

CSULB

PURCHASING OPERATIONS MANUAL

CSULB PURCHASING OPERATIONS MANUAL ALPHABETICAL INDEX OF TERMS USED

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(1) An Introduction, including some explanation of the contents of this Manual as they relate to (1) the California Public Contract Code (as well as to other State Codes) {website: <leginfo.ca.gov/calaw.html>}, (2) the CSU system-wide Policy Manual and Contracting Resources Library (CRL) {website: <calstate.edu/tier3/cs+p/>} and (3) CSULB campus-issued PSS Memoranda. Note: Public Works and Professional Services Contracts related to Public Works are not included in this Manual.

(2) The Role of the CSULB Purchasing Office (commodity acquisitions and contracting services).

Section 1

Authority for Transactions: Education Code 89036, 89046, 89048; Public Contract Code 10295, 10430(c), 12100.5, 12120; CSU POLICY sec.100-102; PSS 92-01, 95-18, 96-07, 98-12, 98-21, 99-04

- 1.01 Trustees' Authority: Ed Code 89036, 89046, 89048; PCC 10295, 10430(c), 12100.5, 12120; CSU POLICY 100, PSS 95-18
- 1.02 Chancellor's Authority: Standing Orders of the Board of Trustees, Chapter III, Sec. 4-e; CSU POLICY 101
- 1.03 President's Authority: Chancellor's Executive Orders 615, 667, 669; CSU POLICY 102, PSS 99-04
- 1.04 Purchasing Office Authority: PSS 95-18, 96-07, 98-12, 98-21, 99-04
- 1.05 Delegated Campus Authority: PSS 98-12

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- 2.02 Competitive Bidding: PCC 1103, 10300 et seq., 10430(c), 12100 et seq.; CSU POLICY 201-202; PSS 95-29, 96-27
- 2.03 Solicitation Methodologies: PCC 1103, 10300, 12100.7; CSU POLICY 203
- 2.04 Limits on Competitive Bidding (use of Sole Source, Sole Brand, "Or Equal" clauses): PCC 10318, 10339; CSU POLICY 206, 210.07; PSS 94-13, 95-27, 95-48, 96-16, 98-03
- 2.05 Exclusion of Vendors or Contractors From Bidding: PCC 10303, 12102; CSU POLICY 213.02
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- 5.04 Competitive Bidding: PCC 12102, 12120; CSU POLICY 505
- 5.05 Best Value (Value Effective) Acquisitions: PCC 12102(b), 12100.7; CSU POLICY 505.01
- 5.06 Best Financing Alternatives: PCC 12113; CSU POLICY 507.04
- 5.07 State Division of Telecommunications (COMDIV): PCC 12120; CSU POLICY 507.02
- 5.08 Pre-Negotiation of Repetitive Contract Terms & Conditions: PCC 12101.2; CSU

- POLICY 506
- 5.09 Multiple Awards: PCC 12101.5(b); CSU POLICY 505.02
 - 5.10 Sole Source Approvals on EDP Acquisitions: PSS 98-03
 - 5.11 Y2K (Year 2000) Product Compliance Language: PSS 97-12, 98-08
 - 5.12 Used Equipment: CSU POLICY 507.01
 - 5.13 Disposal of Equipment: PCC 12102(i); CSU POLICY 507.03

Section 6

Requirements for Transactions Involving the Sale, Lease, or License of Campus Property and the Marketing of its Services: CSU POLICY sec. 600 et seq.

- 6.01 Release of State-Owned Property: California State Constitution Article 16, Sec.6; Ed Code 89036(a), 89048(d) and (f), 89720; CSU POLICY 601
- 6.02 Lease of University Personal Property: Ed Code 89046(a)
- 6.03 Sale or License of Intellectual Property: CSU POLICY 602
- 6.04 Disposal of Vehicles: California Vehicle Code 24007 et seq.; CSU POLICY 603
- 6.05 Services Provided by the University: CSU POLICY 604

INTRODUCTION

The contents of this CSULB Purchasing Operations Manual are intended to serve as a general guideline for campus employees (including Purchasing Department administrators, buyers, and other Department personnel) in the conduct of business transactions for the benefit of the University.

There are six (6) major Sections into which the Manual is divided. Section 1 addresses the subject of “Authority for Transactions”-- i.e., how the responsibilities for procurement operations are transferred within the CSU from the Trustees to other tiers of the organization. Each of the next five Sections (2-6) relates to a general class of transaction. Section 2, for example, relates to procedural requirements common to all transactions—primarily those for purchases, service orders, and contracts. Section 3 addresses transactions solely for commodities, while Section 4 shows requirements that are specific for service acquisitions. Section 5 contains certain requirements that are unique to computer edp (Information Technology) transactions. Finally, Section 6, the last Section in the Manual, speaks to special conditions that must be addressed to undertake the sale or lease of campus property or services. Each of the six Section divisions is further subdivided into narratives that focus on specific aspects of the general subject matter. These narratives are arranged into what is, hopefully, a logical order of sequence within each Section. An alphabetical index is also located at the very front of the Manual to accommodate searches for various subject matter.

The Manual’s material is largely reflective of State of California Statute, CSU Trustees’ system-wide Policy, and local campus procedures and practices as promulgated by numbered Procurement & Support Services (PSS) Director’s Memos issued since 1992. These are all cited as references within the Sections.

The majority of legal references from California Statute are found within the Public Contract Code (PCC) and the Education Code. However, other California Codes are occasionally cited herein as well. The website for finding California Codes is leginfo.ca.gov/calaw.html. The most recent State Budget Act, which has a few Sections in its final pages that relate to State purchasing and contracting operations, may be observed on the website assembly.ca.gov/acs/acsframeset2text.htm.

Both the CSU system-wide Policy Manual and Contracting Resource Library (CRL) references are located on the website calstate.edu/tier3/cs+p/.

Note: Policy for Public Works contracts and Professional Services agreements related to Public Works can be found in (1) State University Administrative Manual (especially Sections X-XII), (2) Major Capital Outlay Projects Construction Phase Manual, and (3) A/E Design Process and Requirements training manual.

THE ROLE OF THE CSULB PURCHASING OFFICE

The CSULB Purchasing Office exists to assist faculty and staff with the acquisition of commodities and services of the proper quality, at the right time, in the proper quantity, at an economical price, and from the right source. It is a partially de-centralized management system that includes the responsibility for purchasing, receiving, delivering, and maintaining inventory control over, materials and services provided to the University community. The Office is organized into buying teams each having classified responsibilities for serving on-campus instructional and administrative elements of the university. Campus authority has been delegated to most individual offices on campus to place purchase & service orders up to \$1,000. Selected offices have received this delegation up to the amount of \$10,000.

The Purchasing Office at CSULB subscribes to the fundamental principles encompassed in the CSU Trustees' Policy, which are:

- a recognition that the basic mission of the CSU is to support the teaching, research and public service requirements for higher education for the people of the State of California,
- a recognition that the continued development and refinement of purchasing policies in accordance with good business judgment and best business practices is paramount to the effective and efficient total operations of the CSU,
- a firm belief that it is in the CSU's best interest to limit, as much as possible, prescriptive policies and regulations and to provide maximum flexibility to, and accountability for, the adoption of local campus policies and procedures to insure the cost effective operation of campus business, and,
- a recognition that the CSU on-line Policy Manual establishes a baseline for State Law and Trustees' Policy and that it is the responsibility of the campus to determine the disposition of any issue not specifically addressed in the CSU Policy Manual or prescribed in State laws or regulations.

The CSULB Purchasing Office is committed to maintaining high standards of performance based upon fair, ethical and professional business practices.

Section 1 Authority for Transactions

- 1.01 **Trustees' Authority:** The Trustees of the CSU have the statutory authority to purchase personal property; enter into agreements for the furnishing of services; and lease, sell, or exchange any property of a state university for any purpose that they consider to be consistent with the functions of the CSU. *Ed Code 89036, 89046, 89048; Public Contract Code (PCC) 10295, 10430(c), 12100.5, 12120; CSU Policy 100; PSS 95-18.*
- 1.02 **Chancellor's Authority:** The Chancellor of the CSU has delegated authority from the Trustees to make property and services transactions consistent with the provisions of statutory authority permitted in California's Education Code and Public Contract Code (PCC). *Standing Orders of the Board of Trustees, Chapter III, Section 4-e; CSU Policy 101.*
- 1.03 **President's Authority:** The President of each CSU campus has received delegated authority from the Chancellor to purchase, sell, lease, or license personal property and acquire or provide services in accordance with Trustees' policy and law. Responsibility for the preparation of campus internal policies and procedures consistent with CSU Policy and California law remains with the President. This delegated authority is subject to the condition that certain of these transactions be submitted to the Office of the Chancellor for review and approval. These transactions are:
1. Any transaction that exceeds \$250,000 and is awarded without the taking of competitive bids (sole source). This condition does not apply, however, to sole brand acquisitions that are acquired under competitive procedures nor to contracts pursuant to a planned purchasing program or master agreement previously reviewed and approved by the Office of the Chancellor;
 2. Transactions that contain system-wide or multi-campus obligations, liabilities or encumbrances (requests for delegation shall be considered);
 3. Transactions that contain provisions for the tax-exempt financing of equipment or services;
 4. Contracts to obtain legal services to be performed by outside (non-CSU) counsel.

Transactions or requests related to the preceding conditions must be submitted with all related documentation and an explanation of the transaction to the Office of the Chancellor, in order to coordinate program & legal reviews. *Chancellor's Executive Orders 615, 667, 669; CSU Policy 102; PSS 99-04.*

- 1.04 **Purchasing Office Authority:** The Director of Procurement & Support Services represents the campus President on all university property and services

transactions and by virtue of that administrative appointment has been delegated the authority to prepare, process, and execute documents necessary to carry out that responsibility. In turn, the Director assigns various staff members of the Purchasing Office specific responsibilities for transactions falling within specialty areas that may require certain training, experience, and skills. *PSS 95-18, 96-07, 98-12, 98-21, 99-04.*

1.05 **Delegated Campus Authority:** As part of a campus planning process to further delegate the responsibility for certain acquisitions (including those made via procurement “credit” cards) that involve a limited expenditure of funds, the following policies have been implemented for on-campus instructional and administrative offices:

1. Authority for issuing confirming orders is delegated up to a limit of \$1,000.
2. Subject to the approval of a Vice-President (or other official recognized by the Purchasing Office as having the proper approval authority), confirming orders may be increased, upon request, up to a limit of \$2,500.
3. Special on-going needs may warrant, with the approval of the Vice President for Administration or other designated campus official, an increase upon written request to a specified level not to exceed \$10,000.

The Purchasing Office maintains a file of all current delegations of purchasing authority for confirming orders. *PSS 98-12.*

*Policy for Public Works contracts and Professional Services agreements related to Public Works can be found in (1) State University Administrative Manual (especially Sections X and XII), (2) Major Capital Outlay Projects Construction Phase Manual, and (3) A/E Design Process and Requirements training manual.

Section 2 Requirements Common to All Transactions

The contents of the following paragraphs apply to all procurement transactions, i.e., acquisitions of personal property (commodities) or services, edp (information technology) orders & contracts, and the sale, lease, license, and disposal of CSU personal property. In concert with the intent of the California Legislature, the requirements of this Section are intended to achieve the following objectives:

- (a) to elucidate on law and policy with respect to competitive bidding requirements;
- (b) to protect the public from the misuse of state funds;
- (c) to provide all qualified bidders with a fair opportunity to enter the bidding process, thereby stimulating competition in a manner conducive to sound business practices and state fiscal policies;
- (d) to prevent favoritism, fraud, and corruption in the awarding of state contracts.

PCC 10300, CSU Policy 200.

2.01 **Defining Characteristics of Purchase Orders, Service Orders, and Contracts:**

- (a) A purchase order, once issued under proper authorization to a vendor who has been duly informed of the intent to buy a commodity offered at a specified time and price and under mutually-agreed-upon terms and conditions, is a legally binding contract. However, it differs from a contract (formal signed agreement) in that only one party (the issuer) is required to sign it. The issuer may, however, require the vendor to sign the purchase order if there are unusual conditions that appear to warrant it.
- (b) A service order is an instrument that technically can be used in much the same manner as a purchase order (signed unilaterally by the issuer), except that a service rather than a commodity is proposed to be rendered to the requester. The issuer may opt to require that the provider sign the service order if there are unusual conditions that appear to warrant it.
- (c) A contract is a formal agreement, signed by all parties who are to be bound (legally) by its terms and conditions. Contracts can be issued for any number of purposes, but usually the purpose is to acquire a service or commodity from a provider in exchange for some form of consideration (usually money). The Standard Agreement form is commonly the instrument used by CSULB for such a contractual purpose.

PCC 10300 et seq.; CSU Policy 300, 400, 406; PSS 97-15.

2.02 **Competitive Bidding:** The promotion of fair and open competition by the university in the acquisition of goods and services to meet its needs is indispensable to maintaining its operational health. Not only does it normally result in the best use of the university's limited financial resources, but by preventing favoritism it provides a professionally viable and comfortable climate in which the Purchasing Office may conduct its business. When properly implemented, it achieves optimal benefits to everyone involved, including the general public in regard to the best use of the university's budget as appropriated by the California Legislature.

There are numerous ways to promote fair and open competition. They include, but are not limited to, public advertising for bids or proposals through daily or weekly newspapers of general circulation; trade or specialty publications; the use of the California State Contracts Register (CSCR); direct notifications to known vendors & service providers; initiating outreach programs, an extensive use of vendor & contractor source files for bidding purposes, and simple telephone calls to obtain informal quotes.

The use of "bidder lists" for categorical product or services solicitations is good practice. Such lists are to include the most recent provider (if any) as well as those who have responded to past advertisements or notices issued for the same or similar products or services.

Whenever the lowest responsible bid for the award of an order or contract must be rejected as the result of disqualification of the bid or the bidder, a formal rejection notification must be sent to that bidder by telegram or telefax. When sent by fax, the transmission receipt must be placed in the bid file and the notification mailed with a "Return Receipt Requested." Twenty-four hour notice, excluding Saturdays, Sundays, and legal holidays, is required to be given to the disqualified low bidder before an award may be made to the next lowest responsible bidder.

The decentralization of purchasing authority on campus for low-dollar acquisitions carries with it a tacit and continuing responsibility to use the campus's dollars wisely. Obtaining competitive bids, even informal ones for comparative purposes, is the surest way to "get the best bang for the buck" and to help keep a departmental budget in the black.

There are occasions when the solicitation of competitive bids is impractical or inadvisable. These are exceptions to the rule. They include the following:

1. In cases of emergency where a contract is necessary for the immediate preservation of the public health, welfare, or safety, or the protection of CSU property and programs;
2. The proposed contract is with a State or federal agency, a local government entity, or an auxiliary organization of the CSU;

3. Contracts for which only per diem and travel expenses are paid and there is no payment for services rendered;
4. Contracts for the express purpose of obtaining non-CSU legal counsel or of obtaining expert witnesses for litigation (either of these must be submitted to the Office of General Counsel at the Chancellor's Office for approval).
5. Contracts with business entities operating handicapped workshops which meet the criteria stated in Section 19404 of the Welfare and Institutions Code;
6. Contracts that have been certified by an authorized campus official to (a) be non-biddable (products or services being available from a single source only), or (b) best serve the interests of the CSU by not being subjected to competitive bidding.

PCC 1103, 10300 et seq., 10430(c), 12100 et seq.; CSU Policy 201, 202; PSS 95-29, 96-27.

2.03 **Solicitation Methodologies:** The selection of a vendor or contractor to satisfy a university need is not necessarily based upon the lowest responsible bid or quote received. While this certainly must be a prime criterion, the quality of the product or service, provider reliability, warranties, and several other factors also can (and often should) enter into the decision to award an order or contract. By and large, awards are based upon either of two different solicitation approaches: (1) An IFB (invitation for bid) based upon the acceptance of the lowest responsible bid for a product that has been fully described with detailed specifications accompanying the solicitation, or (2) An RFP (request for proposal), awarded on the basis of the highest score attained from an evaluation process. The RFP conveys essentially what is needed but leaves the detailed specifications to the proposers.

A "best value" (or "value-effective") solicitation uses the premise of the RFP. It is normally employed for the acquisition of a large-scale system or complex program requiring an expansive array of criteria (in addition to the cost) to be considered for the award of the contract. Such criteria may include, but are not limited to such things as the quality of the product or service; estimated operational costs; previously demonstrated technical competency of the provider; financial stability and anticipated long-term reliability of the provider; terms & conditions of the warranties, guarantees, returns/refunds; and the quality and viability of the proposal itself. These and other criteria may be assigned weighted value for purposes of the evaluation. The criteria and corresponding weight factors must be disclosed to the proposers in advance, by including them in the solicitation.

A "multi-step" procurement provides a structured method for discussing alternative solutions to the campus's requirements and to obtain bids or proposals that are responsive to these requirements. It is appropriate whenever the campus finds it desirable to solicit, review and discuss preliminary proposals, particularly when more than one solution might be acceptable. This method of solicitation

permits ongoing confidential discussions with bidders and an opportunity for the solicitation document to be revised as the discussions ensue. Once the discussions have ended and the best approach to a solution has been determined, a formal solicitation document is issued. Ultimately the best offer will then receive the award.

“Negotiated competition” is an award method that allows an open and flexible environment (once the proposals have been received and evaluated), in which to arrive at an agreement about all aspects of the system or project, including a best and final offer from the proposer who submitted the proposal that received the evaluation with the highest score. If the details cannot be agreed upon or if the best and final offer is not acceptable, the campus can then elect to negotiate with the proposer who had the next-highest scored evaluation, etc.

A “Request for Quotation” (RFQ) may be utilized to obtain price quotes for products or services whenever (a) the estimated cost is less than the threshold established in policy for acquiring formal bids, and/or (b) the terms and conditions of the transaction, if any, may not be significant enough to require both parties to sign a formal agreement (in which case a purchase order or service order could be more appropriate than a contract).

