GUIDELINES FOR IMPLEMENTATION
OF PROCUREMENT POLICY

These Guidelines are issued by the President, effective May 15, 2012, pursuant to the authority granted under Trustee Policy T92-031, as amended.

I. Procurement Administration

The Senior Vice President for Administration, Finance, and Technology and Treasurer, (“the Treasurer”) under the direction of the President, is designated as the officer of the University responsible for issuing procurement guidelines applicable to the five campuses and the President’s Office, and to multi-campus or system-wide procurements. The General Counsel’s Office in conjunction with the Procurement Council shall regularly review these guidelines and propose any changes to the Treasurer. The Procurement Council shall consist of the chief procurement/purchasing officer of each campus and President’s Office, and shall meet at least annually to discuss system-wide procurement issues and to maximize economies through cooperative efforts.

Each campus and the President’s office shall maintain a central procurement department.

Each Chancellor may delegate responsibility for developing procedures to implement, review, monitor, and enforce approved purchasing policies.

All procurements for materials, goods, commodities, leases (including equipment or real property), licenses (including software or electronic journals) and services, regardless of the source of funds must comply with the University’s Procurement Policy.

These Guidelines shall apply to any University sub-contracts for services entered into to meet the University’s own contractual obligations to third parties.

All procurements must (1) have prior approval of the relevant Purchasing Department; and (2) have appropriate delegation and signatory authority in accordance University policies and campus or President’s Office procedures to bind the University.

II. Competitive Procurement

Competitive procurement is the acquisition of materials, goods, commodities, real property, leases, licenses, or services through fair and open competition. Invitations to bid, requests for proposals, requests for quotes, or a combination of these (“Invitations”) are competitive procurement.

Invitations shall be written in a manner to encourage open and fair competition. All invitations issued shall include specifications and all contractual terms and conditions applicable to the
procurement. The Invitations may include language for the submission of samples that may be examined, tested, and analyzed to determine if they meet the stated specifications provided for in the invitation.

A. Specifications should be written in clear, simple language and provide an accurate description of the physical, technical, or functional characteristics of the materials, goods, commodities, leases (including equipment or real property), licenses (including software) and services. Specifications shall be as detailed as practical without being narrowly drafted. Specifications shall set out the essential characteristics of the materials, goods, commodities, leases (including equipment or real property), licenses (including software) and services being procured so that potential responders are responding to the Invitation of the same materials, goods, commodities, leases (including equipment or real property), licenses (including software) and services and on the same terms.

B. Invitations shall include the terms and conditions relative to the particular materials, goods, commodities, leases (including equipment or real property), licenses (including software) and services being procured. All responders must be advised of those terms which the University will not excuse.

C. Invitations for materials, goods, commodities, leases (including equipment or real property), licenses (including software) and services shall be posted on a publicly displayed bulletin board at the respective University campus, or University campus website and when deemed desirable, or as required by law, may be advertised in newspapers and trade journals in the State, Comm-PASS, or appropriate public internet websites. Advertisement for design and building construction must be in compliance with M.G.L. c. 7, c. 149 and c. 30, §39M.

D. University personnel responsible for purchasing shall, to the greatest extent possible, inform themselves of prices and specifications of items available through the Commonwealth of Massachusetts, Operational Services Division and its contract price agreements and may use them whenever it would be to the advantage of the University. University personnel procuring materials, goods, services, commodities or software made available by the Commonwealth of Massachusetts, Operational Services Division, other consortia, or group purchasing organizations, must comply with the terms and conditions set forth for the procurement; including any requirements for obtaining quotes.

E. Contracts of other consortia and group purchasing organizations may also be utilized when approved by the University Purchasing Council based on evidence of consortia’s sound competitive and ethical procurement practices whenever it would be to the advantage of the University.

F. When practicable, requisitions and orders shall be grouped to take advantage of quantity discounts.

H. Bidding is required for purchases of materials, goods, commodities, leases (including equipment or real property) and licenses (including software or electronic journals) which
exceed twenty-five thousand dollars ($25,000) per fiscal year; and for operational or consulting service contracts and University sub-contracts which exceed fifty thousand dollars ($50,000) per fiscal year.

G. All Labor and Materials construction projects must be bid in compliance with M.G.L. c. 149 and c. 30, §39M.

H. Design Services for Building Projects must be bid in compliance with M.G.L. c. 7.

III. Exceptions to Competitive Procurement

Subject to the Procurement Policy, the procurement of materials, goods, commodities, leases (including equipment or real property), licenses (including software) and services without advertising or some competitive procurement process should be limited to:

A. Purchases of materials, goods, commodities, leases (including equipment or real property) or licenses (including software) less than five thousand dollars ($5,000) in value.

B. The best over-all value based on a minimum of two with a preferred three quotes for purchases of materials, goods, commodities, leases (including equipment or real property) and licenses (including software) between five thousand dollars ($5,000) and twenty-five thousand dollars ($25,000) in value.

C. Consulting Services, Operational Services and University sub-contracts with fees of fifty thousand dollars ($50,000) or less per fiscal year.

D. Those instances where competitive bidding would be impracticable; and in all such instances, any department requesting the procurement must produce a written memorandum of "No Bid Justification," addressed to and counter-signed by the campus chief procurement/purchasing officer, which must include the benefits and circumstances for procurement without competitive bidding.

E. All Labor and Materials construction projects must comply with M.G.L. c. 149 and c. 30, §39M.

F. Emergency situations.

G. Library Books, Electronic Journals and Data Bases for use in the Library

H. Institutional Memberships and Subscriptions.

For purposes of administration of this policy, the President’s office and each campus may determine within the established ranges, outlined within this section, its own dollar limit on purchases requiring a competitive procurement procedure.
IV. Procedures

A. A University standard contract form agreement shall be used whenever possible for procuring services under this Policy.

B. A purchase order form contract may be used for procuring services with projected fees of ten thousand dollars ($10,000) or less per fiscal year.

C. A purchase order form contract may be used for the procurement of goods and services publically administered by the Commonwealth of Massachusetts, Operational Services Division.

The President’s Office will provide an annual report to the Senior Vice President for Administration, Finance and Technology and Treasurer of all University consulting contracts over $100,000 executed during a fiscal year. The report shall include the name of the consultant or firm, the purpose of the contract, total contract amount, and the duration of the contract. Campus and President’s office procurement personnel shall coordinate with the President’s Office to provide the information required in this report in the most efficient way possible.

V. Legal Consultation and Review

A. Legal Review: Prior review and approval by the General Counsel’s office is required for:

1. any agreements relating to real property
2. lobbyist services
3. consulting contracts which exceed $50,000 per fiscal year
4. University sub-contracts for consulting services pursuant to University service obligations to third parties which exceed $50,000 per fiscal year

B. Consultation: The General Counsel’s office should be consulted regarding any interpretation or application of these guidelines or the Procurement Policy. Attorneys in the office can provide review and advice for any aspect of procurement, including development of Invitations/RFP/RQ, responses from bidders, post-award de-briefs and protests, proposed contract terms, and negotiations.

Attorneys in the General Counsel’s office should be consulted regarding any contractual terms implicating the University’s trademarks, copyrights, or intellectual property, or any terms which may require the University to indemnify, hold harmless, warranty, or otherwise agree to protect a third party from risk of loss in any respect.