



## **Buying @ W&M**

### ***Procedures for Procurement of Goods and Services Including Small Purchases***

The *Rules Governing Procurement of Goods, Services, Insurance and Construction by a Public Institution of Higher Education of the Commonwealth of Virginia (Subchapter 3 of the Restructured Higher Education Financial and Administrative Operations Act)*, hereafter referred to as “[Governing Rules](#)” permit a public body to establish small purchase procedures, if adopted in writing, not requiring the use of competitive sealed bidding or competitive negotiation for single purchases of goods and services or the establishment of a term contract if the sum of all phases remains under the small purchase threshold. On July 1, 2020, the small purchase threshold for Higher Education Institutions increased from \$100,000 to \$200,000. Small purchase procedures must provide for competition wherever practical.

A user-friendly [procure-to-pay matrix](#) including exceptions and special conditions for departments may be accessed and is incorporated by reference as a part of W&M procedures. The matrix provides resources on mandatory and preferred contracts for goods/services that the University routinely uses. The matrix also provides directions regarding additional approvals for specific categories, if applicable. It is highly encouraged to refer to the matrix in advance of purchases for proper guidance. All purchases of goods and services expected to exceed \$200,000 shall follow the [Commonwealth of Virginia Procurement Manual for Institutions of Higher Education and their Vendors](#).

These procedures apply to William & Mary, or “W&M”, which includes Virginia Institute of Marine Science, “VIMS”. W&M Supply Chain Services is the central contracting office for the University for non-capital outlay goods and services. All purchases made by any University department shall be made in accordance with the [Governing Rules](#), the [Commonwealth of Virginia Procurement Manual for Institutions of Higher Education and their Vendors](#), and such rules and regulations as W&M may prescribe. Contracts may only be signed by employees with delegated [contract signature authority](#) in accordance with their appropriate level and type of delegation. While grant purchases are required to adhere to University procurement policy, grant-related transactions may be coordinated through the [Office of Sponsored Programs](#).

William & Mary shall not issue payment of any invoice for any department covering the purchase of goods and services, when such purchases are in violation of the law. University Purchase Orders are required to be issued to vendors in advance of commitment of goods and services, with limited exceptions (See Section 2, Item F in the [Higher Ed Manual](#)). Contracts awarded in violation of the law/Governing Rules, are voidable. Contracts signed by individuals without authority to do so are void from the beginning. Individuals signing/awarding contracts without the authority to do so may be held personally liable for payment to the vendor.

In accordance with the Governing Rules and the Commonwealth of Virginia Purchasing Manual for Higher Education Institutions and their Vendors, William & Mary has adopted the following procedures for purchases not expected to exceed \$200,000.

These procedures include:

- I. Preferred Contract Use
- II. Mandatory Requirements
- III. Purchases to DSBSD certified small businesses
- IV. Professional Service Purchases under \$80,000
- V. Purchases Under \$10,000
- VI. Purchases between \$10,000 - \$200,000
- VII. IT Purchases
- VIII. Methods of Procurement
- IX. Trade-In
- X. Exempt from Competition

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## **I. Preferred Contract Use:**

The use of cooperative contracts issued by the Virginia Association of State College and University Procurement Professionals (VASCUPP) institutions and state contracts are preferred contracting instruments. Cooperative contracts issued by other public or private organizations or entities, including other educational institutions; public-private partnerships, public bodies, charitable organizations, health care provider alliances and purchasing organizations are allowed only when those contracts are procured competitively with comparable processes as noted. § 6. *Cooperative procurement (Governing Rules)*.

## **II. Mandatory Requirements:**

Mandatory Contracts: William & Mary may establish category-specific contracts and University mandatory contracts as outlined in the procure-to-pay matrix.

Virginia Correctional Enterprises “VCE”: As permitted through the W&M Management Agreement with the Commonwealth of Virginia, as a restructured higher education institution, W&M will solicit quotes from VCE for furniture purchases above \$200,000 unless VCE does not manufacture the goods (or equivalent) required or grants a release for the purchase.

If no response is provided in a timely manner, or if there are extenuating conditions, W&M Supply Chain Services may elect to source furniture from other suppliers.

## **III. Small Certified Business Purchases**

W&M’s annual SWaM plan encourages purchases from Small, Woman-Owned, Minority-Owned, and Disadvantaged Veteran-Owned businesses (SWaM). Supply Chain Services may elect to utilize a Small Business & Supplier Diversity “SBSD” certified small/micro business vendor for purchases under \$200,000 without additional competition. If prices quoted from a Virginia certified small business vendor are deemed not to be fair and reasonable, or if a Virginia certified small business quote is unachievable or does not result in a best-value decision for the University, W&M should proceed with purchase procedures outlined in Sections V through VII.

