicable convenience statewide contracts, prior to acquisition. A state entity may not split reasonably foreseeable or related purchases into two or more transactions for the purpose of circumventing the requirement that any purchase of \$25,000 or more be based on competitive bidding.

In general, KSU departments are not authorized to make fiscal commitments against University funds, unless covered under another policy and/or related procedures, such as the KSU Division of Legal Affairs Contract Review and Approval Process; Human Resources – Payroll Special Payment Requests (SPAR) processing; and Office and Finance and Accounting (OFA) payment request, petty cash fund, and travel procedures; or as outlined in KSU's *Purchasing Card (P-Card) Procedures Manual*. All other purchases of goods and services must be obtained via an official purchase order, issued by the KSU Office of Procurement and Contracting (OPC), and approved and/or signed by an authorized signatory.

Accordingly, the bid threshold may not be circumvented by making repetitive purchases from the same vendors, on the same day, or on consecutive working days; by charging part of a purchase to one account and part to another account; or by having two or more people buy separate parts of an order. If purchases are made in these or any other manner to avoid the bid limit, they may be disallowed and become the financial responsibility of the individual making the purchase.

If an unauthorized purchase is inadvertently made, the OPC cannot process a purchase order and there is no assurance payment can be made for an unauthorized purchase. The employee who made the purchase, or the employee who directed that it be made in an unauthorized manner, may be personally liable financially to settle the matter with the supplier.

### Purchases for Employee Personal Use

Additionally, it is unlawful for the University to make purchases for the personal use of its employees. The following list includes, but is not limited to, examples of items that could be denied for purchase on the basis that the apparent end-use is mostly personal in nature:

- Holiday decorations and cards
- Cut flowers/plants
- Coffee makers, water purifiers, refrigerators, microwaves, and other appliances for employee use
- Personal amusement, social activities, or entertainment (outside of activities directly related to University functions or purposes)
- Alcoholic beverages and/or refreshments
- Non-business related magazine and/or newspaper subscriptions

- Table radios, briefcases, and similar items
- Watches, groundbreaking shovels, and other items to be granted as a donation or gratuity in favor of a person, corporation, or association for individual ownership
- Membership dues for personal, social, civic, community, warehouse, or travel clubs/organizations for the benefit of individuals. Possible exceptions *may* include:
  - Transferable individual memberships
  - Memberships that are required as a condition of employment
  - Memberships that are required for accreditation of a department or program
  - Membership fee plus a registration fee to an organization's conference if they are less than the nonmember organization fee
  - Memberships that result in a discount on beneficial publications (whether it be "printed" or online) that is greater than the cost of the membership
- University parking permits for employees or students
- Traffic citations for either personal or University vehicles
- Dues to a Chamber of Commerce or dues for individuals to be members in organizations not required by the duties of the position
- Clothing, such as tuxedos, used for commencement services or other personal use
- Personal moving expenses
- Retirement gifts or gifts of any nature, gift cards, etc.
- Personal articles that have been lost or stolen
- University-sponsored event expenses incurred that do not clearly support the University mission such as retirement parties or employee going away parties, including associated retirement gifts or gifts of any nature.

### Purchasing Ethics

KSU subscribes to the Georgia Code of Ethics for Government Service and the University System of Georgia (USG) Ethics Policy (see Section 7 Associated Policies/Regulations).

Provisions relevant to the relationship between state employees and suppliers include that all persons in state government should:

- a. Uphold the Constitution, laws, and regulations of the United States and the state of Georgia and of all governments therein and should never be a party to their evasion;
- b. Never discriminate unfairly by dispensing special favors or privileges to anyone, whether for remuneration or not; and never accept for themselves or their families favors or benefits under circumstances that might be construed by responsible persons as influencing the performance of their governmental duties;
- c. Make no private promises of any kind binding upon the duties of office, since a government employee has no private work that can be binding on public duty;
- d. Engage in no business with the government, either directly or indirectly, that is inconsistent with the conscientious performance of their governmental duties;
- e. Never use any information divulged to them confidentially in the performance of governmental duties as a means for making private profit; and
- f. Expose corruption whenever discovered.

### 3. Scope (Who is Affected)

This policy affects all KSU employees.

### 4. Exclusions or Exceptions

There are no exclusions or exceptions to this policy.

### 5. Definitions and Acronyms

**Employee malfeasance:** Any misconduct or unlawful act carried out by a public official that cannot be legally justified or conflicts with the law, including, but not limited to fraud, waste, and abuse. This generally includes instances of embezzlement, misappropriation, alteration or falsification of documents, false claims, theft of any asset, etc.

**Open-market purchases:** Purchases made on the open market regardless of dollar amount on a one-time basis, without establishing a term contract.

**Unauthorized purchase:** A purchase that is contrary to the laws, rules, policies, and regulations of the state of Georgia; the Board of Regents (BOR) of the University System of Georgia (USG); the state's Department of Administrative Services (DOAS) State Purchasing Division (SPD); the Georgia Technology Authority (GTA); the Office of the State Treasurer (OST); the Department of Audits and Accounts (DOAA) and KSU. Examples of unauthorized purchases include, but are not limited to, purchases of restricted items of any price (e.g., food or personal items), purchases requiring pre-approvals without such approvals, and sequential, repetitive purchases made in an attempt to avoid the bid threshold.

