

### **55-1 Purchasing**

55-1-1 Purpose • 55-1-2 Policy • 55-1-3 Administration • 55-1-4 Signatory Authority •  
 55-1-5 Categories of Expenditures • 55-1-6 Regular Expenditure Procedures •  
 55-1-7 Extended Expenditure Procedures • 55-1-8 Special Expenditure Procedures •  
 55-1-9 Exceptional Expenditure Procedures • 55-1-10 Non-Allowable Expenditures

1. **Purpose.** The purpose of this policy and procedures is to establish a mandated system of central purchasing for Eastern New Mexico University System (the System) and to ensure University System campuses compliance with applicable New Mexico and federal procurement statutes and regulations.
2. **Policy.** The policies established by the Board of Regents in furtherance of the above purposes are as follows:
  - A. The System campuses shall comply with the New Mexico Procurement Code NMSA 1978, §§ 13-1-21 to – 199 (1984 as amended through 2018), any regulations promulgated pursuant to those statutes and any applicable United States statute or regulation. The provisions of these regulations and procedures are subject to change as per state procurement code and federal revisions.
  - B. The chief procurement officer (the CPO) has sole authority for ordering tangible personal property, such as supplies, furniture, equipment, materials, contractual services and professional services. The CPO in Portales oversees the Portales and Ruidoso campuses while the CPO in Roswell oversees the Roswell campus.
  - C. All University System funds, regardless of their source, shall not be expended except pursuant to these policies and procedures. For specific policies and procedures regarding the purchase of computing equipment, see AGP&P, 60-4. For specific policies and procedures regarding purchasing cards, see AGP&P, 55-4.
  - D. Any expenditure from University System funds that does not benefit the System campuses and is not properly documented and processed in accordance with these policies and procedures is subject to being declared a personal obligation of the person originating the purchase.
  - E. The chancellor may grant an exception to prohibited extended expenditures, if it is otherwise lawful, provided a request is submitted in writing to and approved by the chancellor with sufficient detail and justification for the requested exception. [See section 5B below for a definition of "extended expenditures."]
  - F. All records and documents, including written bids, written memos of telephonic or oral bids, quotes or other pricing efforts relating to the purchase shall be kept in the University records of the purchase. Such records shall be available for inspection by auditors.
  - G. The CPO may waive requirements for regular expenditure purchases below \$60,000 upon written determination by the CPO that such waiver is in the best interests of the System campus.
  - H. Pursuant to NMSA 1978, section 21-1-17 (1889 as amended through 2009), no employee or member of the Board of Regents of the University System shall have any direct or indirect financial interest in any contract for building or improving the System campuses or for furnishing supplies or services to the campus, except as permitted pursuant to the University

Research Park Act, [NMSA 1978, §§ 21-28-1 to - 25 (1989 as amended through 2007)]. Entering into any transaction creating such conflict of interest is punishable as a criminal act pursuant to NMSA 1978, § 21-1-35 (1923 as amended through 1999). In appropriate circumstances, these conflict of interest provisions may be waived by execution of the University "Contemporaneous Employment/Unlawful Employee Participation Form" by the CPO.

The foregoing purposes and policies are implemented by the following.

**Purchasing Procedures**

- 3. **Administration.** These policies and procedures are administered by the CPO, with oversight by the ENMU System chief financial officer (CFO).
- 4. **Signatory Authority.** All contracts and/or purchase orders for regular expenditures including those that do not meet the definition of procurement and are not subject to the Procurement Code must be signed by the CPO to ensure compliance with the Procurement Code. Additional required signatures for expenditures are as follows:

	<b>Signatures Required</b>
Account Manager	\$0– 2,499
Academic Dean/Assistant Vice President/ System Director of HR, Athletic Director*	\$2,500-19,999
Area Executive Administrator	\$20,000- 49,999
Campus President	\$50,000- 99,999
Chancellor	>\$100,000

\*Should this level not apply; approval defaults to the area executive administrator between \$2,500 and \$49,999.

All contracts in excess of \$500,000 must be approved by the Board of Regents in addition to all purchases of real property, the construction of buildings and other major structures, or for major remodeling projects.

- 5. **Categories of Expenditures.** The categories of University expenditures are:
  - A. **Regular Expenditures.** Expenditures for the ordinary and necessary items required to fulfill the mission of the System campus and its departments and projects are allowable, provided System purchasing procedures are followed. Included are such items as supplies, materials, furniture, equipment and contractual and professional services for classroom, office or administrative purposes. Such expenditures may be made out of any System campus funds, and shall be referred to as regular expenditures.
  - B. **Extended Expenditures.** Expenditures for professional recruitment, solicitation of support for the campus and social activities related to those functions are allowable, provided System purchasing procedures are followed and provided extended expenditure guidelines and procedures are also followed. Such expenditures may be made out of any campus funds, and shall be referred to as extended expenditures.

