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INTRODUCTION

This Procurement Manual establishes the required procedures for all procurement of supplies, services, and leases for the University of Alaska and for expenditure of funds of other agencies provided through the University administrative channels, unless otherwise specifically exempted. The Procurement Manual is developed in accordance with the requirements of AS 36.30, and Board of Regents Policy and Regulation 05.06.

This manual establishes the procedures governing the University of Alaska’s implementation of AS 36.30. Deviation from the procedures of this manual without specific authority, and actions that are contrary to the intent of this manual may constitute a violation of law or University policy and regulation.

The President of the University and the Chief Procurement Officer (CPO) are the individuals directly delegated by law and BOR policy and regulation to make purchases, contracts, and related commitments of University funds. The President and the CPO delegate their authority, except as prohibited by law, to the campus procurement directors as necessary.

University personnel may make inquiries for planning purposes, and obtain information or make recommendations for proposed acquisition of goods or services; however, purchase commitments may not be made in these inquiries without specific written delegated procurement authority.

All employees are responsible to become familiar with these procedures to the extent appropriate for their position.

APPLICABILITY OF AS 36.30

The State Procurement Code, AS 36.30 applies to the University. Certain portions of AS 36.30, by context, may require a different interpretation when such literal application, in recognition of the University’s special needs and standing under the Constitution of the State of Alaska is not mandatory for the University. Therefore, the extent of the University’s implementation within its policies and regulations, and procedures is determined by the University as recognized in AS 36.30.005(c).

Unless otherwise exempted or excluded, these procedures apply to all University procurement transactions. If a procurement involves any expenditure of federal funds, and there is a conflict between a provision of this chapter and a federal statute, BOR policy and regulation, the procurement officer shall comply with the federal statute, regulations, policy or requirement.
SECTION 1 – AUTHORITY

1.1 CHIEF PROCUREMENT OFFICER (CPO)

(a) Except as otherwise provided, all rights, duties, and authority relating to the procurement of supplies, services, professional services, leases and construction, and the control over such supplies, and contractual relationships vested in the University are transferred by the Board of Regents through the President of the University to the CPO.

(b) The CPO shall execute, and by delegation:

(1) Procure or supervise the procurement of all supplies, services, and professional services needed by an agency.

(2) Exercise general supervision and control over all inventories of supplies belonging to an agency and prescribe the manner in which supplies shall be purchased, delivered, stored, and distributed.

(3) Prescribe the time, manner, authentication, and form of making requisitions for supplies and services.

(4) Sell, trade, transfer between agencies, or otherwise dispose of surplus, obsolete, or unused supplies and make proper adjustments in the accounts of agencies concerned.

(5) Establish and maintain programs for the inspection, testing, and acceptance of supplies and services and the testing of samples submitted with bids.

(6) Prescribe standard forms for bids and contracts.

(7) Provide for other matters that may be necessary to carry out the provisions of AS 36.30 and BOR policy and regulation.

(c) The CPO is responsible for the on-going oversight and development of procurement policy, regulation and procedures to maintain a procurement system responsive to the needs of the University.

(d) The CPO is responsible for insuring fair and equitable resolution of disputes related to solicitations, awards, contracts, and other procurement matters.

AUTHORITY: AS 36.30.005 - .015, .040

1.2 DELEGATION OF AUTHORITY

(a) Except as otherwise provided by AS 36.30 or University policy and regulations, any authority conferred on the CPO may be delegated by that officer to any employee. Any authority so delegated may be re-delegated unless otherwise prohibited, or limited in the delegation itself. Any authority that is delegated may be revoked.

(b) Factors to be considered in making the decision to delegate include:

(1) The expertise of the potential delegate in terms of procurement knowledge and any specialized knowledge pertinent to the authority to be delegated.

(2) The past experience of the potential delegate in exercising similar authority.

(3) The degree of economy and efficiency to be achieved in meeting the University’s requirements if authority is delegated.

(4) The consistency of delegation under similar circumstances.

(c) Any designee must exercise delegated authority in accordance with the delegation, AS36.30, University policies and regulations, and these procedures.
(d) Delegations of procurement authority shall be in writing, document acceptance of the delegation, and shall specify the following.
   (1) The name of the designee.
   (2) The activity or function authorized.
   (3) Any limits or restrictions on the exercise of the delegated authority.
   (4) Restrictions on further delegation.
   (5) The duration of the delegation.
   (6) That no commitment or expenditure may exceed available budgeted funds.

(e) Authority delegated to the head of a regional campus procurement department may be delegated by that officer only within the regional campus and its affiliated community campuses.

(f) The issuing office shall maintain a file of all delegations issued and received. A copy of each delegation shall be forwarded to the CPO.

AUTHORITY: AS 36.30.005 - .015

1.3 REDUCTION OR REVOCATION OF AUTHORITY
(a) Procurement authority is delegated in writing to specific individuals who are determined to be qualified to execute that authority in a competent and professional manner.

(b) Individuals delegated procurement authority are responsible to carry out their delegated authority with autonomy and the exercise of independent judgment free from undue political, organizational or private sector pressure. To safeguard this autonomy, delegated authority shall only be reduced or revoked for compelling reasons.

(c) Punitive reduction or revocation of written delegated procurement authority shall be done in writing setting out the reasons for the reduction/revocation. A person whose written delegated procurement authority has been involuntarily reduced or revoked may request an administrative hearing to protest the facts and circumstances.

AUTHORITY: AS 36.30.015, .040

1.4 SUBSTITUTION OF JUDGMENT IN PROCUREMENT MATTERS
Procurement decisions made within delegated procurement authority may not be voided after the fact, except for reason of illegality. Decisions made pursuant to law and the University policy and regulation by procurement officials are of necessity the product of the independent judgment of such officials, who must be able to defend the actions they take. Law prohibits exertion of undue influence to change decisions or to adversely affect the competitive and statutory process of public procurement. The independent judgment of a procurement officer shall not be superseeded by substitution of judgment by others. The following are illustrations of potentially conflicting matters of judgment:

(a) If differing opinions occur between procurement officials at different levels in the procurement authority chain, the higher level must effect the procurement action if the opinion is not mutually acceptable to both levels.

(b) A procurement official may not be ordered to take a procurement action contrary to law or his/her independent judgment or ethical standards in the matter.

(c) Substitution of judgment for the lawful judgment of the responsible procurement official is improper simply on the basis that another procurement
official or person would or could have made a different judgment in the same circumstances. This reinforces the fundamental premise that procurement decisions are a matter of law, and the exercise of professional judgment within delegated authority, and are not to be subjected to undue or improper pressure and influence of others.

**AUTHORITY:** AS 36.30.005, .040, .300 - .310

### 1.5 LEGISLATIVE REPORTS.

Each procurement office shall forward reports required for submittal to the legislature to the CPO for submission to the state legislature. Procurements and contracts in support of federally or privately funded research are not subject to this reporting requirement.

**AUTHORITY:** AS 36.30.500 - .540
SECTION 2 – SOURCE SELECTION

2.1 NONDISCRIMINATION IN SOURCE SELECTION
Selection or non-selection of prospective vendors/contractors shall not be based on considerations of race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, disability, or political affiliation.

AUTHORITY: AS 36.30.040

2.2 LEGAL SERVICES
Procurement of legal services must be reviewed and approved by the University General Counsel or designee prior to taking procurement action.

AUTHORITY: AS 36.30.015

2.3 CORRECTIONAL INSTITUTIONS
The CPO will maintain lists of supplies and services available through state correctional institutions. If the procurement officer makes a determination to solicit from the correctional services/supplies listing, the private sector need not be solicited.

AUTHORITY: AS 36.30.040, .313

2.4 EMPLOYMENT PROGRAMS
(a) A procurement officer may obtain supplies or services provided through employment programs certified by the Alaska Division of Vocational Rehabilitation.
(b) If the procurement officer determines supplies or services meet the University's requirements, and if the price is no more than 15% higher than otherwise available on the open market for the supplies or services required, an award can be made without soliciting the private sector.
(c) If the private sector is included in the solicitation, a 15% price preference shall be applied to all firms who qualify under the employment program in accordance with AS 36.30.170(c).

AUTHORITY: AS 36.30.040, .100, .170, .311

2.5 UNIVERSITY RECHARGE CENTERS & AUXILIARIES
(a) RECHARGE CENTERS: Recharge centers are University programs established to provide goods or services to other University departments, on a cost basis. Procurements in support of recharge center activities are subject to AS 36.30.
(b) AUXILIARIES:
   (1) University auxiliaries are self-supporting enterprises that receive their funding from the resale of goods or services to faculty, staff, students and, incidentally, to the public, (i.e. parking permits, bookstore sundries, café items). To this extent, an auxiliary’s procurement of goods for resale are not subject to AS 36.30.
   (2) Auxiliary managers are accountable to exercise sound judgment and prudent business practices that they determine are in the best interest of the auxiliary and the University.
   (3) University departments may purchase goods and services directly from either the private sector, or from University auxiliaries up to the discretionary small dollar limit.
(c) Requirements may be filled by procurement of supplies or services provided by an established University program, recharge center or auxiliary when price,
quality and availability are fair and reasonable. When procurements are made under this section the private sector need not be solicited.

(d) Exception: Printing, copying, and publishing services shall be purchased from the private sector unless price, service, or availability are not sufficient to meet the University’s need, and are otherwise available within the University. In making this determination, University Printing Services shall be allowed to participate in competitive solicitations issued by the University for University needs.

AUTHORITY: AS 36.30.040, .070

2.6 OTHER AGENCY & COOPERATIVE CONTRACTS
The University may, unless specifically prohibited by law or University policy and regulation, secure supplies and services under contracts issued by other public agencies (local, State, federal, public procurement cooperatives or State of Alaska political subdivisions when the University acquisitions are provided for in the original solicitation or contracts. The procurement officer shall make a written determination that the price is fair and reasonable and that use of the contract is in the best interest of the University.

AUTHORITY: AS 36.30.700 - .730, .910

2.7 CONSOLIDATED BIDDERS MAILING LISTS
(a) A consolidated bidders list shall be maintained by the CPO, or designee, to provide procurement officers with the names of businesses that have expressed an interest in competing for University contracts. Businesses that fail to respond to solicitations on three consecutive procurements of similar items may be removed from the applicable list after notice to the business. Prospective bidders currently meeting the criteria for inclusion on the list may be reinstated at their request. A “No Bid” response is considered a response for purposes of this section.

(b) The bidders list shall identify specific categories of commodities or services in which prospective bidders have expressed interest.

(c) The CPO shall establish a set-up fee for inclusion on the bidder lists. A business that desires to be on a list shall submit evidence of a valid Alaska business license before being placed on the list. The CPO may require other information for inclusion on the list. A business that is debarred or suspended shall be excluded or removed from a list.

(d) Procurement units shall secure the most current bidders list for a specific commodity/contractual service code for each formal solicitation. Solicitation source lists must include all vendors on the consolidated mailing lists. The distribution of the solicitation need not be limited to those sources and may include additional sources known to be interested in competing for University business.

AUTHORITY: AS 36.30.050

2.8 FIRST OWNER OF RECORD & WARRANTY
A vendor selling supplies and equipment to the University must be an authorized representative of the manufacturer capable of making the University the first owner of record, and the first holder of the manufacturer’s warranty.

AUTHORITY: AS 36.30.005, .040 - .070
SECTION 3 – SMALL PROCUREMENTS

3.1 AUTHORITY & LIMITATIONS

(a) GENERAL:
(1) Procurement officers and others authorized to execute small procurements for the supplies and services described below shall do so in accordance with these procedures. Nothing in this section prohibits a procurement officer from using more formal or competitive procedures.
(2) Supplies, or services, which may be obtained under current University, or mandatory contracts, must be procured under those contracts.
(3) No contract or commitment for legal services shall be made without the prior written approval of the University General Counsel or designee.
(4) No contract or commitment for the lease of real property, including office and storage space shall be made without specific delegation.

(b) SMALL DOLLAR (DISCRETIONARY) PURCHASES:
(1) Small Dollar Purchases represent a subset of Small Procurements that are subject to simplified and expedited procurement procedures as described in this subsection. Small Dollar Purchase limits are as follows:
   a) For supplies and non-personal services up to $5,000.
   b) Persons with delegated lease authority may procure lease space not to exceed 3,000 square feet. For procurement of leased space of 3,000 square feet or less, public notice must be given to prospective offerors by at least one of the methods described in Section 5.3, Public Notice, of this manual.
(2) Prudent business practices shall be used to ensure that Small Dollar Purchases meet the University’s need, and that prices are fair and reasonable. Competition and related documentation are not required.
(3) Orders may not be split or segmented to avoid competition.
(4) Use of local and in-state businesses for Small Dollar Purchases is encouraged. If price quotes are obtained, Alaskan vendors are entitled to the Alaskan five percent (5%) bidders preference when competing against out-of-state vendors.
(5) Purchases shall be made via approved methods only, e.g., requisition/purchase order, ProCard, Blanket Order, LPO, E-Commerce, or other methods authorized by these procedures or approved by the CPO.
(6) Adequate records of the transaction shall be maintained by the department making Small Dollar Purchases under subsection (b) for audit purposes.

(c) SMALL PROCUREMENTS:
(1) Procurement officers may execute small procurements using an informal Request for Quotation (RFQ) process that provides reasonable competition and ensures fair and reasonable pricing. If competitive pricing does not result from the solicitation method used, a written determination of price reasonableness is required.
(2) Small Procurement, as distinguished from Small Dollar Purchases, limits are set out below:
   a) Supplies or non-personal services between $5,000 and $50,000.
   b) Individual travel not to exceed $12,500.
c) Charters, including water, ground and air transportation not to exceed $10,000.
d) Professional services (providers of an intellectual product) not to exceed $50,000.
e) Concession contracts with estimated gross annual receipts not to exceed $50,000.
f) Hotel, conference, convention or catering services not to exceed $50,000.
g) Leased space of 3,000 square feet or less.

AUTHORITY: AS 36.30.320

3.2 REQUEST FOR QUOTATION (RFQ)
(a) The RFQ process is the preferred method for securing informal solicitations for small procurements, as follows:
   (1) A sufficient number of vendors to provide adequate competition must be provided the opportunity to respond to an RFQ. These should include all vendors known to be interested in providing a response, local vendors as available, and vendors specifically requested by the requisitioning department. Generally, as the dollar value of the RFQ increases, so too should the level of competition.
   (2) The quote file shall document the specifications, response requirements, dates, vendors and a tabulation of all responses. This record must be made a part of the procurement file.
   (3) If only a single response is received, the procurement officer must complete a RAP form explaining why additional competition was not available, and must provide a determination that the price is fair and reasonable.

(b) The procurement officer is expected to be knowledgeable of the vendors that are readily available to compete for a small procurement. Use of the UA Bidders List is not mandatory, but may be used as a resource. Procurement officers are expected to seek competition from local, and in-state vendors who are actively involved in meeting the needs of the University. Out-of-state vendors may be included at the discretion of the procurement officer to insure adequate quality and competition.

AUTHORITY: AS 36.30.320

3.3 PROTEST OF A SMALL PROCUREMENT
(a) An interested party may protest the terms and conditions of a solicitation prior to the deadline for submittal of quotations; or the award of a small procurement resulting from a solicitation. The protest must be in writing, may be faxed or e-mailed to the responsible procurement officer, and shall contain:
   (1) The name, address, telephone number and signature of the protestor.
   (2) Identify the solicitation number.
   (3) Provide a detailed statement of the legal and factual grounds of the protest, including copies of supporting documents.
   (4) The form of relief requested.

(b) Small procurement procedures are designed to expedite the procurement process for purchases designated as “small procurements” under AS 36.30.320. As such, the procurement officer shall not suspend, postpone or
delay a small procurement unless he/she determines in writing that the protest has substantial merit, is likely to be upheld, and that delay is not contrary to the best interest of the University.

c) A protest of the terms and conditions of a solicitation for a small procurement shall be filed prior to the deadline for submittal of quotations. A protest of the solicitation filed after the submittal deadline is untimely.

d) An interested party wishing to protest the award resulting from a solicitation for a small procurement shall:

1. Notify the responsible procurement officer within one (1) working day of the opening of responses that he/she intends to file a protest of the award.

2. Provide a written protest not later than three (3) working days after the submittal deadline that provides the information required in (a) above.

(e) A protestor may appeal the decision of the responsible procurement officer to the Director of Procurement within three (3) working days of issuance of the responsible procurement officer's decision. Award of a small procurement will proceed expeditiously. A written protest of the award of a small procurement solicitation may be considered untimely if filed more than 3 working days after the solicitation submittal deadline.

(f) The Director of Procurement, or designee shall issue a written decision within ten (10) working days of receipt of the appeal of the decision of the responsible procurement officer. The decision of the Director of Procurement or designee exhausts the administrative appeal process and constitutes the final decision of the University.

g) An aggrieved party may pursue relief through the Superior Court, Fourth Judicial District, State of Alaska within thirty (30) calendar days pursuant to Alaska Rule of Appellant Procedure 602 (a) (2).

(h) If award has been made and the protest is sustained the protestor's damages are limited to reasonable and documented direct cost of preparing the solicitation response only.

**AUTHORITY:** AS 36.30.550

### 3.4 PURCHASE ORDERS

A Purchase Order (PO) is a controlled document and may only be issued and signed by persons with appropriate delegated procurement authority. A record of the PO shall be maintained in accordance with the University's documents retention schedule. The procurement officer shall ensure that PO files are complete, accurate and audit-ready at all times.

**AUTHORITY:** AS 36.30.010, .040

### 3.5 PROCUREMENT CARDS (ProCard)

(a) The Procurement Card (ProCard) is a corporate credit card program. ProCard purchases are authorized for non-repetitive purchases not to exceed $5,000 per purchase. Procurement officers may be authorized higher limits in accordance with their delegated procurement authority.

(b) The requesting department may establish lower limits as deemed appropriate, and cards may be configured to the need or limitations of the specific cardholder.

(c) All cardholders must attend a training session, will be provided a Procurement Card Handbook, and are required to sign a Cardholder's Agreement.
(d) ProCards may be used to place orders in person, by mail, by fax, by telephone, or via secure Internet sites. E-mail use of a ProCard is prohibited.

(e) Purchases shall not be split, segmented, or deliberately spread over a series of days for the purposes of avoiding card limits, or to avoid competition that would otherwise be required.

(f) The ProCard Program Administrator at each campus is responsible for providing training, record keeping, administration and audit of ProCard usage.

(g) ProCards are audited by the campus ProCard administrator on a regular basis to detect patterns of abuse, or misuse. Corrective action may include limits on the card, card cancellation, reimbursement to the University, and/or disciplinary action.

**AUTHORITY: AS 36.30.010, .040**

### 3.6 LIMITED PURCHASE ORDERS

(a) Limited Purchase Orders (LPO) are authorized for individual non-repetitive purchases not to exceed $5,000. LPOs may be used as follows:

1. Local purchase of off-the-shelf items
2. Same day services
3. Invoices must be provided at the point of sale, attached to the LPO copy and returned to the department by the requisitioner.
4. Items may not be ordered, or back-ordered

(b) LPOs use below is prohibited:

1. Firearms of any type.
2. Out-of-state procurements, unless specifically authorized by the Director of Procurement for a special need.

(c) Multiple LPOs may not be used to purchase items that exceed the LPO limit. Purchases shall not be segmented, nor used deliberately over a series of days for the purposes of avoiding the limit on individual LPO purchases.

(d) LPOs are controlled and issued by the campus Procurement Department. Procurement Departments are responsible for training employees on the proper use and disposition of LPOs.

(e) LPO transactions shall be audited on a regular basis for patterns of abuse, or misuse. Corrective action shall be taken as necessary, including restriction or cancellation of use of LPOs.

**AUTHORITY: AS 36.30.010, .320**

### 3.7 BLANKET PURCHASE ORDERS

(a) Blanket Purchase Orders (BPOs) are set up by the campus Procurement Department, to provide a simplified method of filling repetitive needs for supplies or services by establishing charge-type accounts with qualified sources.