A “Request for Information” (RFI) is used to determine whether there is market availability or interest in satisfying a specific campus need or providing the solution to a given problem expressed within the RFI. The issuance of an RFI to prospective providers may serve as a preliminary step to the issuance of a formal bid invitation, if multiple encouraging responses are received.

PCC 1103, 10300 et seq., 12100.7; CSU Policy 203.

- 2.04 **Limits on Competitive Bidding (use of Sole Source, Sole Brand, “Or Equal” clauses):** Generally, no agency or employee of the State of California may draft, or cause to be drafted, any specifications for bids in connection with the purchase of supplies or materials in such a manner as to limit the bidding to any one bidder. Likewise, no invitation for bid or request for proposal may be drafted, or be caused to be drafted, for services in such a manner as to limit the bidding to a single bidder. Under California law, any purchase or contract awarded under such conditions is void.

Aside from the legally-permitted exemptions from the solicitation of competitive bids (such as defined emergencies and other circumstances recognized under California statutes), there are obviously occasions when only a single source (or a single brand) exists or is suited to accomplish the need at hand. When this is the case, documentation is required to show why a non-competitive award must be issued. Such documentation is termed “justification.”

Except in cases where a product of a specified brand name is the only product that can properly meet the needs of a requester, the drafting or application of specifications or bid requirements that directly or indirectly limit the bidding to a single brand is prohibited. A “brand name or equal” is a competitive process that allows bidders to propose equivalent items.

A sole source procurement is permissible only when a determination has been made and approved in writing, that only one source exists for the required product or service. A requirement for a proprietary (or sole brand) item does not necessarily justify a sole source procurement, as more than one potential bidder or supplier may exist who can supply that item.

The determination as to whether a procurement has been adequately justified in writing for a sole source award shall be made by the designated authority. For sole source purchases of \$250,000 or greater, a copy of the requisition, the justification, and other pertinent documentation, must be forwarded to the Chancellor’s Office CS&P for review and approval prior to execution of the contract.

A request for a sole source acquisition must include a written justification explaining why the sole source is necessary to satisfy the needs of the requester. The justification shall include the following information:

1. The unique performance factors required;
2. Why these factors are required;
3. What other sources have been considered, rejected, and why.

The CSULB Purchasing Office provides an on-line Sole Source/Sole Brand Justification Form for campus use. A completed Form is required for sole source/sole brand requests that entail commodity expenditures of \$10,000 or more or services for \$50,000 or more. The adequacy of the information provided by the requester is evaluated by the Purchasing Office prior to its acceptance. Sole source requests for acquisitions between \$10,000 and \$100,000 require the approval of the campus Procurement Officer (or a designee). Sole source requests for expenditures of \$100,000 up to \$250,000 additionally require the approval of the campus Associate Vice President for Financial Management. For expenditures of \$250,000 or more, further approvals are necessary from the campus Vice President for Administration & Finance and the Chancellor’s Office.

PCC 10318, 10339; CSU Policy 206, 210.07; PSS 94-13, 95-27, 95-48, 96-16, 98-03.

- 2.05 **Exclusion of Vendors or Contractors from Bidding:** A vendor or contractor may be removed or suspended from a campus’s list of potential bidders and be prohibited from participating in any of the campus’s bid processes if there has

been a failure without good cause to perform in accordance with the terms of a past contract with CSULB, another CSU campus, or with any other governmental entity. It may also be removed or suspended if its performance with respect to a previously awarded purchase order or contract has been unsatisfactory. Such exclusion must remain in effect for at least 90 days after the unsatisfactory performance has been recorded, but shall not exceed a period of 360 calendar days in duration. A vendor or contractor excluded from bidding shall be relieved of the prohibition at any time after the 90-day minimum period, upon demonstrating to the campus's satisfaction that the problems that resulted in the removal or suspension have been corrected. *PCC 10303, 12102; CSU Policy 213.02*

- 2.06 **Standard Purchasing/Contracting Forms:** CSU system-wide purchasing and contracting forms are available for campus use from the Contracting Resource Library (CRL) website <calstate.edu/tier3/cs+p/>. The Office of General Counsel at the Chancellor's Office must be consulted prior to agreeing to any deletions, additions, or significant variations from the format or content of any standard forms developed and approved for system-wide use.

A variety of special purpose campus-produced forms also used for purchasing and contracting functions are maintained by the CSULB Purchasing Office. Many can be found and reproduced from the campus's internet website <csulb.edu/divisions/af/html/forms_online.html>. These and other forms are available also on computer diskettes from the Purchasing Office or can be obtained directly from Purchasing Office personnel. Deletions, additions, or significant variations from the format or content of any of these forms are not permitted without prior consultation with the Purchasing Office. *CSU Policy 409, CSU CRL; PSS 97-19, 98-04.*

- 2.07 **General Provisions for Acquisitions of Commodities and Services:** Under California Law and Trustees' Policy there are specific minimum terms and conditions (referred to as "General Provisions" by the CSU) to which a vendor or contractor must agree in order to do business with the State or the CSU. These provisions differ somewhat, depending upon whether the intended acquisition is a product or a service. There are formal General Provisions required for each. They are displayed as Exhibits on the CS&P internet website <calstate.edu/tier3/cs+p/>. The exact wording of these Provisions has been prescribed by the Office of General Counsel and may not be altered without pre-approval from that Office. The Provisions that are applicable to a given acquisition must become an integral part (whether referenced or stated in print) of every contract or purchase order issued. Many of these provisions are pre-printed as "Purchase Order Instructions" on the reverse side of the standard P.O. that is used by the campus, and thus need not be repeated. For any given contract, p.o, or service order, additional provisions may be added whenever needed, and some

of the General Provisions in the Exhibit selected for use may be deleted if they are not applicable. However, none of the General Provisions that appear on the set selected for use may be altered, and none that are required under statute or State regulations may be deleted. *PCC 10307, 10351(2); CSU Policy 410, CSU CRL.*

- 2.08 **Use of Electronic Transmission and Telefax:** The campus is authorized, under California law, to enter into and make payment on contracts by way of electronic transmission (such as e-mail, telefax, electronic data interchange) including, but not limited to, the issuance of solicitation documents and receipts of responses thereto. Electronic transmission methods are also authorized for the required notification to an apparent low bidder that a different bidder is receiving the award. Formal bids or proposals are authorized via electronic transmission, provided that appropriate measures are employed to protect the confidentiality of the sealed bid requirement. Finally, responses to protests, disputes, and complaints are authorized under Trustees' policy to be transmitted in this fashion. *PCC 1600; CSU Policy 226; PSS 96-27.*
- 2.09 **Electronic Purchasing System on Campus:** The on-campus automated electronic purchasing system permits campus requesters of commodities and services to construct on-line requisitions and submit them electronically to the Purchasing Office. It also permits users to make electronic inquiry of the status of their requisitions and orders. Once the Purchasing Office has received an electronic transmission of a requisition, it can convert the requisition to a purchase order or contract with comparative ease. The System has the advantage of being able to validate on-line budget account numbers, thus eliminating errors that might otherwise be made if users had to copy their numbers into the account blocks. The System may also be used to electronically transmit sole source/sole brand justifications to the Purchasing Office on acquisitions up to \$10,000. *PSS 93-01, 93-03, 93-05, 93-12, 95-31, 95-48, 96-09.*
- 2.10 **Vendor & Contractor Bidder Files:** To support the principle of open and fair competition, and to make possible the quick identification of known product or service sources, the CSULB Purchasing Office maintains active vendor and contractor files on all products & services that are likely to be requested for the purpose of conducting the university's business and for carrying out its educational responsibilities. *PCC 10302, 10303; CSU Policy 213.*
- 2.11 **Abbreviations used in Electronic "Vendor Create" Data Fields:** The campus electronic purchasing system permits Purchasing Office staff to make abbreviated entries in the "vendor create" blocks of on-line requisitions to identify the general category of commodity or service being sought by the requester. Using a "sort" function, the abbreviated entry can then be utilized to interface with commodity

(and service) codes already recorded in vendor and contractor bid files. This procedure permits easy identification of potential providers of the product or service for the purpose of establishing a bid list or of simply identifying alternative sources. *PSS 94-03, 94-29.*

- 2.12 **Requisitions (on-line and hard copy) Processing:** The campus electronic purchasing system permits requesters within all on-campus instructional and administrative offices to prepare on-line requisitions for electronic transfer to the Purchasing Office to be processed and transformed into a purchase order, a contract, or a service order. The requester is expected to complete information in the data fields that identify such things as the kind of commodity or service desired, the estimated cost, a suggested provider (if one is known), the timeframe for delivery or completion, the requester's department name, the account number to be charged, the name of the person making the request, and an electronic signature of the person authorized to approve the expenditure from the account. Hard copies of requisitions may optionally be prepared by requesters. These can be submitted to the Purchasing Office with the same general information on them, albeit with the authorized approval signed in ink.

When a requisition in either electronic or hard copy form is received by the Purchasing Office (if a hard copy, it is date-stamped or otherwise recorded as to the date it is received), it is checked for adequate funding under the account number(s) designated and previously approved by the requester's department. Next, it is assigned to one of the staff members in the Purchasing Office for further processing. This entails the designation of a variety of coding requirements and other information that is generally required in obtaining commodities or services from an outside source. If an error is discovered on the requisition, it must be rejected until a correction is made by the requester. Some corrections can be made via telephone, but some cannot and must be returned or electronically re-transmitted back to the requester. Once the requisition is accepted, provider sources (including any suggested by the requester) are researched, identified, and possibly contacted. If the estimated or quoted cost is within the limits of an informal acquisition then a purchase order, contract, or service order may be prepared and issued to the provider who appears to be the best source. If the estimated cost necessitates formal bidding, the assigned staff member must make arrangements to issue a formal bid solicitation or a Request For Proposal. Bids and proposals that are received within a specified deadline are then evaluated to determine which provider will receive a purchase order or contract award. The requester can use the electronic purchasing system to query the status of the requisition at any time.

Deadlines for the submittal of requisitions (both electronic and hard copy) are established toward the end of each fiscal year by the Associate Vice President for Financial Management. These deadlines are outlined in an annually-prepared Financial Management Calendar. The purpose of this Calendar is to

accommodate year-end closing activities in an orderly fashion. Requisitions submitted after such deadlines have passed may be rejected and returned unprocessed to the requester.

PSS 93-04, 93-05, 93-11, 95-25, 96-12.

2.13 **Signature Verifications:** The Purchasing Office visually inspects approval signatures on hard copies of requisitions and other procurement documents that are submitted for processing. For documents submitted electronically, the inspection of signatures is performed automatically by the electronic purchasing system. *PSS 93-09.*

2.14 **Blanket Orders for Commodities or Services:** These are primary source agreements designed to accommodate campus needs on an on-going basis for a specified period of time. An agreement of this kind is sometimes referred to as a "Requirement Contract." It encompasses a class or category of goods or services in which a vendor or contractor specializes and can readily furnish upon demand. The agreement generally establishes the prices, effective term, general provisions (administrative requirements), any special terms & conditions, a total cost-not-to-exceed for the effective term, order-placing authority, shipment procedures, discounts or prompt payment allowances, and an option to extend the effective term (if mutually desired). Quantities or minimum sales are not normally specified.

The campus must obtain a receipt at the time of any individual sale under the agreement. Such receipt must reference the blanket order number. Summary invoices must be submitted to the campus periodically, confirming the sale and delivery of the goods or services.

Blanket Orders must be competitively bid unless the specified cost-not-to-exceed amount is less than \$10,000 (for commodities) or \$50,000 (for services), or unless a sole source justification has been approved by the Purchasing Office. Change Orders to increase the amount (or to extend the effective term if so provided in the original agreement) may be executed by mutual consent, as long as the \$10,000 (for commodities) and the \$50,000 (for services) cost limitations are not exceeded on the Blanket Order. When practical, new bid solicitations are encouraged in lieu of Change Orders so that the campus may continuously benefit from market competition.

CSU Policy 204.03; PSS 95-36, 96-15, 97-04.

2.15 **Direct Payments to Outside Providers (no P.O. or Contract):** Direct payments are made for commitments or obligations for which little or no value can be added by processing the transaction through the standard procurement procedures. Such

payments are processed by the campus Accounts Payable Office and are not supported by the issuance of purchase orders, service orders or contracts. Invoices are sent by the provider directly to the approving authority. The approving authority date stamps the invoice when received, ensures appropriate signatures, attaches a completed Direct Expense form, and forwards the form and invoice to the Accounts Payable Office. Examples of such commitments or obligations may include but are not limited to expenses for: public utilities, guest speakers, accreditation fees, room rentals, rebates & reimbursements, books, subscriptions, publications, registration fees, and membership dues. *CSU Policy 227.*

- 2.16 **Multi-Year Contracts:** Contracts extending into future fiscal years must include a provision stating that continuation of the contract is subject to the appropriation of funds by the California Legislature. The following is an example of this provision:

”If the term of this contract extends into fiscal year periods subsequent to that in which it is approved, such continuation of the contract is subject to the appropriation of funds for such purpose by the California Legislature. If funds are not appropriated, Contractor shall relieve CSULB of any further obligation for payment under the contract, and may remove all equipment furnished thereunder.”

A special coding designation of “M” within the electronic system’s status field is applied by the Purchasing Office to all multi-year contracts. This permits a sort and a separate computer-generated master listing of them to be printed at any time. The listing shows the subsequent fiscal years in which each multi-year contract has been identified to encumber funds. It also shows the amount each year to be encumbered. Any purchase order, contract, or service order that is intended to be kept “active” during subsequent fiscal years must contain a “holding line” entry in any monetary amount of 1 cent or more for each of the fiscal years it is to be left open (this is an idiosyncrasy of computer functionality).

CSU Policy 208; PSS 94-27, 94-36.

- 2.17 **CSU Master Agreements:** CSU Master “enabling” Agreements are instruments of a pooled purchase or consortium solicitation whereby all CSU campuses, including CSULB, may participate and take advantage of volume-discounted acquisitions. The CSU can also enter into such Agreements on a cooperative basis with select external organizations (such as other universities or public entities) wherever no conflicts exist in the laws, policies, and regulations that govern the respective =contracting/purchasing operations. A directory for all CSU Master Agreements, CSU site licenses, pricing for computer software and subscription databases is maintained at the website <calstate.edu/tier3/cs+p/>.

Master Agreements contain instructions for entering into a sub-agreement at the campus level. To do this, generally, a separate Purchase or Contract ordering document is prepared and executed by the campus. The ordering document must contain any appropriate attachment, rider, or cost schedule, and show reference to the Master Agreement by name and number. *CSU Policy 204.03; PSS 95-43.*

2.18 **Pricing Agreements & Schedules:** These are provided by vendors and are negotiated to take advantage of a vendor's best pricing to the CSU or to CSULB. Such best pricing is based upon an estimated aggregate volume of the product(s) sold to the CSU or CSULB, either in the past or in the future. However, the vendor does not receive exclusive rights to sell the product(s) to the university. A Pricing Agreement or Schedule may be used anytime a formal bid solicitation is not required. It may also be employed to permit a comparison of prices, as informal bids or quotes are collected from other potential providers. A vendor's Pricing Agreement or Schedule may not be used as a substitute for the competitive bidding process required in formal solicitations. If, however, the Agreement or Schedule prices are shown to be lower than the bids received from other potential providers at the conclusion of the formal process, the university may document the bid results and opt to use the vendor with the Pricing Agreement or Schedule. *CSU Policy 204.03; PSS 95-37.*

2.19 **State Contracts:** The State Department of General Services (DGS) negotiates State contracts and master agreements for commodities and services that generally represent the best value to the university. They are to be used whenever appropriate. The availability of a commodity or service under contract with the State can be determined by a Purchasing Office staff member by referencing "The Checklist of Effective State Contracts and Price Schedules." If substantial savings are realized through the use of a State contract then it is preferable to use the State contract.

A California Multiple Award Schedule (CMAS) is an agreement established between the DGS and vendors already contracted with the federal General Services Administration (GSA) and who agree to the State of California terms & conditions as imposed by the DGS. The CSU and CSULB campus may use a CMAS without obtaining further competition. Offers from small businesses that have established CMAS contracts shall be given first priority.

The use of a DGS-negotiated State contract (inclusive of California Multiple Award Schedules, Price Schedules, etc.) requires a fee of approximately 2% to be paid to DGS. When a requisition is submitted to the Purchasing Office, the staff member assigned to the requisition will determine whether or not the request can be filled under a State contract. If so, the requester is notified and requested to identify an account against which the DGS fee may be charged. The amount of the fee can be determined by reference to the "DGS Price Book." Requisitions will not be processed until the DGS fee is determined and funded.

The DGS fee is kept separate from the encumbrance for the order. The reason for this is to avoid the necessity of leaving orders open for extended periods of time awaiting receipt of DGS billings. These billings can take place well after the orders themselves have been fulfilled. Instead, as a requisition undergoes conversion into a purchase order (or contract), a DGS fee form is prepared and completed by a Purchasing Department staff member and is submitted to the campus Budget Office for temporary funding and further processing. A copy of the fee form is also attached to the file copy of the order maintained in the Purchasing Office, and still another copy is transmitted to the requester. Once the Budget Office is notified that the DGS billing has been received, it instructs the Accounts Payable office to make payment and a direct charge is eventually made against the account originally specified by the requester on the requisition.

CSU Policy 204.03, 225; PSS 94-34, 97-17.