- C. **Special Expenditures.** Other expenditures are allowable out of funds such as gifts, bequests, donations, fees or other revenues specifically designated for particular expenditures. Such expenditures shall hereinafter be referred to as special expenditures.
- D. **Exceptional Expenditures.** Expenditures that do not fall readily into any of the categories set forth above shall be made only with prior written approval of the chancellor or the Board of Regents, followed by compliance with all other applicable purchasing procedures. Such expenditures shall be referred to as exceptional expenditures.
- E. **Non-Allowable Expenditures.** Any expenditure from public funds that does not benefit the campus and is not documented and processed in accordance with the New Mexico Procurement Code and published University System policies and procedures is prohibited. In addition, procurement requirements shall not be artificially divided so as to constitute a small purchase.
- F. **Sole Source Expenditures.** Sole source procurements are those where there is only one source for the required service, construction, or item of tangible personal property; it is unique, and this uniqueness is substantially related to the intended purpose of the contract; and other similar goods and services cannot meet the intended purpose of the contract. A contract may be awarded regardless of the estimated cost when the CPO makes a determination, after evaluating the sole source justification submitted by the department. Specifications for the justification may not be narrowly drafted so that only one predetermined source would satisfy those specification.

For sole source procurements greater than \$20,000, they are required to be posted on the ENMU or State website for 30 days prior to award. The campus is required to post specifications and scope of work for requested goods/services, proposed vendor, amount of purchase, and justification for sole source. Vendors will be able to view the potential sole source recommendation and challenge or protest a recommendation. If the 30 days posting period elapses without a challenge, a sole source purchase can be awarded. If the sole source is challenged, a formal bid or request for proposal may be required.

- G. **Emergency Procurements.** Emergency procurements are those related to a situation that creates a threat to public health, welfare, or safety such as may arise by reason of floods, fires, epidemics, riots, acts of terrorism, equipment failures, or similar events and includes the planning and preparing for an emergency response. A contract may be awarded without sealed competitive bids or sealed competitive proposals regardless of the estimated cost when the CPO makes a determination, after evaluating the emergency justification submitted by the department.

Emergency procurements are required to be posted on the ENMU or State website within three business days of award. The University is required to post specifications, scope of work for goods/services, proposed vendor, amount of purchase, and justification for emergency procurement.

**6. Regular Expenditure Procedures.** Regular expenditure purchasing procedures are as follows:

**A. Definitions.**

- (1) "Procurement" means purchasing, renting, leasing, lease purchasing, or otherwise acquiring items of tangible personal property, services or construction; and all

procurement functions, including but not limited to preparation of specifications, solicitation of sources, qualification or disqualification of sources, preparation and award of contract, and contract administration.

- (2) "Professional services" means the services of architects, archaeologists, engineers, surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, construction managers and other persons or businesses providing similar professional services, which may be designated as such by a determination of the CPO.
- (3) "Contractual services" means any service which is provided to the campus by an outside person or entity, excluding professional services, which may be designated as such by a determination of the CPO. These services do not involve the delivery of a specific end product other than reports and other materials which are merely incidental to the required performance.
- (4) "Exemptions" means any service or tangible personal property that do not require the issuance of a purchase order but may be acquired by the use of a direct payment (i.e., an "issue check").

**B. Government Exceptions.** Tangible personal property and contractual services procured under Government Service Agreement (GSA) contracts, State Purchasing Department contracts (SPA) and/or cooperative agreements are excluded from formal bids or proposals under the Procurement Code. These contracts require purchase orders in all instances and do not follow the procedures listed in the tables below.

**C. Uniform Guidance.** To ensure compliance with Title 2 CFR Part 200, Uniform Guidance and FAR 48 CFR 2.101 procurements with Federal grant funds shall follow the thresholds listed below in the Federal Grant Procedures for Tangible Personal Property, Contractual Services and Federal Grant Procedures for Professional Services tables.

**D. Procedures for Procurement.** The tables below show the dollar ranges, requirements, and the approved purchasing methods permitted. For descriptions and restrictions of the approved purchasing methods permitted, see section E.

**Procedures for Tangible Personal Property and Contractual Services**

\$0.00	To	\$999.99	At best obtainable price. Restrictive, see P-Card Policy on what is allowed.
\$0.00	To	\$3,500.00	Service at best obtainable price. This form is specialized and is restrictive on what is allowed. See ProTech Policy.
\$0.00	To	\$20,000.00	At best obtainable price; requires one (1) bona fide written quote. Excludes P-Card and ProTech.

