



TOPIC: Proposed Revisions to Board of Regents Section VIII-3.00—USM Procurement Policies and Procedures

COMMITTEE: Finance

DATE OF COMMITTEE MEETING: January 28, 2016

SUMMARY: Over the last four months, the Efficiency and Effectiveness 2.0 (E&E 2.0) Procurement Study Group has undertaken a comprehensive review of USM’s Procurement Policies and Procedures in collaboration with institution vice presidents and procurement directors. These policies and procedures were examined and updated based on current best methods and business practices as well as opportunities to gain efficiencies and improve effectiveness.

Attached is a spreadsheet summary of the proposed amendments to the policies and procedures resulting from this systematic effort. **The detailed amendments can be found on the USM website at:** <http://www.usmd.edu/usm/procurement/policy-review/>

The USM Procurement Policies and Procedures have not been updated since their adoption by the Board of Regents on December 3, 1999. Many of the amendments are technical in nature and could be considered “housekeeping” revisions. Other proposed changes are substantive in nature and include updates to exclusions, authorized procurement methods and revised dollar thresholds.

Pursuant to the general procurement autonomy granted to USM by the Maryland General Assembly (Chapter 515 of the Laws of 1999), the policies and procedures are designed to support and facilitate the educational, research and public service missions of the University System of Maryland and its constituent institutions through the acquisition of goods and services by applying best methods and business practices that provide for public confidence in the System. The proposed revisions provide for a procurement process of quality and integrity, broad-based competition, fair and equal treatment of the business community, increased economy and uniform procurement procedures.

At the recommendation of the USM E&E 2.0 Procurement Study Group and as supported by the USM Procurement Directors, the USM Administrative Vice Presidents and the Council of University System Presidents, today’s action requests approval of the revisions to the USM Procurement Policies and Procedures. Once approved by the Finance Committee and Board of Regents, these policies and procedures will be forwarded to the Joint Committee on Administrative, Executive and Legislative Review of the Maryland General Assembly for review and comment, as required.

ALTERNATIVE(S): The USM Procurement Policies and Procedures could remain unchanged or otherwise modified.

FISCAL IMPACT: Although there is no direct fiscal impact, it is believed that these revisions will (i) result in efficiencies in costs, productivity, and business processes; and, (ii) be consistent with current best methods and business practices.

CHANCELLOR’S RECOMMENDATION: That the Finance Committee recommend that the Board of Regents approve the revised USM Procurement Policies and Procedures, as presented.

COMMITTEE RECOMMENDATION: RECOMMEND APPROVAL

DATE: 1/28/16

BOARD ACTION:

DATE:

SUBMITTED BY: Joseph F. Vivona (301) 445-1923

USM PP&P - Final Proposed

PP&P Section	Page number	Recommendation	Rationale/Comment
II Authority and Delegation	6	Revised Education Article citation	Chapter 515 has now been replaced to Education Article
III Purpose	6	Added reference to BOR policy on public corporation that states that only statute can impose restrictions on USM	Compatible with BOR policy #7.01
	6	Added language around when BPW Advisories and Executive Orders would apply to USM	In the past, the determination of the applicability of these documents was made at a USM staff level. This added language provides for the review and recommendation of the USM Procurement Directors and the USM Director of Procurement and the approval by the USM VPs in consultation with legal counsel to determine if such documents apply to USM.
IV. Applicability – A. General Applicability	7	In section 1, added other defined procurement categories; clarified use of ‘University’ and ‘Institution’	Such as commodities, information technology and construction. Added that a constituent university may be referred to as “University” or the “Institution”
IV. Applicability B. Exclusions	7	In 1., added the words “Real Property or”	
	7	In 4., added the example of “student health insurance”	Under the exclusion #4 for reimbursement contracts
	8	In 11 exclusion., added “conferences and/or”	To clarify that these USM PP&P’s do not apply to expenditures related to USM employees attending conferences or hosting/participating in conferences.
	8	In 14 exclusion for curricular, revised it to clarify this exemption including technology advancements	Clarified to include Learning Management Systems for curricular purposes, library materials and the like under this exemption.
	8	Added 15: Contracts for commodities and services related to corporate sponsored research	This would be a new exemption for procurements related to corporate sponsored research. Corporate sponsors are providing private funding and expect results quickly.
	8	Added 16. ‘Revenue Generating Contracts’ such as pouring rights, dining services, vending, lodging services and the like	New exemption for contracts in which the university is not paying a vendor but rather a commission or the like is paid to the University.
	8	Added 17. High Impact Economic Development Activities (HIEDA)	Compatible with BOR policy on this subject
V. Procurement Methods – <i>Simplified Procurement</i>	9 -11	Increase the simplified procurement limit to \$200K	Update the current limit (\$100K) that is a 15+ years old
		Increase non-competitive Small Procurement to \$25K	PP&P’s are 15 years old; Per COMAR 21.05.07.06, State agencies have the latitude for non-competition up to \$15K
		Revised “Maryland Contract Weekly” to eMaryland Marketplace or then current version.	Updated to current publication name and provides language so if it changes in the future, the PP&Ps do not have to be changed.
		Changes to expand the options for publishing solicitations to include direct solicitation to known vendors, MBEs, small businesses, and/or trade associates.	Expanding the Procurement Officers’ discretion to publish in a manner that best meets the needs of the procurement