2.20 **General Services Administration Contracts (Federal):** The GSA, representing the federal government, periodically establishes agreements with multiple vendors for the purpose of acquiring goods and/or services under specific prices, terms and conditions. Since these agreements are issued under a competitive process, the campus may award a contract to a vendor having such an agreement without further competitive bidding, but only if the vendor is willing to extend the same GSA prices, terms and conditions to the campus while agreeing to any additional terms and conditions that may be imposed by the campus. Once a requisition is received, the Purchasing Office staff member assigned to it may determine that a vendor (or service provider) will permit the order to be filled using a GSA agreement. If permission is granted, and a lower price would result in filling the order in this way, the requester shall be notified that the GSA agreement will be utilized. *CSU Policy 204.03; PSS 95-12, 95-14.*

2.21 **Use of the State Department of General Services (DGS):** The Department of General Services (DGS) offers a variety of services that are available to all State agencies, including the CSU. Chaptered legislation specifies that:

“If the California State University (CSU) determines that greater efficiency would be served by contracting with the Department of General Services (DGS) or another department or agency of the State for the performance of any service or function, the DGS or other department or agency shall contract with the CSU to perform the service or function.”

CSU Policy 225.

2.22 **Small Businesses and the Office of Small Business Certification & Resources (State):** CSULB supports the spirit of the Legislature’s declaration as set forth in the Small Business Procurement and Contracts Act (G.C. 14835 et seq.):

The State is required to aid, counsel, assist, and protect, to the maximum extent possible, the interests of small business concerns in order to preserve free competitive enterprise and ensure that a fair proportion of the total purchases and contracts or subcontracts for goods & services for the State be placed with such enterprises;

To provide small businesses an opportunity to request a 5% bid preference, a Small Business Preference Form or equivalent advisory statement shall be included in all bid solicitations for the procurement of goods and for service agreements. Evidence of certification by the State Office of Small Business Certification & Resources (OSBCR) – usually via a copy of the OSBCR approval letter – is required from the bidder in order for a bid preference to be granted.

The definition of a Small Business includes the following:

- An independently owned and operated business;
- Not dominant in its field of operation;
- The principal office is located in California;
- The officers are domiciled in California;
- Together with affiliates is either
 - (a) a service, construction or non-manufacturing business with 100 or fewer employees, and average annual gross receipts of ten million dollars (\$10,000,000 or less over the previous three years);
 - (b) a manufacturer with 100 or fewer employees.

In order to comply with the requirements of the Small Business Procurement and Contract Act, each campus (including CSULB) must report to the OSBCR quarterly on the number and dollar amount of contracts and purchase orders awarded to small businesses. This Report is to be sent directly to OSBCR, with a copy to CS&P in the Chancellor's Office. The CSULB Purchasing Manager has been designated as the Campus Small Business Coordinator and is responsible for this function as well as the promotion of all Small Business outreach activities and the coordination and reporting of such activities performed on campus.

A Small Business Advocate has been established in the CS&P Department at the Chancellor's Office and serves as a single point of contact for small businesses and campus coordinators, as needed. The Advocate's responsibilities include:

- (1) Making information about pending solicitations available to State-registered small business firms that are capable of meeting the CSU's business needs;

- (2) Actively soliciting offers for goods and services from small business firms;
- (3) Helping ensure that prompt payments are made to small business firms that have provided goods or services to the CSU.

Gov. Code 14835; CSU Policy 216; PSS 99-03.

- 2.23 **Disabled Veteran Business Enterprises (DVBE) and Activity Reporting:** A DVBE goal of 3% of total expenditures has been established which provides the overall percentage of dollar amounts expended each year by the campus for contract awards, including purchase orders. An quarterly activity report shall be prepared and submitted by the Purchasing Office to the CS&P Department of the Chancellor's Office for systemwide consolidation, and then transmitted to the Governor's Office. Bidders for EDP-related contract awards and for purchase order awards may opt to submit a "Utilization Plan" in lieu of meeting the 3 percent participation requirement. Utilization Plans are described in the Public Contract Code, Section 10115.15. *PCC 10115 et seq.; Title 5, Sec. 43870 et seq.; CSU Policy 215.*
- 2.24 **Target Area Preference Act:** Any California-based company submitting a bid or proposal to the State (including the CSU and CSULB) for goods to be produced or services performed at worksites in distressed (as defined in Gov. Code 4530) areas by persons with a high risk of unemployment are entitled to a 5% bid preference whenever the contract award is in excess of \$100,000. The 5% preference is applicable only to contracts awarded on the basis of lowest responsible bidder meeting specifications. *Gov. Code 4530; CSU Policy 217.*
- 2.25 **Enterprise Zone Act:** A business may be granted a 5% bid preference when bidding on any State (including CSU and CSULB) contract of \$100,000 or more for goods and services (excluding construction contracts) if the business site is located within one of 34 distinct "Enterprise Zones" located throughout California, as designated by the California State Trade and Commerce Agency. Enterprise Zones are designated to encourage job-producing business development in specified sections of cities or counties. The 5% bid preference is applicable only to contracts awarded on the basis of lowest responsible bidder meeting specifications. *Gov. Code 7070; CSU Policy 218.*
- 2.26 **Prison Industry Authority:** The State and its agencies (including the CSU and CSULB) are required to procure any available goods or services produced by the Prison Industry Authority (PIA), unless specifically waived by the PIA. It is the responsibility of the campus Purchasing Office to contact PIA regarding acquisition of the type of goods or services listed in the PIA Catalog or within any of its update announcements. *Penal Code 2807; CSU Policy 224.*

- 2.27 **Vendor Data Record (State Form 204):** A State Standard Form 204 must be completed by each vendor or contractor (except for a State or other governmental entity) doing business with the State of California. The Form is provided to the vendor or contractor by the Purchasing Office and must be completed, signed, and returned to the campus Accounting Office before payment is rendered. This requirement relates to the taxed earnings reporting requirements (Form 1099) that must be filed by the university. The Accounts Payable division of the Accounting Office collects the completed forms. *Revenue and Taxation Code 18637; CSU Policy 213.01; PSS 92-11, 94-07, 95-07.*
- 2.28 **Non-Discrimination:** All contracts of \$5,000 or more must contain a clause stating that the contractor, by signing the contract, certifies under penalty of perjury that the non-discrimination requirements of Government Code Section 12990 et seq. have been met, unless exempted under Title 2, Section 8115 of the California Code of Regulations. These are requirements that must be met by all vendors and contractors who wish to do business with the State. This required clause is included within the CSU General Provisions that must be incorporated into all formal P.O. awards of \$10,000 or more and in contracts of at least \$50,000. For awards of less than these amounts a special State Standard form (17A) is available. It contains the required non-discrimination language, references Gov. Code 12990, and can be used for this purpose. *Gov. Code 12990; CSU Policy 220; PSS 92-24.*
- 2.29 **National Labor Relations Board Compliance:** All contracts of \$5,000 or more must contain a clause stating that the contractor, by signing the contract, certifies under penalty of perjury that contractor has not violated the provisions of Public Contract Code section 10296 regarding the issuance of orders by the National Labor Relations Board (NLRB). This requirement applies to all State agencies, and includes the CSU and CSULB. This required clause is included within the CSU General Provisions that are normally attached to all formal awards. For awards between \$5,000 and the formal bid award thresholds, reference must be made to the requirements stated in PCC 10296. *PCC 10296; CSU Policy 221.*
- 2.30 **Audit of Contract Required Clause:** A notification to the contractor is required on all contracts exceeding \$10,000 that such contracts are subject to an audit of the Office of the University Auditor and State Auditor for a period of three years after final payment has been made. *Gov. Code 8546.7; CSU Policy 222.*
- 2.31 **Drug-Free Workplace Certification:** State contractors and recipients of State grants are required to maintain a “drug-free workplace.” A campus may suspend payments under a contract or grant or terminate the contract or grant, or both, if a contractor or grantee has failed to comply with the legal requirements contained in Government Code Sections 8355, 8356, and 8357. *Gov. Code 8355-8357; CSU Policy 223.*

- 2.32 **Community Rehabilitation Programs & Workshops:** Any State agency, including the CSU and CSULB, may acquire commodities and services from a public or private nonprofit California corporation operating a community rehabilitation program or workshop serving persons with disabilities (including blindness) without posting a public notice or soliciting competitive bids, provided that the acquisitions are documented to meet specified needs of the agency (or campus), are obtained at a fair market price, and are made convenient to the agency (or campus) to obtain. *Welfare Code 19403, 19404; CSU Policy 219.*
- 2.33 **Funding Source Designations:** A requester must designate an appropriate funding source on a requisition before it can be processed by the Purchasing Office. The funding source must also be one that is under the authorized control of the person who signs the requisition. It may be changed upon request to the Purchasing Office, even after the requisition has been converted to a purchase order or contract. However, once an invoice has been processed against the order or contract, the funding source can be changed or corrected only by the University Accounting office via an accounting journal entry. *PSS 95-16.*
- 2.34 **Requisitions against Trust Accounts:** Any completed requisition that is intended to utilize a Trust Account number for its funding source must clearly display the Trust Account number in the funding source field in order to differentiate it from General Fund appropriations that may otherwise routinely be used. Processing of the requisition may then follow the regular processing steps with no other special designations being required. *PSS 92-04.*
- 2.35 **Requisition Log (formal):** The Purchasing Office will maintain a log of requisitions received, with entries recorded daily as requisitions are submitted. The requisitions, in either hard copy or electronic form, are date stamped as they are received in the Purchasing Office and entries are made in chronological order within the Requisition Log. If a requisition must be rejected for any reason, it is so noted in the Log and then returned to the requester for corrections or other appropriate actions to be taken, as instructed by the Purchasing Office staff member who has been assigned to the requisition. *PSS 93-07.*
- 2.36 **Requisition Logs (informal):** Each staff member of the Purchasing Office who is assigned responsibility for processing requisitions shall maintain daily an informal log of requisitions personally assigned for processing that day. The purpose for this is to ensure that data is not lost due to a major error occurring in the electronic purchasing system's backup process during the day. In other words, the staff member will have retained this informal log so that nothing of major significance should be lost. The informal log will record the date on which the requisition was received, the requisition number (also the P.O., contract, or service order number if one has been assigned), and a note as to any action taken on the requisition that day. *PSS 93-10.*

- 2.37 **Requisitions not logged by Purchasing Office:** Occasionally a requisition received by the Purchasing Office is discovered not to require conversion into a purchase order, contract, or service order, at all and therefore does not need to be recorded in the formal log. However, the Purchasing Office staff member assigned to process the requisition should enter it into an informal daily log until the requester has been advised whether or in what manner the request will be processed. Often the request can be filled by campus stores or treated as a Direct Expense. Examples of requested acquisitions of this kind may include subscriptions, memberships, books, office supplies, forms, or other requests that can be accommodated by campus service areas. *PSS 93-08.*
- 2.38 **Requisitions for Subsequent Fiscal Years:** Requisitions submitted to the Purchasing Office that call for commodities or services to be purchased with funds budgeted for the following fiscal year must be submitted as a future-year requisition and be clearly identified as such with the following fiscal year's designation plainly marked on it. *PSS 96-08, 96-09.*
- 2.39 **Requisition Status Reporting:** An "Open Requisition Report" showing the current status for all requisitions received in the Purchasing Office is prepared bi-monthly by the Purchasing Office. This Report is made available to Purchasing Office staff both in hard copy form and on-line as part of the electronic purchasing system. Requesters outside the Purchasing Office have the capability and authority to view their own requisitions on-line from this Report.
- An "Open Buyer Report" is also prepared generally twice per month, in both hard copy form and on-line, for viewing by Purchasing Office staff only. This Report shows the status of requisitions received by each of the staff members who are assigned requisition processing responsibilities. Each staff member receives a hard copy listing of their own requisitions in process.
- PSS 92-02, 96-35.*
- 2.40 **Annual Year-End Deadlines for Submitting Requisitions:** Toward the end of each fiscal year, a notification is prepared and transmitted by the campus Office of Financial Management to advise requesters of the deadline(s) established that year for submitting requisitions. The Purchasing Office may also send out a notification or reminder. Deadlines may vary, depending upon the funding used and type of acquisition being requested. *PSS 96-12, 96-19.*
- 2.41 **Purchase Order and Contract Coding Designations:** There are various codes used on requisitions, purchase orders, contracts, service orders, and other instruments associated with acquisitions. These codes serve the important purpose of streamlining and speeding up the data collection function while accommodating the electronic sorts that must be performed to meet reporting requirements. They may be viewed on the "help" screen in the campus Electronic

Purchasing System. A Code Book is used as the guide to these coding notations. The codes are applicable to acquisition documents processed in hard copy and electronic form alike. Given codes may undergo revision from time to time; therefore, it is essential that all individuals who have the responsibility for preparing and processing acquisition documents are collectively referencing the latest release of the Code Book. *PSS 93-03.*

- 2.42 **Commodity (and Service) Codes:** This is a special category of coding designation that pertains to every kind of acquisition, for products and services alike. Purchasing Office staff members assigned to process requisitions must place an appropriate commodity code in the designated data block of every requisition received, whether the requisition is processed electronically or in hard copy form. *PSS 97-09.*
- 2.43 **Change Orders to reflect Price Changes or Other Modifications:** Change requests to requisitions normally should be prepared on a "Change Request Form." Name corrections, funding identification errors, or changes considered to be minor in nature, however, may be submitted on a memorandum, by edp transmission, or by other correspondence, from an authorized requester. Under any set of circumstances, all changes made to a requisition must be documented. Change requests that add money to a requisition are documented by use of the Change Request form unless the requisition has already been processed into a formal acquisition document. In that event, the requester may be advised to submit a new requisition for the additional money, referencing the earlier requisition by the number that was assigned to it. Major changes to a requisition often can be accommodated most readily by canceling it entirely and submitting a new revised requisition with a new identification number. If the earlier requisition has already been processed into a formal acquisition document and issued to a provider before the discovery of a needed major change, the Purchasing Office staff member assigned the responsibility for placing the order must be advised prior to a new or revised requisition being submitted. *PSS 92-03, 92-15, 94-18, 94-19, 94-28, 95-10, 95-38.*
- 2.44 **Zero Encumbrance Balance (No-Value) on Open Orders:** Encumbered purchase orders, contracts, and service orders with no-value remaining in the designated cost or price data fields cannot be held open. The computer software modules, by their programmed features, do not accommodate standing encumbrances without having price or cost figures connected to them. For an order to be kept open for further activity (such as on some multi-year contracts) the cost or price data block must contain a holding line figure of at least one (1) cent in value. One way to re-create or preserve some amount of value on an open order with zero balance is to submit a Change Order or Amendment before the order is closed, to reflect the requested services or commodities not yet received. *PSS 94-36.*

- 2.45 **Termination or Cancellation of Orders:** The words “termination” and “cancellation” are often interchangeable in use—both result in the closure of a purchase order, contract, or service order ahead of the time previously agreed upon by the parties. Generally, purchase orders or service orders (unilaterally-signed agreements) are “cancelled”, whereas contracts (bilaterally-signed agreements) are terminated.

Upon receipt of a request for cancellation, the Purchasing Office staff member originally assigned the requisition must make contact back with the requester to advise whether or not the request can be cancelled (if the contract or order has already been issued to a provider, it may not be recallable). If both the requester and the provider are willing to accept a no-cost cancellation, the cancellation may be processed. If there is a cost to cancel (e.g., a restocking fee, a return fee, etc.,) the cost must be brought to the requestor’s attention. If the cost is accepted, that cost must be covered either by a change order (Change Request Form) or a new requisition from the requester before a cancellation can be processed.

Many contracts have provisions that allow for termination for convenience by either or both parties to the contract. The provisions may call for termination with a specified number of days advance notice or may allow a party to terminate the contract when or if a certain event occurs. In most cases a notice of intent to terminate should be initiated, with the actual notice of termination following.

When a contractor fails to deliver supplies or provide services or otherwise substantially fails to perform the terms and conditions of the contract (this is termed a “default”), the campus may terminate the contract for cause in accordance with the termination clause (generally included in the CSU General Provisions) as stated in the contract. Instead of an outright default, however, the contractor may commit an *anticipatory* breach of the contract that justifies a termination, such as a notification to the campus that the goods or services cannot be delivered within the timeframe specified in the contract, that a product substitution will be delivered rather than the product specified, or that the cost will be more than that to which the two parties have agreed.

PSS 92-20, 95-33.

- 2.46 **Split Funding of Orders:** Multiple funding sources may be specified on a requisition whenever appropriate. For example, the General Fund and a Trust Fund may both be used to support the purchase of a product in whatever proportion the person who has the authority to expend monies from the respective accounts within those Funds has determined. The split funding must be clearly identified within the cost or price data blocks of the requisition. *PSS 94-09.*
- 2.47 **Use of Prior-Year Funds:** No “new purchases” that use prior-year funds may be requested without an approved waiver from policy issued by the Associate Vice President for Financial Management. The use of prior-year funds is generally

restricted to payments against encumbrances established in previous years for specifically identified acquisitions that were not acquired (or delivered) within the fiscal year that the encumbrance was established. *PSS 94-23.*

2.48 **DGS Billing Codes:** These are account code numbers assigned in numerical block (or range) sequences by the State Department of General Services (DGS) to various state agencies (and including the CSU and CSULB) for the purpose of collecting fees that the DGS exacts for use of its negotiated contracts or for other administrative and business services that it provides. Portions of the sequential blocks are identified to various units within the campus for chargeback purposes as the DGS fees are paid from a central (universal) campus account. The DGS Billing Code must appear on any order or contract issued under a State-negotiated award, such as a California Multiple Award Schedule or a DGS Price Schedule. *PSS 93-14, 97-17.*

2.49 **On-Campus Delegation of P.O.s and Service Orders (Confirming Orders):** The development of methods for reducing the costs of executing low-value purchases through expedited order processing, the use of procurement credit cards, and/or the issuance of low-value purchase authorizations is a CSU policy that the CSULB campus strongly supports. In order to reduce administrative lead-time and to expedite procurement of needed low-dollar items, authority to purchase or acquire goods and services up to \$2,500 directly from a vendor or service provider has been delegated to most individual offices on campus. Selected offices have received this delegation up to an amount of \$10,000. There are specific rules and parameters under which those who receive this delegation must operate. The rules and parameters have been established and are routinely monitored by the Purchasing Office for compliance. They include the prohibition by State law, CSU Policy, or campus policy of an array of substances, products, and services that may not be purchased or acquired under delegated authority. Campus entities that have received the delegation have the responsibility of knowing and complying with the rules and parameters.