\$20,000.01	To	\$60,000.00	Informal quotes; this solicitation requires three (3) bona fide written quotes. If three (3) quotes cannot be obtained, two (2) written quotes must be obtained and documentation provided on the effort made to obtain three (3) written quotes.
Over \$60,000.01			Formal (Invitation for Bid or Request for Proposal, if applicable), sealed and must be legally advertised in newspapers of general circulation.

**Procedures for Professional Services**

\$0.00	To	\$60,000.00	At best obtainable price; requires one (1) bona fide written quote.
Over \$60,000.01			Formal (Invitation for Bid or Request for Proposal, if applicable), sealed and must be legally advertised in newspapers of general circulation.

**Federal Grant Procedures for Tangible Personal Property and Contractual Services**

\$0.00	To	\$999.99	At best obtainable price. Restrictive, see P-Card Policy on what is allowed.
\$0.00	To	\$3,500.00	Service at best obtainable price. This form is specialized and is restrictive on what is allowed. See ProTech Policy.
\$0.00	To	\$10,000.00	At best obtainable price; requires one (1) bona fide written quote. Excludes P-Card and ProTech.
\$10,000.01	To	\$60,000.00	Informal quotes; this solicitation does require three (3) bona fide written quotes. If three (3) quotes cannot be obtained, two (2) written quotes must be obtained and documentation provided on the effort made to obtain three (3) written quotes.
Over \$60,000.01			Formal (Invitation for Bid or Request for Proposal, if applicable), sealed and must be legally advertised in newspapers of general circulation.

**Federal Grant Procedures for Professional Services**

\$0.00	To	\$10,000.00	At best obtainable price; requires one (1) bona fide written quote.
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\$10,000.01	To	\$60,000.00	Informal quotes; this solicitation does require three (3) bona fide written quotes. If three (3) quotes cannot be obtained, two (2) written quotes must be obtained and documentation provided on the effort made to obtain three (3) written quotes.
Over \$60,000.00			Formal (Invitation for Bid or Request for Proposal, if applicable), sealed and must be legally advertised in newspapers of general circulation.

E. **Approved Purchasing Methods.** The following purchasing methods may be used for off-campus vendors:

(1) **Purchasing Card.** Purchasing cards may be used for any vendor accepting ENMU’s credit card up to a maximum transaction limit of \$999.99 (operating expenditures) or \$2,500.00 (travel expenditures). Also see AGP&P 55-4 for policies governing the purchasing cards.

Restrictions. Non-allowable purchases include, but are not limited to the following:

- a. Any single transaction exceeding \$999.99; this includes shipping charges (travel expense excluded).
- b. Incremental/split purchases to avoid the single transaction limit.
- c. Sales tax on goods—exception: taxes are allowed for out-of-state purchase (physically out of state, not through the internet).
- d. Fuel purchases—exception: only when ENMU Physical Plant gas card does not work when utilizing a rental or leased vehicle.
- e. Any fines, fees, or court costs related to traffic citations received while on System business.
- f. Past due invoices.
- g. Travel-related lodging (without proper approval).
- h. Travel-related meals unless traveling with students.
- i. Leased items, e.g. equipment, buildings, land.
- j. Furniture.
- k. Stock items available from ENMU Portales campus Central Stores warehouse.

- l. Purchases to any ENMU Department or Agency Account which ENMU is the fiscal Agent.
  - m. Warranties.
  - n. Alcoholic beverages.
  - o. Trade-in or exchanged items.
  - p. Holiday decorations, party supplies, etc.
  - q. Tuition.
  - r. Professional services.
  - s. Multi-year services, such as software/hardware support, repairs, maintenance.
  - t. Gift cards.
  - u. Items or services used to replace property filed under an ENMU insurance claim.
- (2) **Professional or Technical Services Agreement (ProTech).** A professional or technical services agreement must be used for services that are intellectual in character by an individual who will only furnish labor, time or effort, not involving the delivery of a specific end product other than reports and mere incidentals. The individuals employed pursuant to such agreements include, but are not limited to, workshop speakers, facilitators, certified instructors, coordinators, announcers, officials and consultants.
- (3) **Purchase Order.** Purchase orders are issued by the Purchasing Office to direct a contractor to deliver items of tangible personal property, services or construction and are contracts between the System campus and the vendor or contractor.
- a. **Requisition.** To request a purchase order, the requesting department must submit a requisition, also called a "purchase request," to the Purchasing Office.
  - b. **Issuance.** The Purchasing Office shall issue a purchase order upon determining that the transaction complies with University policies and procedures. There is no transaction amount limit other than the department's budget.
- (4) **Issue Checks.** Issue checks may be used instead of a purchase order in certain instances that follow the Procurement Code when approved in advance by the CPO. Some of the items permitted include:
- a. Procurement of items of tangible personal property or services less than \$10,000. The CPO has the sole authority to allow an issue check or require a purchase order.
  - b. Procurement of items of tangible personal property or services by a local public body from a state agency, a local public body, or external procurement unit except for those obtained through cooperative procurement (i.e. procurement between the University and another governmental entity)