USM PP&P - Final Proposed

PP&P Section	Page number	Recommendation	Rationale/Comment
V. Procurement Methods B. <i>Competitive Sealed Bidding</i>	Pp 11-16	Revised "Maryland Contract Weekly" to eMaryland Marketplace or then current application	See comments above under "Simplified Procurements"
		Added that direct solicitation was acceptable form of publication	See comments above under "Simplified Procurements"
		Stated that addenda to solicitations should be published in the same manner as the solicitation; clarified how acknowledgement of receipt could be received.	Publication of addenda/amendments consistent with the original solicitation publication requirements and allow for acknowledgement of addendum receipt via email and documented telephone conversation.
		In paragraph 10, added 'in the manner specified in the solicitation'; also made grammatical changes	
		In paragraph 12, corrected 'university' to 'Institution'; grammatical correction regarding mistakes;	
		In paragraph 13, made grammatical changes to (b)	
		In paragraph 14, made grammatical changes	Clarified 'in state' and 'out of state'
		In paragraph 16, corrected 'proposers' to 'bidders'	Because bids have bidders and RFPs have proposers
		Added new paragraph 17 to allow for negotiated awards after unsuccessful bidding	Updated to current best methods
V. Procurement Methods C. <i>Competitive Sealed Proposals</i>	Pp 17-22	C.2(d) – removed reference to numerical scoring	Numerical scoring is not recommended as a 'best practice' (AG has advised about this also)
		C.2.(d) Stated that addenda to solicitations should be published in the same manner as the solicitation	Clarifies publication of addenda or amendments to be the same as original solicitation
		Paragraph C.2 (d) – updated PIA reference	Updated PIA reference to current Annotated Code
		Paragraph C.5 – clarifications on proposal receipts	Clean-up language
		Paragraph C.9 (g) revised to speak to procurements with multiple phases with a series of shortlists.	Many procurements now have multiple phases rather than just one or two.
		Paragraph C.10(b) Added the ability to negotiate with one firm if determined that only one candidate is fully qualified or clearly more highly qualified or two or more candidates deemed to be fully qualified and best suited among the proposers.	Updated to current best methods; Allows Procurement Officer to make a business decision rather than having to continue to include firms who are not as qualified or restart the procurement
		Paragraph C.12(b) – added language that specifically states that written debriefing notes are not provided to proposers	This has always been USM practice, but never specifically stated in the USM PP&P's
		Added in C.14 that awards can be published on institution's bid board to satisfy the award publication requirement	Broadens award publication requirement options to match USM practice
V. Procurement Methods D. <i>Sole Source Procurements</i>	Pp 22-23	Noted notification and approval requirements	Makes this consistent with Section VII – Contract Administration inclusive of recommended revisions to this section
		Paragraph 3. Shortened examples to 'contract'	Eliminates the need to update types of contracts in future editions of USM PP&P's

USM PP&P - Final Proposed

PP&P Section	Page number	Recommendation	Rationale/Comment
V. Procurement Methods <i>E. Emergency Procurement</i>	pp. 23-25	Minor edit to 4(c)	To better describe the documentation requirement
V. Procurement Methods <i>F. Unsolicited Proposals</i>	Pp 25-26	Minor edit to F.2.(b)	Added email addresses as part of the documentation
V. Procurement Methods <i>G. Cooperative Purchasing Agreements</i>	Pp 26-27	No recommendations	N/A
V. Procurement Methods <i>H. Use of Contracts Established by Others</i>	p. 27	Added the word "organizations" in addition to existing terms of institutions and Agencies throughout; and, added more examples	For clarification purposes of this method, added language to provide examples of "others" to include other higher education institutions (not just USM), Internet 2, U.S. Communities, Maryland Educational Enterprise Consortium (MEEC), and other entities certified by the BOR such as the HIEDA.
V. Procurement Methods <i>I. Qualification Based Selection Process (QBS)</i>	Pp 27-31	Total new section to allow for the QBS process to be used for other procurements in addition to procurements for architectural and engineering (A/E) services	Updated for current best practices. This would be an appropriate method for many procurements such as consultants and services. This method provides for a technical qualification of firms and the price is negotiated with the top technically ranked firm only; if negotiations are not successful with the #1 firm, negotiations can be conducted with the #2 ranked firm or the procurement can be re-solicited.
V. Procurement Methods <i>J. (formerly "I") Architectural and Engineering Services</i>	Pp 31-36	Expanded this section to include the USM recommended draft of solicitation documents for AE Services discussed with the AE community. Allows for multiple technical phases (not just two) along with 'shortlisting' rather than 'ranking' at each step.	-Provide for streamlining AE solicitations in response to feedback from the AE community -it is often difficult to 'rank' all proposers when you receive a large number of proposals in the initial phase of the procurement; so this would allow for shortlisting until the final shortlist is determined and ranked.
		Under award, increased dollar threshold for BPW approval to "exceeding \$1M or the current legislative threshold"	To be consistent with recent legislation as well as eliminates the need to revise if legislation revises this threshold
		Added debriefing paragraph	To be consistent with competitive sealed proposals and QBS
VI Contract Types	Pp 37 to 38	No recommendations	