Placing an order with a vendor or service provider requires the requester to follow a set procedure, as promulgated by the Purchasing Office. The requester is expected to be familiar with this procedure which includes such things as obtaining a price quote prior to placing the order, giving the vendor or service provider an order number (which is simply the requisition number preceded by a "D"), development of the requisition itself which must include the phrase "CONFIRMING, DO NOT DUPLICATE", and submitting the completed requisition via the electronic purchasing system or by hard copy to the Purchasing Office as soon as possible. Failure to indicate that a requisition is a confirming order can potentially result in the order being filled twice.

CSU Policy 205; PSS 95-24, 98-12.

2.50 **Procurement Cards:** Low-value purchases are authorized for on-campus instructional and administrative offices, via delegations from the campus president and vice-presidents. Such delegations of purchasing authority serve to relieve the campus of inefficiencies and costs that otherwise would be evident if the orders were to be processed by the Purchasing Office in the customary fashion. The campus procurement cards are made available through a contract between the State Department of General Services (DGS) and an outside provider. Instructions for the use of the cards, including written & enforced limitations and restrictions, are printed in the CSULB Procurement Card Manual. A nominal fee (normally ½ of one percent) is charged to the card user by DGS. User summary reports are submitted to the purchasing office monthly for review and are forwarded to the Accounting Office for audit. Charges made on the cards late in a given fiscal year are subject to being charged against the subsequent year's budget, depending upon the deadlines shown on the campus Financial Management Calendar. This Calendar is issued annually by the Associate Vice President for Financial Management. *CSU Policy 205; PSS 96-10, 96-21.*

2.51 **Price Justification on Non-Formal Acquisitions:** Competition is sought, via either formal or informal solicitation, for transactions under \$10,000 (for commodities) and under \$50,000 (for services) whenever the Procurement Officer determines that the competition is necessary to develop a source, validate prices, or for other sound business reasons. Informal solicitations may be secured either orally or in writing. The number of providers from whom quotes or bids are solicited is the responsibility of the Procurement Officer and will generally depend upon the size, complexity or the purchase and market conditions. Before execution of the order there shall be a determination that the price is reasonable. Such determination shall be documented for audit purposes.

“Reasonable price” is defined as a price that does not exceed that which would be paid in the conduct of a competitive business. It may be established by market quotes, price or cost analysis, or the experience and judgment of the Procurement Officer. Such judgment considers total value to the campus. There is value to the campus in acquisitions that meet the campus needs for quality, quantity, and delivery time, and those that further small business and other affirmative action goals. A reasonable price need not be the lowest price available, but is one that offers acceptable value to the campus.

PCC 10301; CSU Policy 401; PSS 96-02.

2.52 **Confirming Orders:** The campus empowers various instructional and administrative offices with general authority to place single orders up to \$10,000 in value directly with an outside provider, prior to submitting a requisition to the Purchasing Office (a few offices that have heavy acquisition needs are empowered with authority that exceeds this amount). Under such an arrangement, it is usual for a vendor to ship items to Central Receiving and to

forward the invoice to Accounts Payable well before the Purchasing Office has received the requisition. In order to expedite delivery of the items to the requester and to pay the invoices, the requisition must be prepared promptly and be delivered (or transmitted) to the Purchasing Office. The Purchasing Office converts the requisition (either by hard copy or electronically) to a purchase order, service order, or contract. Central Receiving receives a copy of, or electronically accesses, the converted requisition. This permits Central Receiving to substantiate the placement of the order and to ultimately advise the Accounts Payable office of receipt. Small business and DVBE information is the reporting responsibility of the requester; appropriate coding for this must therefore be furnished to the Purchasing Office on all confirming order requisitions. *PSS 92-09, 94-10.*

2.53 **Emergency Acquisitions:** As defined in State statute, an “emergency” means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. When such an emergency requires the immediate issuance of an order that would otherwise require a formal bid solicitation, an approved Emergency Purchase Authorization form must be attached to the requester’s requisition and become a permanent part of the file. The form must describe what is being procured, why it is needed, and why formal bids could not be solicited. It must first be approved by a department head and then by the Director of Procurement & Support Services. Emergency acquisitions of \$250,000 or more must receive the approval of the Associate Vice President for Financial Management and the Vice President of Administration. *PCC 1102, 10302; CSU Policy 209; PSS 98-05.*

2.54 **Financed Acquisitions:** Most CSU acquisitions that are selected for financing (periodic payments issued against the principal and interest) will qualify as “tax-exempt” under the provisions of federal and state law. Even though tax-exempt rates for the State and the CSU are invariably less than non-tax-exempt rates would be, any financing arrangements should be planned and negotiated with care, since any interest charges at all add to the total cash outlay for the acquisition. Early involvement of the Director of Procurement & Support Services on such acquisitions is usually wise, since there may be on-campus funding or financing sources to consider first. Generally, financing arrangements are not considered unless the acquisition has a cost of at least \$100,000.

Tax-exempt acquisitions are also subject to additional requirements that assure compliance with federal tax code provisions. Financed acquisitions are identified as tax-exempt whenever the seller/lessor or third party financier intends to claim the interest portion of its proceeds as exempt from federal income tax. Helpful information for the development of contracts that provide for a financed tax-exempt acquisition can be found on the CS&P website at www.calstate.edu/csp/. Fully developed contracts or purchase orders containing the tax-exempt provisions must be submitted, along with all their

related financial documentation, to the Auxiliaries Planing and Bonds Department (APB) at the Chancellor's Office for review and approval prior to execution. The Chancellor's Office is responsible for maintaining records to insure that financiers who issue tax-exempt obligations on behalf of the CSU comply with federal tax reporting obligations. The Chancellor's Office also maintains pre-negotiated terms and conditions with selected financiers, provides model agreements, and coordinates efforts to obtain legal counsel on tax-exempt issues as they arise.

Ed Code 89036; PCC 10320.5, 12113; CSU Policy 214.

- 2.55 **Document Numbering Schemata:** Requesters are encouraged to use automated sequential numbers for their requisitions whenever possible. Purchase orders, service orders, and most contracts normally employ the same document number as used on the corresponding requisitions. The letter "R" which appears as a prefix on the requisition number is usually replaced in the Purchasing Office by a "B" (Blanket), a "P" (being processed by the Purchasing Office), a "D" (Dept. Confirming Order), or a "C" (Correction to the Order).

The number assigned to a lease consists of a two-digit fiscal year designation, followed by a three-digit sequential number.

The number assigned to a teaching agreement or an affiliation agreement consists of the requesting department's designated code number, followed by a three-digit sequential number.

The number assigned to an inter-agency agreement or a memorandum of understanding consists of "CSULB" followed by a two-digit fiscal year designation, followed by a three-digit sequential number.

A document number may also be reserved for any order planned to be issued, pending a bid award. That number may be the requisition number preceded by a "P" or an automatically-assigned number that consists of a "P" followed by one digit that indicates the fiscal year (i.e., "0" would be for year 2000-2001), and four digits at the end of the number that comprise a sequence of all numbers reserved.

PSS 92-17, 95-35, 97-06.

- 2.56 **Purchasing & Contracting Data Input Printouts (FOCUS Reports):** Monthly FOCUS reports on purchasing data (including P.O.s, contracts, and other open orders) are prepared and maintained by the Purchasing Office. There are six of these reports:

REQSORT	Lists all requisitions in system sorted alpha numerically.
REQINFO	Lists all requisitions in system sorted by requisition date.

NOREQS	Lists Orders that do not have requisitions.
DUPPOS	Lists Orders that are duplicated in the system.
POSORT	Lists Orders in the system sorted alpha numerically.
POINFO	Lists Orders in the system by the document date.

Brio query may also be used to produce similar reports as needed.

PSS 94-22.

- 2.57 **Personal Use of University Information:** Unless specifically stated within the terms and conditions of an employment or contractual relationship, it is unlawful for a person to utilize any CSU or CSU auxiliary organization information, that is not a matter of public record, for personal pecuniary gain. Prohibition of such utilization applies whether or not a person is or is not so employed or under contract at the time the gain is realized. *Ed Code 89006; CSU Policy 210.01.*
- 2.58 **Personal Use of University Property or Facilities:** No CSU employee shall derive personal benefit from the use of State or CSU property or facilities, unless such use has been authorized in writing by a person having custodial responsibility for such property or facilities. This authorization must include a statement which assures that such personal use is of benefit to the CSU. *CSU Policy 210.02.*
- 2.59 **Misrepresentation:** The use of CSU procurement facilities or procedures to obtain property or services for personal use, or misrepresentation to vendors or contractors that personal acquisitions are for the CSU when they are not, can result in prosecution for misrepresentation, embezzlement, and theft. *PCC 10334; Penal Code 72; CSU Policy 210.03.*
- 2.60 **Conflict of Interest:** It is unlawful for any person to utilize any information, not a matter of public record, that is received by that person by reason of his or her employment by, or contractual relationship with, the trustees, the California State University, or an auxiliary organization of the California State University, for personal pecuniary gain, not contemplated by the terms of the employment or contract, regardless of whether the person is or is not so employed or under contract at the time the gain is realized. *Ed Code 89006; Gov. Code 81000 et seq., 82019, CSU Policy 210.04, 412.10.*
- 2.61 **Endorsement of Products or Services:** No person shall, without the permission of the Trustees, use the name “California State University” or any abbreviation of it or any name of which these words are a part, for endorsements of any commercial product or service through the use of advertisements or promotions. *Ed Code 89005.5(a)(2)(3); Trustees’ Resolution 63-16; CSU Policy 210.05.*

- 2.62 **Splitting of P.O.s or Contracts:** No person shall willfully split a single transaction into a series of transactions for the purposes of evading bidding requirements as is prescribed in law, regulations, or CSU policy. *PCC 10329; CSU Policy 210.08.*
- 2.63 **Advance Payments:** Payment in arrears is the prescribed method of remitting payments for State acquisitions. Documentation is required to be recorded by the disbursing officer that appropriate return and/or in-kind value has been received before a disbursement of funds is made. Advance payments on some types of transactions are permitted, however, where it can be determined that there is no other way to obtain the service or commodity, where the advance payment is determined to be in the State's best interests, or wherever specifically authorized in law. *PCC 10312; Title 2, Sec. 679; Gov. Code 11257; CSU Policy 210.09.*
- 2.64 **Bid Security Deposits:** A bid bond that is executed by a State-registered bonding agent on behalf of its client (as a competitive bidder) for a State contract or purchase order is often made a requirement by the campus as a condition for accepting a formal bid. However, in lieu of this requirement, the campus may elect to accept a certified cashier's check, payable to CSULB, or cash, along with the submitted bid. If such a form of bid security deposit is accepted, a signed receipt in duplicate must be prepared by the person assigned to receive the deposit on behalf of the campus. The original is delivered to the bidder. The copy is transmitted along with the deposit to the campus Cashier's Office where a holding account for the deposit is established until after issuance of the purchase order or execution of the contract. All bid security deposits must ultimately be returned to the bidders. *PSS 97-05.*
- 2.65 **Protests, Disputes, and Complaints:** Any protest, dispute, or complaint lodged by a bidder, vendor, or contractor shall initially be addressed by the staff member in the Purchasing Office who was assigned to the transaction. Often, an issue may be resolved simply by providing a clarification of the bid document. However, once it becomes evident that a matter cannot be resolved informally by this means, it must be elevated to the next level. At that point, the Procurement Officer (or a delegated representative) formally acknowledges the issue by serving written notification to the bidder, vendor, or contractor that a full and complete formal statement detailing the nature of the problem must be received by the campus within five (5) working days after the notification is issued. Failure to file the formal statement shall be interpreted to mean that the matter has been withdrawn.

Once the formal statement is received, the matter shall be escalated to the Associate Vice President for Financial Management, who has been designated by the Vice President for Administration and Finance to act in such matters. The Associate Vice President for Financial Management shall review the written formal statement filed by the bidder, vendor, or contractor, analyze the actions of the campus to determine whether it acted in a manner consistent with the

requirements of the solicitation document and applicable laws and policy, and shall issue a final decision in a timely manner. The decision shall be in writing and shall be mailed or otherwise furnished to the bidder, vendor, or contractor in such a manner as to ensure receipt. The decision of the campus is final.

If, prior to the award of a contract, and in accordance with the posting of a "Notice to Award", any bidder files a protest on the grounds that the award is not in conformance with the provisions of the solicitation document, the contract shall not be awarded until either the protest has been withdrawn or a decision has been reached by the appropriate campus authorities as to the action to be taken in response to the protest.

PCC 10306, 12102(h); CSU Policy 212; PSS 95-21, 96-25.

- 2.66 **Requests to Review Public Records:** From time-to-time, a vendor or other interested party will request to review a bid, a contract, or other public document. Generally, any record that is subject to review for the public is also subject to be copied for the public, per The Public Records Act. A request may be formal or informal and is to be accommodated in the most reasonable manner, including in advance an agreed reimbursement of costs to the campus (if applicable) and a mutually acceptable timeframe in which the review or copywork is to be performed. Any formal request must be forwarded to the Director of Procurement & Support Services and be handled in accordance with the provisions within the Public Records Act.

The right of public review of records does not include any right to disrupt operations. Thus, while bids are generally not available for full review at the time of bid opening, they could be made available at a subsequent time. Likewise, work-in-progress, such as an evaluation committee's unfinished bid analysis effort, and bidder employee information or financial records are not subject to a public request for review. However, any of these are subject to subpoena by a court.

True proprietary information submitted by a bidder may be protected from public review, but the mere fact that the information is marked by the bidder as proprietary does not necessarily make the information proprietary and protected by the Public Records Act. If material marked as proprietary is requested to be reviewed, the entity or individual claiming it to be proprietary shall be contacted and given the opportunity to demonstrate that it is proprietary. In contested cases, the Procurement Officer shall be advised. An opinion of the CSU General Counsel's Office may also be requested.

Procurement records being reviewed are to remain under the control of and in the presence of Purchasing Office personnel.

PSS 96-32, 96-33.

- 2.67 **Purchase/Contract Status Report:** Twice monthly (on the 1st and 15th) an internal Purchase/Contract Status Report (P/CSR) shall be prepared by Purchasing Office staff members who are assigned to process requisitions and convert them to orders. These are forwarded to the Procurement Officer for review and distribution in the Purchasing Office. Data recorded by staff members is to include (1) all potential two-party contracts, (2) all purchases estimated to cost over \$10,000, (3) all in-process transactions over 45 days old, and (4) transactions selected by the Procurement Officer for tracking. *PSS 92-13.*
- 2.68 **Purchasing System Activity Printouts:** This is an internal daily computer report for the Purchasing Office that consists of two parts: (1) active purchase orders, and (2) approved requisitions. *PSS 93-16.*
- 2.69 **Workload Indicators/Charts:** A series of computerized graphs and charts is prepared for internal management purposes. The graphs and charts indicate the monthly workload for various types of transactions handled by the Purchasing Office. The indicators also include a comparison with prior year workloads for the same month of the year. *PSS 95-06.*
- 2.70 **Document Filing & Retention:** Education Code section 89045 describes the general nature of the materials that must be retained and the time frame for preserving them (five years, or after a Trustees' audit, whichever comes first). The CSULB Purchasing Office maintains Purchase Orders, Service Orders, and Contracts (other than construction and related service agreements) for six (6) fiscal years (i.e., the one in which the document is dated, plus five (5) additional years). Closed documents that are more than two (2) years old are stored outside the Purchasing Office itself.

Closed documents are filed separately by fiscal year and arranged in sequential order by document number (not including the prefix alpha character).

Multi-year orders and contracts are maintained in a separate active (current) set of files until all that was ordered has been received. After such contracts are completed, they are integrated with other orders and contracts completed during the current fiscal year, and stored off-site.

Construction and related service agreements are maintained in the Purchasing Office until the corresponding projects are substantially completed, after which they are boxed separate from all the other closed documents and shipped off-site for storage for a period of ten (10) years.

Ed Code 89045; Code of Civil Procedure 337; CSU Policy 207; PSS 95-39, 95-39a.