(b) BPOs allow departments to secure a call number from the electronic procurement system up to the small dollar threshold.

(c) The Procurement Department generally establishes favorable discounts from BPO vendors, and conducts transaction audits, on a regular basis. Violations of procurement practices may result in sanctions for unauthorized purchases and suspension of the department’s use of BPOs.

(d) Conditions for use of BPOs:

1. BPOs may not be used to avoid compliance with statutory and regulatory requirements for competition, etc.
(2) Users are not restricted to purchases from BPO holders only.
(3) Users may contact more than one vendor to ensure best pricing for the commodities or services needed.
(4) Users should rotate between vendors of similar items for individual purchases.
(5) Establishing a BPO places no obligation on the University to purchase a minimum amount of supplies or services from the vendor.

(e) BPOs shall contain the following:

(1) Description: A general description of the goods or services to be provided.
(2) Call Limitation: A statement that no purchase may be made against the BPO without a valid call number, and that individual calls may not exceed $5,000.
(3) Pricing: A statement that prices to the University shall be as low or lower than those charged the supplier’s most favored customer for comparable quantities under similar terms and conditions, in addition to any discounts for prompt payment.
(4) Period of Performance: The period of performance may be multi-year, ending not later than June 30 of its final year.
(5) Authorized Individuals: A statement of the verification process to be used by the vendor to ensure that the individual placing the order is authorized to make the purchase. This includes securing a call number, checking for proper ID for pick-up orders, and other reasonable measures set out on the BPO. In some situations it may be appropriate to provide the vendor a specific listing of authorized individuals.
(6) Extent of obligation: A statement that the University is obligated only to the extent of authorized purchases actually made under the BPO, and that no minimum or maximum volume of purchases is implied or guaranteed.
(7) Invoices: A statement that valid invoices will be consolidated by the University and paid on a monthly basis. Valid invoices shall contain the following information.
   a) Vendor Name.
   b) BPO number.
   c) Date of purchase.
   d) Call number.
   e) Itemized list of supplies or services furnished.
   f) Quantity, unit price and extension of each item, less applicable discounts.
   g) Date of delivery or shipment.
   h) Signatures of the authorized individual for orders which are picked-up by a University representative, or signed for upon delivery.
   i) A delivery ticket and packing slip containing the above information shall be included for items shipped, rather than delivered.
   j) A statement providing for billing and payment according to agreement with the supplier in accordance with one of the following methods.
      1) Statements shall be submitted at least monthly for all deliveries made during a billing period, identifying the delivery tickets covered therein, stating their total dollar value, and supported by receipted copies of the delivery tickets.
2) An itemized invoice shall be submitted at least monthly or upon expiration of the BPO, whichever occurs first, for all deliveries made during a billing period and for which payment has not been received.

3) When billing procedures provide for an individual invoice for each delivery, these invoices shall be accumulated provided that consolidated payment will be made monthly and the period of any discounts will commence on the last day of the month, or date of receipt of the invoices whichever is later, for all deliveries accepted during the monthly period.

AUTHORITY: AS 36.30.010, .320

3.8 BLANKET DELIVERY ORDERS
(a) Blanket Delivery Orders (BDOs) differ from BPOs in that they are under formal contracts competed or negotiated by the responsible campus procurement officer. BDOs are established for delivery of items as set out in the contract.
(b) BDOs can either be funded outright, or may fund on a per call number basis as established by the contract. Prices or pricing methods are stated on the documents and in accordance with the terms and conditions of each contract.
(c) BDOs are governed by the terms and conditions of the applicable contract and shall include the contract number, department for which issued (as appropriate), the period of performance, a "not to exceed" total amount, and the names of those authorized to make purchases against the contract.

AUTHORITY: AS 36.30.010

3.9 OPEN ORDERS
These are similar Blanket Purchase Orders except that they:
(a) Are established for individual departments, rather than for centralized use by multiple departments.
(b) Are fully funded (encumbered in advance).
(c) A call numbers log, or other controlling device is maintained by the requisitioning department rather than by the campus Procurement Department.
(d) All other controls and responsibilities of centralized Blanket Orders remain in effect.

AUTHORITY: AS 36.30.010, .320
SECTION 4 – SPECIFICATIONS

4.1 PURPOSE
(a) The purpose of a specification is to serve as a basis for obtaining a supply, or service suitable for the University's needs, in a cost effective and timely manner. Specifications shall be written in a manner that encourages maximum practicable competition yet clearly describe the requirements of the University.
(b) Specifications must, to the extent practicable, emphasize function or performance criteria and limit design or other detailed physical descriptions to those that are necessary to adequately describe the item, and ensure that the needs of the University are met.
(c) Standard commercial products shall be specified and acquired to the extent practicable. Unique requirements not essential to the need of the University must be avoided.

AUTHORITY: AS 36.30.060

4.2 STANDARD SPECIFICATIONS
(a) A standard commercial, “off-the-shelf” specification shall be used whenever practicable to avoid unnecessary design and production costs or dependence upon a single supplier for unique items.
(b) Revisions to standard specifications for common use items which do not change the technical elements of the specifications but which are necessary for clarification may be made upon approval of the procurement officer.
(c) A standard specification for a common use item may be cancelled when the procurement officer determines that the specification no longer meets the need of the University.

AUTHORITY: AS 36.30.060

4.3 RESTRICTIVE SPECIFICATIONS
(a) Specifications must be written to describe the requirements to be met without unnecessarily limiting competition, requiring a proprietary supply or service, or resulting in procurement from a single vendor, unless no other manner of description will suffice.
(b) The University recognizes that there is a direct correlation between the successful outcome of classroom instruction, or in scientific research and the faculty member or scientist’s familiarity and confidence in the supplies and equipment necessary to support their efforts. Therefore, signed certification by the faculty member or principal investigator shall be accepted as documentation of the need to necessarily restrict a specification. (see section 4.6, below)

AUTHORITY: AS 36.30.060

4.4 BRAND NAME(S) OR EQUAL SPECIFICATIONS
(a) The use of a brand name is for the purpose of describing the standard of quality, performance and required characteristics, and is not intended to unnecessarily limit competition. A specification described as “a brand name(s) or equal” may be used when:
(1) No standard specification for a common or general use item or qualified products list is available.
(2) The nature of the product or the University’s requirements makes use of a brand name(s) or equal specification suitable, and in the best interest of the University.

(b) The solicitation should designate as many brands as practicable as being approved "equals." The specifications must include a description of the salient features of the design, function, and/or performance characteristics that any item offered as an equal must meet. These will form the basis for evaluating equivalency. The equivalency of other brands submitted as "equal" to meet the needs of the University shall be solely determined by the University.

AUTHORITY: AS 36.30.060 R05.06.070, .100

4.5 BRAND NAME ONLY- NO SUBSTITUTE SPECIFICATION

(a) Use of a brand name only - no substitute specification is necessarily restrictive by nature and may be used only when the procurement officer makes a written determination or accepts a Certificate of Need for Restrictive Specifications (see below) documenting that only the identified brand name(s) specified will satisfy the University's needs.

(b) The procurement officer shall try to identify sources from which the designated brand name item(s) can be obtained to maximize competition as practicable. If only one source can supply the requirement, the procurement must be justified as a sole source procurement.

(c) When a blanket determination approving brand name only has been approved by the CPO, the RAP form need only reference this determination. A separate justification by the procurement officer is not required.

AUTHORITY: AS 36.30.060 R05.06.070, .100

4.6 CERTIFICATE OF NEED FOR RESTRICTIVE SPECIFICATIONS

(a) A Certificate of Need for Restrictive Specifications is a written certification by a faculty member, or research principal investigator stating that only a specific brand/model of supply or equipment is capable of meeting a need critical to the success of their classroom instruction or research project.

(b) A Certificate of Need for Restrictive Specifications establishes a brand name only - no substitute specification. The procurement officer is responsible to determine whether competition is available. If competition is available it shall be competed in accordance with Section 4.5 above. If the manufacturer, (not a dealer), confirms that competition is not available, (e.g., only a local or regional dealer is authorized to sell to the University, or the manufacturer only sells direct), the procurement shall qualify as a sole source and the procurement officer shall make a determination that price is fair and reasonable.

(c) The Certificate of Need for Restrictive Specification shall be attached to the RAP form to document the alternate procurement as required, and shall be made a part of the file.

AUTHORITY: AS 36.30.060 R05.06.070, .090

4.7 APPROVED USE OF RESTRICTIVE SPECIFICATIONS

The following circumstances are approved for the use of restrictive specifications only to extent necessary to meet the needs of the University:

(a) Original Equipment Manufacturer (OEM), or OEM authorized component parts for repair, replacement or service of equipment necessary to maintain the
original equipment manufacturer’s warranty, design/performance specifications or intended operating efficiency.

(b) Publication of scientific or academic papers in the journals, or other media the author deems most appropriate for dissemination of his/her work, and in the best interest of the University.

(c) US Postal Service, bulk mailing and other postal related services. This exemption authorizes the use of the USPS without competition because it is a federal agency. However, it does not mandate use of the USPS. If intra-University bulk mailing and related services are available they may be used under this authority as well. Nothing in this section precludes departments from seeking these services from the private sector when the above service providers cannot provide the service as inexpensively or efficiently as private sector providers.

(d) Utilities whose rates are governed by the Alaska Public Utilities Commission (APUC) where a local utility is the only utility authorized by APUC to provide service in the affected region. These most commonly include electricity, telephone, water, sewer, and refuse services.

(e) Computer manufacturers with formal higher education contracts executed by the University to sell computers, related hardware, and peripherals directly to the University rather than through dealers, and at rates not otherwise available to the University. When a computer brand covered by such an agreement is requisitioned further competition is not required. The procurement officer shall insure that the latest price schedule is used.

(f) Supplies or equipment on Qualified Products and Design Standards when such lists are developed in compliance with Section 4.8 below.

AUTHORITY: AS 36.30.060 R05.06.070, .090

4.8 QUALIFIED PRODUCTS & STANDARDIZATION

(a) A department that wants to establishment a qualified products or standardization shall contact the campus Procurement Office before assembling a committee to develop such a list.

(b) Establishment of a qualified products list, or standardization is a formal procurement process governed by AS 36.30 and this manual. A procurement officer shall be a member of the committee and shall be responsible for vendor contact, public notice, the evaluation process, vendor protests and for making formal recommendation to the CPO for adoption of the qualified products and standards.

(c) The requesting department shall provide written documentation of the needs of the department and the benefits to the University from qualified products or standardization. It shall include justification of the level of quality, direct and indirect cost savings to the University, aesthetics needed to be maintained and other supportive facts and circumstances.

(d) The committee shall develop a preliminary list of products that apparently meet the University’s need. This can be supported by catalogs, web searches, input from other institutions, etc.

(e) The procurement officer shall then provide sufficient public notice to manufacturers and/or dealers on the bidders list and other interested parties. The notice shall include a brief overview of the process, the criteria to be used in evaluating the products, required samples, design specifications, drawings, etc. Submittal deadlines and the process for notification of the results to all
interested parties shall be provided. Protests of the either the solicitation of participation in a qualified products list or standardization, or the inclusion or exclusion of a product from an approved list shall be handled in accordance with the protest procedures set out in Section 11 of this manual.

(f) In order to avoid multiple samples of the same product, or submission of samples of products which clearly do not meet the need, the procurement officer may begin with only an initial inquiry for catalogs, brochures, etc, and defer any request for samples until after a preliminary review of the responses. Samples shall be provided at no cost and become the permanent property of the University.

(g) Except as otherwise provided by law, trade secrets, design and test data, etc. shall be kept confidential when requested in writing by the supplier.

(h) A qualified products list provided by another agency or institution may be adopted by the University when the procurement officer determines that the qualification was conducted consistent with good business practices, objective testing methods, and that fair opportunity was given to vendors to participate.

(i) Qualified products lists must be reviewed and updated with sufficient frequency to ensure that the intended benefits of standardization, including adequate competition remain. The University is not obligated to postpone purchase of qualified or standardized items in order to evaluate products offered for evaluation for inclusion on the list or submitted in response to a solicitation. The University shall, however, arrange for such product testing, and evaluation as may be reasonable to add a product to the list for consideration in subsequent solicitations, or purchases.

(j) A qualified product list does not constitute pre-qualification of any prospective supplier.

AUTHORITY: AS 36.30.060

4.9 SPECIFICATIONS PREPARED BY POTENTIAL CONTRACTORS

(a) A potential contractor (bidder/offeror) may be excluded, or their bid/offer may be rejected, if it is determined that the potential contractor prepared or substantially assisted in drafting the solicitation specifications such that it results in the potential contractor gaining substantial information not readily, or made available to other bidders/offerors. The purpose of this is to preclude collusive practices that would give unfair advantage to one bidder/offeror over another. It does not prohibit assistance from a vendor in the ordinary course of business.

(b) The procurement officer shall prepare a written determination and findings to support the decision to either exclude a potential contractor, or that, in the opinion of the procurement officer, that the degree of assistance does not warrant exclusion.

(c) Contractors who provide such assistance, either for a fee, or at no charge, must be informed that their assistance could render them ineligible to participate in a solicitation resulting from such assistance.

(d) A solicitation resulting from preparation or substantial assistance in developing specifications by a potential contractor shall disclose this information in the solicitation. Included shall be statement that, in the opinion of the University, the contractor has not gained information not readily available to or made available in the solicitation document.

AUTHORITY: AS 36.30.060  R05.06.020
SECTION 5 – COMPETITIVE SEALED BIDDING

5.1 GENERAL
Competitive sealed bidding in the form of an Invitation for Bid (IFB) is the preferred method for the procurement of supplies, or services when there is not a substantial need for comparative evaluation, discussions or negotiation. These procedures apply to both competitive sealed bidding and multi-step sealed bidding. Competitive sealed bidding is not required for procurements of less than the small procurement limit, or when otherwise not required in AS 36.30. For purposes of determining the dollar value of a proposed procurement, the total amount is comprised of the initial amount plus the total amount of all prospective option years or extensions. If an indefinite quantity contract is anticipated, the calculation of the estimated total amount must be based on a reasonably reliable estimate of the dollar amount of the orders that may be placed, including all option years.

AUTHORITY: AS 36.30.100, .190

5.2 INVITATION FOR BID
(a) An IFB shall include the following, as applicable.

(1) A format that includes place or form for the insertion of the bid price, bidder signature and listing of required bid submittals.

(2) Provisions that bid samples or descriptive literature should not be submitted unless expressly required and that, regardless of any attempt by a bidder to condition the bid, unsolicited bid samples or descriptive literature which are submitted at the bidder’s risk may not be examined or tested, and will not be deemed to modify any of the requirements of the IFB.

(3) Instructions to bidders detailing the bid submission requirements, the time and date set for bid opening, the address of the office to which hand-carried bids are to be delivered, the address to which mailed bids must be addressed, the minimum time for bid acceptance by the University, and any other pertinent information.

(4) Specifications, basis for award (including whether award will be made by line item, by schedule, or in the aggregate), delivery or performance schedule, and any inspection and acceptance requirements that are not included in the specifications.

(5) All applicable contract terms and conditions.

(6) Warranty, bonding or other security requirements, if any.

(7) A requirement for the submission of a copy of the bidder’s valid Alaska Business License. The requirements for an Alaska Business License may be met by the following.
   a) A copy of the Alaska Business License.
   b) A copy of the license application with a receipt stamp from the licensing office.
   c) A sworn notarized affidavit by the applicant that states the applicant has applied and paid the required fee for the license.

(8) The status of funding for the procurement.

(9) A statement that the bidders certify, by submission of their bid, that the bidder complies with the applicable portion of all governing regulations and statutes of the state and federal government.
(10) A statement that, if there is a conflict between the basis of award statement in the bid schedule and other provisions of the solicitation, the basis of award statement shall govern. Bidders are responsible to bring such discrepancies to the attention of the University prior to the bid opening.

(11) A statement that in the event of any discrepancy in price, the unit price shall prevail.

(b) The IFB may incorporate documents by reference if the IFB specifies that those documents can be obtained from the issuing procurement office. A copy of each IFB must be on hand in the issuing procurement office for inspection by all bidders or other interested parties. Copies of the IFB and/or full text of provisions will be provided to prospective bidders or interested parties upon request.

(c) The IFB shall require bidder acknowledgment of the receipt of all amendments issued, except that bidders may not be deemed non-responsive for failure to acknowledge amendments that are immaterial when the effect on price, quantity, quality, or delivery is negligible and determined by the procurement officer to be a minor informality.

(d) The IFB may require the submission of bid samples, descriptive literature, technical data, or other material. It may also provide for accomplishing any of the following prior to award.
   (1) Inspection or testing of a product prior to award for such characteristics as quality or workmanship.
   (2) Examination of such elements as appearance, finish, taste, feel.
   (3) Other examinations to determine whether it conforms to solicitation requirements.

(e) Multi-step sealed bidding is authorized when considered to be in the best interest of the University.

AUTHORITY: AS 36.30.110, .190

5.3 PUBLIC NOTICE

(a) IFBs shall provide at least twenty-one (21) calendar days from the date of issuance until the deadline for submittal. Notices may be issued via mail, posting, e-mail or other reasonable means and must indicate where, when, and for how long IFBs may be obtained; generally describe the supply, or service desired, and provide other information the procurement officer deems appropriate. The procurement officer may require a fee or deposit for the solicitation packet.

(b) The twenty-one (21) day notice period may be shortened if the procurement officer determines in writing that such will allow adequate competition and is necessary to meet the needs of the University.

(c) Formal solicitations must be publicized in the Alaska Administrative Journal (see subsection (d) below), and by one or more of the following methods:
   (1) Posted in a public place, preferably on a bid board within the procurement office.
   (2) Notice to vendors on the consolidated bidders list, as well as other vendors known to the department.
   (3) To clearinghouses such as The Plans Room or Buy Alaska.
   (4) A local newspaper of general circulation calculated to reach prospective bidders.
(d) Alaska Administrative Journal. Solicitation announcements for the Alaska Administrative Journal shall be submitted in the following format.

“Publish the following advertisement in the Alaska Administrative Journal (1) one time only in the next publication.”

Notice is hereby given that sealed bids (or proposals) will be received in the Procurement Office on or before______________ bid opening time (or proposal closing date) and time ________________ for the procurement of____________.

Copies of the solicitation may be obtained from (state your mailing address), or downloaded from the web at (state your website download location) or telephone (907) XXX-XXXX.

AUTHORITY: AS 36.30.130

5.4 PRE-BID CONFERENCES & SITE TOURS

(a) Pre-bid conferences, when held, shall be conducted by the responsible procurement officer, or designee for the purpose of explaining the requirements of the solicitation to prospective bidders. Information about the location, time, and date of the conference shall be included in the IFB. If an IFB has been issued with no pre-bid conference scheduled, and it is subsequently determined that a conference is in the best interest of the University, a notice shall be sent to all firms who were issued the bid packet, as well as other known interested parties.

(1) The site tour should be conducted to coincide with, but prior to the pre-bid conference. Someone other than the procurement officer may conduct a site tour; however, the procurement officer or designee shall participate in the tour to familiarize him/herself with the circumstances, and to better understand questions that may be taken up in the pre-bid conference.

(2) A mandatory attendance stipulation for a pre-bid conference and site visit may be construed as a barrier to potential bidders and is not advisable. However, the pre-bid, or site tour notice shall advise all potential bidders that failure to attend shall not be raised as a defense against conditions, information, expenses or performance that the bidder could have, or should have known by attending.

(b) Pre-bid conferences and site tours, if any, must be held sufficiently prior to the bid opening to ensure that information that may affect a vendor’s bid price or performance can be considered in preparation of their bid. Any information revealed at the pre-bid conference that may change the terms and conditions, specifications, drawings, or may affect prices or delivery shall be included in an amendment to the IFB and provided to all prospective bidders. If sufficient time does not remain, then the procurement officer will extend the due date for receipt of bids in the amendment.

(c) The pre-bid conference notice must state, and the attendees should be reminded, that no changes or amendments to the bid shall be inferred from or relied upon from any statement or discussion held by any party to the pre-bid conference, or site tour including the procurement officer. It must be made clear that solicitations can only be amended in writing.