#### **IV. Professional Services Purchases under \$80,000:**

Professional Services are defined as: accounting, actuarial services, architecture, land surveying, landscape architecture, dentistry, medicine, optometry, pharmacy, professional engineering, economist services, and law. Professional Services, when procured, are exempt from competition when purchases in the aggregate do not exceed \$80,000. Any purchase of legal services must have prior approval from University Counsel.

#### **V. Purchases Under \$10,000:**

Individual purchases of goods and services costing under \$10,000 and in the aggregate do not accumulate to over \$50,000 in total annual cost may be procured through the delegation granted to individual University departments. However, order-splitting\* must be avoided. Where possible, requirements should be combined when practical to obtain quantity discounts and other administrative efficiencies. In some instances, even though the annual amount is less than \$50,000, it may be advantageous to establish a term contract, and this option should also be considered.

Allowable purchases **under \$5,000** may be placed with a Small Purchase Charge Card (SPCC) but must be in accordance with William & Mary's [Small Purchase Charge Card \(SPCC\) Policies and Procedures](#). The preferred method of purchasing goods and services is through purchase order and payment via buyW&M. Payments to international vendors when the transaction is less than \$5,000 are allowable on the SPCC, even if the vendor is currently active in buyW&M.

\*Order Splitting Prohibition. The placement of multiple orders within other than a reasonable time period to one or more vendors for the same, like, or related goods or services to avoid using the appropriate method of procurement or to remain within delegated purchasing authority is prohibited and may be considered a violation, order splitting results in higher administrative cost and inefficiencies to W&M.

#### **VI. Purchases between \$10,000 and \$200,000:**

The following small purchase procedures have been established by William & Mary when acquiring goods or nonprofessional services up to and including \$200,000. Procurements made pursuant to these procedures do not require public bid openings, or newspaper advertising of competitively negotiated procurements.

#### **VII. IT Purchases:**

IT Small Procurements Not Under Contract: After approval by central IT department, an information technology procurement, including but not limited to:

Specialized software, website or browser plugins, website or desktop applications or subscriptions, electronic databases, software-as-a-service (SAAS), mobile apps, hardware (to include tablets), and maintenance or upgrades for software already purchased and in use at the University. Any and all software purchases require IT approval as well as upgrades and consulting services related to existing software provided the purchase is made from the existing exclusive supplier. Before purchasing the software/hardware described above when the total amount of the project is and/or hardware of \$200,000 or less, the procurement of the software, at the discretion of the assigned procurement officer, may be completed by:

- i) Utilizing a Virginia certified small business supplier, contingent on the procurement officer showing the determination of price fair and reasonable.
- ii) By soliciting three (3) quotes.
- iii) Without competition, if a determination is made that the Supplier's solution is in the best interest of the University and that the price is fair and reasonable (with documented determination attached to the requisition). In this case, consideration must be given to the total expected life of the contract. If the software to be purchased will be used for multiple years and the multi-year cost will approach \$200,000, a formal solicitation should be considered.

#### **VIII. Methods of Procurement and Related Requirements under \$200,000:**

Methods of Procurement may include:

- a) Unsealed "Request for Quotes" (also known as unsealed bidding)
- b) Unsealed Proposals, through Request for Proposals
- c) Sole Source
- d) Emergency
- e) Reverse Auction
- f) Public Auction

#### **Methods of Procurement:**

- a) Request for Quotes/Unsealed Invitation for Bids: A Request for Quotes may be used by Supply Chain Services to solicit bids or quotes for goods and nonprofessional services from \$10,000 up to and including \$200,000. W&M will solicit a minimum of three (3) bidders or utilize approved automated research methods and data to determine current-term price fairness and reasonability. William & Mary will make every effort to solicit Virginia Department of Small Business and Supplier Diversity "DSBSD" certified small businesses, if available. Evidence of research must be uploaded to requisition for auditing purposes. In the event a quote from a DSBSD certified small business is determined fair and reasonable, an order may be placed without additional competition.
- b) Unsealed Proposals: An Unsealed Request for Proposal method may be used by Supply Chain Services to solicit proposals for goods and nonprofessional services from \$10,000 up to and including \$200,000. W&M will solicit a minimum of three (3) suppliers. William & Mary will make every effort to solicit VA DSBSD certified small businesses, if available. Supply Chain Services will evaluate the legitimacy of reduced competition, and if validated, may permit an optional DSBSD certified small business award.

Offers may be opened and evaluated upon receipt. All responses must be received as designated in the solicitation document by the date and hour. In lieu of an evaluation committee, the Procurement Officer or end user may solely evaluate, and rank offers. If stated in the solicitation, Best Value method may be utilized for evaluation. Upon completion of the evaluation, negotiations should be conducted with the offeror(s) selected.

