



**Minnesota State Colleges and Universities
System Procedures
Chapter 5 – Administration
Procedures associated with Board Policy 5.14**

5.14.5 Purchasing

Part 1. Authority. Board Policy 5.14, Procurement and Contracts, delegates to the chancellor authority to develop procedures for making purchases.

Part 2. Purchasing Authority. State colleges and universities have authority to make purchases up to \$50,000. Each college and university, in consultation with the system office, shall develop procedures for making purchases.

Purchases over \$50,000 must be reviewed and approved by the system office unless the college or university has received increased authority. Increased authority up to \$100,000 may be requested from the chancellor through the vice chancellor / chief financial officer. The request must be in writing and shall include verification that employees have received appropriate training from the system office.

Part 3. Purchasing Contract Definition. Purchases must be prepared on forms approved by the system office to assure that they include all state required contract language. Any modification of forms approved by the system office or the use of a non-system office form require the review of the Attorney General's Office.

A purchasing contract means any agreement such as a purchase order or a field order entered into by the system office, college or university for the sale or purchase of supplies, materials, equipment or the rental thereof. Throughout this document purchasing contracts will be referred to by using the terms purchasing and purchases.

Part 4. Purchasing Requirements. The Minnesota State Colleges and Universities are required to follow the purchasing requirements as defined in Minnesota Statute 471.345, Uniform Municipal Contracting Law, and referred to in the following subparts.

Subpart A. Purchases less than \$10,000. If the amount of the purchase is estimated to be \$10,000 or less, the purchase may be made either upon quotation or in the open market, at the discretion of the system office, state college or university. If the purchase is made upon quotation it shall be based, so far as practicable, on at least two quotations. Quotations may be obtained by telephone or in written form via facsimile (FAX), delivery service, or Internet.

Quotations must have a specified date and time for submission. Each institution shall determine a level at which written quotes will be required. All quotations obtained shall be kept on file until audited. The record to be retained must include the names of vendors providing quotes, amounts of quotations, and each successful quote signed and dated.

Subpart B. Purchases from \$10,000 to \$25,000. If the amount of the purchase is estimated to exceed \$10,000 but not to exceed \$25,000, the purchase may be made either upon sealed bids or by direct negotiation by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. Quotations may be obtained by telephone or in written form via facsimile (FAX), delivery service, or Internet. Quotations must have a specified date and time for submission. If quotations are obtained by telephone, they must be followed up with a signed quote. All quotations obtained shall be kept on file until audited. The record to be retained must include the names of vendors providing quotes, amounts of quotations, and each successful quote signed and dated.

Subpart C. Purchases from \$25,000 to \$50,000. If the amount of the purchase is estimated to exceed \$25,000, sealed bids shall be solicited by public notice in the manner and subject to the requirements of Part 7. Bids and documents pertaining to the award of the purchase shall be retained and made a part of the permanent file. The record to be retained must include the names of vendors providing bids, amounts of bids, and each successful bid signed and dated.

Subpart D. Purchases over \$50,000. Purchases over \$50,000 (or in excess of institutional authority) require system office approval from the vice chancellor / chief financial officer. Institutions must submit a memorandum explaining the need for the purchase, the purchase amount, verify that funds are available for paying for the purchase, and describe what process will be used in making the award. The institution may proceed with the purchase upon approval of the memorandum.

Subpart E. Purchases over \$100,000.

Businesses with More than 40 Minnesota Employees. Consistent with Minnesota Statute 363.073, vendors who intend to bid on any purchases or contracts exceeding \$100,000 and have had on any single working day in the previous twelve (12) months more than forty (40) full-time employees *within* Minnesota, must apply for a Certificate of Compliance from the Minnesota Department of Human Rights. Bids or proposals on purchases or contracts exceeding \$100,000 from vendors who have *not applied for* this certificate cannot be accepted. An award exceeding \$100,000 cannot be made to vendors who have not *obtained* this certificate.

Businesses with More than 40 Employees Outside Minnesota. Consistent with Minnesota Statute 363.073, vendors who do not have more than forty (40) full-time employees in Minnesota, but who have had on any single working day in the previous twelve (12) months more than forty (40) full-time employees *in the state in which their principal place of business is located*, must have a Minnesota Certificate of Compliance or must certify that the business is in compliance with federal affirmative action requirements in order to receive awards exceeding \$100,000.