- 2.71 **Internal Compliance Audits:** At least once every five years the Trustees' Internal Audit staff is required to perform audits of the activities of the CSU and its campuses. These activities include purchasing, contracting, leasing of CSU property, property management, and other support services generally under the direction of the campus Procurement and Support Services Officers. To ensure compliance with all applicable codes, regulations, and policies, the CSULB Procurement Officer provides or makes available to the auditors all local policies, procedures and descriptions of operating control mechanisms, and any files, documents, records, or reference materials, that may be requested during the course of these audits. *Ed Code 89045(c)(d); CSU Policy 211.*
- 2.72 **Purchasing Office Budgetary Savings:** Purchasing Office staff members who process requisitions routinely are to make calculations (or estimates) that indicate how much savings have been effected on their own particular transaction assignments. Various ways are available to accomplish this, though some of the more common approaches may include (1) obtaining a commodity or service at a lesser cost from a provider not shown on the requisition, (2) negotiating for a lower price from a suggested provider, (3) using available master agreements, and (4) establishing blanket orders for high volume acquisitions. *PSS 95-15, 95-15A.*
- 2.73 **Campus Unexpended Budgetary Savings:** Year end unexpended budget balances from State General Fund appropriations can be carried forward and made available for new encumbrances for up to two additional years (including the subsequent fiscal year). With the approval of the Associate Vice President for Financial Management, balances may also be "re-appropriated" to instructional and administrative accounts any funds that were encumbered or accrued and then failed to materialize or were cancelled during the prior fiscal year. *PSS 95-08.*
- 2.74 **Recurring Reports on Purchasing Activities:** Regular reports are often required by outside entities such as State control agencies, the legislature, and the Chancellor's Office. These include, but are not limited to, recycled product and bleached paper acquisitions, small business contract awards, and disabled veteran business enterprise contract awards. The Purchasing Office designates one staff member to coordinate the scheduling and completion of such reports to assure that they are filed on schedule and are as accurate as they can be. *PSS 93-18.*
- 2.75 **Purged Purchasing Data on Disks:** Archived data, including that generated by the campus electronic purchasing system, is captured by the Purchasing Office and is made available in electronic format. Instructions and guidelines for the use of these disks are also made available by the Purchasing Office. *PSS 94-24.*
- 2.76 **Address Errors on Invoices:** Vendors and service providers sometimes send invoices to the Purchasing Office instead of to Accounts Payable. Normally, the Purchasing Office simply re-routes them to Accounts Payable and advises the

vendor of this mistake via a form letter (it is a violation of acceptable internal control procedures for a purchasing office to handle invoices). However, if the vendor or service provider continues to mis-route its invoices after being advised, the Purchasing Office may return the invoice along with a different form letter advising that a disbursement will not be forthcoming until the invoice is properly addressed. *PSS 97-07.*

- 2.77 **Internal Notification of Bid Openings, Job Walks, Pre-Bid Meetings:** An internal form and cover sheet shall be posted weekly on the “bid board” in the Purchasing Office showing the scheduled bid openings, advertised job walks, and pre-bid meetings for the week. The cover sheet is designed for uniformity and clarity for the reader, including all potential bidders and purchasing office staff. The blank form, to be completed by various staff within the Purchasing Office, is located in the electronic purchasing system under the file <S:/COVER.BID/COVER>. Tuesdays, Wednesdays, and Thursdays are the days these activities are to be routinely scheduled, with pre-bid meetings or job walks at 10:00 AM and bid openings at 2:00 PM. If multiple bid openings occur on the same day, they shall be conducted in a consecutive order with the bidders waiting in the reception area for their particular bid opening session to be called. *PSS 95-45, 98-07.*
- 2.78 **Closedown & Security Procedures for the Purchasing Office:** A routine procedure for desk and office closedowns at the end of the working day shall be followed by each Purchasing Office staff member. This procedure is as follows: log off the computer; turn off the monitor; and turn off all lights in the immediate work area. Additionally, office supervisors shall check visually that individual closedown procedures have been performed, and ensure that all equipment is turned off that does not need to continue running after work hours. The last person to leave the Office shall ensure that all lights and photocopiers are turned off, verify that the coffeepot is not on, and shut and lock the entrance door. At the close of the work week, each staff member shall also log off and shut down his (or her) computer and turn it off along with all other related equipment that does not need to continue running after work hours. *PSS 92-22, 98-01, 98-22.*
- 2.79 **Telephone Courtesy & Responsiveness:** The “golden rule” of phone utilization and courtesy is to be applied by all Purchasing Office personnel. Essentially, what this means is that one’s telephone responses (including voice mail recordings) should be as pleasant and professional as one would like to receive from others. A typical response to an incoming call should be “Purchasing Office...May I help you?” Voice Mail should be used only when the telephone cannot be personally answered. A professional recording, identifying yourself and the fact that you are not available to answer the phone at the moment but that you will return the call if name and number are left, should be utilized. An alternate recording should be utilized if you are away from your desk more than one day. This recording should also offer an optional number to call. Generally, phone messages received should be answered within one day. *PSS 92-23.*

Section 3

Requirements Specific to Commodity Transactions

In addition to the special requirements contained in this Section 3, requirements in Section 2 also apply to the procurement of personal property. *PCC 10295, 10430(c); Ed Code 89036; CSU Policy Sec. 300.*

- 3.01 **Informal Bidding for Orders Less Than \$10,000:** Competition is not required for commodities on informal (non-bid) acquisitions of an amount less than \$10,000 unless the campus determines that competition is necessary to develop sources, validate prices, or for other sound business reasons. Whenever possible, efforts shall be made to secure quotations and develop sources from small businesses and disabled veteran business enterprises. *PCC 10301; CSU Policy 301.*
- 3.02 **Formal Bidding for Orders of \$10,000 or more:** Except in cases where it has been determined that there is but one source which can properly meet the needs of the campus, all purchases of \$10,000 or more (excluding sales tax and shipping costs) must be formally bid and awarded to the lowest responsible bidder meeting specifications. *PCC 1103, 10301; CSU Policy 302.*
- 3.03 **General Provisions for Bidding:** There are specific minimum terms and conditions (referred to as “General Provisions” by the CSU) to which a vendor or bidder must agree in order to sell products to the State or the CSU. These are displayed as Exhibits on the Chancellor’s Office CS&P internet website <calstate.edu/tier3/cs+p/>. The exact wording of these Provisions has been prescribed by the Office of General Counsel and may not be altered without pre-approval from that Office. The Provisions that are applicable to a given acquisition must become an integral part (whether referenced or stated in print) of every bid solicitation issued. Many of these provisions are pre-printed as “Purchase Order Instructions” on the reverse side of the standard P.O. that is used by the campus. However, these are often insufficient for purposes of soliciting bids. For any given bid solicitation, additional provisions may be added whenever needed, and some of the General Provisions in the Exhibit selected for use may be deleted if they are not applicable. However, none of the General Provisions that appear on the set selected for use may be altered, and none that are required under statute or State regulations may be deleted. *PCC 10307; CSU CRL.*
- 3.04 **Posting of Solicitation Notices:** Public notice of the intent to formally purchase on the open market shall be posted in a location easily accessible to any bidder who may wish to participate in the bidding. Complete copies of the bid solicitation are to be maintained in the campus Purchasing Office and made available to any bidder upon request. The solicitation notice may also include an

announcement in an appropriate newspaper of trade journal, including a brief description of the commodity, the closing date and time for bids to be received, and the location where complete copies of the bid documents may be obtained. *PCC 10302, CSU Policy 302.01.*

- 3.05 **Orders to Campus Stores for Office Supplies:** Campus Stores exists for the benefit and convenience of CSULB. It maintains an inventory of many common and frequently requested office supplies. All office supplies must be ordered through the Campus Stores office, if available. The cost to process a purchase order for small-dollar office supply requisitions invariably offsets any savings that would otherwise result by ordering from Campus Stores. All requests for office supplies shall be placed on Campus Stores Supply Order Forms whenever Campus Stores carries the desired items in inventory. For office supplies not stocked in Campus Stores nor listed in the outside supply vendor's catalog, requesters may prepare a requisition, mark it "not stocked in Campus Stores", and transmit it to the Purchasing Office for processing. . Purchasing Office staff members who process these requisitions may nevertheless attach a special form and routinely re-route the requisitions to Campus Stores if it is determined that the office supplies requested are indeed carried in stock. *PSS 92-07, 94-06.*
- 3.06 **Orders to State Stores:** Requisitions for office supplies and other items that are carried by State Stores (a Division of the State Dept. of General Services) shall be routed via the appropriate order form to State Stores by those in the Purchasing Office who process requisitions, whenever such routing is justified by cost savings and the order cannot be filled by Campus Stores. *PSS 94-02.*
- 3.07 **Orders to Forty-Niner Shops:** When a requisition contains items that cannot be furnished by Campus Stores, placement of the order with the Forty-Niner Shops (a non-State entity) becomes an option. Orders that can be fulfilled by the Forty-Niner Shops are not subject to competitive bidding since the transportation cost, delivery time, and convenience are factors that need to be considered. For formal orders, the Forty-Niner Shops may also be invited to bid for the requested product or service whenever it is available from multiple sources. Copier service is also available. Requisitions routed as orders to the Forty-Niner Shops shall clearly specify how delivery is to be made: If the items are to be delivered to Central Receiving the correct FOB designation on the order is "Destination Prepaid." If the items are to be picked up by the requester, the correct FOB designation is "Pick-up by CSULB." *PSS 95-20, 99-02.*
- 3.08 **Restricted Purchases:** The purchase of certain products and substances in general is expressly prohibited by the university. Authority to purchase certain other items is restricted to designated offices and/or individuals. The Purchasing Office periodically distributes lists of these items and issues notices of other items being added to the list or (occasionally) items being removed from the list. Some of these items that are prohibited or restricted include, but are not limited to, live animals, two-way radio equipment and licensed frequencies, fire extinguishers,

radioactive materials, X-ray Machines, hazardous substances such as solvents, toxic materials, and chemicals, ethyl alcohol, narcotics and dangerous drugs, firearms and other weapons, precious metals, and explosives. *CSU Policy 205(4); PSS 92-14, 95-50, 98-17, 98-19.*

- 3.09 **Direct Receipts of Commodities by Requesters:** Requesters receive items directly from a vendor in two (2) ways: (1) Requester or requester's department picks up the item, (2) Vendor delivers directly to the requester's department without going through Central Receiving. The requestor or requester's department may pick up an item directly from a vendor whenever such action is appropriate, but the pick up must be denoted on the confirming requisition submitted to the Purchasing Office as "FOB: Pick-up by CSULB." Pick-up notification is required whether the vendor is an on-campus (i.e., Forty-Niner Shops) or off-campus vendor. Failure to make this notation can result in either a non-shipment or a double shipment of the item. Whenever the requester or requester's department receives the item directly, Central Receiving must be immediately notified of the receipt. A failure to notify can result in a late payment to the vendor and a late payment penalty charge against the university. *PSS 95-19.*
- 3.10 **Multiple Requisitions Merged as a Single P.O.:** Two or more requisitions shall, when required or when deemed practicable, be merged into a single purchase order. Since the processing of every purchase order incurs a cost factor, this policy is intended to cut administrative processing expenses. Multiple requisition numbers may be combined on a purchase order that is initiated automatically within the electronic purchasing system by the Purchasing staff member assigned to process this group of requisitions. It is sequentially-numbered. Notification must be given to the requester that the requisitions have been combined, and the resulting purchase order number must be divulged. *PSS 93-15, 94-05.*
- 3.11 **Vehicle Purchases:** In addition to the normal requirements for purchasing any kind of State personal property, the acquisition of new or used motor vehicles for campus use necessitates additional registration and certification procedures. These procedures are specified within the contents of the California Vehicle Code sections 4000-6100. It is also campus policy to purchase new vehicles utilizing State contracts negotiated by the Department of General Services (DGS) whenever it is practical. Exceptions may be made on the basis of an emergency or the availability of a more favorable price for a vehicle that closely approximates the specifications of the vehicle for which the State is under contract. When a State contract is not used, vehicles shall be procured by a method that documents reasonableness of price. This may be via solicitation of bids, or by the use of reciprocal "cooperative" contracts executed by other governmental or public entities. All campus vehicle purchases where a State contract is not used must be approved by the Associate Vice President for Financial Management. *Vehicle Code 4000-6200; CSU Policy 303.02; PSS 96-14, 96-14a.*

- 3.12 **Hazardous Materials:** Purchases of hazardous materials are restricted by the university to those offices and individuals only that are specifically authorized to do so. The Hazardous Substances Information and Training Act in the California Labor Code specifies that purchase orders for chemicals, solvents, or other products that may contain any kind of hazardous material include a vendor requirement to furnish a Material Safety Data Sheet for the commodity being purchased. *Labor Code 6360-6399.7; CSU Policy 303.03.*
- 3.13 **Library Materials and Information:** Educational materials and information access resources related to campus library services may be purchased without advertising for, (or soliciting) bids. Such materials and resources include books, periodicals, computerized information for library use, educational films, audiovisual materials, test materials, workbooks and instructional computer software. Requesters are encouraged to solicit competitive bids on such materials and resources whenever practical so that opportunities are realized to optimize potential cost savings and benefits to the campus. *CSU Policy 303.04.*
- 3.14 **Prohibition on Commodities Produced by Slave Labor:** Every contract (or purchase order) for the procurement of State or campus equipment, materials, or supplies, other than those related to public works contracts, shall specify that no foreign-made equipment, materials, or supplies furnished to the State or campus pursuant to the contract may be produced in whole or in part by forced labor, convict labor, or indentured labor, under penal sanction. The contractor (or vendor) shall agree to comply with this provision of the contract (or purchase order). *PCC 6108; CSU Policy 303.05.*
- 3.15 **Recycled Products:** The State of California has set legislative goals and guidelines for the procurement of recycled products by State agencies and the CSU. The CSULB Purchasing Office must report recycled product acquisitions for the campus in eight categories: (1) paper products which include, but are not limited to, fine papers, such as xerographic and envelope papers and form bond, corrugated boxes, newsprint, tissue, and toweling, (2) compost and co-compost products, (3) glass, (4) oil, (5) plastic, (6) solvents, and paint, including water-based paint, (7) tires, and (8) steel. Annual data for these categories is gathered by the California Integrated Waste Management Board under the State Agency Buy Recycled Campaign (SABRC).

Purchases of materials, goods, and supplies that are recycled or have recycled material within their content shall be given preference whenever fitness and quality are equal and the cost of such products is no greater than that of their non-recycled counterparts. Requisition processing staff in the Purchasing Office are required to ensure the purchase of materials, goods, and supplies that may be recycled or reused when discarded, whenever it is feasible to do so.

Vendors and contractors are required to certify in writing the minimum percentage, if not the exact percentage, of post-consumer and secondary material in the materials, goods, (or supplies) provided or used. This certification shall be furnished under penalty of perjury, per PCC 12205.

The Purchasing Office maintains a library of recycled-content products and suppliers, and will inform end-users when a comparable recycled-content product is available. End-users must inquire about recycled-content alternatives to these products when placing confirming orders.

All State agencies and CSU campuses are required to prepare annually both a preceding fiscal year's recycling acquisition activity data report and the current fiscal year's recycling product procurement plan. All CSU campuses, including CSULB, are to submit these by September 1 of each year to the Chancellor's Office CS&P Department for consolidation into a systemwide report that is forwarded on to the California Integrated Waste Management Board by October 1. Activity and projected activity is to be reported for all eight categories of recycled product acquisitions.

CSULB is committed to meeting the procurement goals for recycled-content products. The commitment goes beyond meeting statistical quotas. It is a commitment to bring the recycling process full circle. It is important to buy the products that have been produced using the tons of materials that Californians have diverted away from landfills. The lead must be taken in maximizing the procurement of recycled-content products in order to create an ongoing demand for recycled materials. When that has been successfully accomplished, the price of recycled-content products will drop, and the recycling process will truly be an unbroken circle.

PCC 12150-12226; CSU POLICY 303.01; PSS 95-02, 95-03, 95-32.

- 3.16 **Purchases of Paper Stock:** CSULB supports the intent of the State legislature to specifically give preference, wherever feasible, to the purchase of paper products containing recycled paper. Preference shall be given to recycled paper products when such products can be substituted for, and cost no more than, non-recycled paper products and when the recycled paper products meet all applicable State standards and regulations. To encourage the use of post-consumer material in recycled products, campus specifications require recycled paper product contracts to be awarded to the bidder whose paper product contains the greater percentage of post-consumer material if the fitness and quality and price meet the State's requirements.

Vendors are not always consistent with the unit of measure used to quote, ship and invoice. This can cause confusion. It is necessary that the vendor be specifically asked "what unit of measure do you use in shipping and in

invoicing?” The response should be understood, and be used to ensure that the particular unit specified is used on the requisition and the purchase order.

PCC 10855-10860, 12160-12164.5; CSU Policy 303.01; PSS 95-30.

- 3.17 **Two and Three-Way Matching of P.O. Copies:** The matching of purchase order and invoice copies is one of the basic and routine steps in the process of ordering and paying for acquisitions. In essence this step is designed to assure that delivery has been made, that the items received are the items ordered, and that the price is correct, prior to payment being remitted to the vendor. The three entities normally involved with this process are the Purchasing Office, Central Receiving, and Accounts Payable. Accounts Payable, since it receives the invoice from the vendor, performs a three-way match of the invoice to (1) its copy of the purchase order and (2) a second copy of the purchase order from Central Receiving showing that the item has been received.

A confirming order made by a requester, where the item is picked up directly from the vendor, does not require a three-way match of purchase order copies to the invoice since the item is not delivered to central receiving by the vendor. It requires only a two-way match of the invoice against its own copy of the purchase order. The requester’s Division Fiscal Officer must notify Accounts Payable that the goods or services have been received. This is normally done by completing an Authorization To Pay form, or approving & signing the invoice.

The designation of a proper “purchasing type” code on the order is partly dependent upon knowing whether the item being purchased is being routed through Central Receiving or has been picked up by (or delivered directly to) the requester. It is important that the confirming order requisition contain this information; otherwise a risk is introduced that the order will be duplicated (and possibly paid for twice) or that the vendor may not receive payment at all. *PSS 94-21.*

- 3.18 **Property Accounting Capitalization Requirements:** There are certain items of State tangible property that are required to be shown on the accounting records as capitalized assets and therefore be included in the campus’s financial balance sheet. Such items (with some exceptions for items identified as “sensitive” by their responsible custodians) must meet the following three criteria to be so included:

- (1) Have a normal useful life of at least one year;
- (2) Have a unit acquisition cost of at least \$5,000;
- (3) Be used to conduct State business.

As property items are purchased that meet these criteria, they are identified as capitalized property by a process called “tagging.” The tagging of these items

with a campus identification number helps the campus to keep inventory records of all capitalized property on campus. It also permits a means of conducting periodic audits (reconciliation) of property holdings on the campus, as well as to help prevent losses. Inevitably, some losses of capitalized property do occur and whenever this happens the loss is recorded by a process that is called a “property survey.” The completion and filing of a property survey form removes the item from the campus’s list of capitalized assets and financial records.

PSS 92-18, 93-21, 97-20, 98-02, 98-06.