(d) Pre-bid conferences should be electronically recorded and a record kept of all persons who attend. Regardless of whether the meeting is electronically recorded, adequate meeting notes must be taken as documentation in the
event of a protest or dispute. Transcripts are usually not made unless there is
a compelling reason to incur the expense.
(e) The University shall not pay for any bidder's costs associated with attending
the conference.

AUTHORITY: AS 36.30.040, .060

R05.06.070, .727

5.5 DISPOSITION OF BIDS
Bids are the property of the University and will be retained in the solicitation file. If a
solicitation required a bid security and the solicitation is canceled or bids are rejected,
the bid security will be promptly returned to the bidder.

AUTHORITY: AS 36.30.110

R05.06.880

5.6 RECEIPT, OPENING, & RECORDING OF BIDS
(a) Each bid, or amendment must be time-stamped, initialed by the receiver upon
receipt and stored unopened in a secure place until the time and date set for
bid opening. Bids or amendments received without identification shall be
opened for identification only. Once identified, the envelope shall be resealed
and the envelope marked with the following.
(1) “Bid opened for identification”.
(2) Write the IFB number, the date and time opened, and the signature of
the individual who opened the bid for identification and resealed it.

(b) The procurement officer shall ensure that the clock used to officially determine
the deadline for receipt of bids (usually the date stamp clock) is reasonably in
accordance with prevailing time. It should not be in obvious conflict with other
department wall clocks in easy view of the bid clerk’s reception area. It is
recommended that, when the date and time designated for the opening of bids
has arrived by the official clock, the procurement officer make a verbal
announcement to the effect that, “It is now 2pm. No further bids will be
accepted.” Bids received by mail or delivered after the deadline shall be
handled as follows.
(1) If late bids arrive by mail, courier or electronic transmission, the bid
packet shall be stamped with the date and time, marked “late” and
signed by the bid clerk. The procurement officer shall be notified and the
late bid shall be retained in the bid file.
(2) If late bids are delivered by a bidder or a representative of the bidder, the
bid clerk shall refuse acceptance of the packet, shall note the vendor
name, the name of the person delivering the packet, the date and time,
summarize any pertinent comments and initial the entry in the bid file.
The procurement officer shall be notified as soon as practicable.

(c) Because a potential bidder could gain an unfair advantage by knowing which
or how many vendors have already submitted a bid, information concerning
the identity and number of bids received shall not be divulged prior to the
submittal deadline, and shall be made available only to other University
employees on a “need to know” basis.
(d) Bids and amendments must be publicly opened and read in the presence of
one or more witnesses at the time, date and place designated in the IFB. The
name of each bidder, the bid price and other information deemed appropriate
by the procurement officer shall be read aloud. The information shall be
tabulated in a bid abstract made at the opening. The procurement officer and
a witness shall sign the abstract.
(e) Do not enter into discussions about the content, completeness or any apparent discrepancies in bids at the bid opening. Such discussions as may be necessary shall only occur after the administration has had ample opportunity to review the bids in detail.

(f) Public access to the bid documents is not authorized until after issuance of the Notice of Intent to Award (NOITA). However, the abstract of bids made at the bid opening shall be open to public inspection as soon as practicable. Notwithstanding the preceding, appropriate data marked “Confidential” will not be available to the public.

(g) If a potential bidder’s bid is rejected as untimely, or otherwise rejected or disqualified, the procurement officer shall:

1. Notify the vendor as soon as practicable, but not later than the issuance of the NOITA. The notification shall be in writing and retained in the solicitation file.
2. Defer notice to the affected party if the procurement officer determines there is a potential that issuance of such notice prior to the NOITA could be disruptive to the award process by divulging that one or more potential competitors are no longer under consideration.
3. Late bids shall remain unopened in the appropriate procurement file along with all documents that relate its lateness. If there is a request to return a bid security, the responsible procurement officer shall open the late bid, return the security and reseal the bid. Once resealed, the bid shall be marked with the following information: “Opened to return bid security” the date opened and the signature of procurement officer who opened and resealed the bid.
4. A bid which has been rejected as late, and has remained unopened (except as noted above) shall only be returned to the potential bidder upon a written request and if approved by the procurement officer. Late bids shall not be made available to the public at any time.

AUTHORITY: AS 36.30.140

5.7 RECEIPT OF FAX, OR ELECTRONIC BIDS/AMENDMENTS

(a) Fax or electronic bids or amendments shall not be permitted unless bidders are informed of the following provision which shall be included in the solicitation: “Bidders electing to submit a fax or electronic response to this solicitation, including amendments, understand and agree by their submittal that fax, or electronically transmitted bids, proposals or amendments may not be as secure as if sent by sealed mail. The University will take reasonable steps to safeguard such responses, but cannot guarantee the same level of confidentiality prior to bid opening as is available through mailing or delivery of a sealed envelope.”

(b) At a minimum, the following steps shall be taken to maximize confidentiality and security of fax or electronic bids:

1. The solicitation document shall include a Fax Bid Cover Sheet that shall be used by the bidder when submitting a fax response. The cover sheet shall state in bold print a warning to the effect that:

   CONFIDENTIAL - DO NOT DISCLOSE
   TO THE IMMEDIATE ATTENTION OF THE BID CLERK
   BID RESPONSE TO FOLLOW:
The following is a fax response to IFB No.___________________

Bid Opening Date & Time:_______________________________

Bidder Name:_________________________________________

Number of pages including this cover page: ________

Telephone Number:______________ Fax Number:__________

AGREEMENT
Bidders agree by submittal of their fax bid or amendment that: Fax responses may not be as secure or confidential as if delivered or mailed in a sealed envelope; The risk of busy signals or delayed transmissions, especially as the submittal deadline approaches, is substantial; Fax responses must include all required pages, and information and shall be received in its entirety prior to the submittal deadline; An Incomplete fax response, or a response not received in its entirety prior to the submittal deadline are late and shall be rejected as untimely; That no accommodation will be made for receipt of fax responses that are late due to busy phone lines, malfunction of the fax machine of either the sender or receiver, equipment incompatibility, or delays in transmission, and that rejection of a bid due to the above causes is not grounds for protest; The bidder bears sole responsibility for follow-up to ensure that the entire document has been received timely.

Bidder Name:__________________________________________

Signature: ________________________________ Date:________

(2) The fax machine should be located in an area away from public access.

(3) The bid clerk, or responsible procurement officer shall take the following steps upon of a fax response:

a) Determine that the required pages have been received, and that the full response was received prior to the submittal deadline.

b) Timely responses shall be sealed in an envelope. A bid label shall be completed and affixed to the envelope and the bid clerk or procurement officer shall sign the envelope across the seal. Enter receipt of the bid (w/ fax notation) in the bid log, and secure as otherwise required for sealed bids.

c) Fax bids/amendments shall not be reviewed for content, or completeness in any manner not otherwise available to a bidder whose sealed bid was received through the mail, or by personal delivery. Specifically, you may not review the fax and allow the bidder to make additions, deletions, or corrections resulting from any early review.

d) Responses that are not received in their entirety prior to the submittal deadline are late. The procurement officer shall make a notation on the face of the document that it was received "Late", note the time and date, and sign the notation. A bid label shall be completed and affixed to the envelope and the bid clerk or procurement officer shall mark the response as "Late" and sign the envelope across the seal. Enter receipt of the bid (with fax notation, and "Late") in the bid log, and secure as otherwise required for late sealed bids.

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5.8 SUSPENSION, EXTENSION, POSTPONEMENT OR AMENDMENT.

(a) An IFB may be suspended indefinitely when the responsible procurement officer determines that continuance is not in the best interest of the University, and a new bid opening deadline cannot yet be determined. The bid opening deadline can also be extended to a specific future date and time. In either case the procurement officer shall declare the suspension or extension prior to the bid opening deadline. In such case the number of bids received, or the names of the respondents shall not be disclosed. The responsible procurement officer shall immediately issue a written amendment to all interested parties setting out the details of the suspension or extension, and announce the new bid opening deadline, if one has been determined. A suspended IFB must be cancelled, or rescheduled by another amendment within a reasonable time period.

(b) The opening of bids may be temporarily postponed when the responsible procurement officer has reason to believe that a bid may have been misplaced by, or is otherwise in the possession of the University, and such occurrence is not due to the negligence of the potential bidder. If a sealed bid is discovered after the bid opening, but before award, and it is evident that the bid package was received prior to the bid opening deadline, the bid shall be considered. Postponement of the actual opening of the bid documents for the reasons stated above is not an extension of the bid opening deadline and does not allow acceptance of additional bids. Any bid received after the official bid opening deadline shall be rejected as late.

(c) Amendments are issued whenever there are changes in quantity, specifications, delivery schedules, opening dates, or to correct defective or ambiguous solicitations. The procurement officer has broad discretion in determining when an amendment is appropriate. An amendment shall be issued whenever there is a material change that will affect a bidder's price and/or delivery terms, or have a significant impact on the expected level of competition.

(d) Amendments must be sent to all prospective bidders known to have received the original solicitation, including any clearinghouses, e.g., Buy Alaska, The Plans Room, and all vendors listed on the applicable consolidated bidders list.

(e) Amendments must be distributed within sufficient and reasonable time to allow prospective bidders to consider any changes in preparing their bids. If the time and date set for receipt of bids will not afford sufficient time after the amendment, the date and time set for bid opening must be postponed.

5.9 BID CANCELLATION

(a) An IFB may be cancelled if the responsible procurement officer determines that cancellation is in the best interest of the University. Reasons for cancellation include, but are not limited to the following:

1. The University no longer requires the supplies, or services.
2. Funds are determined not to be available.
3. Amendments would be of such magnitude that a new solicitation is desirable.
(4) The responsible procurement officer makes a written determination that the solicitation is or may be in violation of the law.

(b) If an IFB is canceled prior to opening the bids:
(1) The bids shall be retained unopened in the bid file.
(2) The bid files are not public information and may not be opened for disclosure unless so ordered by the UA Chief Procurement Officer or a court of law.
(3) The responsible procurement officer may return an unopened bid or proposal to a vendor upon written request, provided that:
   a) The request is in writing from an authorized agent of the vendor.
   b) A copy of the front page of the unopened bid packet noted as returned, the date returned, the vendor's request for return shall be attached, and retained in the procurement file.
   c) Bid securities, if any, shall be returned to a potential bidder in accordance with Section 5.6, (f), (3) above.

(c) The procurement officer may cancel a bid after opening but before award, when he/she determines that:
(1) The specifications are ambiguous, misleading or otherwise inadequate.
(2) The solicitation did not provide for consideration of all factors of significance to the University.
(3) Bid prices exceed available funds and it is not reasonable to adjust quantities to come within available funds.
(4) There is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.
(5) Award is otherwise not in the best interest of the University.

d) Notice of Cancellation.
(6) If an IFB is canceled, the notice shall:
   a) Identify the solicitation.
   b) Briefly explain the reason for cancellation.
   c) State, if applicable, that in the event a new IFB is issued for these supplies, or services, the interested parties in the cancelled IFB will be given an opportunity to participate in the subsequent solicitation.
(7) The notice of cancellation shall be sent to all bidders on the original IFB bidders list as well as other interested parties, and posted in the same manner as the original IFB.

AUTHORITY: AS 36.30.350

5.10 LATE BIDS, MODIFICATIONS, CORRECTIONS & WITHDRAWALS

(a) Any bid response, bidder request for withdrawal, correction or modification received after the established opening time is late, unless it is late due solely to mishandling by the University.

(b) Withdrawal of a bid after the submittal deadline shall only be allowed when the procurement officer determines that withdrawal is in the best interest of the University. Withdrawal of a bid after the submittal deadline may be subject to forfeiture of bid security.

AUTHORITY: AS 36.30.160
5.11 MULTIPLE AWARDS
Multiple awards are generally only used when it is expected that no single supplier can provide the entire quantity of a required item. When the procurement officer determines that this situation is likely to occur, the bid document can provide for multiple awards as necessary to meet the University's need. The basis of award shall detail the conditions under which multiple awards will be made.

AUTHORITY: AS 36.30.040, .060, .070, .110

5.12 CONDITIONING BIDS ON OTHER AWARDS
Bid responses that qualify the bid to receipt of other University, public agency or private sector awards materially alter the terms and conditions of the solicitation and shall be rejected as nonresponsive.

AUTHORITY: AS 36.30.040, .060, .070, .110, .210

5.13 MULTIPLE OR ALTERNATE BIDS
Multiple or alternate bids submitted by a single bidder shall be rejected unless they are specifically allowed in the solicitation document.

AUTHORITY: AS 36.30.040, .060, .070, .110

5.14 REJECTION OF INDIVIDUAL BIDS
(a) All IFBs shall provide that any bid may be rejected in whole or in part for reasons that include but may not be limited to:
   (1) The bidder is determined to be nonresponsive.
   (2) The bid is determined to be nonresponsive because it fails to conform in material respect to essential requirements of the solicitation.
   (3) The supply, or service bid fails to meet the requirements of the specifications, or other criteria set forth in the solicitation.
(b) Bidders whose bids have been rejected for nonresponsiveness or nonresponsibility shall be notified in writing of the reason for rejection not later than issuance of the NOITA. An explanation of the reason for the rejection should be provided to the rejected bidder only. Other interested parties may be allowed access to the file upon request.

AUTHORITY: AS 36.30.350

5.15 CONFIDENTIALITY OF INFORMATION
Bids submitted in response to an Invitation for Bid are considered public information unless confidentiality has been specifically granted in the solicitation for specified information or documents. Granting confidentiality must be deemed necessary to protect information that is highly proprietary, the disclosure of which would significantly damage a bidder to such an extent that that it is determined to outweigh the public's right to know. When granted, the University shall take the following steps to reasonably insure confidentiality.
(a) The solicitation shall instruct potential bidders in the manner in which confidential documents are to be marked and submitted in order to minimize the potential for loss or inadvertent exposure of information.
(b) Any request by a bidder for confidentiality of information that is not provided for in the solicitation shall be as follows.
   (1) Must be in writing, delivered separately from the bid package, and sufficiently in advance of the bid deadline to allow the procurement officer to issue a ruling on the request.
(2) Must document the significant damage that would be sustained by the bidder if the information were exposed.

(3) If the request is upheld, the procurement officer shall issue an amendment to the solicitation extending confidentiality to this additional information or documents. The bid opening shall be postponed, if necessary, to allow all interested parties the opportunity to respond to the amended solicitation.

(4) If the request is denied, an aggrieved party may seek relief as set out in section 10.2 Protesting a Solicitation of this manual.

(c) A bidder shall not submit with his/her bid any request for additional confidentiality, nor mark documents as "Confidential" which are not specified in the solicitation. This action constitutes a conditioned bid and the bid may be declared non-responsive.

AUTHORITY: AS 36.30.230 R05.06.240, .770

5.16 BID BONDS

(a) Bid Bonds may be required for service, or supply contracts when the procurement officer determines that requiring a bid bond is in the best interest of the University to ensure that bidders are serious, able and ready to enter into a contract upon award.

(b) Bonds are commonly required in the amount of five percent to ten percent (5% to 10%) of the base bid amount. A bonding company that is acceptable to the University shall provide the bond. A cash bond in the form of a bank cashier’s check made payable to the University is acceptable. Pledging of assets (individual surety), or certified check is not acceptable.

AUTHORITY: AS 36.30.120 R05.06.810

5.17 BID MODIFICATION, CORRECTION, OR WITHDRAWAL

(a) Bids may be modified, corrected, or withdrawn by the bidder when the request is made in writing by an authorized agent of the bidder, and is received prior to the time and date set for bid opening.

(b) If a bid is withdrawn prior to the bid submittal deadline and:

(1) The notice from the bidder does not request return of the packet, the bid shall be retained unopened in the bid file. If a bid security is enclosed, the bid may be opened to retrieve the security only. It shall be resealed, the return of the security duly noted, dated and signed by the procurement officer. A copy of the written notice from the bidder shall be attached to the bid packet.

(2) If the written notice requests return of the packet, a copy of the front of the bid packet shall be made, the date and method of return noted, dated and signed by the procurement officer. If the bid is picked-up, the copy of the bid packet shall be signed by the authorized agent of the bidder as well.

(3) If the instructions request that the bid packet be destroyed, a copy of the front of the bid packet shall be made, and a copy of the instructions from the bidder shall be attached. The procurement officer shall indicate the method of destruction, and date and sign the notice from the bidder’s agent.
(c) Canceled or withdrawn bids that remain in the files are not public information and may not be opened for disclosure unless so ordered by the UA Chief Procurement Officer or a court of law.

(d) Any modification or correction of a bid shall be secured in the same manner as the original bid document.

(e) All documents relating to the modification, correction, or withdrawal of bids must be made a part of the solicitation file.

**AUTHORITY: AS 36.30.160**

5.18 **BID ACCEPTANCE & EVALUATION**

(a) The contract shall be awarded to the lowest responsive and responsible bidder. The IFB must set forth the requirements and criteria that will be used to determine the lowest responsive bidder. A bid may not be evaluated for any requirement or criterion that is not disclosed in the IFB.

(b) The IFB shall set forth any criterion to be used in determining product acceptability. Evaluation is not conducted for the purpose of determining whether one bidder’s offer is superior to another but only to determine that a bidder’s offer meets minimum requirements as set forth in the IFB. A bidder’s offer that does not meet the minimum requirements is nonresponsive.

(c) Bids will be evaluated to determine which bidder offers the lowest cost to the University in accordance with the criteria set forth in the IFB. Only objectively measurable criteria, in the IFB shall be applied in determining the lowest bidder. Examples of cost criteria which may be set forth in the bid document include, but may not be limited to, transportation cost, life cycle cost, or other related costs of ownership. Cost factors need not be precise predictors of actual future costs, but to the extent possible must be reasonable estimates based upon available information of the University’s needs.

(d) Nothing in this section permits contract award to a bidder submitting a higher quality item than that designated in the IFB if the bidder is not also the lowest bidder. A negotiation with any bidder is not permitted.

(e) Discounts for prompt payment will not be considered in the evaluation of bids, unless it is specifically included as part of a cost evaluation criterion in the solicitation. However, any offered discount will form a part of the award, will be binding on the bidder, and may be taken by the University if earned.

(f) Award shall be made by line item, by schedule, in the aggregate, or by multiple awards only as specified in the solicitation.

(g) Preferences set out in Section 7 apply to award of bids under this section.

**AUTHORITY: AS 36.30.150**

5.19 **LOW TIE BIDS**

If an IFB results in a tie bid between two responsive and responsible bidders, award shall be made based upon a drawing, or coin toss conducted by the procurement officer and witnessed. The solicitation file shall properly document the process used to determine the successful bidder. The explanation shall be included in the NOITA.

**AUTHORITY: AS 36.30.040, .150, .170**

5.20 **ONLY ONE RESPONSIVE, RESPONSIBLE BID RECEIVED**

In the event that only a single responsive, responsible bid is received, the procurement officer may proceed with award when he/she determines that:

(a) Sufficient advertising or other public notice was provided.
(b) The price is fair and reasonable.
(c) Award is considered in the best interest of the University.

AUTHORITY: AS 36.30.150, .170, .360  R05.06.190

5.21 EXTENSION OF TIME FOR BID ACCEPTANCE
(a) If, after opening bids, but before expiration of the period for acceptance of bid, the procurement officer makes a written determination of compelling reasons for delaying the award the procurement officer shall send a written explanation to all bidders requesting that they extend the time during which the University may accept their bids. Bidders shall confirm their decision to extend or not to extend their bid in writing. Bidders who elect not to extend shall do so with impunity.

(b) Due diligence should be exercised to secure an extension of the bid acceptance time before the period has expired. However, if the time for bid acceptance has expired and the bidder agrees to a new bid acceptance period, then his/her bid is considered to have been revived along with all other terms and conditions of the solicitation.

(c) An otherwise low responsive and responsible bidder who is susceptible to award, and is unable to extend his/her bid shall not be penalized, and may be entitled to reasonable and documented bid preparation costs.