USM PP&P - Final Proposed

PP&P Section	Page number	Recommendation	Rationale/Comment
VII Contract Administration	Pp 39-41	VII.A. – replaced ‘possible’ with ‘practicable’; updated citation to Education Article rather than Chapter 515 of the Laws of 1999; also added “Retainage” as applicable to USM.	Consistent with law 11-203(e); and, Chapter 515 of Laws of 1999 was replaced by the Educational Article
		VII.C.1 – revised per previous recommended edits	Added “organizations” under contracts established by others; and, added QBS method to be available for non-AE procurements.
		VII.C.2 – Added reference to the BOR policy #VIII-3.10 Policy on Approval of Procurement Contracts.	Added this language so that in the event this policy changes in the future, the PP&Ps will not have to be updated
		VII.C.3 – Revised the dollar threshold for written notification to the USM VCAF of sole source procurements from \$100K to \$200K	This dollar threshold change was made based to be consistent with the recommended change to \$200K for the simplified procurements threshold.
		VII.C.5 – Revised the dollar threshold for written notification to the USM VCAF for sole source personal service contracts from \$25K to \$50K	Recommendation is based on need to update since PP&Ps are 15+ years old.
		VII.D – Updated the BPW threshold for both contracts and contract modifications to the new threshold of exceeding \$1M or the current legislated threshold;	To be consistent with recent legislation as well as eliminates the need to revise the PP&Ps in the future if legislation revises this dollar threshold
		VII.E – Added that electronic signatures may be accepted as determined by the Procurement Officer	Updates to current best business practices to allow electronic signatures.
VIII - Vendors	Pp 42-43	No recommendations	N/A
IX – Socio-Economic Policies	P 44	No recommendations made	The subject of socio-economic policies and the associated requirements has been identified as a future initiative for the E&E 2.0 Procurement Study Group.
Section X – Protests and Claims	Pp 45-48	No recommendations made	N/A

USM PP&P - Final Proposed

PP&P Section	Page number	Recommendation	Rationale/Comment
Section XI- Definitions	Pp 49-61	Award: Replaced 'procurement agency' with 'Procurement Officer'	USM is not a Procurement Agency
		Revised definitions of "Commodity" to include software and equipment and "Maintenance" for clarification purposes	Adopted the Adpics definition and examples per BPW Advisory #1998-2 as guidelines for 'Maintenance'
		Revised definition of Contract and Contract Modification	Revised definitions are consistent with USM BOR definitions
		Minority Business Enterprise definition was corrected to be in compliance with COMAR 21.01.02 (54) and 21.11.03.03	Matched definition of MBE to COMAR 21.01.02 (54) and 21.11.03.03
		Most Advantageous definition was revised to excluded reference to revenue generating contracts	To be consistent with recommended revision that revenue generating is exempt/excluded.
		Procurement Agency definition was deleted	USM is not a Procurement Agency so this definition is not applicable.
		Qualifications Based Selection definition was added	Was not defined in the original PP&Ps
		Renewal Options - Added definition for this	Original PP&Ps did not have this term defined. The definition includes exercising a renewal option at the University's sole discretion.
		Revenue Generating Contract Definition was added	Was not defined in the original PP&Ps. Adopted the Adpics definition and examples per BPW Advisory #1998-2 as guidelines for "Revenue Generating Contract"
		"Services" definition was revised to exclude contracts defined elsewhere (such as maintenance, construction-related, architectural services or energy performance contract services)	For clarification purposes.
		Small Business – revised to only cite the statute	Added citation for the Small Business legislation for definition; eliminates need to revise if legislation changes
		State Agency definition was deleted	USM is not a State Agency so this definition is not applicable
"University" versus 'Institution' use was corrected in several incidences	Throughout the PP&Ps		
Appendix A – Terms and Conditions	Pp 62 - 101	Revised the thresholds to the recommended ones; also deleted all forms and just referred to the "current State of Maryland form"; in insurance section added "to consider Builder's Risk for construction projects."	-minimal edits made to this section as there is a separate subcommittee to address "contract terms and conditions"; -added edits to be consistent with COMAR, where applicable