- 3.19 **Property Survey Board:** This is a body of campus officials that is collectively assigned the responsibility for assuring the integrity of changes made to the university’s property records. The Board membership usually consists of five persons, each of whom is initially appointed by the Associate Vice President for Financial Management upon the recommendation of other campus officials—ordinarily from the ranks of institutional and instructional Division Executives. The members serve for indefinite terms, until or unless replaced by other appointees. They normally consist of the Associate Vice President for Financial Management, Associate Vice President of Information Management and Analysis, the Assistant to the Vice President of Fiscal Operations, Assistant to the Vice President for Academic Affairs, and the Director of Procurement and Support Services. Additional members can be added whenever necessary or appropriate.

The Board reviews Surveys, Transfers, Donations, and other transactions as necessary to ensure that the best interests of the State, CSU, and campus are served. It convenes as necessary and normally at the call of the Vice President for Financial Management. It may conduct all necessary business without formally convening (i.e., transactions may be routed through appropriate members). Action may be taken or a decision rendered upon common resolution of a minimum of two (2) Board members, unless a formal Board meeting has been convened and then a majority of the members must agree to the action or decision.

PSS 94-16.

- 3.20 **Missing or Stolen Property Items:** The campus Office of Public Safety and the campus Property Office must both be notified of any missing or stolen university property. The notifications must be given by submitting a “Missing or Stolen Item Report” form (using the same reference number) to both offices. This Report form must be submitted in addition to any other form that is submitted such as a “Police Report”, “Incident Report”, or “Property Survey.” *PSS 96-03.*
- 3.21 **P.O.s Designed for Ordering from Various Suppliers:** Normally, one (1) purchase order should have one (1) vendor. The campus electronic purchasing system (computerized ordering) does not accommodate other methodologies of ordering. However, circumstances arise on rare occasions when a single order (of

less than \$10,000 for commodities or less than \$50,000 for services) could be used for multiple suppliers in order to control administrative processing costs. An order for multiple suppliers becomes practical, for example, to arrange for small-item repair parts, artist's models, test proctors, and other frequently-ordered small items or temporary short-term services. Whenever the need for such an order arises, the Procurement Officer must first be advised so that special arrangements can be made to encumber the total amount of anticipated expenditures under a single encumbrance and then to make payments to the individual suppliers as they become due. The multiple vendor order is called a "dummy order." It accommodates the electronic purchasing system's nuance of requiring one supplier only for each order. *PSS 93-06, 94-08.*

- 3.22 **Freight Shipment Charges:** The cost of freight is routinely added to the total cost of all items listed on a purchase order before the encumbrance is established. The majority of vendors bill only once for the freight charges (as a total, even though multiple shipments are scheduled). If multiple shipments are to be made by the vendor and each shipment is to be billed separately, it is important that Central Receiving make a note of it and keep the Accounts Payable office advised that further freight charges are forthcoming. As a State agency, the CSU may take advantage of any State agreements established for the purpose of cutting costs via reduced shipping rates.

Outgoing shipments from the campus are rarities, but there are times when they must be made. While the campus Central Receiving area is neither equipped nor staffed to regularly arrange for and process outgoing shipments, it can act as a holding area where items may be dropped off and held until a carrier or trucking line arrives to pick them up. Five days advance notice should be given for any holding request made, so that space can be arranged adequately and a proper record can be made in advance to help avoid losing track of the item(s). A "Request For Outgoing Freight" form must accompany all shipments. For materials that were shipped wrong, damaged, or over-shipped by a vendor, the vendor must be contacted to furnish a Return Material Authorization (RMA) form prior to shipment being made. The RMA also entails the furnishing of call tags to identify each package being returned. If Facilities Management is requested to move the item(s) to the Central Receiving area, a Work Order form must be completed and submitted 5-7 working days in advance of the date that the move is to be performed. Special situations with extenuating circumstances can be handled on an emergency basis. *PSS 94-04, 94-14, 96-26.*

Section 4

Requirements Specific to Contracts and Service Orders

In addition to the special requirements contained in this Section 4, requirements in Section 2 also apply to the procurement of contractual services and service orders. *Ed Code 89036, 89038, 89048(d), CSU Policy 400.*

- 4.01 **Informal Bidding for Services:** Competition is not required for services on transactions of an amount less than \$50,000 unless the Purchasing Office or the requester determines that competition is necessary to develop sources, validate prices, or for other sound business reasons. All transactions made under the CSU procurement authority shall, however, be designed to encourage active competition among all those seeking to become providers of services to the campus. Efforts shall also be made to secure quotations and develop sources from small businesses and disabled veteran business enterprises. *CSU Policy 401.*
- 4.02 **Formal Bid Requirement Threshold of \$50,000 or more:** Except in cases where it has been determined that there is but one source that can properly meet the needs of the campus, a contract for \$50,000 or more must be formally bid and awarded to the competitive bidder who offers the best value to the university. Bids for services in excess of \$50,000 are also advertised in the California State Contracts Register whenever possible. *CSU Policy 401.*
- 4.03 **Posting of Solicitation Notices:** Public notice of the intent to formally request services from the open market shall be posted in a location easily accessible to any bidder who may wish to participate in the competition for a contract award. Complete copies of the bid or proposal solicitation document must be maintained in the Purchasing Office and made available to any interested bidder upon request. The solicitation notice may also include an announcement in an appropriate newspaper or trade journal, including a brief description of the work to be performed, the closing date and time for bids or proposals to be received, and the location where complete copies of the solicitation document may be obtained. *CSU Policy 402.*
- 4.04 **Standard Contracting Forms:** There are standard CSU contracting forms available for use by CSULB for a variety of functional applications. These may be viewed and reproduced for use from the CS&P Contracting Resource Library on internet website <calstate.edu/tier3/cs+p/>. If there is any question regarding the proper form to use for a specific application, it is advisable to contact the CSU Office of General Counsel to obtain the answer. Using the wrong form or preparing a hybrid form to try to suit the occasion can lead to a myriad of potential problems, including legal ones. No deletions, additions, or significant variations from the format or content of a standard form developed and approved for systemwide use is permitted without prior authorization from the Office of General Counsel. CSU campuses, including CSULB, use a common form for the

execution of most bilateral contracts. This form is patterned after the Standard Agreement Form 2 that is used by all California state agencies, but contains terminology in it that is more specific to the policies, terms, and conditions of the Trustees of the CSU. It is referred to as the CSU Standard Agreement. *CSU Policy 409; CSU CRL; PSS 94-38, 94-39.*

- 4.05 **General Provisions for Services:** There are specific minimum terms and conditions (referred to as “General Provisions” by the CSU, but sometimes called “Administrative Requirements”) to which a contractor must agree in order to provide services to the State or the CSU. These are displayed as Exhibits on the Chancellor’s Office CS&P internet website <calstate.edu/tier3/cs+p/>. The exact wording of these Provisions has been prescribed by the Office of General Counsel and may not be altered without pre-approval from that Office. The Provisions that are applicable to a given acquisition must become an integral part (whether referenced or stated in print) of every contract issued. For any given contract, additional provisions may be added whenever needed, and some of the General Provisions in the Exhibit selected for use may be deleted if they are not applicable. However, none of the General Provisions that appear on the set selected for use may be altered, and none that are required under statute or State regulations may be deleted. *PCC 10351(2); CSU Policy 410; CSU CRL; PSS 95-42.*
- 4.06 **The Service Order:** The Service Order may be used to obtain various kinds of services on an informal basis (the cost must be less than \$50,000) whenever it is determined that there is no need to require both parties to sign a formal agreement (e.g., where minimal legal liabilities exist), or where timing or circumstances make it impractical to employ a formal agreement (such as emergency repair needs). *CSU Policy 406.*
- 4.07 **Contract Language Requirements:** Terms and conditions beyond the minimum standards (CSU Standard Agreement format and General Provisions) may be incorporated into a contract whenever there is concurrence between the campus and the contractor that such terms and conditions are necessary to convey a clear understanding of each party’s role, its obligations, and the parameters in which the activities must be carried out, under the contract. Such additional terms and conditions, whether proposed by the campus or by the contractor, must first be determined to be in concert with all applicable laws, regulations, and policies prior to the contract being executed.

Some guidelines useful in the preparation of contract language are as follows:

1. Use the correct standard form.
2. Be consistent in the use of terminology throughout the contract (e.g., “shall” and “will” do not mean the same thing; nor do “vendor” and “contractor”; if CSULB is used one place, do not use “campus” or “university” in another; use

either the word “Agreement” or “Contract”, but not both when referring to the document at hand).

3. Active voice is usually preferable to passive voice, and mixing the two together in the same contract is unacceptable.
4. Clarity and simplicity are paramount.
5. Exhibits, attachments, addenda, and other parts of a contract must be clearly marked, sequentially arranged, and referenced accurately throughout the text.
6. State the payment terms clearly and unambiguously regarding when, how, and to whom they apply.
7. Two or more persons should proofread or edit the contract carefully after it has been drafted.

CSU Policy 410, 411; PSS 94-41, 97-01.

- 4.08 **Commencement of Work Clause:** Except in cases of emergency to protect human life or State property, work shall not commence on any contract until the contract has been approved by the appropriate authority. Any work performed by the contractor before the date of approval can be considered as having been done at the contractor’s own risk, and potentially as volunteer work. *CSU Policy 412.01.*
- 4.09 **Compensation (Pay) for Contracting Work:** Payment and consideration provisions depend on the complexity and difficulty of the project, the current rate for similar work both within and outside State service, and the qualifications and experience of the individual(s) or firm awarded the contract. Contracts will list the rate of compensation to be paid for all consideration and other expenses. Reimbursement of transportation costs and an allowance for per diem (while travelling) should be in conformance with the CSULB reimbursement policies applicable to CSULB employees. *CSU Policy 412.02.*
- 4.10 **Progress Payments:** A “progress payment” is defined as any partial payment of the contract price during the progress of the work. If a provision in the contract calls for progress payments to be made, they shall be made at clearly identifiable stages of progress, and be based upon written progress reports submitted with the contractor’s invoices. Progress payments shall not be made in advance of services rendered. *CSU Policy 412.03.*
- 4.11 **Contracts with Local Government Entities:** Where one of the contracting parties is a county, city, district, or other local public body, the contract shall be accompanied by a copy of the resolution, order, motion, or ordinance of the local governing body by law having authority to enter into the proposed contract, approve, and to authorize its execution. CSULB may wish to have such a contract undergo a review by the Office of General Counsel. *CSU Policy 412.04.*

- 4.12 **Contracts with State Boards and Commissions:** Contracts proposed by State Boards and Commissions in excess of \$1,000 must be accompanied by copies of the resolution, order, or motion authorizing execution of the agreement, unless CSULB previously has been furnished with evidence of the authority of the person executing the contract, or the person has statutory authorization. *CSU Policy 412.05.*
- 4.13 **Interagency Agreements:** An Interagency Agreement is a negotiated contract between two State agencies (or an agency and the CSU) for the purpose of conveying one party's services to the other party for a price, for exchanged services, or for some other form of authorized consideration. Generally, it may contain specific terms and conditions to which each agency has agreed, but is left devoid of indemnification clauses, hold harmless statements, and other legal protective devices routinely employed by the State in contracts with non-State entities. All Interagency Agreements exceeding \$10,000 must contain a provision that the contracting parties shall be subject to the examination and audit of the State Auditor for a period of three years after final payment under the contract. The examination and audit shall be confined to those matters connected with the performance of the contract (Gov. Code Sec. 8546.7). *Gov. Code 11256-11263, 8546.7; CSU Policy 407.*
- 4.14 **Intra-Agency Agreements & MOUs:** Campuses may enter into agreement with one another for the purpose of providing reimbursed services, or an exchange of services, through the use of the standard CSU form "CSU Project Expense Agreement" or a "Memorandum of Understanding." Both of these transaction instruments are exhibited on the internet CS&P website calstate.edu/tier3/cs+p/. *CSU Policy 408.*
- 4.15 **Contracts with Auxiliary Organizations:** CSULB may enter into non-competitive contracts with its auxiliary organizations via the use of Standard Agreements, Service Orders, or other standard CSU transaction instruments as appropriate. However, it is incumbent upon requesters for these services to be satisfied that the cost is competitive with that found in the open market for similar services.
- The University Services Program (USP), which is managed by the Sacramento Office of the CSU, provides systemwide services and expertise to the CSU, its campuses, and to other State agencies by arranging for desired services to be performed by the most ostensibly qualified auxiliary organization for a specific task. There is usually a standard fee charged for this service, although some fees can be negotiated.
- Contracts between State agencies (including CSU campuses) and campus auxiliary organizations are exempt from the State's general requirement of competitive bidding prior to making award, as per PCC 10340(b)(3). The purpose of this exemption is to accommodate contracts that provide services related to research, workshops, institutes, and other educationally-related studies or projects

and are generally available only from institutions of higher education or their research faculty and staff.

Where the primary responsibility for fulfilling the contractual obligations for another State agency will rest with an auxiliary organization (as opposed to the campus State-side administration), the contract must be between the State agency and the auxiliary organization—usually in the form of a Standard Agreement. A contract between a State agency and an auxiliary organization is not an interagency agreement. Where the primary responsibility to administer and fulfill the obligations of a contract with another State agency rests with the campus State-side administration (as opposed to its auxiliary organization), the campus shall execute an interagency agreement with the other State agency and then arrange its own contractual relationship with its auxiliary. **In this type of arrangement, there are no legal obligations between the other State agency and the auxiliary.**

Ed Code 89900 et seq.; PCC 10340(b)(3); Title 5, Sec. 42400-42700; CSU Policy 413 et seq.

- 4.16 **Signatures for Processing Contracts:** The Purchasing Office maintains a list of “Authorized Signatures for Contractual Documents and Vehicle Inspections.” To ensure that the contract dollar amount is correct and funding source shown on a contract (and underlying requisition) is correct and adequate prior to the execution of a contract, the contract shall first be reviewed by the Procurement Officer, and then routed for certification and signature to the university controller, the contractor, and back again to the Procurement Officer (or designee). If during the course of the review a funding or cost error is detected, the error must be corrected and the revised contract be resubmitted for signatures in the same order as before. *PSS 92-10, 93-19.*
- 4.17 **Amendments to Contracts:** Contracts (or Service Agreements) awarded on the basis of competitive bidding may not be modified unless (a) the contract, or the law governing the bidding, includes a provision for amending or modifying it, or (b) unforeseen additional work becomes necessary (as confirmed by the campus). *CSU Policy 405.*
- 4.18 **California State Contracts Register:** The California State Contracts Register (CSCR, and recently re-named ECSCR to denote that it is fully “electronic”) is a Department of General Services internet publication that advertises for bids on service agreements and public works by category for State agencies (and the CSU). It provides an equal opportunity for all businesses to compete for a share of State contracts. It is promoted by the Office of Small Business Certification & Resources (OSBCR). Fees are exacted for the advertising services. The internet website that provides access is <osbcr.dgs.ca.gov/cscr>.

It is the systemwide policy of the CSU to advertise in the CSCR to the extent possible. The CSULB campus policy, specifically, is to advertise in the CSCR any bids for services with a dollar value of \$50,000 or more whenever possible. All public works bid solicitations with an estimated dollar value of \$250,000 or more shall be advertised in the CSCR. The campus requester (or the requester's department) normally is expected to pay the advertising fee to use the CSCR. There are specific instances where advertising in the CSCR may be exempted:

1. Emergency contracts necessary for the immediate preservation of life or State property (requires a written justification to be recorded);
2. Contracts for the work or services of a State (via an Interagency Agreement), local, or federal agency;
3. Services for which the State has entered into a California Multiple Award Schedule or a master services agreement;
4. Refuse and/or sewage disposal contracts where there is no competition because the contractor is an authorized franchise dealer providing services to a specific geographical area;
5. Contracts for medical care services with physicians, local community hospitals, and medical groups (this does not include offsite laboratory services);
6. Subvention contracts (non-discretionary grants) with a private or nonprofit entity for the purpose of providing services to the public or segments thereof;
7. Maintenance agreements for equipment that is under warranty or while the guaranteed useful life period is in effect, or agreements where the campus has determined that a local distributor or branch is the only source for parts and service;
8. Proprietary software contracts;
9. Leases or rentals for use as examination sites;
10. Entertainment contracts for State-sponsored fairs and expositions;
11. Contracts for which only per diem and travel expenses are paid and there is no payment for service rendered;
12. Contracts solely for the purpose of obtaining expert witnesses for litigation;
13. Contracts for legal defense, legal advice, or legal service;
14. Contracts with business entities operating handicapped workshops that meet the criteria established by Section 19404 of the State Welfare and Institutions Code;
15. Contracts for architectural or engineering services;
16. Contracts for Guest Lecturers;
17. Contracts for Guest Performers;
18. Intra-agency (internal CSU) agreements;
19. Contracts with CSU auxiliary organizations.
20. Contracts with moving companies to relocate recruited and active employees.

All other contracts for services with a cost of \$50,000 or more, and public works estimated to cost \$15,000 or more, must be advertised unless a “Request for Exemption from CSCR Advertising” has been approved. Purchasing Office staff members who process requisitions may sign the exemption form up to an amount of \$50,000. A Purchasing Office supervisor may approve the exemption up to an amount of \$100,000. Exemption requests that are for \$100,000 or more must be approved by the Director of Procurement & Support Services or the Associate Vice President for Financial Management. The criteria for the waiver of a CSCR advertisement is contingent upon factors such as the complexity of the service, the unique experience required, whether the procurement has been approved as a “sole source”, whether the required timeframe for delivery of the service precludes the possibility of advertising, and generally whether the best interests of the campus would be served. All approved waivers shall be filed with the contract.

Gov. Code 14825; CSU Policy 403; PSS 96-18, 97-18.