AUTHORITY: AS 36.30.040, .070  R05.06.910

5.22 ERRORS DISCOVERED AFTER OPENING & BEFORE AWARD
(a) Bid Confirmation: If the procurement officer determines that there is a question of a possible error in judgment, or of a possible variance from the bid requirements, the procurement officer shall require that the bidder provide a simple declarative statement confirming that his/her bid complies with the terms and conditions of the solicitation without qualification. If the bidder does not confirm his/her bid, the bid is declared non-responsive.

(b) Correction of an Obvious Mistake is allowed only when:
   (1) It is not the result of an error in judgment by the bidder.
   (2) It is obvious on the face of the document.
   (3) Correction of obvious errors shall not be allowed to displace a responsive, responsible bidder who would have been the low bidder, but for the correction.

(c) Correctable errors may, as determined by the responsible procurement officer, include but may not be limited to:
   (1) An obvious error in addition, subtraction, or extension of a price. In such case the unit price shall prevail. However, the unit price may not be corrected even when the result of working backward from the extended price is arithmetically obvious.
   (2) An obvious error in entering a part or model number.
   (3) Failure to provide a minor document where allowing the bidder to provide the document would not result in a cure of an otherwise non-responsive bid, or provide a competitive advantage, and the bidder provides the document in a timely manner.
   (4) The bid is otherwise of good quality and does not contain such other errors of a quality or quantity that the procurement officer determines that the overall integrity of the bid is substantially in doubt.
(5) Correction of the error, in the opinion of the procurement officer, is in the best interest of the University, and is not contrary to the integrity of the bid process.

(d) Failure to Sign: Failure to manually sign where required, does not in and of itself disqualify a bid when it is otherwise clear and convincing from other signatures, initials, documents and/or notations in the document that the bidder intended to be bound. The bidder shall not be given the option of confirming his/her bid merely on the grounds of the missing signature in question, as this would provide an opportunity for the bidder to disavow the bid or his/her obligations under any resulting contract.

(e) Unreasonably Low Bids: A bid price which is unreasonably lower than other bids must be carefully reviewed to avoid inadvertent harm to either the University or the bidder. If a bid is unreasonably low, the procurement officer shall notify the bidder and request confirmation of the bid price. At this point the bidder may request that he or she be allowed to withdraw the bid without prejudice. If the bidder chooses to confirm the bid, the bidder shall provide clear and convincing evidence that the bid is reasonable and valid. Evidence shall be provided within a reasonable time specified by the procurement officer. If the procurement officer is un convinced that the bid is reasonable and valid, the bid may be rejected as non-responsible.

(f) Any action taken under this section must be supported by a written determination and finding by the procurement officer, and made a part of the solicitation file.

AUTHORITY:  AS 36.30.160  R05.06.170

5.23 APPLICATION OF PREFERENCES
Application of preferences shall be done in accordance with Section 7.

AUTHORITY:  AS 36.30.336  R05.06.890

5.24 MEMORANDUM OF SELECTION
The procurement officer shall prepare an executive summary (Memorandum of Selection) for each solicitation file. The MOS will concisely describe how the solicitation was conducted so that an objective reader can understand the procurement officer arrived at his/her decision. At a minimum the MOS should include:

(a) A brief description of the goods or services, the basis of ward and pertinent dates
(b) Participants, submittals, prices, and the evaluation process
(c) Procurement actions including amendments, preferences, rejections, protests and other salient information.
(d) A statement of award naming the successful bidder(s)/offerson(s)

AUTHORITY:  AS36.30.040  R05.06.727

5.25 NOTICE OF INTENT TO AWARD.

(a) At least ten (10) days before the formal award of a contract under an IFB the procurement officer shall issue a Notice of Intent to Award (NOITA) to all interested parties. The notice shall include the name, address and bid amount of each successful bidder, and a brief description of items to be awarded.
(b) The provisions of (a) above do not apply to small procurements, emergency, limited competition, single source, or procurements that otherwise do not require formal competition.

(c) A copy of the NOITA shall be posted and made available for public inspection at the issuing office.

(d) The NOITA may be provided by standard first class mail, fax or electronic transmission so long as delivery by such method is reasonably confirmed. The procurement officer may elect to use more formal or expedited methods when deemed appropriate. In all cases, the solicitation file must document the date, means of issuance and names of all parties to whom the NOITA was issued.

(e) Issuance of the NOITA may be waived only when all the following is provided in writing by the procurement officer:

1. Only a single bidder responded, and the procurement officer determines that adequate solicitation notice was provided.
2. The single bidder has submitted an otherwise responsive and responsible bid.
3. The price is determined to be fair and reasonable.
4. There are no other bidders, "No Bid" responses, late bidders, protestors, or other parties who have expressed an interest in the award of the contract. In this case the single bidder is considered the only interested party, and issuance of a NOITA serves no useful purpose.

(f) If after issuance of the NOITA, but before award, it is determined that the NOITA was issued in error, the NOITA shall be revoked and reissued correctly.

**AUTHORITY: AS 36.30.365**
SECTION 6 – REQUESTS FOR PROPOSALS

6.1 GENERAL
(a) Sections 6.1 through 6.20, and 6.25 through 6.33 apply to all forms of Requests for Proposals.
(b) RFPs may be used when the procurement officer determines that it is practicable and in the University’s interest to do so. The RFP process permits discussions with offerors and may allow changes in their offers, including price, after proposals are opened. It also allows comparative, and qualitative evaluations, negotiation, and Best and Final offers to be made in determining award of a contract (see section 6.21 through 6.24 for RFP types, and basis for award).
(c) The use of an RFP is the preferred procurement method when:
   (1) Evaluation factors are qualitative and involve the consideration of relative abilities of offerors to perform. Evaluation may include degrees of quality or degrees of technical or professional experience or expertise.
   (2) Evaluation involves weighing intellectual, artistic, or aesthetic values to the extent that price is a secondary consideration.
   (3) The types of supplies, or services may require the use of comparative and qualitative evaluations.
   (4) The contract needs to be other than a fixed-price type.
   (5) Discussions with offerors or demonstrations of ability may need to be conducted concerning technical, price or other aspects of the offers.
   (6) Offerors may need to be afforded the opportunity to revise their offers.
   (7) The primary consideration in determining award is not price alone.
(d) The solicitation file shall fully document the process, including a multi-proposal process, if used, and shall include the corresponding documents outlined in Section 5, as well as a record of any:
   (8) Presentations by offerors.
   (9) Correspondence to/from all offerors.
   (10) Negotiations with any offerors.
   (11) Best and Final offers.
   (12) Instructions to Evaluators, completed Evaluation Sheets and a record of evaluation meetings.

AUTHORITY: AS 36.30.200, .210, .265, .510 R05.06.215, .300

6.2 APPROVED USE OF RFPs
This section contains approved exceptions to the use of competitive sealed bidding (IFBs). The procurement officer shall determine the type of RFPs most appropriate to meet the needs of the University. RFPs are authorized for the purchase of:
(a) Professional services. A professional service is defined as a product that is primarily intellectual in nature deriving directly from the expert opinion and judgment of the particular individual.
(b) Non-personal services. A non-personal service is defined as the provision of labor to accomplish a primarily manual task.
(c) Food, clothing, sports equipment, safety equipment and supplies, medical supplies, or materials used for laboratory or medical studies, and other instances where it is prudent or necessary that quality and comparative decisions be made by the end user.
(d) Items or services where competition is available even though the rates are fixed by law or ordinance. This applies to purchases from all types of public utilities, other public entities, cooperatives, or corporate entities whose prices or rates are fixed, regulated, or approved by any public body or regulatory commission including electric, gas, sewer, water utilities, refuse, telephone service, including electronic communication services, and related charges.

(e) Products or services manufactured or provided by a State of Alaska certified employment program. If there is only one local employment program available to supply a product or service, negotiation with the single provider is authorized.

(f) Products or services from State of Alaska correctional industries. (see Section 2.4 for additional information)

(g) Concessions to be operated by or for the University.

(h) Real property acquisitions.

(i) The Director of Procurement for a regional campus may approve the issuance of RFPs for a specific solicitation when he/she determines it is necessary and prudent in order to meet the need of the University. Only the CPO may issue blanket authorizations for use of RFPs other than those authorized in this manual.

AUTHORITY: AS 36.30.200 R05.06.215

6.3 REQUIRED INFORMATION

An RFP shall include the following:

(a) The closing time and date set for receipt of proposals, the address and telephone number of the office proposals are to be delivered to, the mailing address for proposals sent by mail, electronic submission addresses, and other necessary information.

(b) Instructions to offeror’s, the purchase description, scope of work, evaluation criteria, basis of award, contract term, delivery or performance schedule, acceptance requirements, terms and conditions, general provisions and any additional necessary information;

(c) A statement that discussions may be conducted with offeror’s determined to be reasonably susceptible of being selected for award, but that award may be made without discussions.

(d) A statement detailing the submission of best and final offers if written or oral discussions are conducted, and final offers are requested.

(e) A statement of when and how price shall be submitted.

(f) A requirement for the submission of evidence of the offeror’s valid Alaska Business License.

(g) A statement requiring the submission, with the offeror’s proposal, of all subcontractors names, including place of business, and valid Alaska Business License.

(h) The format in which proposals are to be submitted, including any forms required for that purpose.

(i) A statement that the unsealing of proposals is not open to the public.

(j) A statement that oral presentations by the offerors will be (if known), or may be required as part of the evaluation process including:

1. Whether all offerors will be provided an opportunity to make an oral presentation, or only those that are determined to be within the
competitive range for award following an initial evaluation of the proposals.

(2) The general scope and length of time available for the presentation.

(3) Where the presentation shall be made, including any logistical information needed to complete a presentation.

(4) A statement that, evaluators may adjust their initial scoring, (if such has been done), up or down as a result of the oral presentation.

(k) Evaluators shall be instructed not to make any intended or inadvertent disclosure of the names, number of offerors, or the relative standing of any offeror.

AUTHORITY: AS 36.30.210

6.4 PUBLIC NOTICE
Public notice requirements for RFPs are the same as for IFBs. (see section 5.3)

AUTHORITY: AS 36.30.210

6.5 PRE-PROPOSAL CONFERENCES & SITE TOURS
Pre-proposal conferences and site tour requirements for RFPs are the same as for IFBs. (see section 5.4)

AUTHORITY: AS 36.30.210

6.6 DISPOSITION OF PROPOSALS
Disposition of proposal requirements are the same as for IFBs. (see section 5.5)

AUTHORITY: AS 36.30.230

6.7 RECEIPT, OPENING & RECORDING OF PROPOSALS
Receipt, opening and recording of proposals is conducted in essentially the same manner as for bids, (See section 5.6) except that:

(a) Unsealing of proposals shall not be conducted in public.

(b) An abstract shall not be provided until the NOITA is issued.

(c) The names of those who did or did not submit offers, and even the number of offers submitted shall not be disclosed until the NOITA is issued.

AUTHORITY: AS 36.30.230

6.8 RECEIPT OF FAX OR ELECTRONIC PROPOSALS/AMENDMENTS
Receipt of fax or electronic proposal or amendment requirements are the same as for IFBs (see section 5.7), except that the restrictions set out in Section 6.7 above apply.

AUTHORITY: AS 36.30.230

6.9 PROPOSAL MODIFICATION, CORRECTION, OR WITHDRAWAL
Modification, correction or withdrawal of original proposals, or subsequent proposals submitted in response to negotiations, clarifications, or Best and Final Offers, if any, are essentially the same as the requirements for IFBs. (see section 5.17)

AUTHORITY: AS 36.30.240

6.10 SUSPENSION, EXTENSION, POSTPONEMENT OR AMENDMENT
Suspension, extension, postponement or amendment of RFPs is essentially the same as the requirements for IFBs (see section 5.8) except that the provisions of section 6.7 above apply.

AUTHORITY: AS 36.30.240
6.11 RFP CANCELLATION
RFP cancellation requirements are essentially the same as for IFBs (see section 5.9), except that the provisions of section 6.7 above apply.

**AUTHORITY: AS 36.30.350, R05.06.850**

6.12 LATE PROPOSALS, MODIFICATION, CORRECTION & WITHDRAWAL
The requirements for late proposals, modifications, corrections or withdrawals are the same as for IFBs. (see section 5.10)

**AUTHORITY: AS 36.30.160, R05.06.160, .250**

6.13 MULTIPLE PROPOSAL AWARDS
The requirements for multiple proposal awards are the same as for IFBs. (see section 5.11)

**AUTHORITY: AS 36.30.040, .070, R05.06.830**

6.14 CONDITIONING PROPOSALS ON OTHER AWARDS
The requirements for conditioning proposals on other awards are the same as for IFBs. (see section 5.12)

**AUTHORITY: AS 36.30.040, .060, .070, R05.06.840**

6.15 MULTIPLE OR ALTERNATE PROPOSALS
The requirements for multiple or alternate proposals submitted by a single offeror are essentially the same as for IFBs. (see section 5.13)

**AUTHORITY: AS 36.30.040, .060, .070, R05.06.840**

6.16 REJECTION OF INDIVIDUAL PROPOSALS
The requirements for rejection of individual proposals are essentially the same as for IFBs. (see section 5.14)

**AUTHORITY: AS 36.30.040, .070, .350, R05.06.860, .870**

6.17 PROPOSAL BONDS
The requirements for proposal bonds are the same as for IFBs. (see section 5.16)

**AUTHORITY: AS 36.30.120, R05.06.810**

6.18 DISCLOSURE OF INFORMATION
(a) No disclosure of the names of offerors, the number of proposals received, the names, or number of proposals within the competitive range, prices, or any other information contained in the offers shall be made until a NOITA is issued.

(b) Upon issuance of the NOITA all information in the proposals received will be considered public information unless determined to be confidential in accordance with section 6.19 below.

**AUTHORITY: AS 36.30.230, R05.06.240**

6.19 REQUESTS FOR CONFIDENTIALITY
Proposals shall be considered public information after the NOITA is issued except for confidentiality that has been specifically granted in the solicitation for specified information or documents. Granting confidentiality must be deemed necessary to protect information that is highly proprietary, the disclosure of which would
significantly damage the proposer, and to the extent that it is determined to outweigh the public's right to know. The University shall take the following steps to reasonably insure confidentiality:

(a) The solicitation shall instruct proposers in the manner in which confidential documents are to be marked and submitted in order to minimize the potential for loss or inadvertent exposure of information.

(b) A proposer may make a request for confidentiality in addition to that provided for in the solicitation as follows:
   (1) Must be in writing and detail the significant damage that would be sustained by the proposer if the information were exposed.
   (2) Shall be submitted with the proposal package, but in a separate envelope clearly marked as a request for additional confidentiality.

(c) The procurement officer shall take reasonable steps to maintain the confidentiality of the information until a ruling on the request is made.

(d) If a request for additional confidentiality is approved, the proposal may be evaluated. If the request is denied, the offeror shall provide a written statement either withdrawing the request for additional confidentiality, thereby authorizing disclosure of the information, or the proposer shall request withdrawal of his/her proposal in accordance with section 5.15 of this manual.

AUTHORITY: AS 36.30.230

6.20 EVALUATION COMMITTEE

(a) Evaluators must understand that their participation is held to the highest professional standards. Evaluators should be familiar with Section 16, Ethical Standards and Business Practices, of this manual. Any evaluator who has a conflict of interest, or is otherwise unable to evaluate all proposals without personal bias must recuse himself or herself from the evaluation process. The consistency and credibility with which the evaluation is conducted is fundamental to a defense of the proposal process and subsequent award if challenged through administrative procedures or a court of law.

(b) The procurement officer, or designee shall chair the evaluation committee and is responsible to:
   (1) Ensure that the solicitation process and award are fair, and in compliance with the law, BOR policy and regulation, and this manual.
   (2) Ensure that evaluators are properly instructed in and maintain the discipline, consistency, objectivity and confidentiality required by the public procurement process in general and the RFP in particular.
   (3) Ensure that scoring, mathematical calculations and methodology are done in strict accordance the solicitation and the requirements of this manual.
   (4) Oversee the deliberations process used by the technical evaluation committee, and serve as an evaluator when he/she is reasonably qualified and experienced to evaluate technical offers. If the procurement officer determines that others better serve the technical evaluation process, the procurement officer shall continue to chair the committee and monitor the process for compliance with law and regulation.

(c) In addition, the committee shall consist of at least two University employees, and may include consultants working on behalf of the University, or public officials sufficiently knowledgeable to evaluate the proposals.
All members of the committee must be reminded that, by their participation on the committee, they agree not to disclose any information learned as a result of review of documents or discussions within the committee meetings. Requiring outside consultants to sign a non-disclosure statement may be appropriate.

Including the procurement officer chairing the committee, it is recommended that the size of the committee not exceed three (3) to five (5) members for two reasons: Large committees are difficult to schedule, and large committees tend to produce an evaluation leveling effect that fails to clearly differentiate one proposal from another.

**AUTHORITY: AS 36.30.240, .250 R05.06.260, .300, .360 - .380**

**6.21 RFP TYPE & EVALUATION - GENERAL**

(a) The evaluation shall be restricted to the evaluation criteria set forth in the RFP only. The type of RFP selected will determine the evaluation process to be used as follows:

1. **Low Cost RFP:** Cost is assigned 100% weight. Award will be made to lowest priced responsive and responsible offeror. This is the same basis of award as in an IFB except that under an RFP, unlike an IFB, discussions with offerors, negotiation, amendments and Best and Final Offers (BAFO) are allowed (see Section 6.22).

2. **Source Selection RFP:** The aggregate score resulting from evaluation of weighted price and non-price criteria form the basis for award. Evaluation criteria and their weight shall be set out in the RFP. The criteria and their assigned weight will vary depending on the project. Price must be a criterion and shall be reasonably balanced against non-price criteria. The sum of the weighted percentage of all price and non-price criteria shall equal 100% (see Section 6.23).

3. **Best Value RFP:** Non-Price criteria set out in the RFP shall equal 100%. Price is not assigned a weight. Instead, price is evaluated relative to the non-price evaluation results to arrive at a best value determination (see Section 6.24).

(b) Evaluation of Submittal Requirements is conducted by the procurement officer and includes, but may not be limited to:

1. Compliance with Checklist of Submittal Requirements provided in the RFP including a determination that the proposal does not include exceptions or alterations of such a quantity or poor quality that the proposal cannot be reasonably “perfected.” Offers failing this preliminary evaluation shall be declared nonresponsive and shall be given no further consideration.

2. Financial capacity of the offeror. Offerors who are unable to demonstrate the financial capacity necessary to secure the finances, bonding, insurance, equipment, human resources or supplies necessary to complete the project shall be declared nonresponsible and given no further consideration.

3. The evaluation committee should be apprised of any proposals that have been eliminated at this stage. While the procurement officer makes the final determination, the Committee should be provided an explanation.

(c) Non-Price Evaluation Criteria: Regardless of the type of RFP, cost information shall be evaluated separately from non-price criteria. For the sake of clarity,
non-price evaluation criteria should not number more than three (3) to five (5) for any particular RFP. Listing too many criteria tends to result in a leveling effect that fails to clearly differentiate proposals. Evaluation criteria may include but not be limited to:

(1) Offeror's demonstrated overall capability to perform the contract including:
   a) Experience in projects similar in size, scope and complexity to this project.
   b) Organization and plan proposed for this project, including key positions, and key personnel within those positions responsible to complete the project.
   c) Past performance in projects similar in size, scope and complexity to this project, including reference checks and other reasonable inquiries.
   d) Other criteria of particular importance based on the nature of the project and set out in the solicitation including but not be limited to:
      1) Demonstrated technical expertise in specialized conditions, skills, or other complex capabilities essential to the project.
      2) Creativity, marketing, design and promotion.
      3) Demonstrated management expertise, financial analysis, human resources, administration, negotiation or legal skills.
      4) Expert knowledge in science or research capability or support related to the project.

(2) Weighting criteria is addressed for each type of RFP in Sections 6.21 – 6.24.

(d) Price Evaluation Criteria: The weight given to price in Source Selection RFPs, and the comparative value assigned to price by evaluators in Best Value RFPs shall be fair, reasonable and balanced with consideration to the number of available competitors, the quality of the competition, and risk/cost to the University of non-performance.

