



PROCUREMENT & CONTRACTS

OVERVIEW

Purpose

Delegation of Authority

Contract Life Cycle

Fair and Open Competition

CSU General Provisions and Contract Negotiations

Insurance

Key Takeaways

WHAT IS OUR PURPOSE?

PURCHASE GOODS & SERVICES

Signature Authority to bind CSUSM through Purchase Orders, Contracts, MOU's, Leases, Licenses, etc.

Fair and Open Competition (Administration of solicitations)

Strategic sourcing

Small Business and Disabled Veteran Business Enterprise programs

Contractual insurance compliance

Risk Management

DELEGATION OF AUTHORITY

- We are “Trustees of the California State University acting through its San Marcos Campus”
- Who can sign an agreement?
 - Trustees → Chancellor → President → CFO → AVP Administration → Procurement & Contracts Department
- Always ask - do you have a Delegation of Authority to sign the agreement from someone who is authorized to give you authority?
- Unless you have delegated authority as specified above, do not make any contractual commitments, written or verbal (or handshake!) to any suppliers or other parties.
- Contractual commitments, written or verbal, can include obligating University resources, expertise, facilities, or supplies (not just money).
- When in doubt – ASK!

DELEGATION OF AUTHORITY

Procurement Authority:

- Authority to make a commitment on behalf of the University to another party (Contract, PO, MOU, etc.).
- *Example:* A Professor wants to allow an outside company to use lab equipment or space for research. Procurement & Contracts has the authority to negotiate and sign the use of space contract.

Payment Authority:

- Authority to approve requests from one's budget to authorize Procurement & Contracts to purchase or contract on their behalf. After the purchase is properly authorized by Procurement, they may authorize payment.
- *Example:* A Dean needs a new software. They have authority to approve the request for the financial expenditure, and after purchased/contracted by the Procurement Authority, the authority to authorize payment.

CONTRACT LIFE CYCLE



FAIR AND OPEN
COMPETITION



GENERAL PROVISIONS/
NEGOTIATIONS



INSURANCE

CONTRACT LIFE CYCLE

“How could the process go quicker?”

- Come to Procurement & Contracts early. We can help find an efficient and compliant path forward from the start.
- Set expectations with the contractor. Procurement will request insurance and use the CSU template. Refer them to our Doing Business with CSUSM document at: https://www.csusm.edu/procurement/procurementservices/doing_business_with_csusm.pdf
- Use available strategic sourcing options. Contracts for \$50,000+ require fair and open competition.
- Strategic Sourcing Options and Alternatives
 - CSU Master Enabling Agreements (MEAs)
 - Blanket Purchase Orders (BPOs) and Multiple Awards
 - Master Pricing Agreements (MPAs)
 - Use of Other Competitively Bid Contracts, such as UC and CCC, that meet CSU requirements

FAIR AND OPEN COMPETITION

- Needed for all purchases \$50,000 and over. Remember, **\$50,000** is the magic number!
- Come to Procurement as soon as possible if a contract may exceed \$50,000.
 - Applies to entire contract term.
 - Cannot split the transaction to avoid bidding thresholds.
 - The Contract should include all anticipated phases from the beginning, even if it is included as an option to add a phase at a later date.
 - Some MEA's through the Chancellor's Office require some form of competition (3 quotes).
 - Procurement may be able to help by using another entity's competitively bid contract.

GENERAL TERMS AND CONDITIONS

- CSU has developed a set of General Terms and Conditions for use in contracts called General Provisions. There are different General Provisions for the acquisition of goods, services, facilities maintenance, and information technology as the risks with each type of commodity varies.
- The General Provisions must be the starting point for all CSU contracts, because the various terms and conditions are included for one or more of the following reasons:
 - Addresses compliance with a law, regulation or policy
 - Best practice as determined to be in CSU's best interests

GENERAL TERMS AND CONDITIONS

Provisions specifically required by law:

- Appropriation of Funds; Examination and Audit; Nondiscrimination; Compliance with NLRB Orders; Drug-Free Workplace Certification; Forced, Convict, Indentured and Child Labor; Recycled Content Certification; Expatriate Corporations.

Key Provisions that are required by policy:

- Confidentiality
- Governing Law and Jurisdiction
- Defined contract term/end date
- No Disclaimed/Limited Warranties
- No Binding Arbitration
- No Dynamic Online Terms that other party can change and post online (link in contract)
- Indemnity (hold harmless) and Insurance requirements
- ADA/Accessibility Requirements for Technology. Managed in coordination with IITS and the ITR process.

GENERAL TERMS AND CONDITIONS

- Information Security
 - “Cyber” security has become one of the largest Information Technology risks.
 - Applies to Software, Cloud Services/Software as a Service (SaaS), Data Processing, etc.
 - Information Security risk is managed in coordination with IITS.
 - IITS: ITR process. When in doubt, fill it out!
 - Procurement: Contract terms and conditions.
- Contractors are required to comply with CSU information security requirements and separate terms and conditions designed to protect CSU data and cover security breach notifications and responsibility
- The CSU is not compliant with European data regulations (GDPR), and we are not able to sign a contract that agrees to any of these regulations.

INSURANCE

- One of the biggest hurdles we face in finalizing contracts and PO's. It can sometimes take several weeks to get the insurance documents from the other party.
- Required by CSU Policy 6946217 (California State Insurance Requirements) and Executive Order 1069.
- Reduces risk for the University in the event that something goes wrong.
- Deviations from standard insurance requirements requires a Risk ID and Evaluation, which is approved in coordination with Integrated Risk Management.

KEY TAKEAWAYS

- DO NOT MAKE ANY VERBAL OR WRITTEN COMMITMENTS OR OBLIGATIONS to any potential third party (e.g., suppliers, agencies, etc.).
- ASK FOR GUIDANCE from Procurement early . Visit “Plan your Purchase” on Procurement’s website for approximate timelines and required supporting documents:
<https://www.csusm.edu/procurement/procurementservices/index.html>.
- ALLOW REASONABLE TIME for Procurement to negotiate/process contract requests. They typically take 2-16 weeks, however, vary based on multiple factors, such as the complexity of the scope of work or services (SOW), existing workload, the level of risk, the supplier’s willingness to use CSU terms and hierarchy for approving contractual changes, insurance, and more, so it can take longer.
- Fair and Open Competition + General Provisions/Negotiations + Insurance = Contract
- LET SUPPLIERS KNOW THAT THE CSU HAS ITS OWN TERMS AND CONDITIONS that they will need to accept. This can save many hours of reviewing and negotiating their contract terms, so the contracting process is MUCH QUICKER. Utilizing our terms and conditions PROTECTS THE UNIVERSITY, because the language is drafted/vetted by the CSU Office of General Counsel!



QUESTIONS?

Thank you!