



## **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 contracts for goods/services that the University is expected to utilize and directions on processes for submittal of approvals for specific categories. It is highly encouraged to refer to the matrix in advance of new purchases for proper guidance. All purchases of goods and services expected to exceed \$200,000 shall follow the procedures as set forth herein.

These procedures apply to William & Mary, or “W&M”, which includes Virginia Institute of Marine Science, “VIMS”. W&M Procurement 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 Purchasing 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 purchase and contract authority in accordance with their appropriate level 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 law. 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. SWaM Purchases
- 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 state contracts and cooperative contracts issued by Virginia Association of State College and University Procurement Professionals (VASCUPP) institutions 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 below. § 6. *Cooperative procurement (Governing Rules)*.

#### **II. Mandatory Requirements:**

William & Mary may establish category specific contracts and establish 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 in excess of \$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 Procurement Services may elect to source furniture from other suppliers.

#### **III. Small, Woman-Owned, and Minority-Owned “SWaM” Purchases:**

W&M’s annual SWaM plan encourages purchases from Small, Woman-Owned, Minority-Owned, and Disadvantaged Veteran-Owned businesses (SWaM). If prices quoted from a SWaM supplier do not appear

to be fair and reasonable, or if a SWaM quote is unachievable or does not result in a good business 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 enter into a term contract and this should also be considered.

Purchases **under \$5,000** that are allowable per William & Mary's **Small Purchase Charge Card (SPCC) Policies and Procedures** should be placed on the SPCC. Check payments will only be processed for items that are not allowable per SPCC policy, identified as an allowable ([direct pay or reimbursement](#)), in cases where vendors do not accept the SPCC or apply a surcharge to SPCC purchases, or as otherwise directed by Procurement Services.

\*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: 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, 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 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) Using a certified SWaM Supplier, contingent on procurement officer showing 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 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 Procurement 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 VA DSBSD registered small businesses, if available. Evidence of research must be uploaded to requisition for auditing purposes. In the event a SWaM quote is provided and 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 Procurement 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 registered small businesses, if available. Procurement Services will evaluate the legitimacy of reduced competition, and if validated, may permit an optional SWaM award.

Offers may be opened and evaluated upon receipt. All responses must be received at the designated location by the date and hour stated in the solicitation. In lieu of an evaluation committee, the buyer 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. Please 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 Procurement Services. Those in excess of \$500,000 and up to \$1,000,000 will be routed and reviewed by the AVP, Business Services & Organizational Excellence and sole sources in excess of \$1,000,000 shall be reviewed by the Chief Operating 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 normal 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 required to protect personal 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 practicable, after directing the contractor to proceed, a confirming purchase order should be prepared.

Prepare a written determination for signature by the Chief Supply Chain Officer 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 Procurement Services, in advance of purchase or as soon as possible after 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 Chief Supply Chain Officer 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 Chief Supply Chain Officer and the [Fixed Assets Equipment Transaction form](#) must be completed and submitted prior to issuing 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 eVA.

Buyer Determination to not pursue competition in the best interest of the university: For purchases of goods and services not expected to exceed \$10,000, the University's procurement sourcing specialists may, in their discretion and with approval of the Chief Supply Chain Officer or Contracts Manager, place an order with a suggested source without seeking further competition. Determination to not pursue competition for goods and services over \$10,000 but not greater than \$200,000 may only be approved by the Chief Supply Chain Officers, or the AVP, Business Services & Organizational Excellence. A written justification will be maintained with the procurement records explaining why it was in the best interest of the university to not pursue competition.

Price - Reasonableness Determinations: When competition is restricted or lacking or the prices offered appear excessive, Procurement 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.