**AUTHORITY: AS 36.30.040, .250**

**6.22 RFP, BASIS OF AWARD – LOW COST PROPOSAL**

(a) A RFP that is to be awarded to the low responsive, responsible offeror may be appropriate when the deliverable is reasonably well defined, but it is anticipated that additional discussions may be needed to evaluate the capability and methodology of offerors, or to discuss other relevant factors to meet the needs of the University, e.g., standard commodities or well defined non-personal services.

(b) The RFP shall state that award will be made to the responsive, responsible offeror providing the lowest total cost offer, or Best and Final Offer (BAFO), if the latter is requested. The proposal shall state the evaluation criteria to be used to determine that a proposal is responsive to the requirements of the solicitation, and that the offeror is responsible for purposes of award. The determination that an offeror is responsive and responsible may include discussions with offerors and may require written requests for clarification, or could result in amendment of the RFP requirements as a result of a negotiation process.

(c) Proposals lacking sufficient information may be rejected as nonresponsive. However, the procurement officer may allow marginally incomplete submittals
to be made complete if the oversight is not considered material, and making the offer complete would otherwise likely result in an offer considered to be susceptible to award.

(d) The evaluation of the offer for responsiveness and responsibility may include discussions with offerors, reference checks, written or oral requests for clarification or other inquiries deemed necessary to properly evaluate the offer. Failure by an offeror to provide information in a complete and timely manner may be cause for rejecting the offer as nonresponsive.

(e) Cost information must remain confidential, usually sealed separately within the submittal. In any event, cost shall not be made known to the evaluation committee until the evaluation of responsiveness and responsibility has been completed. However, once the determination is made, award will be made solely on the basis of cost to the low responsive and responsible offeror.

(f) Bidder preferences shall be applied in the same manner as for sealed bids.

**AUTHORITY: AS 36.30.040, .250**

R05.06.260, .300, .360 - .380

6.23 **RFP, BASIS OF AWARD – SOURCE SELECTION.**

(a) Source Selection RFPs are conducted in the same manner as Low Cost RFPs except that in source selection the basis of evaluation and award is other than cost alone. The deliverable tends to either be a highly complex, often high technology product, or a product or service of an intellectual nature wherein expertise, experience, innovation, and other less empirical, more qualitative criteria must be considered. Price shall be a criterion, shall be weighted relative to other factors set out in the RFP, and be stated as a percentage of total weight. Proposals shall be rated using a numerical scaled/weighted evaluation process. Evaluation criteria are set out in the RFP and must be assigned a weight. The sum of the weights including the weight assigned to price shall total 100% as in the example below:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Experience</td>
<td>20%</td>
</tr>
<tr>
<td>Past Performance</td>
<td>30%</td>
</tr>
<tr>
<td>Organization</td>
<td>20%</td>
</tr>
<tr>
<td>Price</td>
<td>30%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

(b) **Non-Price Evaluation:**

(1) Non-price criterion may include descriptive elements within the criterion that may be taken into consideration. However, it is not advisable to further subdivide the scoring of these descriptive elements.

(2) The solicitation shall establish a scaled rating to be applied by the individual evaluation committee members defined as follows.

a) 1–2, Poor. Entirely unacceptable in one or more criterion. The offeror fails to meet the minimum requirements necessary to successfully execute a contract under this solicitation. No offer that is rated 1 or 2, (entirely unacceptable) in one or more criterion by the evaluation committee, as a whole shall be eligible for award regardless of the aggregate score of the offer.

b) 3–4, Marginal. Evaluation results in a determination that the offer is generally more unfavorable than favorable.

c) 5, Neutral. The offer does not demonstrative either good or marginal capability. The evaluator may assess the offer favorably, while others
do not. A neutral rating is not a criticism of an offeror. On balance the offer is neutral.

- 6–8, Good. Evaluation results in a determination that on whole the offer is generally more favorable than unfavorable.

- 9–10, Excellent. Entirely favorable on balance. While the evaluator may have rated one or more criterion less than excellent, in the aggregate the committee feels the offer is of superior quality.

(3) Each evaluator shall complete the Evaluation Form for each offer as follows:
   a) Use whole numbers only. Do not use fractions or decimal points to further refine the rating.
   b) Enter the scaled rating for each criterion.
   c) Multiply this number by the weight assigned to the criterion to produce a weighted score for each criterion.
   d) Add the individual criterion scores to produce a total weighted score for each offer.

(4) Evaluation committee review and discussions. After the evaluation committee members have completed their individual scoring they may meet as a committee of the whole to review rank order of the offers, discuss their insights in arriving at their scores, and advocate for their particular ranking. While each committee member must arrive at his/her own scoring without undue pressure, committee members are allowed to adjust their scores as a result of these discussions. At this point, price has not yet been revealed.

(5) The procurement officer shall sum the scores of all evaluators to produce the aggregate non-price score for each offer. The aggregate non-price score of each proposal is then divided by the number of evaluators to produce the evaluation committee average non-price score for each offer to produce the non-price rank order of the offers.

(6) A numeric scaled scoring is the preferred method of assigning relative value to competing proposals. The use of colors, adjectives, or brief narratives may be used when the procurement officer determines that it is advantageous to the University to do so.

(c) Price Evaluation: The procurement officer shall calculate and assign cost points as follows:
   1. Apply the Alaska Bidders Preferences where applicable (Alaskan bidder’s prices are reduced by 5% for purposes of cost points assignment).
   2. The lowest cost responsive, responsible proposal is assigned the maximum number of points assigned for the cost criterion, e.g. 10 (the maximum scaled rating) X (the weight assigned to cost in the RFP).
   3. The cost points allocated to the other proposals are calculated by multiplying the lowest priced proposal cost (Alaska bidders preference accounted for if applicable) by the assigned weight for cost. Then divide that number by the cost of each successively higher priced proposal. This produces a mathematically proportional assignment of cost points. See below:
PRICE CALCULATION EXAMPLE

The offers are priced as follows: Offer A is $105,000, Offer B is $123,000, Offer C is $134,000 and cost is assigned a weight of 30 points on a scaled rating of 1-10.

*Offer A*, (low cost proposal) cost points are calculated as follows:
30 (cost weight) X 10 (maximum scaled rating) = 300 cost points

*Offer B*, (next low cost proposal) cost points are calculated as follows:
$105,000 (price, offer A) X 300 points = 256 cost points
$123,000 (Price, offer B)

*Offer C*, (next low cost proposal) cost points are calculated as follows:
$105,000 (price, offer A) X 300 points = 235 cost points
$134,000 (price, offer C)

(d) Cost points of each proposal are then added to the averaged technical score of each proposal to produce a final score for each proposal.

(e) If additional rounds of price competition are required the steps in (c)(3) above are repeated for each subsequent price submittal.

(f) Final Scores. The procurement officer shall add the price score of each offer to the average of the sum of the individual evaluation committee member non-price scores in (b)(5) above. This is the final total score for each offer. The basis of award is to the proposer with the highest score.

AUTHORITY: AS 36.30.040, .250 R05.06.260, .300, .360 - .380

6.24 RFP, BASIS OF AWARD – BEST VALUE

(a) Non-price criterion evaluation for a Best Value RFP is conducted in the same manner as for Source Selection. However, Best Value price evaluation differs from Source Selection price evaluation in that Best Value provides for comparison of competing proposals one to another, and permits award to other than the lowest priced offer or to the highest non-price scored offer. Under Best Value, award shall be made to the responsive, responsible offeror whose proposal, in the judgment of the evaluation committee, offers the best value to the University. Best value will be determined by an integrated evaluation of criterion listed in the RFP that may include but is not limited to price, experience, past performance and overall capability.

(b) While offerors should always provide their most competitive price, the importance of price relative to non-price criteria to the University varies as risk and the associated consequences of failure, poor workmanship or delay increases for any given project.

(c) Award based on Best Value shares the same high degree of discipline and documentation of the decision-making process as in a Source Selection RFP.

(d) Price is not given a specific assigned weight in the solicitation. Prices shall not be revealed until after the non-price evaluation is conducted. Non-price evaluation is conducted in the same manner as for Source Selection RFPs above, except that weight of the non-price criteria shall total 100% (price excluded).

(e) Best Value Determination: After non-price evaluation is completed, the price of each proposal is revealed to the evaluation committee. The proposal offering the best value to the University shall be determined as follows:
(1) If the highest ranked technical offer is also the lowest cost proposal it shall be determined to be the best value for the University.

(2) If technical rank order and cost order differ, the evaluation committee shall discuss the merits of each proposal relative to its price and other proposals technical rank and price. The evaluation committee shall continue until a consensus is reached on the proposal that offers the Best Value.

**AUTHORITY:** AS 36.30.040, .250, .308

**6.25 ERRORS OR DEFICIENCIES DISCOVERED AFTER CLOSING**

RFPs are **not** subject to public disclosure until issuance of the NOITA, and negotiation is an integral part of the RFP process, therefore, clarification of offers, including correction of errors is allowable. Errors discovered after closing, but before award are subject to the following.

(a) The University may request in writing, and/or proposers may be allowed to provide clarification of their proposal, or to correct a deficiency in their proposal in order to "perfect" their offer.

(b) Correction is subject to the principles established in section 5.22 and this section.

(c) Correction of errors shall not be allowed and the proposal shall be rejected as nonresponsive if the procurement officer determines that the proposal contains errors of such a poor quality or quantity that the overall integrity of the proposal is substantially in doubt, and that further consideration of the proposal is not in the University’s best interest.

(d) After Best and Final offers (if requested) are received, an offeror may not correct a mistake. An offeror may however, withdraw a proposal at any time before the University accepts the proposal. Withdrawal of a proposal after the University accepts it shall be conducted in accordance with section 5.10 of this manual.

(e) If an error in a proposal is discovered after issuance of the NOITA, but before award, it may be corrected if it is determined to be a minor informality as noted above and in Section 5.22. However, in the interest of the integrity of the proposal process, the corrected apparent high scoring proposal shall be re-evaluated if the procurement officer determines that the correction could reasonably be expected to change the ranking of proposals.

**AUTHORITY:** AS 36.30.040, .070, .240

**6.26 DISCUSSIONS WITH OFFERORS**

(a) Prior to establishing a competitive range, written inquiries may be made of the offerors to clarify apparent discrepancies and verify information in the proposal. The procurement officer must ensure that the opportunity to clarify, confirm, or otherwise respond to questions is provided to all offerors.

(b) Proposals determined to be within the competitive range for award may be offered the opportunity to discuss their offers with the evaluation committee, to make oral or written presentations. This process must be sufficiently formal to insure equity among offerors, and fully documented. The procurement officer and evaluation committee members must exercise due caution to prevent disclosure of information to one offeror about any other offer. The evaluation of a proposal may be adjusted as a result of these discussions.
(c) The procurement officer may elect to limit discussions to specific sections of the RFP. If during discussions there is a need for substantial clarification of, or change in the RFP, an amendment to incorporate the clarification or change must be sent to all interested parties. Auction techniques revealing one offeror’s price to another and disclosure of any information derived from competing proposals are prohibited. Proposals may only be amended in writing.

(d) Once the last amendment has been issued, and all changes, if any, have been made to the offers, the procurement officer shall set a date and time for the submission of best and final offers (BAFO), if such are requested. A BAFO is required whenever the outcome of oral or written discussions may be reasonably expected to have affected the original offer. BAFOs may be submitted only once unless the procurement officer determines that additional questions, a need for clarification, or modification of the offers has been raised in the BAFO. In such case, the procurement officer shall notify all offerors still under consideration for award in writing. The notice shall identify the questions, changes, or modifications deemed to need further consideration, and set a new date and time for submittal of BAFOs. The solicitation must state that, if an offeror does not submit a BAFO, or a request for withdrawal, his/her immediate previous offer will be considered to be their BAFO.

(e) After BAFOs are received and final evaluations completed, the procurement officer shall issue the NOITA.

AUTHORITY: AS 36.30.040, .070, .240

6.27 TIE PROPOSALS
(a) If a RFP in which the basis of award is to the low responsive, responsible offeror results in a tie, the award shall be decided in accordance with provisions for awarding tie bids. (See section 5.19)

(b) If a RFP results in a tie score, the procurement officer shall remand the tied proposals to the committee for formal reevaluation based either on the same criteria set out in the proposal, or on another round of BAFOs from the tied offerors.

AUTHORITY: AS 36.30.040, .070

6.28 ONLY ONE RESPONSIVE, RESPONSIBLE PROPOSAL RECEIVED
The requirements for one responsive proposal are the same as for IFBs (See section 5.20)

AUTHORITY: AS 36.30.040, .070, .240

6.29 EXTENSION OF TIME FOR PROPOSAL ACCEPTANCE
The requirement for extension of time for proposal acceptance is the same as for IFBs, (See section 5.21)

AUTHORITY: AS 36.30.040, .070

6.30 MEMORANDUM OF SELECTION
A Memorandum of Selection shall be prepared in accordance with Section 5.22. Additionally, the MOS shall include a brief narrative of the evaluation criteria, the process of evaluation including the methodology and chronology, and a listing of the resulting evaluation scores, including a brief statement of the salient facts that led to
the final selection, particularly when the successful proposer is not the highest technically ranked, or the lowest cost offer.

**AUTHORITY: AS 36.30.040**

### 6.31 NOTICE OF INTENT TO AWARD

The requirements for the NOITA are the same as for IFBs, (See section 5.25)

**AUTHORITY: AS 36.30.365**

### 6.32 DEBRIEFING OFFERORS

(a) At any time after the NOITA has been issued an interested party may request a debriefing by the procurement officer to discuss the offeror’s score. The RFP files at this point are public documents and are open for inspection and review, subject to any confidential information requirements.

(b) The aggregate scoring of the committee shall be provided to an interested party upon request.

**AUTHORITY: AS 36.30.040**
SECTION 7 – PREFERENCES

7.1 QUALIFIED ALASKAN BIDDER/OFFEROR
To qualify as an Alaskan bidder/offeror, a person or entity shall:
(a) Hold a current Alaska business license, or provide proof of having applied for such license prior to the deadline for submitting bids or proposals.
(b) Submit the bid or offer under the name appearing on the business license.
(c) Have maintained a place of business within the State by the bidder or an employee of the bidder for a period of six months immediately preceding the date of the bid.
(d) Be incorporated to do business in the State; be a sole proprietorship and the proprietor is a resident of the State; be a limited liability company (LLC) in compliance with AS 10.50 and all members are residents of the State; or be a partnership, including Limited Liability Partnerships (LLP), under AS 32.05 or AS 32.11 and all partners are residents of the State.

AUTHORITY: AS 36.30.170, R05.06.890

7.2 APPLICATION OF PREFERENCES
(a) The procurement officer shall award a contract to the lowest responsive, responsible bidder/offeror after application of the Alaska preference of five percent (5%) is applied.
(b) A procurement officer may not purchase timber, lumber, or manufactured lumber products unless the requirements of AS 36.30.322 are met.
(c) For a bid/offer to which more than one statutory preference applies, i.e., the Alaska preference, the employment program preference, the Alaska products preference, or recycled product preference, etc., the procurement officer shall add the preference percentages together and reduce the bid/offer price by the sum of the percentages for evaluation purposes.

AUTHORITY: AS 36.30.170, .332, .338, R05.06.890

7.3 BIDDER/OFFEROR & PRODUCT PREFERENCES
(a) AS 36.30 requires that the following preferences be applied to the award of formal solicitations:
   (1) Alaska bidder/offeror - 5%
   (2) Alaska forest products - 7%
   (3) Alaska products - value added preferences applied by statute as:
      a) Class I - more than 25%, but less than 50% value added: 3%
      b) Class II - more than 50%, but less than 75% value added: 5%
      c) Class III - 75% or more value added: 7%
   (4) Recycled products - 5%
   (5) Employment program - 15% as defined in AS 36.30.170, c. thru k.
   (6) Disability - 10% as defined in AS 36.30.170, e. thru k.
(b) The procurement officer shall carefully review the requirements of the statutes to insure that the bid/offer qualifies for the preference. An unsupported assertion of compliance is insufficient.
(c) The preferences shall be applied to informal solicitations issued by the campus procurement department, including RFQs, when making small procurements as defined by AS 36.30.320.
University departments are encouraged to seek pricing from Alaskan vendors when executing discretionary (small dollar purchases) and shall apply the preferences as defined herein when making price comparisons.

AUTHORITY: AS 36.30.170, .322 - .338

7.4 RECYCLED PAPER PRODUCTS
In addition to the monetary preference for recycled products contained above, whenever the University purchases paper products, including cut stock, printing stock, envelopes, towels, tissues, computer stock, or other paper products, at least 25% of the quantity purchased shall be classified as recycled unless the responsible procurement officer determines that recycled paper is not available, or that recycled paper, after application of the 5% preference, is more expensive than non-recycled paper for the purchase in question.

AUTHORITY: AS 36.30.333, .337

7.5 PREFERENCES IN SPECIFICATIONS
(a) Specifications shall not unnecessarily discriminate against the use of recycled materials.
(b) Product minimum content guidelines and definitions are adopted by the Environmental Protection Agency (EPA) and can be found in 40 CFR 248 - 253.
(c) University departments should consider the following steps when preparing purchase requisitions that include recycled products:
   (1) Include sources that specifically provide recycled products.
   (2) Allow for alternative use of recycled products in specifications.
   (3) Specify use of recycled products and allow recycling in performance of service contracts and lease agreements.
   (4) Specify double-sided printing whenever possible as required by AS 44.99.020. Specify self-mailers (fold, staple, and address) to limit envelope use. Limit number of copies.
   (5) Allow both recycled and virgin materials in solicitation provisions.
   (6) Allow users to specify certain items as 100% recycled products.

AUTHORITY: AS 36.30.170, .322 - 338

7.6 EMPLOYMENT PROGRAMS
(a) A procurement officer may obtain supplies or services provided through employment programs certified by the Alaska Division of Vocational Rehabilitation.
(b) If the procurement officer determines supplies or services meet the University's requirements, and if the price is no more than 15% higher than otherwise available on the open market for the supplies or services required, an award can be made without soliciting the private sector.
(c) If the private sector is included in the solicitation, a 15% price preference shall be applied to all firms who qualify under the employment program in accordance with AS 36.30.170(c).

AUTHORITY: AS 36.30.170, .311
SECTION 8 – LEASES: EQUIPMENT & REAL PROPERTY

8.1 UNIVERSITY FUNDED EQUIPMENT PURCHASE FINANCING
(a) Before entering into a lease purchase the package must be submitted to the Vice President for Finance to determine the availability of more favorable internal financing.
(b) Lease to purchase is generally not the preferred method of purchase, and is usually not approved for acquisitions under $100,000.
(c) An outright purchase price as well as a financed price must be secured.
(d) The purchase price, and the terms and conditions of the financing arrangement must be sent to the campus VCAS for review and submitted to the UA Vice President for Finance for approval. The VP will compare rates, terms and conditions available through the UA Master Lease Program to determine whether a more favorable financing arrangement is available.
(e) If more beneficial financing is available through the Master Lease or other internal resources, the requisitioning department will be provided funds to make an outright purchase from the vendor, and a repayment schedule will be developed for the department.

AUTHORITY: AS 36.30.080 R05.06.070, .400, .820

8.2 EQUIPMENT LEASES - GENERAL
(a) Equipment leasing is generally reserved for high cost, high technology equipment where the decision to lease is driven by the nature of the equipment, the pace of technological change and other market factors. Equipment leasing is not appropriate simply because of a desire to budget the item from operating expenses (lease payments) rather than capital equipment (outright purchase). Specifically, individual departmental leasing of convenience copiers, personal computers, fax machines, etc. is not recommended.
(b) The procurement officer must carefully review the lease agreement to insure it is in the University’s best interest including:
   (1) All conditions for renewal and costs of termination are set forth in the lease.
   (2) Restrictions on return of the item at the end of the lease are not so restrictive as to impose a de facto mandatory buy-out.
   (3) The lessor without University approval may not assign the lease.
(c) Under an equipment lease agreement, title will not pass to the University unless a buy-out is mandated in the agreement, or the lease includes an option to purchase, and the University exercises that option.
(d) Lease agreements in excess of $50,000 for the full term, including any renewals or extensions are subject to formal competitive procedures set out herein.
(e) A lease is a financial obligation for the entire term of the lease and may not be terminated for lack of funding.
(f) Because a multi-year lease obligates the University in future years, the solicitation and the lease agreement must contain a Municipal Funding Out-Clause. This rarely used clause states that the lease may be terminated for lack of funding only if the funding agency (State or federal) specifically deletes funding for the particular named lease. A general reduction in funds or
changing priorities is not sufficient to invoke this funding-out clause. The University may be liable for costs resulting from the termination.