- c. Purchases of publicly provided or publicly regulated gas, electricity, water, sewer, and refuse collection services (i.e. utilities)
- d. Purchases of books, periodicals, and training materials in printed or electronic format from the publishers or copyright holders
- e. Travel or shipping by common carrier or by private conveyance or to meals and lodging (i.e. US Postal Service, UPS, and travel reimbursements)
- f. Purchases not exceeding \$10,000 consisting of magazine subscriptions, web-based or electronic subscriptions, conference registration fees, and other similar purchases where prepayments are required, and purchase orders are not accepted.
- g. Contracts with professional entertainers that earn a living by providing these services
- h. Purchases of advertising in all media, including radio, television, print and electronic

To request an issue check, the requesting department must submit a requisition, also called a "purchase request," to the Purchasing Office for approval. Any other exceptions must be approved in advance by the CPO.

(5) **University Contracts.** A University contract is a written contract entered into by the University and the contractor or contractors. University contracts may be used in place of a purchase order when approved by the CPO.

- a. Multi-year contracts of less than \$25,000 per year for items of tangible personal property, construction or services excluding professional services may be entered into for any period of time not to exceed four (4) years.
- b. Multi-year contracts of more than \$25,000 per year for items of tangible personal property, construction or services excluding professional services may be entered into for any period of time not to exceed eight (8) years.
- c. Contracts for professional services may not exceed four (4) years, including all extensions and renewals.
- d. In all System campus contracts, the terms of the contract and conditions of renewal or extension are included in the specifications and based upon funding available for the first fiscal year at the time of contracting. Payment and performance obligations for succeeding fiscal years shall be subject to the availability of funds thereafter.
- e. All contracts, including new contracts, continuing contracts, and renewal agreements require the CPO's signature before the contract will be executed and considered to be legal and binding to the System campus.

F. **Computing Equipment.** See AGP&P, 60-4 for the extended policy and procedures regarding the purchase of computing equipment.

7. **Extended Expenditure Procedures.** Subject to appropriate administrative and Purchasing Office approvals, extended expenditure purchasing shall be allowed as follows:

- A. Certain expenditures for recruiting new faculty members, administrative officers and professional staff are allowed. Those are:
- (1) Air transportation (coach) or other transportation for the candidate;
  - (2) Meals, rental car, airport parking and lodging for the candidate;
  - (3) Meal costs of selected campus employees deemed necessary by the campus president-to be present in connection with the particular recruiting effort (subject to the restrictions of the Travel Policy in AGP&P 35-1 if traveling away from their post of duty) and
  - (4) Lodging, meals, and air transportation or other transportation for the candidate's spouse shall be accepted when his or her presence is for the benefit of the campus as approved by the campus president.
  - (5) Moving expenses of newly appointed faculty or administrative officers as approved by the campus president are allowed in conformance with System policies and procedures for moving expenses.
- B. Meals for invited guests, public Advisory Boards, Alumni Board and other similar boards concerned with campus matters are allowed when approved in advance by the campus president. Per diem for the Board of Regents or Community College Board Members is included in AGP&P 35-1. Gratuities or tips are also allowed when in direct payment of service rendered in connection with a meal or lodging and are indicated as being a payment for service on the bill or ticket.
- C. Expenses of consultants incurred in connection with a contract for professional services are allowed when approved in advance by the campus president. Allowable expenses could include costs for meals for a limited number (normally three [3] or fewer) of employees, faculty or staff, whose presence is required for the specific occasion. See AGP&P, 35-1 for ENMU employees who are traveling away from their post of duty.
- D. Costs for social events for distinguished visitors are allowed with prior approval of the campus president.
- E. Official social functions and receptions in the home of the campus president in connection with his or her responsibilities to various constituent groups such as students, faculty, staff, legislators, regents and others are allowed.
- F. Meals for employees or guests to memorialize a particular event or when employees are required to work other than regularly scheduled hours are allowed provided a demonstrable benefit to the campus is shown and advance approval by the chancellor is obtained. See AGP&P, 35-1 for ENMU employees who are traveling away from their post of duty.
- 8. Special Expenditure Procedures.** Subject to appropriate administrative and Purchasing Office approvals, special expenditure purchases shall be allowed as follows:
- A. The following expenditures are allowed for seeking gifts, bequests, donations, fees and other revenues for the University:

- (1) Activities of the campus president or persons designated by the campus president to pursue private donations or gifts for the System campus;
  - (2) Social functions for legislators and other government officials when deemed appropriate by the campus president and
  - (3) Social functions, refreshments or meals for students to be paid for from student fees or other revenues designated for this purpose when deemed appropriate by the vice president for Student Affairs (Portales and Roswell)/vice president of Student Learning (Ruidoso).
- B. The System recognizes the practice of giving out items for promotional purposes or to market either the System campus or programs within the campus; however, such promotional giving requires advance approval by the appropriate area executive administrator (vice president, ENMU System chief officer, or campus president). The types of items allowable are:
- (1) Items given for promotional purposes by the campus president or campus officials designated by the campus president to pursue private donations, gifts or garner support on behalf of the campus;
  - (2) Items given when the cost of the item is included in the course or workshop fees and
  - (3) Awards given in recognition of achievement or support of the campus.
- 9. Exceptional Expenditure Procedures.** The ENMU System acknowledges the occasional need to bestow awards upon individuals or groups in recognition of retirement, years of service or meritorious performance on the part of the employee or students as well as significant contributions of time, effort and financial resources by members of the community served by the System campus. The cost of any such award may be charged to appropriate funds if:
- A. The award has no intrinsic value; that is, no value other than the commemorative value (examples are certificates, pins, inexpensive jewelry and wooden plaques);
  - B. There is a demonstrable benefit to the System as determined by the chancellor and
  - C. The purchase has the advance approval of the chancellor
- 10. Non-Allowable Expenditures.** Non-allowable expenditures include, but are not limited to, the following:
- A. Expenditures for any type of personal benefit other than salary and benefits to which employees are entitled according to System personnel policies or as authorized by other published System policies or negotiated legal settlements;
  - B. Expenses incurred for a spouse unless the spouse's presence is also required and is a benefit to the campus and is approved in advance by the chancellor.
  - C. Political or charitable contributions to individuals or organizations (System assets, however, may be donated to other state governmental agencies subject to proper approval);
  - D. Loans or advances made to any System employee unless authorized by System policy such as the travel policy or any deferred payment program specifically authorized by System policy;

- E. The purchase of gifts to be given to individuals, groups or organizations, except for the provision in which funds are provided for under exceptional expenditures;
- F. Either direct payment or reimbursement of fines or other penalties incurred by an employee in violation of public policy;
- G. The purchase of alcoholic beverages from appropriated, contract or grant funds;
- H. Entertainment of campus employees other than in accordance with travel policy (special social or promotional activities subject to proper approval as listed under allowable extended expenditures would not be prohibited by this provision);
- I. Any payment to indemnify others for losses incurred while on System property excluding legitimate claims against System and/or campus insurance or settlement of legal claims;
- J. Payment for goods or services not received (if a prepayment is required to obtain necessary goods or services, the individual initiating the purchase is responsible for assuring receipt of such goods and services);
- K. Any expenditure of public funds in violation of the System's conflict of interest policy, including purchases from businesses in which the employee has a significant financial interest or which may affect the employee's objectivity in the performance of his or her duties;
- L. The purchase of insurance coverage or services which duplicates insurance coverage or services already provided by the campus at no cost to departments of the campus;
- M. Expenditures which have been or are eligible for reimbursement under another System policy or from an external source and
- N. Holiday decorations, party supplies, etc. for campus offices and buildings or office refreshments (including coffee makers, food and beverages) except when refreshments are to be consumed primarily by guests of the campus or at business meetings in accordance with published System policy.
- O. Note: At times, campus purchases may result in case or cash-like incentives or rebates to the purchaser. The cash and/or incentives are the property of the campus and may not be used for personal gain. Examples of such incentives include but are not limited to rebates, gift cards, two-for-one purchases and spend rewards. It is the responsibility of the cardholder's department to return any monetary or cash incentives rewards received because of a campus purchase to the ENMU Purchasing Office, where they can be used for approval institutional purchases.

**Exceptions.** Exceptions not previously listed to this policy's reimbursement guidelines must be approved in advance in writing by the System CFO or chancellor.

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Approved by the Board of Regents on December 16, 2005.

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Amendments approved by Board of Regents, May 13, 2016.

Amendments approved by Board of Regents on December 15, 2017.

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Amendments approved by Board of Regents, March 25, 2022