- 4.19 **Departmental Copier Program (campus operated):** This is a campus charge-back support program that is administered by the Director of Procurement and Support Services as a service to faculty and staff. To assure that the program can be self-supporting and effective, the use of this service by campus employees on State business is compulsory (as opposed to the purchasing of photocopies from outside providers). Program copy machines are located in offices throughout the campus and at several satellite locations. All requests for the purchase or lease of copy equipment, or of accepting the donation of copy equipment, must first be reviewed by the Copier Program office (central reprographics) regardless of the purpose or the funding source. This office has final authority for the acceptance or rejection of such requests. Copier Program photocopiers are accessed by either an auditron key counter, a plastic copycard, or a numeric code. These access devices are issued to faculty and staff members who submit an authorized written request to the Program office. *PSS 98-13, 99-02.*
- 4.20 **Printing & Binding Orders:** The University Print Shop & Quick Copy Centers offer professional printing and binding services to the entire campus community on a charge-back basis. To assure that the program can be self-supporting and effective, the use of this service by campus employees on State business is compulsory (as opposed to having the work performed by outside providers). A “University Print Shop Work Request Form” (available from Campus Stores) referencing an authorized university account number is required for these services. When the Print Shop or its Copy Centers cannot provide the desired service, a requisition for off-campus service may be submitted to the Purchasing Office for processing. However, such requests must be reviewed and authorized by the Manager of the University Print Shop. Once approved, a request may still be subject to the CSU’s competitive bidding requirements. The requester or the Purchasing Office staff member who processes the requisition may also opt to contract with the Office of the State Printer (a Division of DGS), and without the

solicitation of competitive bids, whenever it is determined that greater efficiency would be served by doing so. *CSU Policy 412.08; PSS 92-08, 96-17, 97-02, 98-20.*

- 4.21 **Monthly Billing Cut-Off Dates for University Print Shop, Campus Stores, and Departmental Copier Program:** About one week prior to the end of each month, the campus Accounting Office closes its work-in-process activities for the month in order to accommodate monthly computer data reports for the Financial Accounting System (FAS). Cut-off dates for processing transactions are established for all campus departments and programs, the University Print Shop, Campus Stores, and the Departmental Copier Program included. For the Print Shop and Campus Stores, the cut-off date is the 24th of the month. Any work request or requisition received after that day is billed to the succeeding month. For the Departmental Copier Program, copy machine readings are taken a few days prior to the 24th, but those readings must be submitted to the Accounting Office by the 24th in order to be billed for that month. Any readings submitted later than the 24th are billed to the succeeding month. If the 24th falls on a weekend or holiday, the billing cut-off date is extended to the first work day following the 24th. *PSS 97-16.*
- 4.22 **Moving Expenses:** Operating policies and procedures that govern moving expenses and relocation allowances for newly recruited university personnel and active employees are maintained by designated offices within the CSU and CSULB. The Purchasing Office involvement is minimal, normally limited to the placement of a standard agreement or service order with the household goods moving company that is specified on a departmental requisition. Negotiated systemwide Master Agreements for personnel relocation may be available for any given move and are encouraged to be used. Orders for moving expenses and relocation allowances are not subject to sole source justification and are processed as confirming orders. *PSS 96-20.*
- 4.23 **Funding of Aquisitions:** All requisitions that are intended to result in a procurement award must contain complete funding information. On the electronic purchasing system, the blank system form that appears on the computer screen provides funding data fields that are to be filled in by the preparer with the necessary funding data. If the accounts identified have the necessary funds available for the intended acquisition, the system will automatically permit the requisition to be completed. For any hard copies of requisitions submitted to the Purchasing Office, the funding data is further examined by the Purchasing Office in order to verify the accuracy of the information and the adequacy of the funds available. If a funding problem is identified on the hard copy, the requestor is notified and a revised requisition must be submitted. *PSS 94-30.*
- 4.24 **Independent Contractors and Consultants:** Service contracts between the campus and individual contractors (including “consultants”) are useful for providing the campus with certain skills and working experience that may not be

available from the ranks of existing staff for a particular task or that are inaccessible at the time the task is to be performed. Supporting documentation for such contracts must confirm, however, that an independent working relationship will exist between the two parties for the entire term of the agreement. The following guidelines are provided to assist in the distinction between (a) an employer/independent contractor relationship vs. (b) an employer/employee relationship. These are based upon criteria used by the Internal Revenue Service, the State Employment Development Department, the California State Franchise Tax Board, and other public service agencies. The guidelines were summarized in State DGS Management Memo 95-18 entitled "Independent Contractor/Employee Payroll Taxes." They included the following:

1. An independent contractor generally is engaged in a distinct occupation or profession, e.g., in the business of providing consulting or other services to the job being contracted.
2. Independent contractors perform independently; whereas, under an employer/employee relationship the employer retains the right to direct and control the work being performed, as well as control over the details or techniques of the work.
3. The working area, supplies, and/or equipment generally are not furnished to independent contractors.
4. Compensation for independent contractors is reflective of the specific work accomplished; whereas, employment relationships are generally compensated by payment of a set sum by the hour, week, or month, based upon established hours of work. Employer benefits (sick leave, vacation, insurance coverage, etc.) do not accrue to independent contractors.
5. The work being performed must not be of a type that is integrated into routine or ongoing employer operations.
6. The employer must not make direct payments for business, per diem, or travel expenses incurred by the independent contractor.
7. An employer/employee relationship exists when the worker can quit or be terminated at any time; whereas, an independent contractor is legally obligated for failure to complete the job unless the agreement is terminated.

Bids may or may not be solicited for an independent contractor depending upon (a) whether the cost of the contract is estimated to be \$50,000 or more, and (b) whether the proposed provider of the service is considered to be a sole (unique) source. If bids are not solicited, the requester for the services of a particular independent contractor must provide the contractor's social security number or federal tax i.d. number along with the other required information on the requisition before it is transmitted to the Purchasing Office for processing. The Purchasing Office ascertains from the Payroll and Personnel Offices that the proposed contractor is not an employee of the university. A contract shall not be awarded until this determination is documented.

Contracts for personal or other services (including consultancies) that are planned to exceed six months in duration must first be submitted to the campus Employee Relations Office to meet the legally-required 120-day notification to the appropriate collective bargaining organization.

A “consultant” is a special kind of independent contractor. A “consulting services contract” is defined as an agreement with an independent contractor to have work performed that is advisory in nature, provides a recommended course of action or personal expertise, and results in an end product that is basically a transmittal of information, either written or verbal. Such a contract shall not include:

1. Contracts with the federal government;
2. Contracts with local agencies (as defined in Section 2211 of the U.S. Revenue and Taxation Code) as subventions to federal funds for which no matching State funds are required;
3. Contracts for the development, maintenance, administration, or use of licensing or proficiency testing examinations (such as academic accreditations, program reviews, and other external evaluations);
4. Contracts for public works architectural or engineering services.

Consulting agreements are subject to the same policies and procedures as service agreements in general. Additional special processing requirements to be performed whenever a campus contracts with an independent contractor serving as a consultant include:

(1) Conflict of Interest

If a consultant provides services for the preparation or development of recommendations for any actions required, suggested or otherwise deemed appropriate and which include the provision, acquisition or delivery of products or service; then the consultant must provide full disclosure of any financial interest including but not limited to service agreements, memos of understanding, and/or re-marketing agreements that may foreseeably allow the consultant to materially benefit from the adoption of the recommendations.

(2) Testifying

When a consultant is retained as an expert witness in pending litigation, the rate paid must be consistent with the complexity and difficulty of the testimony to be given, the current rate for similarly qualified consultants, and the qualifications and reputation of the particular consultant. The contract must specify exactly what the consultant is to do--submit to depositions, testify in court, make other appearances, etc.

The following applies to the preparation of consultant contracts:

- Consulting contracts shall be prepared on the CSU Standard Agreement Form.
- A “Consultancy Proposal Analysis Form” shall be prepared.
- Consultant contracts shall not be issued to University employees. The proposed consultant’s social security number must not appear on the Payroll Office’s list of active employees.
- A campus project manager shall be identified for each consulting contract. The project manager serves as the campus’s primary point of contact with the consultant and shall approve all payments to the consultant.
- Payments to the consultant shall be based upon a scheduled deliverable or task which has an itemized cost and has been approved by the project manager. Payments shall **not** be made based upon the number of hours worked, and shall **not** be paid in advance of the services performed.
- If a “progress payment” has been requested, payment shall be based upon a written progress report submitted with the consultant’s invoice. The campus shall retain at least 10% of the amount earned, pending satisfactory completion of the entire contract and the work evaluation of the consultant.

Ed Code 89036; Gov. Code 81000 et seq., 82019; CSU Policy 412.09, 412.10; PSS 92-19, 96-28.

4.25 **Illegal Immigrants Contract Prohibition:** Per Executive Order W-135-96 signed on 8-27-96 by the Governor of the State of California, all State contracts must contain the following language: “If Contractor is a natural person, Contractor certifies by signing this Agreement that s/he is a citizen or national of the United States or otherwise qualified to receive public benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 110 STAT. 2105, 2268-69. *Revenue and Taxation Code 3121(d), 6651, 6656, 6662; CSU Policy 412.11.*

4.26 **Liability Insurance Requirements:** Evidence of general liability insurance coverage is required for contracts involving any activities that put the State, the CSU, or the campus, at risk. Such agreements include those for custodial services, landscaping, refuse collection, elevator maintenance, shuttle bus services, pest control and fumigation, excavation or demolition work, the use or rental of cranes, and any other contracts where the services are being performed on campus by independent contractors.

Any contract that may involve risk of injury or damage to persons or property shall protect the State and the CSU against liability by requiring the contractor to carry general liability insurance in an amount no less than \$1,000,000 per person, and no less than \$2,000,000 aggregate per occurrence. These limits of coverage are minimum amounts, and in any situation where an unusually high risk of liability is present, the campus, in accordance with guidelines established by the Chancellor’s Office, may require the Contractor to carry insurance with higher limits.

Contracts requiring insurance coverage shall contain the following provisions:

1. Contractor shall furnish to the campus prior to the commencement of work an underwriter's endorsement with a certificate of insurance stating that there is liability insurance presently in effect for the Contractor with a combined single limit of not less than \$1,000,000 per occurrence, and \$2,000,000 aggregate; and that vehicle insurance (where applicable) is in effect with a minimum coverage of \$1,000,000 per occurrence.
2. The certificate of insurance shall provide:
 - (a) that the insurer will not cancel the policy holder's coverage without thirty (30) days prior notice to the campus;
 - (b) that the State of California, the Trustees of the CSU, the CSU, and the employees, officers, and agents of each of them, are included as additional insureds, but only insofar as the operations under this contract are concerned;
 - (c) that the State, the Trustees, the CSU, and the employees, officers, and agents of each of them shall not be responsible for any premiums or assessments on the policy.
3. Contractor agrees that the bodily injury liability insurance herein provided shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, Contractor agrees to provide at least (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided herein for not less than the remainder of the term of the contract, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the CSU, and the Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event Contractor fails to keep in effect at all times insurance coverage as herein provided, the CSU may in addition to any other remedies it may have, terminate this contract upon the occurrence of such event.

Short-term licenses issued by CSULB or one of its auxiliaries for special on-campus events shall require evidence of coverage, whenever they pose a significant level of risk. These include, but are not limited to, athletic events, automobile or motorcycle races, rodeos, thrill shows, and firework displays.

No project work or event activity may commence until the required insurance documents are on file, and it is critical that insurance be in effect for the **entire contract term**. If the insurance coverage expires during the contract term, new certificates must be obtained prior to the contract expiration date. The Purchasing Office shall coordinate with Facilities Management, the Housing Office, and other campus departments regarding projects that extend beyond the initial insurance period.

CSU Policy 412.06, Executive Order 743; PSS 96-30.

- 4.27 **Contracts involving Hazardous Materials:** Contracts involving the handling, removal, or disposal of hazardous materials shall be developed in accordance with the CSU's model contract for hazardous material removal, and comply with all State and Federal requirements. This model can be found at the CSU website address <calstate.edu/tier3/cs+p/crl/crl.html#models>. *CSU Policy 412.07.*
- 4.28 **Requisitions for Guest Artists and Lecturers:** A requisition for a guest artist performance or lecturer's appearance may be processed as usual by converting it into a service order. Sole source justification is not required due to the unique nature of the service. Generally, the guest or guest's agent will provide a "contract" for signing. The "contract" must be reviewed, approved, and countersigned by the Purchasing Office prior to returning it with the service order. After execution of the "contract", a copy of it shall be retained in the Purchasing Office's files with a campus copy of the service order. Direct Payments may be issued to multiple guest artists or lecturers when circumstances warrant it, in which case requisitions need not be prepared at all. *PSS 96-24.*
- 4.29 **Assignment of Contract to a Different Contractor:** An Assignment is a signed legal notification that is required to transfer the responsibility for completing a contract from the original contractor to a subsequent one. This is often because the original contractor is either unable or unwilling to complete the contract, for some reason. CSULB uses a special pre-printed form having specific wording in it to accomplish this.

An Assignment is more than a simple company name change or a redirection of the payment. It is an entire transfer of the contract from one entity to another. After the Assignment is accepted (signed) by all **three** parties involved (the assignor, the assignee, and the CSU), the normal expectation is that the assignee is to perform the contract and receive payment. Once executed, the Assignment is to be incorporated into the contract by a formal amendment or change order. For a company name change only, an Assignment is not necessary or appropriate. This can be accomplished via an ordinary amendment or change order to the contract (the contractor must present evidence of the official name change, however, such as an approved corporate filing of a name change with the Secretary of State).

An Assignment may be necessary when one entity sells its business to another, when two entities merge into one, or when one entity purchases (or takes over) another. Fresh designations and signatures may be required on certain ancillary documents to the contract such as bonds, powers of attorney, the insurance certification, or other commitments that were originally signed by the assignor. For purposes of internal control, all Assignments, re-designations of payee, and company name changes shall be brought to the attention of the Procurement Officer.

PSS 95-13.

- 4.30 **Contract Award Report (State Form 16):** State agencies (and the CSU) are required to give written notice at least quarterly to the Department of Fair Employment and Housing (DFEH), Office of Compliance Programs, of all contract awards (but not purchase orders) having a cost of \$5,000 or more. For each contract awarded, the notice shall list the name, address, and telephone number of the contractor; the federal employee identification number; the State contract identification number; the date of contract award; the contract amount, the project location; the name of the agent who signed the contract, the name of the contract-awarding agency (or campus); and the name of the officer signing on behalf of the agency (or campus). State Form 16 is normally used for the report when awards are reported individually To DFEH. When the awards are reported quarterly rather than individually, the quarterly listing may be appended to SF 16 when it is submitted to DFEH. *Gov. Code 12990; Title 2, Sec. 8117.5; CSU Policy 404; PSS 96-22.*
- 4.31 **Americans with Disabilities Act (ADA):** All contracts must contain a condition stating that the Contractor, by signing the contract, assures the University that it complies with Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. *42 U.S.C. 12101 et seq.; CSU Policy 228.*
- 4.32 **Child Support Compliance Act:** It is the policy of the State of California that anyone who enters into a contract with a State agency shall recognize the importance of child and family support obligations and shall fully comply with all applicable State and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code. Any contract of \$100,000 or more must include the CSU General Provision that references the Child Support Compliance Act. *PCC 7110, CSU Policy 229.*
- 4.33 **Leases of Real Property:** The Trustees of the CSU are authorized, under statutes within the Education Code, to enter into real property lease agreements having provisions that are consistent with the mission of the University as described in the State legislature's Master Plan for Higher Education (Ed Code 66000 et seq.—the Donahoe Act, and especially Sec. 66606).

Authority has been delegated to the campus President or a President's designee to execute leases of real property as either lessor or lessee without advance approval by the Chancellor's Office, with the following exceptions: (1) leases that support the issuance of bonds or of other promissory notes or that transfer interest via an installment sale or other form of security; (2) leases with a term of twenty years or

more, or with options resulting in a potential term of twenty years or more; (3) leases that require \$1 million or more as an annual payment; and (4) leases that permit any CSU real property to be used in the development of a project or enterprise.

It is recommended that the campus Purchasing Office be contacted for consultation in advance of the initiation of any action toward the development or execution of a lease on real property.

Campus as Lessee

A campus requester of non-university or Foundation space, following initial discussions and an informal proposed arrangement made with the proposed lessor, must prepare and submit to the campus Purchasing Office a completed Space Action Request (State Form 9) and a written request to negotiate a lease. These two documents constitute the lease request. The Purchasing Office reviews the request for content and form, and if it appears to be properly drawn it is submitted for further review to the Associate Vice President for Physical Planning & Facilities Management (PPFM). PPFM either approves the request as submitted or rejects it for reason, and then returns it to the Purchasing Office. The Purchasing Office then advises the requester as to the status of the request. If the request has been approved, a bid invitation must be prepared by the Purchasing Office, when one is required. If it is not required, the requester may proceed with lease negotiations and begin development of the lease, using the standard lease forms available from the Purchasing Office.

After subsequent negotiations and all terms & conditions are agreed upon between the parties to the proposed lease, the formal lease is drafted. Following pro-forma agreement of the parties to all the terms and conditions of the formal lease, four identical counterparts of it are prepared, and each counterpart is signed by the lessor. All four are then forwarded to the Purchasing Office for further review and approval (a holding copy may also be prepared and retained in file by the requester). If any changes become necessary to the terms and conditions of the lease, four newly revised counterparts of the proposed lease must be prepared and be resubmitted back to the Purchasing Office for further review prior to the final approval of the lease. If no additional changes are recommended and the lease is approved, the Purchasing Office forwards one signed counterpart back to the lessor, retains one for the file, and distributes the other two to the requester of the lease and to Accounts Payable. Additional copies of the lease are prepared and distributed as needed by the requester.