**8.3 EQUIPMENT LEASE WITH OPTION TO PURCHASE**

When a contract is anticipated to contain an option for renewal, extension, or purchase of the item, such option shall be part of the original solicitation and lease agreement. The decision to exercise shall be reviewed by the procurement officer and should include consideration of changes in the market trends, changes in technology, and total cost of the acquisition. Exercise of the option is at the sole discretion of the University.

**AUTHORITY: AS 36.30.080**

**8.4 EQUIPMENT LEASE/PURCHASE**

(a) A lease to purchase mandates purchase of the leased item at the end of the lease period. Ownership will pass to the University. Careful consideration should be given to changes that may occur during the term of the lease that may be either beneficial or adverse to the best interest of the University by the end of the lease period. These include changes in market availability, cost fluctuations or trends, changes in technology, and total cost of the acquisition over the life of the lease.

(b) A mandated purchase may be as simple as a $1 buy-out, or it may mandate a significant payment. In the case of a significant payment the funding constraints of Section 8.2, (e) & (f), and 8.3 apply.

**AUTHORITY: AS 36.30.040, .060, .080**

**8.5 REAL PROPERTY LEASES**

Real property leases may only be procured by individuals with specific delegated real property lease authority in accordance with the following:

(a) Consideration of lease costs, including all renewals, shall be compared to the feasibility and cost effectiveness of procurement, or constructing the needed space.

(b) No lease may provide for a period of occupancy in excess of 40 years.

(c) Lease or lease financing arrangement with an actual annual payment anticipated to exceed $500,000, or with total lease payments that exceed $2,500,000 for the full term of the lease may not be awarded, or renewed unless approved in advance by the legislature. An appropriation for the project does not constitute approval of the project. See AS 36.30.080 for reporting and approval requirements.

(d) The sum of the renewal option periods may not exceed the original term of the lease.

(e) Consideration should be given to life cycle costs, functionality, work environment, including safety, convenience for the public, design, and location in addition to the cost of the lease.

(f) Lease agreements must contain a municipal funding out clause stipulating that continuance of the lease is contingent upon annual appropriation.

(g) Lease space of not more than 3,000 square feet may be procured through the informal competitive process, except that public notice to prospective offeror’s in the market area is required.

**AUTHORITY: AS 36.30.080**
8.6 REAL PROPERTY LEASE EXTENSIONS
Except as restricted above, a lease may be extended up to a maximum of ten (10) years provided that negotiations are begun within six (6) months of the expiration of the lease and:
(a) Not less than a 15% savings can be achieved on the rent due under the lease, calculated on the remaining term of the lease and any renewals, including any extension allowed hereunder.
(b) Not less than 10% savings can be achieved on the rent due under the lease and, if the property is not already in compliance, the lessor agrees to bring the property into compliance with the requirements of the Americans with Disabilities Act of 1990.
(c) By August 31 of each year the University shall submit a report to the Legislative Budget and Audit Committee detailing the savings achieved during the previous fiscal year accruing from all extended leases.

AUTHORITY: AS 36.30.083 R05.06.070, .727, .755

8.7 REAL PROPERTY LEASE-PURCHASE AGREEMENTS.
Real property lease-purchase agreements may be entered into when it is determined to be necessary, feasible, and in the best interest of the University. Lease-purchase agreements are subject to the restrictions for leases set out above, including:
(a) Consideration must be given to life cycle costs, functionality, work environment including safety, convenience for the public, design, and location in addition to the cost of the lease.
(b) Consideration of lease-purchase costs, including all renewals, shall be compared to the feasibility and cost effectiveness of leasing, renting, procurement, or constructing the needed space.
(c) No lease may provide for a period of occupancy in excess of 40 years.
(d) Lease agreements must contain the municipal funding out clause stipulating that continuance of the lease is contingent upon annual appropriation.
(e) The legislature must be notified of the University’s intention to enter into or renew a real property lease-purchase agreement. Such notice shall include:
   (1) Anticipated total construction, acquisition, or other costs of the project.
   (2) Anticipated annual amount of the rental obligation.
   (3) Total lease payments for the full term of the agreement.
(f) The legislature must approve the lease-purchase agreement, except that, notice to, and approval by the legislature is not required when:
   (1) Refinancing an outstanding balance owing on an existing agreement, or
   (2) When student fees secure the lease-purchase or University receipts as defined in AS 14.40.491.

AUTHORITY: AS 36.30.085 R05.06.070, .727, .755, .820
SECTION 9 – OTHER PROCUREMENT METHODS

9.1 SOLE SOURCE (SINGLE SOURCE)

(a) A Request For Alternate Procurement (RAP) form shall be completed for each sole source by the procurement officer. A sole source may exist under, but is not limited to, the following circumstances:

1. Compatibility of equipment, accessories, or replacement parts is a paramount consideration and are available only from one source.

2. Maintenance service or replacement parts are only available from the manufacturer, or from the agent named by the manufacturer as the authorized source. NOTE: It is not valid to accept the supplier's statement that he/she is the single authorized agent for a manufacturer. Confirmation must be received from the manufacturer directly.

3. A particular supplier's item is needed for trial use or testing.

4. It is necessary to preserve a warranty.

5. The procurement is for operation of a concession contract on University property by a non-profit organization whose single purpose is to operate the concession and provide other public services within the property.

6. The CPO has approved a blanket sole source determination.

7. A patent exists and the patented item or feature is certified as a needed restrictive specification set out above.

8. A Single Source exists as defined under AS 36.30.300 when a contractor is already at work on a site and it would be impracticable to allow another contractor or contractors to simultaneously work on the site.

9. There exists only one known source of expertise required to perform a specific professional service, and the expertise lies with a specific named individual to whom the contract will be issued. This is in contrast to the overall expertise of a professional firm or company in competition with other similarly qualified firms.

10. Contracts for the services of legal counsel when such contracts are for the purpose of advising or representing the University in specific civil or criminal proceedings or on specific matters before federal or state regulatory agencies, boards or commissions. The University’s General Counsel must approve all contracts for legal services.

11. An item is manufactured in a foreign country, and is distributed only through a single source within the United States. NOTE: Purchase of items manufactured in foreign countries may be prohibited, or require special approval and documentation when using federal funds.

12. A contract exists for similar items or services wherein the additional items could be reasonably purchased or negotiated within the scope of the existing contract, and it is in the best interest of the University to do so.

(b) Any request by a using department that a procurement be restricted to one potential source must be accompanied by written explanation as to why only that source can meet the needs of the University. The head of the department shall sign the written explanation. Faculty and principal investigators must submit a Certification of Need for Restrictive Specification to document a brand name only request.

(c) All sole source procurements shall be approved by the CPO as follows:
(1) By issuance of a blanket sole source determination as contained in this manual, or as may be issued by the CPO from time to time.
(2) By specific authority within the written delegation of authority.
(3) If not covered by (a) and (b) above, by direct approval of the RAP on a case-by-case basis.

(d) The procurement officer shall conduct negotiations for price, delivery, and terms of a sole source procurement, as deemed appropriate. A written determination of price reasonableness is required before award and must be made a part of the contract or purchase order file for each sole source procurement.

(e) A record of sole source procurements shall be properly coded in the financial management system (Banner). Sole source procurement files must include:
   (1) Each contractor’s name.
   (2) The amount and type of each contract.
   (3) A listing of the supplies, or services procured under each contract.
   (4) The purchase order/identification number of each contract file.
   (5) An approved RAP form.

**AUTHORITY:** AS 36.30.300, .520, .530, .540 R05.06.410, .415, .420

### 9.2 EMERGENCY PROCUREMENT

(a) If immediate action is necessary to protect the public health, welfare, safety, or public or private property, the senior University official at the site of the emergency is authorized to purchase supplies or services as necessary to resolve the immediate need and mitigate continuing damage or threat. The individual on site, or the department official shall contact the procurement department as soon as possible to apprise the procurement officer of the situation. If the emergency occurs after hours, notification shall be made the following business day.

(b) If the emergency procurement exceeds the small purchase limit, the procurement officer shall immediately inform the CPO of the situation, and must provide a written determination of the emergency conditions that led to the initial emergency procurement. In addition, the procurement officer shall request in writing such emergency procurement authorization as necessary to meet the need.

(c) Alternative methods of procurement may be used by the procurement officer in emergency situations where:
   (1) Immediate action is in the public interest due to declaration of an emergency by local, state, or federal government. In the case of a “declared emergency”, written notice of the declaration must be obtained from the responsible federal, state, or local government agency. The CPO may issue a blanket determination at the onset of the declared emergency, covering all procurements that occur for the duration of the emergency. Examples that may result in a “declared emergency” include: acts of God, war, invasion, marshal law, natural disasters, etc.
   (2) The University would be seriously injured financially, or otherwise if the supplies or services needed were not furnished by a certain date, and where they could not be procured by that date through formal solicitation procedures.
The procurement officer has prepared, and received approval of formal determination, stating the basis for an emergency procurement in accordance with the criteria established by this section.

(d) Procurement Officers will select the best procedure to assure that the required supplies, or services are procured in time to meet the emergency. Given this constraint, such competition as is practicable will be obtained. The basis for source selection must be documented in writing in each emergency procurement file. A record of an emergency procurement must be maintained in the procurement department. Emergency procurement files must include:

1. A copy of the approved written determination requesting emergency procurement authority.
2. The contractor's name.
3. The amount and type of each contract.
4. A listing of the supplies, or services procured under the contract.
5. Copies of the purchase order(s).

(e) Determinations under this section are not required for small dollar purchases.

AUTHORITY: AS 36.30.310, .520, .530, .540

9.3 REPORTING SOLE SOURCE & EMERGENCY PROCUREMENTS

(a) The procurement office shall maintain a record of sole source and emergency procurements for a minimum of five years. The record shall contain the contractor's name, contract amount, and the type of supplies, or services procured. Sole source and emergency purchases shall be properly coded in the financial management system (Banner).

(b) The CPO shall notify the Legislature biennially, by December 1, that the report summarizing sole source and emergency procurements is available.

AUTHORITY: AS 36.30.520, .530, .540

9.4 LIMITED COMPETITION

(a) A request that a procurement be restricted to certain potential sources (other than a "brand name only" specification in Section 4.5) or that the form of a solicitation be restricted to an informal RFQ or negotiations rather than an IFB or RFP must be accompanied by a written explanation as to why the standard procedure is impractical, or contrary to the best interest of the University.

(b) A limited competition procurement requires written approval from the CPO.

(c) Procurements may be made by soliciting competition, orally or in writing, among firms known to be providers of the supplies or services. Written solicitations should be used whenever practicable. At a minimum the RFQ form shall be used. When practicable, the standard IFB or RFP package, modified to exclude terms that may conflict with the limited competition process, shall be used.

(d) The procurement officer may use the formal RFP process for limited competition, or may conduct negotiations, as appropriate, as to price, delivery, and terms within an informal RFP process with potential sources for a limited competition procurement. If the IFB process is used for limited competition, negotiations are not permitted.

(e) At a minimum, the procurement file shall include copies of the written determination and approvals as required, and a copy of the contract, and/or purchase order with supporting documentation.
(f) A solicitation limited to a certain brand(s) is not a limited competition for these purposes. Brand name only procedures are set out in Section 4 of this manual.

**AUTHORITY: AS 36.30.305**

9.5 INNOVATIVE PROCUREMENTS

(a) On rare occasions, a need to acquire goods or services may be of such an unusual nature that standard procurement procedures are not sufficient to meet the needs of the University. This section expands upon the procurement methods contained in this manual to authorize such innovation as is necessary to meet the need within the bounds of law, and good business and procurement practices.

(b) The use of Best Value procurements, as defined in AS 36.30.308, and R05.06.575 & 577 is hereby approved when conducted in accordance with Section 6, Requests for Proposals set out in this manual.

(c) Procurement under this section is authorized only when existing procurement practices will not meet the need.

(d) A request to proceed under an innovative procurement must:

1. Include a written determination setting out why the existing procedures will not suffice to meet the University’s needs, with particular attention to justifying an exception to the formal solicitation process. The determination shall explain the requested innovation in sufficient detail to allow a substantive review and decision on the merits of the innovation.

2. Include a formal plan of procurement setting out timelines, evaluation criteria, contract type, and other pertinent data.

3. Be reviewed by General Counsel.

(e) An innovative procurement as described herein is subject to the Public Notice requirements contained in AS 36.30.130.

(f) Nothing in this section reduces or extinguishes the rights of any interested party to protest a solicitation or award, or pursue contract disputes as set out herein.

**AUTHORITY: AS 36.30.308**

9.6 UNSOLICITED OFFERS

(a) An unsolicited offer is a formal vendor offer to provide commodities or services, when such offer is not in response to a solicitation issued by the University. An unsolicited offer must be:

1. Submitted in writing with sufficient detail to allow a judgment to be made concerning the potential utility of the offer to the University.

2. Must demonstrate that the offer is of such a highly proprietary nature that the offer qualifies as a sole source under the requirements of AS 36.30.

3. May be subject to testing under terms and conditions specified by the University. The University and the offeror will take reasonable measures to maintain the confidentiality of the commodity or service during the test period. The test may include issuance of a contract for a period, reasonable under the circumstances, to confirm the viability of the offer, any economic benefits, and the advantages of the offer to the University.
The unsolicited offer must be evaluated to determine its use to the University and whether it would be in the best interest of the University.

Reviewed by General Counsel, and approved by the CPO.

The procurement officer shall, without disclosing the details of the offer, issue a letter of interest to verify that no other source is available.

If the University determines that there is reason to believe the commodity or service may be available from other sources the University may elect to seek the commodities or services through the competitive process. In such case the original offeror shall be given the opportunity to compete.

A contract resulting from the acceptance of the unsolicited offer is subject to public disclosure, except as it may qualify for confidentiality under the law, regulations, and the procedures set out herein. A contract resulting from acceptance of an unsolicited offer may include a provision that at the end of the term of the contract, renewal period, or extension, future acquisitions of the commodity or service shall be subject to competition as available.

The University reserves the right to issue a short-term contract to test the feasibility of the offer and its benefit to the University. The contract term shall be decided on a case-by-case basis and shall be no longer than reasonably necessary to prove the viability of the service or methodology offered.

If an award is made without competition, either as a test of the feasibility or when no other competition can be found, it may be approved as a sole source contract approved by the CPO.

At a minimum the same high standard for documentation and record keeping of bids, proposals, or negotiations must be met for processing of unsolicited offers and any resulting discussions, testing, approvals, contracts, or solicitations.

General Counsel must review any request for confidentiality of the offer, or data produced as a result of a contract for testing, and/or the results of any evaluation of the offer or testing when such request is beyond the confidentiality guidelines set out in statute, and the need for confidentiality exceeds the public’s right to know. The prospective contractor prior to submittal of a detailed offer must submit such requests for confidentiality.

AUTHORITY: AS 36.30.300, .520 R05.06.425

9.7 NON-COMPETITIVE AWARD TO A NON-ALASKAN RESIDENT

A procurement officer shall provide a written statement explaining the reason for an award to a vendor who is not a resident of the State of Alaska when such goods or services could have been purchased within the State. At a minimum, a RAP form is required to meet this requirement. The statement shall be made a part of the procurement file.

AUTHORITY: AS 36.30.362 R05.06.720

9.8 BLANKET AUTHORIZATION FOR ALTERNATE PROCUREMENTS

(a) The following alternate procurements are authorized:

(1) Direct Support of Research or Classroom Instruction.

a) The University relies on the expertise of its instructional and scientific staff. Therefore, when an instructor, or Principal Investigator submits a signed Certificate of Need for Restrictive Specification attesting that, to their knowledge and belief, only a particular named item or service source is suitable for a specific project, or instructional program; then
a brand name only, single source specification procurement is appropriate and justified.

b) The procurement officer is ultimately responsible to determine whether a brand named item or service is available from more than one source. Other reasons essential to the success of the project or instructional program notwithstanding, if a brand specific item or service can be competed, the procurement officer shall solicit competition as otherwise required herein.

(2) Utilities. The purchase of utilities regulated by the Alaska Public Utilities Commission (APUC) may be purchased as a single source unless other available sources of the service are also otherwise duly authorized to provide the service in competition with a utility governed by APUC.

(3) Replacement Parts, Repair or Service. When the director or department head deems that only the use of manufacturer approved replacement parts, or service providers is sufficient to maintain equipment in proper operating condition, restricting procurements or competition to meet that need is appropriate and authorized. The requisition for such shall include a statement from the responsible director or department head to this effect.

(4) Fire & Police and Public Safety Equipment. When the campus fire chief, police chief, hazardous materials officer, or other individual responsible for public safety deems that a particular brand or model of equipment is necessary to support the safety of University personnel, or programs use of such restricted specifications is authorized and appropriate with competition as is reasonably available and practical.

(5) Qualified Products & Design Standards. Specific product(s) approved for standard use under Section 4.8 of this manual, or listed in the campus Design Standards Manual is authorized.

(6) U.S. Postal Bulk Mailing. That portion of a procurement for bulk mailing services that is attributable to the actual cost of mailing via the USPS shall not be considered in the aggregate cost when determining the level of competition required. The purchase order file shall provide a breakdown of the USPS postal costs and all other costs.

(7) Best Value. The use of a Best Value solicitation is approved as an innovative, alternate procurement when conducted in accordance with Section 6 of this manual. If procedures other than those set out in Section 6 are employed, specific approval by the CPO and General Counsel of the proposed process is required.

(b) When alternate procurements do not result in competition, the procurement officer shall make a determination of price reasonableness on the RAP form.

**AUTHORITY:** AS 36.30.040, .300, .305, .308 R05.06.415, .727, .575, .577, .790
SECTION 10 – PROTESTS AND CONTRACT DISPUTES

10.1 AUTHORITY TO RESOLVE PROTESTS & DISPUTES.
Protests, disputes, and contract controversies shall be resolved in accordance with AS 36.30.550-699, R05.06.617 and these procedures. For purposes of this section, when the term procurement officer is used it means the procurement officer who is the delegated procurement official who is the head of department responsible for the procurement.

AUTHORITY: AS 36.30.550 - .699

10.2 PROTESTING A SOLICITATION
(a) A potential bidder or offeror may protest the specifications, terms, and conditions, or alleged ambiguities, or improprieties in a solicitation issued by the University. The burden of proof is with the protestor. A solicitation protest must:
(1) Be received by the Procurement Office issuing the solicitation not later than the time set out in the solicitation. The deadline for submitting a protest of a solicitation may be set up to ten (10) days prior to the time of opening of bids or closing of proposals, but in no case later than the day prior to bid opening, or RFP closing. If a pre-bid or pre-proposal conference is held within 12 days of the due date for bids or proposals or if the protest relates to an addendum issued within 12 days of the due date, the protest must be received at least one day prior to the due date for submission of bids or proposals.
(2) Be in writing, specifically announcing a protest.
(3) Clearly identify the bid name and number and that it is a protest of a solicitation on the exterior of the delivery envelop or package.
(4) Be signed by the protestor, or legal representative of the protestor.
(5) Clearly document the legal and factual grounds forming the basis of the protest.
(6) State the form of relief requested.

(b) Any protest of a solicitation received after the deadline set out in the solicitation, is untimely and shall be rejected. A bidder, or offeror who participates in, or fails to protest a solicitation timely shall be considered to have waived his/her right to do so.