- c) Sole Source Procurement: A sole source procurement is authorized when there is only one source practicably available for the goods or services required. (*Governing Rules* §5.E) Competition is not available in a sole source situation; thus, distinguishing it from a proprietary purchase where the product required is manufactured by only one company, but is sold through distributors and competition between them can be obtained. Sole source justification based solely on a single vendor's capability to deliver in the least amount of time is not appropriate since availability alone is not a valid basis for determining a sole source procurement. The following elements are required to execute a sole source procurement:
- i. Written Determination: A written determination documenting that there is only one source practicably available for that which is to be procured, must be included in the procurement file. The writing shall document the basis for the determination. Public posting is required.
  - ii. Negotiate a Contract: After the sole source has been documented, a contract may be negotiated and awarded without competition.
  - iii. Documentation: The sole source documentation must contain the following information:
    - a. Describe the product(s) or service(s) being requested and how same will be used, specify users or target group for requested product(s) or service(s), and benefit to William & Mary.
    - b. Identify other products, services, and associated vendors that were also considered to provide the requested products or services and why those vendors were not selected.
    - c. Explain why the requested products and services are the only products or services that can and will meet all of the necessary requirements of the University.
    - d. Explain why this vendor is the only practicable available source from which to obtain the requested products or services.
    - e. Provide a list of peer Universities that are currently using the requested products or services that were also provided by the requested vendor, if known.
  - iv. Approval Process: The sole source approval request is completed electronically, and workflows are embedded based on dollar threshold. Sole source procurements exceeding \$10,000 will be routed and reviewed by William & Mary Supply Chain Services. Those in excess of \$500,000 will be routed and reviewed by the Chief Business Officer.
- d) Emergency Procurement Procedures: An emergency is an occurrence of a serious and urgent nature that demands immediate action. (*Governing Rules* §5.F) Emergency procedures may be utilized only to purchase that which is necessary to cover the emergency. Subsequent requirements shall be obtained using standard purchasing procedures. The potential loss of funds at the end of a fiscal year is not considered an emergency.

The nature of the emergency determines what pre-award action may be taken: For an emergency purchase necessary to protect public safety or property, efforts should be directed to finding a source and authorizing the contractor to proceed. This does not relieve the university from negotiating a fair and reasonable price and subsequently documenting the procurement action taken.

For other types of emergencies, competition should be sought to the extent practicable, to include verification of the vendor's:

- 1) qualifications
- 2) insurance coverage, if applicable,
- 3) warranty, and
- 4) any other data pertinent to the procurement may be obtained.

As soon as practical, after directing the contractor to proceed, a confirming purchase order should be prepared.

Prepare a written determination for signature by the AVP of Supply Chain Services or designated representative indicating the nature of the emergency, the reason for selection of the particular contractor and include such determination with the file. Emergency procurements exceeding \$10,000 must be approved by William & Mary Supply Chain Services, in advance of purchase or as soon as possible after the emergency is stabilized.

- e) Reverse Auction: The purchase of goods or nonprofessional services, but not construction or professional services, may be made by reverse auctioning (*Governing Rules §5.J*)
- f) Public Auction: Upon a determination made in advance by the Institution and set forth in writing that the purchase of goods, products, or commodities from a public auction sale is in the best interest of the public; such items may be purchased at the auction, including online public auctions. (*Governing Rules §5.I*)
- g) Contract Extensions: All contract extensions shall not exceed 2 years and shall be approved by the AVP of Supply Chain Services and shall be executed by both the contractor and W&M.

## **IX. Trade-In**

The expected trade-in value of equipment should not be considered when determining the anticipated value of a contract. Trade-in items are not considered surplus property. Trade-in items may only be traded in for the purchase of property of the same general purpose. Equipment/Goods are considered trade-in eligible only if the supplier's removal of the material and provision of a replacement occur at substantially the same time, and if the purchase price of the replacement item has been reduced to reflect a fair allowance for the trade-in item. A trade in should not be considered if the monetary allowance offered is substantially below the known current sales range. Procurements with proposed trade-in offers shall be approved in writing by the AVP of Supply Chain Services and the Trade-in of a Fixed Asset [form](#) must be completed in buyW&M and approved form shall be attached to the requisition, prior to issuing the PO.

**X. Exceptions to Requirements:**

The procure-to-pay matrix located at <https://procuretopay.wm.edu/> outlines exceptions to competition and where appropriate, exceptions to needing a purchase order for the transaction.

Procurement Officer Determination to not pursue competition in the best interest of the University: Determination to not pursue competition for goods and services over \$10,000 but not greater than \$200,000 may only be approved by the AVP of Supply Chain Services. A written justification will be maintained with the procurement records explaining why it was in the best interest of the university not to pursue competition.

Price - Reasonableness Determinations: When competition is restricted or lacking or the prices offered appear excessive, Supply Chain Services is responsible for further analysis to determine in writing if the prices are fair and reasonable. This applies to sole source, single response, contract changes/modifications, contract extensions, and contract renewals.