Part 5. Encumbrance. Funds must be encumbered prior to making an obligation through an authorized employee certifying that the accounting system shows sufficient allotment or encumbrance balance in the fund, allotment, or appropriation to meet it. An expenditure or obligation authorized or incurred prior to encumbering funds is illegal and ineligible for payment until made valid and is in violation of M.S. 16A.15, Subd. 3. An employee authorizing or making the payment, or taking part in it, is liable to the state for the amount paid. A knowing violation of M.S. 16A.15, Subd. 3 is just cause for the employee's removal. **The state cannot agree to indemnify** third parties or hold them harmless (M.S. 10.17; Minn. Const. Art. XI, Sec. 1).

Part 6. Prepayment. M.S. 16A.41, Subd. 1, prohibits the state from paying in advance. The state can only make prepayments for software or software maintenance contracts for state-owned or leased computer equipment, sole source maintenance agreements, exhibit space, subscription fees for newspapers and magazines, and the Library of Congress.

Part 7. Solicitation of Bids. Sealed bids must be made by public notice through publishing a two week notice in an official newspaper(s). The official newspaper may be the State Register. Sealed bids also may be solicited by directly notifying prospective bidders not less than seven (7) days before the final date of submitting bids. This notice shall state the time and place of receiving bids and contain a brief description of the subject matter. A bid containing an alteration or erasure must be rejected unless the alteration or erasure is crossed out and the correction printed in ink or typewritten adjacent to it and initialed in ink by the person signing the bid. Bids must be sealed and when they are read, must be opened in public at the hour stated in the notice. All sealed bids and quotations obtained shall be kept on file until audited.

Part 8. Rental of Equipment under \$60,000. If the amount of a contract for the rental of equipment is estimated to be \$60,000 or less, the contract may be made by direct negotiation by obtaining two or more quotations for the rental when possible and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations shall be kept on file until audited.

Part 9. Computer Equipment. Computer equipment may be purchased up to \$250,000 to connect a college or university to sites outside the institution without prior approval of the Information Policy Office. Such purchases shall be coordinated through the vice chancellor for budget. The guidelines and standards of the Information Policy Office must be followed for the development, purchase, and training for information systems over \$250,000. Campus authority is limited by the amounts under Part 2.

All vendor prepared software license agreements and maintenance agreements should be reviewed by the Attorney General's Office. ~~The Attorney General's Office should be contacted for all financing lease purchase agreements. The Attorney General's Office has a state lease purchase agreement.~~

Part 10. Purchases from Targeted Group Businesses. These businesses fit the definition in state law as being small, targeted because of race, gender or disability, or economically disadvantaged. Purchasing practices will include provisions whenever practicable, for procurement from small targeted group businesses as defined in Minnesota Statute 471.345, Subd. 8. Targeted businesses are certified as such and a list is available from the Department of Administration.

The chancellor shall annually establish goals and guidelines for procurement from targeted group businesses consistent with M.S. 471.345, Subd. 8.

The accounting system for the Minnesota State Colleges and Universities shall serve as the basis for tracking payments to targeted group businesses, economically disadvantaged businesses, small businesses, and other business enterprises owned by women, minorities, and people with disabilities.

Part 11. Code of Ethics.

Subpart A. State employees are covered by M.S. 43A.38 and M.S. 43A.39. It covers such topics as acceptance of gifts, conflicts of interest, and use of confidential information.

Subpart B. M.S. 15.43 states that no employee of the state in direct contact with suppliers or potential suppliers to the state, or who may directly or indirectly influence a purchasing decision or contract by establishing specifications, testing purchased products, evaluating contracted services, or otherwise has official involvement in the purchasing or contracting process may:

- Have any financial interest or have any personal beneficial interest directly or indirectly in the contracts or purchase orders for goods or services used by, or purchased for resale or furnished to the system office, college, or university; or
- Accept directly or indirectly from a person, firm, or corporation to which a contract or

purchase order has been or may be, awarded, a rebate, gift, money, or anything of value other than items of nominal value. No such employee may further accept any promise, obligation or contract for future reward.

Textbooks, software, and other course materials authored by an employee of the Minnesota State Colleges and Universities may be used as required course material. Instructors may accept free samples of textbooks and related teaching materials.

Part 12. Accountability. The chancellor for the system office and the president of each college and university shall designate an employee who shall have overall responsibility for complying with state and federal laws, board policy, and systemwide procedures for all purchases.

Audits of purchases will be conducted according to the audit plan approved by the board.

Date of Implementation: 07/01/96,

Date of Adoption: 07/01/96,

Date and Subject of Revision:

06/21/00 – Contains language formerly in system procedure 5.0.3;

05/05/05 – Removed Part 11 language on fixed assets and renumbered parts 12 and 13 respectively.

06/21/00 – Contains language formerly in system procedure 5.5.2;

04/00/99 (Part 4, Subp. D modified because of changes in M.S. 363.073)

07/00/97 (Part 4, subd D, dollar figure went up from \$50,000, due to Legislative changes)