AUTHORITY: AS 36.30.560, .565

10.3 PROTESTING A CONTRACT AWARD
The protest of award by a bidder, offeror or other interested party shall be received by the Procurement Office issuing the solicitation not later than the close of business 10 days after the date the NOITA is issued, and shall meet the requirements of section 10.2, (a), 2-5, above. Protests of award received after the deadline in the NOITA are late and shall be rejected.

AUTHORITY: AS 36.30.560, .565

10.4 LATE PROTESTS
The procurement officer shall document the time and date of receipt of protests. The time for filing of protest shall not be extended. However, a late protest may be considered if the procurement officer makes a written determination that an error in
the solicitation or award has been discovered that is of such gravity that award under
the solicitation is illegal, unconscionable or contrary to the best interest of the
University.

AUTHORITY: AS 36.30.565

10.5 NOTICE OF A PROTEST
Upon receipt of a protest of the solicitation, the procurement officer shall immediately
give written notice of a protest to all parties to whom the solicitation was provided.
Upon receipt of a protest of an award, written notice shall be provided to all parties to
whom the NOITA was distributed. Immediately forward an information copy of the
protest with time and date of receipt noted to the CPO. Notify the using department of
any anticipated delay in the procurement as a result of a protest.

AUTHORITY: AS 36.30.570

10.6 STAY OF AWARD
An award shall only be stayed if the procurement officer issues a written
determination that, in his/her judgment, there exists a reasonable probability that the
protest will be sustained and that stay of award is not contrary to the best interest of
the University. The determination must set forth the reasons a stay of award was
issued. The original must be retained in the contract file and a copy sent to the CPO. A
determination to stay award may be made at any time prior to award of a contract. If a
decision is made to stay an award, the prospective successful contractor, the
protestor, and all interested parties shall be notified immediately.

AUTHORITY: AS 36.30.575, .600

10.7 DECISION BY THE PROCUREMENT OFFICER
(a) The protest decision shall fully document the chronology of the solicitation,
    amendments, pre-bid/proposal conferences, and the salient facts of each
    bid/proposal to establish the framework in which the decision was made. The
decision should make effective use of cites of law, regulation, and procedure,
as well as standard competitive practices that will lead the reviewer by
evidence and logic to the resulting decision. At a minimum the decision shall:
    (1) Determine the protest was received timely.
    (2) Determine the protest contains the essential information required.
    (3) Determine the protestor is an interested party.
    (4) Review the proposed contract award and circumstances that gave rise to
        the protest. Document the case file with such findings as are necessary
        for deliberation and support of a protest decision.
    (5) Include in the decision a statement as to whether a stay of award will or
        will not be made.
    (6) Include a statement notifying the protestor of their right to appeal and
        provide the mailing address of the CPO.

(b) The written decision shall be issued within fifteen (15) days after a protest has
    been filed, unless the CPO has granted an extension of time. The CPO upon
    the written request and justification of the procurement officer may approve
    extensions. Extensions may not exceed thirty (30) additional days, by statute.
    If an extension is approved, the protestor shall be notified immediately by
certified mail, confirmed fax or other means that clearly documents receipt of
the notice of extension.
The protest decision must chronicle the solicitation process from issuance to the point at which the protest was received. Each element of the protest shall be thoroughly addressed point by point and either affirmed, or determined to be without merit, and denied. The statement of the facts must be concise and objective with appropriate cites of the solicitation document, BOR policy and regulation, and AS 36.30. A properly written protest decision should bring the reader to the same conclusion as the protest decision-maker. Since the protest decision either ends the protest, or establishes the foundation document for further appeal and adjudication, it is essential that it be thorough and persuasive.

**AUTHORITY: AS 36.30.580**

### 10.8 PROTEST REMEDIES

(a) A protest which is sustained must be sustained on the basis of the legal or factual grounds set out in the protest, or to correct mistakes in the award.

(b) If a contract has already been awarded, and it is subsequently determined through the protest process that the protesting bidder/offor should have received the award, the protestor’s damages are limited to reasonable and documented bid or proposal preparation costs.

**AUTHORITY: AS 36.30.585**

### 10.9 APPEAL OF A PROTEST DECISION

The protestor may appeal, when justified on the basis of legal and factual grounds. Appeals based on the exercise of a procurement officer’s judgment within his/her delegated authority are not grounds for appeal. The appellant shall not introduce additional elements of protest that were not a part of the original protest. Nor shall he/she modify the requested form of relief in the appeal from that contained in the original protest. Appeals must be addressed to the CPO, and be received not later than ten (10) days after receipt of the decision by the protestor.

**AUTHORITY: AS 36.30.590**

### 10.10 DUTIES OF THE CPO UPON RECEIPT OF APPEAL

Upon receipt of an appeal of a protest decision by the procurement officer, the CPO shall:

(a) Document the time and date of receipt of the appeal. The CPO shall determine whether the appeal was received timely. Untimely appeals shall be rejected, the appellant shall be so notified, and no further action by the CPO is required. However, the CPO may make a written determination that there are compelling reasons to consider the appeal.

(b) Provide notice to the contractor or interested parties if a contract has not been awarded, and verify that the appellant has also filed a copy of the appeal with the responsible procurement officer. If the appellant has not done so, the CPO will immediately supply a copy of the appeal, with time and date of receipt noted, to the responsible procurement officer.

(c) Upon request, furnish a copy of the appeal to interested parties who have been given notice by the procurement officer of the protest. Send copies of distribution lists/letters to the responsible procurement officer indicating to whom copies of the appeal have been distributed.

(d) Provide the appellant a written notification that includes:
(1) A tentative schedule of actions that will be taken to compile the record from which the final decision will be made and a statement that the final decision will be made on the basis of the record so compiled.

(2) A statement indicating that a protest report (see below) will be prepared by the procurement officer, and that the appellant shall have ten (10) days after receipt of the protest report to submit comments to the CPO. The protestor shall provide a copy of the comments to the procurement officer, and to any other interested parties that have requested a copy of the appeal. The CPO shall advise the appellant that he/she may not submit additional elements of protest, changes to the appeal document, or changes in the form of relief originally requested.

(e) Provide a copy of the notice to the procurement officer. If a contract has been awarded, provide a copy to the contractor, and all other interested parties that have requested a copy.

(f) Within fifteen (15) days after the deadline for receipt of the appellant’s comments on the protest report, the CPO shall notify the appellant of the acceptance or rejection of the appeal. If rejected, explain the reasons for rejection. If accepted, notify the appellant of the date by which a decision is expected to be made and any further actions to be taken to complete the record.

AUTHORITY: AS 36.30.590, .595  R05.06.617 - .670

10.11 STAY OF AWARD DURING PROTEST APPEAL
(a) If the procurement officer did not stay the award, the CPO shall only stay the award if he/she makes a written determination meeting the criteria in Section 10.6, above.

(b) If the procurement officer stayed the award, the CPO shall continue the stay unless he/she makes a written determination that revocation of the stay and award of the contract without further delay is necessary to protect the interests of the University.

AUTHORITY: AS 36.30.600  R05.06.618

10.12 PROTEST REPORT
(a) Within ten (10) days after receipt of a copy of the protest appeal, unless rejected by the CPO as untimely, the procurement officer shall file a complete report on the protest decision with the CPO. This report shall address each element of the protest appeal. The procurement officer may make a written request to the CPO for approval of an extension of time for filing the protest report.

(b) The protest report shall specifically address the appeal points, but is not to be used to introduce new findings, or issues not contained in the protest, or original decision.

(c) Furnish a copy of the protest report to the protestor. On request from the parties, provide copies of the procurement officer’s protest report to interested parties listed by the CPO as having requested copies of the appeal.

AUTHORITY: AS 36.30.605  R05.06.617

10.13 DECISION BY THE CHIEF PROCUREMENT OFFICER
(a) The CPO shall:
(1) Review the initial protest decision, proposed or awarded contract and circumstances that gave rise to the appeal.

(2) Determine whether the appeal is based upon issues of law, of fact, or both. If there are only questions of law (including BOR policy and regulation, or procedure) and no genuine issues of fact involved, a hearing is not required, and will only be granted for compelling reasons.

(b) Appeals that only address the judgment of a procurement officer acting within his/her delegated authority are not sufficient grounds for an appeal or hearing. It is not necessary that the CPO agree with the procurement officer's judgment in order to sustain the original decision. The CPO need only determine that the decision is not unreasonable, or otherwise illegal or improper.

(c) Where there are genuine issues of fact involved and the appellant has not specifically requested a hearing, a decision may be rendered without a hearing on a properly completed record that includes a written complaint and defense of the contested facts.

(d) Within twenty (20) days after the close of the hearing, or if no hearing is held twenty (20) days after the deadline for submittal of comments on the protest report, the CPO shall:

(1) Sustain, or deny the appeal in whole or in part (The decision identify the salient facts and cites of law and regulation forming the basis for the decision.); or

(2) Issue a written notification and justification for an extension of time to issue a decision.

(e) The decision by the CPO exhausts the administrative process and constitutes the final decision by the University. It shall be sent to the appellant by certified mail or other method that provides evidence of receipt.

(f) An aggrieved party may further pursue relief through the Superior Court, Fourth Judicial District, State of Alaska within thirty (30) calendar days pursuant to Alaska Rule of Appellant Procedure 602 (a) (2).

AUTHORITY: AS 36.30.610

10.14 HEARING ON APPEAL
Any hearing in connection with a protest appeal, contract dispute or other procurement matter shall be conducted in accordance with AS 36.30.670.

AUTHORITY: AS 36.30.610, .615, .670

10.15 APPOINTMENT & DUTIES OF HEARING OFFICER
(a) The CPO may conduct the hearing or appoint a hearing officer. The CPO shall consider the following in determining whether to conduct the hearing personally, or to appoint a hearing officer.:

(1) Whether the CPO has any real or perceived conflict with regard to the issues or parties involved.

(2) The complexity of the issues and related law.

(3) The constraint on day to day communications/operations imposed by the necessary suspension of any further dialogue with campus procurement officers and the university’s general counsel on this matter.

(4) The size of the potential claim or liability.

(5) The likelihood that a decision will result in a judicial appeal.
(b) The hearing officer shall be responsible for making and completing a full record of the proceedings.

**AUTHORITY: AS 36.30.615, .670**

**10.16 HEARING PROCEDURES**

The hearing officer shall conduct a hearing within the guidelines contained in AS 36.30.670 and R05.06.670, and recommend a decision as prescribed by AS 36.30.675.

**AUTHORITY: AS 36.30.670, .675**

**10.17 INITIATION OF DEBARMENT ACTION**

(a) Decisions to debar or suspend a bidder, offeror, or contractor shall be made by the CPO. Suspension or debarment of a bidder, offeror, or contractor may be recommended by a procurement officer for just cause. The procurement officer shall submit a written determination, thoroughly documenting the circumstances and actions that constitute the basis and just cause for recommending suspension or debarment to the CPO.

(b) If a recommendation is based on violation of contract provisions described in AS 36.30.640, (4), (A), “Knowing failure... to perform ...” or (B), “failure to perform or failure to perform satisfactorily ...” default action must be initiated first. In such cases, the documentation must as a minimum include the following:

1. The appropriate action taken by the procurement officer to enforce the contract, including opportunity for the contractor to cure conditions which endangered performance, and
2. The due process that resulted in termination of a contract for default.

(c) Written notice by the CPO of a proposed debarment action will be sent by certified mail, return receipt requested, to the bidder, offeror, or contractor. A copy shall be sent to the procurement officer who recommended the action. The notice must contain the information prescribed by statute and regulation.

(d) The CPO will take appropriate action to assure the adequacy of information to be considered in making a decision for suspension or debarment.

(e) A person who has been notified of pending debarment shall be given a hearing. The CPO will schedule a hearing and notify the parties in writing of the time and place of the hearing. Notice of a debarment hearing shall be given to all parties at least seven (7) days before the scheduled date of the hearing. A hearing may not be delayed longer than three (3) months after the affected party’s receipt of the notice of pending debarment.

(f) If the CPO has appointed a hearing officer, the recommendations of the hearing officer will be taken into consideration in the final decision. The final decision must be based on the evidence and the completed record of debarment proceedings. The period of debarment may not exceed three (3) years. A decision may provide for limited as opposed to total debarment as contemplated by AS 36.30.665.

(g) The CPO shall send a decision concerning debarment within twenty (20) days after the hearing to all parties by personal service or certified mail.

(h) Permanent records of debarment case files shall be maintained by the CPO.

**AUTHORITY: AS 36.30.635-645**
10.18 SUSPENSION DURING DEBARMENT PROCEEDINGS
(a) If there are compelling reasons and probable cause for debarment, the CPO may suspend a bidder, offeror, or contractor from consideration for award of contracts to protect University interests while debarment action is being processed. The suspension may not exceed three (3) months. The CPO must make a written decision setting forth the circumstances that warrant suspension of a bidder while debarment action is pending. The CPO shall immediately furnish a copy of the decision to the suspended party and other concerned parties by certified mail. The notice must contain information prescribed by AS 36.30.645, including appeal rights. Evidence of delivery to the suspended person must be retained in the suspension case file.

(b) A suspended bidder, offeror, or contractor is entitled to a hearing if they file a written request for a hearing within seven (7) days after date of receipt of a suspension notice. Upon receipt of a written request the CPO will schedule a hearing unless general counsel advises to delay the hearing pending results of an investigation. The hearing may not be delayed longer than six (6) months after notice of the suspension was provided.

(c) The CPO shall maintain the University’s list of debarred and suspended contractors and remove such debarred or suspended contractors from the consolidated bidders list. Copies will be distributed to all procurement departments of the University. The list must be made available to the public upon request.

AUTHORITY: AS 36.30.635-655

10.19 EFFECT OF DEBARMENT OR SUSPENSION DECISION
A suspension or debarment decision becomes effective upon issuance. After the decision takes effect, a bidder, offeror, or contractor remains debarred or suspended until the CPO reverses or modifies the decision, a court orders reinstatement, or until the period specified in the decision expires. Suspended or debarred bidders, offerors, or contractors shall not be solicited or considered for University procurements. They will be removed from the University consolidated bidders list. After the period of debarment or suspension ends, the contractor may re-apply for listing on the consolidated bidders mailing list in the same way as any new applicant.

AUTHORITY: AS 36.30.655 - .665

10.20 CONTRACT CONTROVERSIES
(a) FILING A CLAIM: Unless otherwise specified in the subject contract, the contractor shall file a written claim with the procurement officer not later than ninety (90) days after the contractor knows, or should have known of the issues in dispute. The claimant shall certify that it is being submitted in good faith and shall include detailed documentation and supporting evidence of the claim. Note: A claim for a lease rate adjustment shall be filed not later than the expiration date of the lease.

(b) DECISION BY THE PROCUREMENT OFFICER: An attempt to settle the claim shall be made at the first level of opportunity. If the procurement officer and the contractor cannot informally resolve the dispute, the contractor must submit a written request for the procurement officer to issue a formal decision.
(1) The procurement officer shall issue a formal decision within ninety (90) days after all necessary and supporting information requested by the procurement officer has been received from the contractor.

(2) The deadline above may be extended for cause with the approval of the CPO. The written decision by the procurement officer shall be furnished to the contractor by certified return receipt mail or other method that provides evidence of receipt. The decision shall describe the controversy, the pertinent provisions of the contract and law, list any relevant disputes previously settled, include supporting reasoning and documentation, and include the following statement: “This decision may be appealed to the Chief Procurement Officer (CPO) of the University in writing within fourteen (14) days of receipt of this decision. A copy of any appeal to the CPO shall also be filed with the procurement officer.”

(3) If the procurement officer within the above-referenced time limits does not issue a decision, the contractor may proceed as if an adverse decision had been issued.

(c) FAILURE TO PROVIDE PERTINENT INFORMATION: Failure by the contractor to provide pertinent information requested by the procurement officer will constitute a waiver of the claim.

(d) APPEAL ON A CONTRACT CONTROVERSY: An appeal from a decision of the procurement officer on a contract controversy may be filed by the contractor with the CPO. The appeal shall be filed within 14 days after the procurement officer’s decision is delivered to the contractor. The contractor shall file a copy of the appeal with the procurement officer. An appeal shall include a copy of the decision being appealed and identification of the factual or legal errors in the decision that form the basis for the appeal.

(e) CONDUCT OF A HEARING: Within 15 days of receipt of an appeal, the CPO shall adopt the decision of the procurement officer as the final decision or issue notice to the appellant that a hearing will be conducted for the purpose of arriving at a final decision. Any hearing shall be conducted in accordance with sections 10.14 through 10.16 of this manual.

(f) FINAL DECISION BY THE CPO: The decision by the CPO exhausts the administrative process and constitutes the final decision by the University. The CPO shall:
   (1) Affirm, modify or reject the recommendations of the hearing officer in whole or in part.
   (2) Remand the matter to the hearing officer with further instructions.
   (3) Take other actions deemed appropriate to resolve the dispute.
   (4) Issue his/her final decision in writing to all interested parties within twenty (20) calendar days after the hearing.

(f) JUDICIAL APPEAL: An aggrieved party may further pursue relief through the Superior Court, Fourth Judicial District, State of Alaska within thirty (30) calendar days pursuant to Alaska Rule of Appellant Procedure 602 (a) (2).
SECTION 11 – CONTRACT FORMATION & MODIFICATION

11.1 CONTRACT PROVISIONS, FORMS, TERMS & CONDITIONS

The CPO issues standard forms, terms and conditions, and general provisions. Any supplementary form, term or condition, or inclusion in a formal solicitation necessary to meet the needs of the University may not be in conflict with these standards unless approved by the CPO.

AUTHORITY: AS 36.30.040 R05.06.470

11.2 DETERMINATION OF RESPONSIBILITY.

(a) If a bidder or offeror who otherwise would have been awarded a contract is found to be nonresponsible, a written determination of non-responsibility setting forth the basis of the finding must be prepared by the procurement officer and made a part of the procurement file. A copy of the determination must be promptly sent to the nonresponsible bidder or offeror, and in no case later than issuance of a NOITA.

(b) Factors to be considered in determining whether a prospective contractor is responsible include whether a prospective contractor has:

1. Available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to meet all contractual requirements. If the contractor does not possess the capability outright, he/she shall provide evidence that he/she has:
   a. Acceptable plans to subcontract for the necessary items.
   b. Documented commitment with a satisfactory source to provide the necessary items.


3. A satisfactory record of integrity and business ethics.

4. Qualified legally to contract with the University and to conduct business in the State of Alaska.

5. Supplied all necessary information in connection with the inquiry concerning responsibility.

6. Other information required by the procurement officer.

(c) Prospective contractors shall provide information within a reasonable time established by the procurement officer. If the contractor fails to supply the requested information, the procurement officer may base the determination of non-responsibility upon available information. If the failure to provide the information is unreasonable, the procurement officer may find the prospective contractor nonresponsible.

(d) Financial, personal or any other information subject to confidentiality by law, or by prior approval of the University may not be disclosed without prior written consent from the contractor.

AUTHORITY: AS 36.30.360 R05.06.490

11.3 CONTRACT TRANSFER, ASSIGNMENT, NOVATION, OR NAME CHANGE

(a) A University contract is not transferable, or assignable, without the written approval of the University. When the procurement officer determines that it is in the best interest of the University, a successor in interest may be recognized in a tri-partite novation agreement (modification to the contract) in which the transferor and the transferee agree that:
(1) The transferee assumes all of the transferor's obligations under the contract.
(2) The transferor waives all rights under the contract.
(3) Unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required, furnish a satisfactory performance and payment bond.

(b) When a contractor requests to change only the name in which it holds a contract, the procurement officer may, upon receipt of formal documentation of the name change, issue a contract modification to that effect. The modification shall state that all other terms and conditions of the contract are unchanged. If a contractor holds more than one contract affected by the novation within the campus, or within the University, a novation or change of name agreement is required to be executed for each affected contract. Joint coverage is not permitted because each contract must stand on its own by its own terms. Novation agreements and change of name agreements will be executed by formal modification to the contract.