If the lease requester and lessor opt to continue the lease into a period of time beyond the stated termination date (this may be done only when an optional extension of the lease appears as a provision within its terms and conditions), the requester must submit a new requisition to the Purchasing Office to continue the funding under the amended term. The lease may also be established initially as a multi-year agreement, but because of the State's budgetary limitations on fiscal

commitments, it must be funded anew for each additional fiscal year beyond the lease's stated term. All lease invoices shall first be approved by the requester prior to being presented to the Accounts Payable office for payment.

Leases of real property for additional campus space that are funded directly from Foundation accounts are not required to be processed in the preceding fashion. However, such leases must not commit nor obligate the Trustees of the CSU in any way, nor include the Trustees as a contracting party or as signatory.

Campus as Lessor

For the leasing of University space to outside users (including the Foundation), direct payments or reimbursements to the University are required under State law. Campus facilities may be used only for activities that are compatible with the mission of the University.

CSULB facility usage policy and guidelines have been developed by a select ad hoc campus President's committee. They were subsequently endorsed by the campus President and adopted for general application. Executive responsibility for maintaining these and establishing user fee and service rates falls under the auspices of the Vice President for Administration and Finance. A Facilities Use Advisory Panel provides advice and counsel as needed. Day-to-day operations are carried out by a Campus Events Office.

Use of campus facilities by off-campus organizations requires a user agreement (contract) containing terms & conditions that provide legal protection and that serve to avoid misunderstandings related to the activities. The terms & conditions also routinely require evidence of liability insurance coverage. Questions of potential liability may be addressed to the campus Office of Risk Management or to the Purchasing Office.

Use of campus facilities by on-campus users generally does not require a formal contract for any events or activities associated with normal campus functions. Scheduling is arranged and the usage regulations are promulgated via the Campus Events Office. Insurance certification for campus-sponsored events and activities is usually waived from the standard requirements.

For long-term use of campus facilities or for activities that necessitate substantial terms & conditions to avoid misunderstandings or for activities that could pose significant risk to either the University or to the user, the use of a formal lease agreement is recommended. A certification of insurance coverage is also required. This kind of lease agreement normally requires the use of one of the standard forms that has been previously approved for use by the Chancellor's Office or that appears as an Exhibit on the CS&P website calstate.edu/tier3/cs+p/ It is developed for this purpose by the on-campus requester who wishes to have such a lease executed. Once this lease is drafted, it is submitted to the Purchasing Office for review of content and form.

Endorsement of the proposed lease is generally solicited from the Vice President for PPFM. Final approval for execution of the lease of campus space must come from the Vice President for Administration and Finance.

Ed Code 66000 et seq., 89046, 89048, 89048.5; C.O. Executive Order 669; PSS 94-37.

- 4.34 **Evaluation of Contractor Performance:** The Contract/Contractor Evaluation (State Form 4) may be prepared on any contract (excluding interagency agreements or contracts with other governmental entities). If an evaluation report is prepared, the person completing it should be a campus employee with direct knowledge of the contractor's performance. Copies of the evaluation report are to be filed in the Purchasing Office project file and in a special "Contractor Evaluation File". This report shall be retained for a period of up to thirty-six months after the work has been completed for purposes of future reference and audits.

When performance deficiencies occur during the term of the contract, the contractor must be notified of the deficiencies in writing and be afforded an opportunity to correct them within a prescribed (yet reasonable) timeframe. Contractors (including consultants) whose performances have been determined to be unsatisfactory, as recorded by written documentation, may be temporarily suspended from bidding on further contracts for a period of at least three (3) months, but not more than one year. The contractor shall be relieved of the suspension at any time after the three-month period, upon demonstrating to the campus's satisfaction that the deficiencies that resulted in the suspension have been corrected. Evaluations shall not be open to public inspection. In extreme cases of poor performance by a contractor, the State Department of General Services Legal Services Division may be contacted as a first step toward temporary debarment proceedings. *PCC 6109, 10303, 10367, 10369, 10370, 12102(j); CSU Policy 213.02; PSS 96-29.*

- 4.35 **Year-End Tracking of Contracts through Final Approval:** During the period normally reserved for year-end closing operations, contracts may sometimes need to be developed and/or awarded prior to June 30. When this is the case, the cost of the contract (if known) is encumbered into the Financial Accounting System (FAS) prior to the close-off deadline even when all of the administrative requirements for full development of the contract have not yet been met. The Purchasing Office tracks the status of such contracts weekly on a special form designed to monitor the status of such contracts, until they are executed and in full force and effect. Contracts that have been encumbered into FAS prior to being fully executed are subject to the loss of funding if problems arise prior to execution of the contract. *PSS 94-25.*

Section 5 Requirements Specific to Information Technology Transactions

In addition to the special requirements contained in this Section 5, requirements in Section 2 also apply to the procurement of information technology resources (ITR).

Public Contract Code (PCC) Section 12100.5 requires the Trustees of the CSU to develop and maintain policies that further the legislative policies for ITR procurement as expressed in Sections 12100 et seq. of the PCC. PCC Sections 10295 and 12120 provide that the CSU has an independent procurement authority separate from the State Departments of General Services and Finance. PCC Section 12102(b) and (c) require that contract awards for all large-scale systems integration projects be based on the proposal that provides the most value-efficient (best-value) solution to the awarding agency's requirements. However, hardware purchased independent of a large-scale system integration project may be made on the basis of lowest cost meeting all other specifications. When an acquisition is based upon cost alone, an award shall be made to the lowest responsible bidder meeting the specifications.

PCC 12100 et seq.; Ed Code 89036; CSU Policy sec. 500.

5.01 Scope of Transactions: The scope of ITR acquisition policy encompasses the following broad types of CSU and CSULB acquisitions:

1. **Equipment:** Acquisition of ITR-related hardware and other capitalized tangible property items is accomplished by means of awarded purchase orders, master purchase agreements, lease/purchase agreements, or rental agreements. Acquisition of large-scale systems integration items (e.g., mainframe computers, network, voice, video, and telecommunications infrastructure installations) may employ the use of a standard agreement, rather than a purchase order, to accommodate specific and unique terms and conditions.
2. **Materials:** ITR materials are normally non-capitalized items. They are expendable supplies and low-value assets that can be readily replaced. These items are usually obtained through the issuance of a purchase order or by direct charge, rather than by the issuance of a contract. The acquisition of ITR materials is subject to the standard CSU procurement policies.
3. **Services:** Vendor or contractor services for ITR-related functions normally require the issuance of standard agreements or service orders. They include such things as installation of hardware or software products, modifications or upgrades, equipment maintenance, repairs, network and database subscriptions, and consultant services.

CSU Policy 504.

5.02 **General Provisions:** All standard purchase and service contract policy requirements including the use of forms and exhibits that are not contained under ITR-specific policy are also applicable. These include, but are not limited to, policies governing sole source awards, vendor price schedules, DVBE compliance, drug free workplace certifications, notices of contract award, small business preferences, State contracts register, vendor data records, and applicable general provisions governing all transactions. *CSU Policy 502.*

5.03 **Procurement Principles for ITR Transactions:** CSULB shall employ sound and appropriate business practices to guide and control the planning, acquisition, development, operation, maintenance, and evaluation of all ITR-related applications.

Decisions regarding the application of ITR equipment, materials, and services shall be based primarily on analyses of overall costs and benefits over the operational life cycle of the application. In selecting or developing applications, CSULB shall consider the benefits and costs of maintaining compatibility with other planned and existing applications for both campus use and for the use of CSU as a whole.

By CSU policy, CSULB is given a choice of vendors to meet its individual or unique hardware, service, and application requirements. Long-term contracts with annual cancellation and funding-out clauses are desirable, as they help protect the campus investment in ITR equipment and materials. Multi-year renewal options are believed to encourage vendors to develop higher levels of service and support for their products. (Ref: PCC 12101.5(a).

CSULB strives to continue transforming its procurement activities from a labor and paper intensive process to an all-electronic system whereby data bases of product and service needs are made accessible to vendors and contractors via either direct or dial-up computer access (Ref: PCC 12113.5). *PCC 12100 et seq.; CSU Policy 503.*

5.04 **Competitive Bidding:** It is the policy of CSULB that all transactions made under the CSU procurement authority be designed to encourage active competition among those who wish to become the suppliers of goods and services to the campuses.

There is no single competitive procurement methodology universally suited to all kinds of ITR acquisitions. CSULB recognizes that the same competitive processes used for obtaining non-ITR goods and services such as the Invitation for Bid and the Request for Proposal may be effective for ITR acquisitions as well. There are, however, other approaches such as the Best Value or Multi-Step techniques that could be ideally suited for a particular ITR acquisition. It is the responsibility of the Purchasing Office to recommend the method best suited to a

particular acquisition, with special attention being given to the “Best Value” approach. *PCC 12102, 12120, CSU Policy 505.*

5.05 Best Value (Value-Effective) Acquisitions: The “Best Value” technique for ITR acquisitions of goods and services shall be used to the maximum extent practical. Any acquisition that employs Best Value selection criteria shall result in an intent to award to the respondent achieving the highest score in a weighted evaluation process. There is no specific formula or regimen prescribed for examining the criteria in a Best Value award, but it is important that the award be consistent with the terms of the solicitation and that any price premium is justified by specific technical or value-added enhancements.

Solicitations for Best Value acquisitions may provide that the price quote be submitted under separate cover for evaluation purposes whenever this approach is preferred. Although the price quote and costs (including a “life-cycle cost”) must be included as criteria for making the contract award, other criteria shall also play a role. Such criteria may include, but are not limited to:

1. Operational costs.
2. Quality or technical competency of the bidder’s product or service.
3. Delivery and implementation timetables including incentives for early delivery.
4. Warranties, guarantees, and return policies.
5. Costs associated with financing provisions or alternatives.
6. Vendor’s financial stability.
7. Consistency of proposed product or service with the planned application.
8. Vendor’s industry or program experience.
9. Vendor’s past performance record with similar installations.
10. Risk assessment.
11. Value-added services or options.
12. Innovative use of current technologies--and quality results.
13. Proven methodologies and tools used for servicing the product or program.
14. The degree of facilitation for exchanging data and interfacing with other existing systems.

PCC 12102(b), 12100.7; CSU Policy 505.01.

5.06 Best Financing Alternatives: For all solicitations formally advertised, evaluation of bidder proposals for the purpose of determining a contract award for ITR goods or services shall provide for consideration of a bidder’s best financing alternatives, including lease or purchase alternatives, if any bidder so requests. This information must be made available to the campus at least 30 days prior to the date of the deadline for final bid submittals. *PCC 12113; CSU Policy 507.04.*

- 5.07 **State Division of Telecommunications (COMDIV):** COMDIV is the Division of the State Department of General Services that is responsible for the development of tactical policy and procedures for telecommunication acquisitions consistent with statewide strategic policies. The CSU and CSULB shall grant to COMDIV an opportunity to bid whenever the CSU solicits bids for telecommunications goods and services. *PCC 12120; CSU Policy 507.02.*
- 5.08 **Pre-Negotiation of Repetitive Contract Terms & Conditions:** The campus Purchasing Office may avail itself of any existing CSU model agreements for ITR acquisitions. The terms & conditions expressed in a model agreement that is used repetitively with the issuance of ITR-related contract awards may be pre-negotiated with the campus, upon request from a given vendor or contractor who normally bids on such awards. Such pre-negotiations must be conducted with oversight from the CS&P Department of the Chancellor's Office. A contract's **General Provisions** are **non-negotiable**, however, since they are comprised principally of State legal requirements to which all bidders and all State agencies (including the CSU and CSULB) are bound. *PCC 12101.2; CSU Policy 506.*
- 5.09 **Multiple Awards:** Contract awards may be initiated with more than one vendor or contractor for comparable products or services. Multiple awards may be used in instances where awarding to a single provider would be impractical or fail to satisfy the overall requirements of all potential users. *PCC 12101.5(b); CSU Policy 505.02.*
- 5.10 **Sole Source Approvals on EDP (or ITR) Acquisitions:** In addition to the usual approvals required on formal sole source awards of purchase orders and contracts, there may be one additional approval required for a sole source acquisition of ITR equipment, materials, or service. ITR sole source requisitions of \$250,000 or more that are not intended to be processed under a CSU systemwide agreement must also be approved either by (a) the campus Associate Vice President for Information Technology or (b) the campus Associate Vice President for Information Management & Analysis. Approval under (a) or (b) depends upon whether the project under which the requisition is to be processed is for academic (instructional) purposes (a), or administrative (institutional support) purposes (b). *PSS 98-03.*
- 5.11 **Y2K (Year 2000) Product Compliance Language:** The campus must ensure that its acquisitions specify year-2000-compliant products whenever the products contain date-sensitive components. On purchase orders or contracts that contain such products, the following requirement shall be stated:

“Hardware, software, and firmware products, individually and in combination, shall successfully transition into the year 2000 with the correct system date, without human intervention, including leap year calculations. Hardware, software, and firmware products, individually and in combination, shall also

provide correct results when moving forward or backward in time through and beyond January 1, 2000”.

Two general rules apply to help ensure vendor or contractor compliance:

1. The year-2000-compliance statement should appear on any order or contract that calls for a product that may be time sensitive;
2. The end user should be asked the question about sensitivity, if there is doubt.

PSS 97-12; 98-08.

5.12 **Used Equipment:** CSULB may avail itself of any opportunity to purchase used or remanufactured ITR equipment where a substantial savings in cost (compared with other alternatives for acquisition of similar equipment) justify the purchase. *CSU Policy 507.01*

5.13 **Disposal of Equipment:** ITR equipment and materials that have been determined to be surplus to the needs of CSULB shall be disposed of in a manner that will best serve the interests of the campus or of the CSU as a whole. Methods used for the disposal of surplus goods may include auction or competitive bidding, open advertising at a fair market price, and transfer or sale of the goods to other governmental entities, including other CSU campuses. *PCC 12102(I); CSU Policy 507.03.*

Section 6

Requirements for Transactions Involving the Sale, Lease, or License of Campus Property and the Marketing of its Services

A small fraction of CSULB's procurement operations relate to transactions that provide revenues or benefits to the campus from the marketing of its property or services. This Section 6 summarizes the procedures for these transactions. *Ed Code 89048 (d) and (f), 89720; California State Constitution Article 16, Sec. 6; CSU Policy sec. 600 et seq.*

6.01 Release of State-Owned Property: The CSU may sell or exchange any of its property for a fair market value if it is determined that the sale or exchange is in the best interests of the University. However, the release or sale of State-owned CSU property to other entities without public participation is prohibited unless the property is either donated to, or sold at a predetermined fair market price, to a State agency or tax-supported institution.

As stated under California State Constitution Article 16, Sec. 6, the State of California is not empowered to make a gift or authorize the making of any gift, of any public money or *thing of value* to any individual. Neither shall any State-owned tangible goods, supplies, equipment, or materials be sold, released, or otherwise conveyed for use by the CSU to a CSU employee unless the general public is given equal opportunity to acquire the property. Such property may, however, be junked or otherwise disposed of and surveyed from State property records whenever the property is documented to have no remaining market value or practical use to the State.

The CSU may sell or exchange any *personal* property belonging to the CSU if the sale or exchange is in its best interests.

The sale, exchange, or disposal of *real* property acquired from revenues generated by the parking and housing programs may be transacted with any CSU auxiliary organization (including a campus Foundation), up to a limit of \$10 million and with the approval of the CSU Trustees. Such real property may be offered by the CSU only when at least one of its borders is adjacent to real property not owned by the CSU. Where more than one auxiliary organization expresses interest in acquiring the real property, it shall be awarded to the highest responsible bidder. Prior to the CSU sale of any interests in its real property, the CSU must offer the property to any interested local governmental entities. No real property that is part of a main campus shall be sold or exchanged to other than a CSU auxiliary organization. CSU real property **not** generated by parking or housing programs may only be *leased* (at a fair market value) to a non-CSU party or auxiliary organization.

California State Constitution Article 16, Sec. 6; Ed Code 89036 (a), 89048 (d) and (f), 89720; CSU Policy 601.

- 6.02 **Lease of University Personal Property:** The CSU may execute leases for any of its property when the leases are consistent with its functions as prescribed under California law. These include but are not limited to leases to a nonprofit organization composed exclusively of students of the University or members of the faculty of the University, or both, for purposes related to the activities of the university or for the activities of student or faculty organizations. *Ed Code 89046(a).*
- 6.03 **Sale or License of Intellectual Property:** Campuses have the delegated authority from the Trustees to transfer intangible intellectual property rights to university faculty, staff, or other entities for valuable consideration. It is the responsibility of the campus President to ensure that campus policies addressing intellectual property are kept current and comprehensive as to content and procedure. *CSU Policy 602.*
- 6.04 **Disposal of Vehicles:** A campus vehicle may be discarded, traded in, or sold whenever the campus determines it is within its best interests to do so, regardless of age or mileage, or at such time as the vehicle has been determined to be unsafe for continued use, or when it no longer serves the purpose for which it was acquired. Options for the disposal of a vehicle can include (1) surveying it to the DGS State Surplus Property Division of DGS, (2) transferring it to the DGS Fleet Administration Division, and (3) liquidating it through competitive bidding or auction at the maximum price attainable in the open market. All sales of publicly-owned vehicles, including any owned by CSULB, are governed by the provisions stated in the California Vehicle Code. *California Vehicle Code Sec. 24007 et seq.; CSU Policy 603.*
- 6.05 **Services Provided by the University:** Neither the CSU, nor CSULB, engages in the sale of services in competition with private enterprise, except when the rendering of services is related to its educational mission. Whenever services are sold by CSULB, the full cost of providing them must be recovered, including any direct, indirect (overhead), or marginal costs that might be applicable. The basis for setting values to the services shall be documented in a simple, equitable, and rational way, and be made available upon request. *CSU Policy 604.*

Note: For policy on Public Works contracts and related Professional Services agreements, refer to (1) State University Administrative Manual (especially Sections X and XII), (2) Major Capital Outlay Projects Construction Phase Manual, and (3) A/E Design Process and Requirements training manual.