### 6. Policy

For purchases valuing \$25,000 or more, KSU is required to obtain competitive pricing as outlined in the KSU Competitive Solicitation Procedures. In an effort to be duly diligent, for purchases valuing \$10,000 - \$24,999.99, KSU OPC or the end-user departments should:

- determine price reasonableness by performing an analysis of pricing and/or cost (e.g., comparison of prior quotations within the past 12 months, comparison of published price list(s), prices set by law or regulation, similar item comparison, evaluation of separate cost elements [i.e., labor, materials, etc.], when appropriate, and/or other market research, etc.); or
- obtain competitive pricing in the form of three quotes; or
- provide documentation and/or justification for procuring without competition (i.e., sole source, item only available from two distributors, etc.).

For purchases anticipated to be \$25,000 or more, KSU's OPC is required by Georgia state law and the BOR purchasing policy to follow the DOAS SPD competitive solicitation procedures as defined in the GPM.

A purchase that is contrary to the rules and regulations established by the State Purchasing Division, the Board of Regents, or KSU is considered an unauthorized purchase and shall be void and of no effect. Any official of a state entity or institution who willfully purchases or causes to be purchased any materials, supplies, or equipment contrary to the rules and regulations can be held personally liable for the cost thereof.

#### Procedure:

The OPC manages the KSU procurement and contracting procedures (see Section 8 Procedures

Associated with this Policy).

## 7. Associated Policies/Regulations

- a. [BOR Policy Manual 7.7 Purchasing](#)
- b. [BOR Policy Manual 7.9 Contracts](#)
- c. [BOR Building Projects Procedures Manual](#)
- d. [DOAA, Statewide Purchase Orders Policy \(Procure-to-Pay\)](#)
- e. [DOAS, State of Georgia P-Card Program Policy](#)
- f. [DOAS, Georgia Procurement Manual](#)
- g. [Georgia Code of Ethics for Government Service](#)
- h. [Georgia House Bill 1113](#)
- i. [Georgia House Bill 863](#)
- j. [Georgia Procurement Manual \(GPM\)](#)
- k. [Georgia Technology Authority \(GTA\), Procurement](#)
- l. [KSU Consulting Services Policy](#)
- m. [KSU Contract Review and Approval Policy](#)
- n. [KSU Letter to Contractors/Vendors](#)
- o. [Official Code of Georgia Annotated Title 45 Public Officers and Employees, Chapter 10 Code of Ethics and Conflicts of Interest, Article 1 Code of Ethics \(§45-10-1\)](#)
- p. [Official Code of Georgia Annotated, Title 50 State Government, Chapter 5 Department of Administrative Services, Article 3 State Purchasing \(OCGA §50-5-50\)](#)
- q. [Official Code of Georgia Annotated, Title 50 State Government, Chapter 5 Department of Administrative Services, Article 3 State Purchasing, Part 1. General Authority, Duties, and Procedure, Section 69 Purchases without competitive bidding; central bid registry; procurement cards; rules and regulations; applicability to emergency purchases; Purchasing Advisory Council \(OCGA §50-5-69\).](#)
- r. [Official Code of Georgia Annotated, Title 50 State Government, Chapter 5 Department of Administrative Services, Article 3 State Purchasing, Part 1. General Authority, Duties, and Procedure, Section 79 Purchase contracts contrary to part void and officers personally liable \(OCGA §50-5-79\)](#)
- s. [Official Code of Georgia Annotated, Title 50 State Government, Chapter 5 Department of Administrative Services, Article 3 State Purchasing, Part 1. General Authority, Duties, and Procedure, Section 83 Definitions; requirements for state purchasing card program \(OCGA §50-5-83\)](#)
- t. [OST Operating Policies](#)
- u. [USG, Internal Audit & Compliance, Ethics Policy](#)

## 8. Procedures Associated with this Policy

- a. [BOR Business Procedures Manual Section 3.0 Purchasing and Contracts](#)
- b. [BOR Business Procedures Manual Section 3.4.1 Authority to Execute Contracts](#)
- c. [KSU Competitive Solicitation Procedures](#)
- d. [KSU Contract Review and Approval Process](#)
- e. [KSU Human Resources – Payroll SPAR Processing](#)
- f. [KSU Procurement Policy Violation Procedures](#)
- g. [KSU Procure-to-Pay Process \(as defined by USG\)](#)

## **9. Forms Associated with this Policy**

There are no forms associated with this policy.

## **10. Violations**

Individuals in violation of this policy are subject to a range of sanctions, including but not limited to disciplinary action, dismissal from the University, and/or legal action. If an unauthorized purchase is submitted for payment or reimbursement, it is reviewed by the OPC. Supporting documentation will be required explaining the circumstances of the transaction and why KSU's purchasing procedures were not followed, along with an assurance that steps will be taken to avoid future violations of this nature. Upon completion of the review, the OPC forwards a recommendation to the CBO, who makes the final determination as to sanctions on a case-by-basis.

## **11. Review Schedule**

The Competitive Solicitation Policy is reviewed annually by the vice president for Operations/chief business officer or his/her designee and the head of the Office of Procurement and Contracting.