AUTHORITY: AS 36.30.040, .360 R05.06.480, .490

11.4 ASSIGNMENT OF CLAIMS
(a) Purchase Orders or contracts issued as a result of an award shall be issued in the name of the bidder/offeror listed on the bid or offer only. Purchase Orders shall not be issued “in care of” or otherwise made jointly to any person or firm other than the bidder unless an Assignment of Claims has been executed.
(b) An Assignment of Claims is the proper vehicle when there is a need for an agreement between the University and the contractor to make payment of any monies due to a third party. The form must provide for an authorizing signature of all parties. The University shall not accept any abrogation of rights or any increase in liability as a result of the Assignment of Claims.
(c) The University may elect, but is not compelled to execute an Assignment of Claims. Bidders/offerors who anticipate the need for an Assignment of Claims shall so indicate in their response to a solicitation. An Assignment of Claims is an accommodation to a vendor that may arise due to financial difficulties on the part of the seller. It may arise when a seller secures a particularly large order, and the seller's supplier requires additional financial assurances. Repeated requests for assignment of claims may indicate that a bidder or seller is nonresponsible.

AUTHORITY: AS 36.30.040, .360 R05.06.480, .490

11.5 CONTRACT FORMATION AND AWARD
(a) Contracts are instruments that constitute a binding written agreement between the University and providers of supplies, or services. A contract is formed when the University accepts the bid or offer of a prospective contractor. Acceptance and contract formation normally occurs in the form of a purchase order, or contract award. It may also include supplemental writings as appropriate. Contracts resulting from negotiated procurements (RFP's, negotiated agreements, etc.) are bilateral agreements which contain by writing, or inclusion by reference, or attachment the terms and conditions which shall govern.
(b) Contract formation does not, in and of itself, constitute notification of funding, nor give notice to proceed. Contracts formed by bilateral agreement shall
clearly state the specific mechanism that shall constitute funding of the contract and notice to proceed, (usually a purchase order or contract award). Moreover, the contract shall specify that a contractor who proceeds without such formal notice does so entirely at his/her own risk.

(c) Formal contract formation is generally not required for small purchases, unless deemed appropriate for more complex supplies or services.

AUTHORITY: AS 36.30.040

11.6 MULTI-TERM CONTRACTS

(a) A multi-term contract may be used to obtain economies of scale, uninterrupted services extending over more than one fiscal period, where the performance of the services involves high start-up costs, or where a changeover of service contractors involves high phase-in/phase-out costs during a transition period.

(b) Under a multi-term contract, the contractual obligation of the University in each fiscal period succeeding the first is subject to the appropriation and availability of funds. Such contracts must provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of the contract will be cancelled and the contractor will be reimbursed the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies delivered or services performed under the contract.

(c) The objective of the multi-term contract is to promote economy and efficiency in procurement by obtaining the benefits of sustained volume production and consequent low prices, and by increasing competitive participation in procurements.

AUTHORITY: AS 36.30.370, .390

11.7 MULTI-TERM CONTRACT PROCEDURE

(a) A solicitation for a multi-term contract must state:
   (1) The expected volume of supplies or services required for each fiscal period increment of the proposed contract period.
   (2) That a unit price will be given for each supply or service, and that the unit prices will be the same throughout the contract, except to the extent price adjustments may be provided in the solicitation and resulting contract.

(b) That the multi-term contract will be cancelled if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal period succeeding the first. However, this does not affect either the University's rights or the contractor's rights under any termination clause in the contract. If the contract is cancelled due to non-appropriation of funds, at least thirty (30) days notice should be given to the contractor whenever practicable.

(c) While the University reserves the right to not exercise a contract renewal option, it must be recognized that contracts which contain multi-term provisions strongly imply that the full period of performance will be in effect so long as the need continues, and performance of the contractor is satisfactory. Therefore, any decision not to renew as allowed under the contract must be for a compelling reason, and in the best interest of the University not to renew.

(d) In the event of cancellation of the contract, the contractor will be reimbursed the reasonably incurred, nonrecurring costs. "Cancellation," as used in this
section means the cancellation of the total requirements for the remaining portion of the contract because funds were not appropriated or otherwise made available.

(e) Although the contract may be terminated at any time in accordance with termination provisions of the contract, the contract for the first fiscal period may not be "cancelled." Cancellation results when the procurement officer:
(1) Notifies the contractor of non-availability of funds for contract performance for any fiscal period after the first; or
(2) Fails to notify the contractor by the date set forth in the contract. Failure to give notice of cancellation by a date set out in the contract and thereby failing to issue an appropriate notice to proceed or purchase order may constitute notice of cancellation. However, a positive notification of cancellation is most appropriate to protect the University's interest, and the interest of good faith.

(f) The provisions on cancellation of multi-term contracts do not limit the rights of the University or the contractor under any termination clause of the contract if the contract is terminated pursuant to such a contract clause rather than cancelled as provided in this section.

AUTHORITY: AS 36.30.370, .390  R05.06.070, .720, .727

11.8 EXTENSION OF CONTRACTS
Under compelling circumstances, the period during which service may be provided, or orders may be placed (contract period including renewals) under a contract may be extended for a necessary and reasonable period upon agreement of the parties. The decision to extend a contract, which would otherwise terminate and require resolicitation, must meet a high standard of need and shall only be extended for the shortest time necessary to meet the immediate and a compelling need of the University.

AUTHORITY: AS 36.30.300, .310  R05.06.485, .755

11.9 FIXED-PRICE CONTRACTS
(a) A fixed-price contract is the preferred method because it places the greatest risk on the contractor for the delivery of the product or the complete performance of the services in accordance with the contract terms. Under a fixed-price contract, the contractor must perform the work called for in the contract regardless of what it costs the contractor. A fixed-price type of contract is the only type of contract that can be used in competitive sealed bidding. The following are the most common fixed-price contracts:
(1) Firm-fixed-price contracts. The firm-fixed-price contract is the most common type of fixed price contract. With it, the price is firm for the duration of the contract and the only adjustments that can be made are authorized changes. (Authorized changes are those permitted by the "Changes" clause, or other change provisions of the contract, but not economic price adjustments.) Under this type of contract, the contractor receives the maximum profit, but also assumes the maximum risk of profit or loss, including the risk of unexpected costs such as those that may result from inflation, material or labor shortages, etc. Firm-fixed-price contracts are used when adequate functional or detailed specifications are available. This contract type should be used for
standard or modified commercial items or previously purchased items and when costs can reasonably be predicted.

(2) Fixed price contracts with economic price adjustment. Some fixed price contracts contain economic price adjustment clauses that protect both the contractor and the University against wide fluctuations in labor or material costs when market conditions are unstable. Economic price adjustment clauses may provide for an adjustment of the contract price for increases or decreases from an agreed upon level measured against:

a) Published or established prices of specific items.
b) Specified costs of labor and material actually experienced during performance.
c) Specified labor or material cost standards, markets, or indexes such as the producer price indexes, commodities markets, etc.
d) Other relevant market indicators or methods set out in the contract.

(b) The contractor is entitled to a price adjustment (or required to make a refund) only if the price levels specified in the contract change. The contract may contain a ceiling price (or factor) that the University will not exceed, no matter what the cost fluctuations may be.

AUTHORITY: AS 36.30.370 R05.06.720, .727

11.10 DELIVERY CONTRACTS

(a) There are three commonly used delivery contracts.

(1) Definite-quantity contracts. Provide for delivery of a definite quantity of specific supplies or services for a fixed period, with deliveries to be scheduled at designated locations, when an order is placed under the contract. This type of contract is used when it can be determined in advance that:

a) A definite quantity of supplies or services will be required to be ordered during the contract period.
b) The supplies or services are regularly available or will be available with short lead time after an order is placed.

(2) Requirements contracts. Provide for filling all actual purchase requirements designated for specific supplies or services established in the contract, for a specified period, with deliveries to be scheduled by placing orders with the contractor. Such a contract may be used when the University anticipates recurring requirements but cannot predetermine the precise quantities that will be needed during a definite period. Generally, a requirements contract is appropriate for items or services that are commercial, or commercial-type products. Funds are encumbered as each order is placed under the contract. The contract shall specify the method of ordering, (purchase order, blanket purchase order, blanket delivery order, procurement card, or other approved means) and who is authorized to place orders against the contract.

a) For a contemplated requirements contract the solicitation must state a realistic estimated total quantity. The solicitation must state that the estimated total quantity is not a representation that the estimated quantity will be ordered, or that conditions affecting requirements will be stable or normal. Such estimates may be obtained from records of previous requirements and consumption, or by other means, and should be based on the most current information available.
b) Requirements contracts should state, if feasible, the maximum limit of the contractor's obligation to deliver and the University's obligation to order. The contract should also specify maximum or minimum order quantities that the University may order under each individual order.

c) Blanket Purchase Orders (BPOs) should be reviewed for the potential cost savings available by formally soliciting the need as a requirements contract.

(3) Indefinite-quantity contracts. Provide for an indefinite quantity, within stated limits, of specific supplies or services to be furnished during a fixed period, with deliveries to be scheduled by placing orders with the contractor. Such a contract may be used when the University cannot accurately predetermine the exact quantities of supplies or services it will need during the contract period, and it is inadvisable to commit the University to a guaranteed minimum quantity. An indefinite-quantity contract should be used only for items or services that are commercial or commercial-type products, and when a recurring need is anticipated. Funds must be encumbered as each order is placed under the contract. If a minimum quantity is guaranteed, the University is obligated to place orders for at least the minimum quantity specified in the contract. The contract may state, or estimate a maximum quantity, or may be open-ended.

a) The contract shall provide an estimate of the quantity anticipated. The quantity should be based on realistic and current University consumption information. The contract may also specify minimum and maximum quantities that the University may order under each order placed under the contract.

b) To ensure that the contract is binding, the minimum quantity must be more than a nominal quantity, but it should not exceed the amount that the University is fairly certain to order.

(b) The appropriate type of delivery contract may be used when the exact times and/or quantities of future deliveries are not known at the time of contract award.

c) Delivery contracts may provide for firm fixed prices, fixed prices with economic price adjustment, fixed prices with prospective redetermination, or prices based on catalog or market prices. When prices are based on catalog or market prices, the price to be paid may be determined by establishing an adjustment factor and applying it to the price in industry wide pricing guides or manufacturers' price catalogs. Normally, the adjustment factor will be a fixed percentage discount or markup to be applied to the price in effect on the date of each order.

d) Delivery contracts may provide for exception to ordering under the contract in emergency situations whenever a contractor is unable to meet a shortened delivery requirement.

e) For some types of commodities, such as routine office supplies, or other small routine needs, it is not feasible or practical to guarantee exclusive acquisition from the successful contractor through a mandatory contract when the day-to-day acquisitions are highly decentralized. In such case, the University agrees that no other contract will be issued for the covered items. And, the successful contractor agrees that his/her efforts to market, deliver, and
11.11 MULTIPLE SOURCE AWARD CONTRACTS

(a) Multiple source awards are awards of delivery contracts for the same supplies or services to more than one bidder or offeror. The solicitation must contain provisions setting forth the criteria to be used in selecting sources to receive contract awards. The solicitation and contracts must also prescribe methods to be followed in determining when and under what circumstances contractors will be selected to receive orders. If there is to be an order of priority among contractors, the solicitation must so state.

(b) Multiple source awards may be made when award to two or more bidders or offerors for the same products is necessary for adequate delivery, service, or product compatibility. Any multiple source awards must be made in accordance with the provisions relating to competitive sealed bidding or competitive sealed proposals, as applicable. Multiple source awards may not be made when a single award will meet the University's needs without sacrifice of economy or service. Awards may not be made for the purpose of dividing the business, making available product or supplier selection to allow for user preference unrelated to utility or economy, or avoiding the resolution of tie bids.

(c) The procurement officer shall make a written determination setting forth the reasons for multiple source awards, which will be made a part of the procurement file.

AUTHORITY: AS 36.30.370 R05.06.720, .727

11.12 COST-REIMBURSEMENT CONTRACTS

(a) Under a cost-reimbursement contract, the contractor is reimbursed for the allowable incurred costs of performance to the extent prescribed in the contract. The contractor is paid its costs no matter what the contractor has produced and no matter how far the service or work is from completion. The contractor is required to perform only as long as the contract provides money to pay the contractor for costs incurred. However, the contractor can be reimbursed for costs only in accordance with the cost principal provisions applicable to University procurement. Cost principals applicable to University procurement are the same as referenced in the Federal Acquisition Regulations, Subpart 31.3, OMB Circular A-21, and as prescribed elsewhere in this section. Of the several different types of cost-reimbursement contracts, all have a common feature: the contractor's obligation to perform the work ceases when its costs of performance equal the funds provided under the contract.

(b) Cost-reimbursement type contracts are appropriate only when the uncertainties and risks involved in contract performance do not permit costs to be estimated with sufficient accuracy to use a type of fixed-price contract. Cost-reimbursement contracts establish an estimate of total cost for the purpose of encumbrance of funds and establishing a ceiling that the contractor may not exceed (except at its own risk) without the written approval of the procurement officer. Cost-reimbursement contracts must be appropriately monitored to assure that the objectives of the contract are being
met. This type of contract may be particularly suitable for research, development, and study type contracts.

(c) A cost-reimbursement type contract may be used only when the procurement officer determines in writing that:

1. A cost-reimbursement contract is likely to be less costly to the University than other type contracts.
2. It is impracticable to obtain the supplies, services, or professional services required except under a cost-reimbursement contract.

(d) Before award of any cost-reimbursement type contract, the responsible procurement officer shall obtain certifications from the offeror necessary to assure that the prospective contractor's accounting system is adequate to allocate costs in accordance with generally accepted accounting standards and cost principles applicable to the contract.

(e) Types of cost-reimbursement contracts that may be used include the following:

1. Cost contracts. A cost contract is a cost-reimbursement contract in which the contractor receives no fee. The contractor will be reimbursed for allowable costs incurred in performance of the work, but will not receive a fee.
2. Cost-plus-fixed-fee contracts. This is the simplest type of cost-reimbursement contract. The contractor and the University agree on the estimated cost of contract performance and a fixed fee that the contractor will receive for doing the work. The contractor will receive the same fee, regardless of whether its actual costs are greater or lesser than the estimated cost.

(f) Cost-reimbursement type contracts may provide for delivery or performance of completed specific work or work products, or may be written to provide for a specified level of effort on the part of the contractor over a specified period of time. When the level of effort concept is used, the contract must contain a general description of the work to be done and must include the specific level of effort the contractor is obligated to exert for a stated period of time.

AUTHORITY: AS 36.30.370 R05.06.720, .727

11.13 TIME AND MATERIALS CONTRACTS
Time and materials contracts provide an agreed basis for payment for materials supplied and labor performed. Such contracts must contain a stated ceiling or an estimate that may not be exceeded without prior University approval. This type of contract may be entered into only after the procurement officer determines in writing that University personnel have been assigned to closely monitor the performance of the work; and in the circumstances, it would not be practicable to use any other type of contract to obtain needed supplies or services.

AUTHORITY: AS 36.30.370 R05.06.720, .727

11.14 LABOR HOUR CONTRACTS
A labor hour contract is a variation of the time-and-materials contract, differing only in that the contractor does not supply materials. A labor hour contract provides for the payment of only labor performed, and it must contain a price ceiling. Prior to award of any labor hour contract, the procurement officer must make a written determination that University personnel have been assigned to closely monitor the performance of the work so as to account for the number of hours billed, and that in
the circumstances, no other type of contract is suitable. In addition, the procurement officer must make a written determination that the prospective contractor is an independent contractor.

**AUTHORITY:** AS 36.30.370 R05.06.720, .727

### 11.15 INCREMENTAL AWARD CONTRACTS

An incremental award is needed when no single bidder can provide the total quantity needed. Whenever incremental award is anticipated, the solicitation must so state, and the criteria for award must be included. For example, each bidder could submit their price and available quantity. Award would then be made to the lowest responsive responsible bidder for his/her quantity. The next lowest bidder would then be awarded his/her quantity, etc, up to the limit of the total quantity needed. The procurement officer shall make a written determination setting forth the reasons for the incremental award, which will be made a part of the procurement file.

**AUTHORITY:** AS 36.30.370 R05.06.720, .727

### 11.16 RETENTION OF BOOKS & RECORDS

Any contractor who is awarded a University contract is required to maintain the books and records that relate to the contract or cost or pricing data relating to it for three (3) years after the date of final payment under the contract. Contractors are required to include a provision in their subcontracts requiring retention of records by subcontractors to the same extent and for a period of three (3) years after the date of final payment under the subcontract.

**AUTHORITY:** AS 36.30.400, .420 R05.06.530, .540

### 11.17 ACCESS TO PLANT OR PLACE OF BUSINESS

The University may at reasonable times, enter a contractor's or subcontractor's plant or place of business to:

(a) Inspect supplies or services for compliance with contract requirements or acceptance by the University.

(b) Audit the books and records of a person who has submitted cost or pricing data.

(c) Audit the books and records of a contractor or subcontractor to the extent that the books and records relate to the performance of a contract or subcontract.

(d) Investigate in connection with an action to debar or suspend a person from consideration for award of contracts pursuant to these regulations.

**AUTHORITY:** AS 36.30.410 R05.06.510

### 11.18 RIGHT TO INSPECT PLANT OR SITE

(a) The University may, at reasonable times, inspect the part of the plant or place of business of a contractor or any subcontractor related to the performance of any contract awarded or to be awarded by the University. Circumstances under which the University may perform inspections include, but are not limited to, inspections of the contractor's plant or site in order to determine:

   (1) Whether the standards of responsibility have been met or are capable of being met by a prospective contractor (bidder or offeror).

   (2) If the contract is being performed in accordance with its terms.

(b) When an inspection is made in the plant or place of business of a contractor or subcontractor, the contractor or subcontractor shall provide without charge
all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

**11.19 INSPECTION & TESTING**

University contracts may provide that the University may inspect supplies and services at the bidder’s or offeror’s facility and perform tests to determine whether they conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Inspections and tests must be conducted in accordance with the terms of the solicitation and contract.

**AUTHORITY: AS 36.30.410 R05.06.510**

**11.20 CONDUCT OF INSPECTIONS**

(a) Inspections or tests, must be performed so as not to unduly interfere with or delay the bidder’s, offeror’s, or contractor’s work. An inspector may not change any provision of the specifications or the contract without written authorization of the procurement officer. The presence or absence of an inspector does not relieve the bidder, offeror, or contractor, including any subcontractor, from any requirements of the contract.

(b) When an inspection is made in the plant or place of business, the bidder, offeror, or contractor, including any subcontractors, shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

(c) Inspection or testing of supplies and services must be performed at reasonable times.

**AUTHORITY: AS 36.30.410, .420 R05.06.520**

**11.21 AUDIT**

To ensure accuracy and honesty in the pricing, costing, and reporting under contracts and contract modifications awarded without benefit of full and open competition, the University has a statutory right to examine or to audit contractors’ records and the data supporting cost proposals, claimed costs of performance, reports required by the contract, and similar items. Therefore, the University may, at reasonable times and places, exercise its statutory right to audit the books and records of a contractor, or subcontractor, as required by AS 36.30, University policies and regulations, these procedures, and federal, state, or other governing rules or contract provisions. An audit report must be made available to the party audited upon request.

**AUTHORITY: AS 36.30.420 R05.06.510, .520, .530**
SECTION 12 – COST & PRICING ANALYSIS

12.1 GENERAL
Cost and pricing analysis is required as necessary to determine fair and reasonable pricing or cost when a contract is issued without benefit of competition. This section provides guidelines for formal analysis.

AUTHORITY: AS 36.30.400, .480 R05.06.540 - .570

12.2 COST OR PRICING DATA
(a) Certified cost or pricing data need not be submitted when:
(1) The contract price is based on adequate price competition; established catalogue prices or market prices, the prices are set by law or regulation, or when a commercial item is being acquired.
(2) The procurement officer determines in writing that waiver of the requirement for submission of cost or pricing data is warranted (unless the procurement involves federal funds – see FAR 15.403-1 and 15.403-2). A copy of the determination must be kept in the contract file and made available to the public upon request.
(3) The transaction is under $550,000 in the aggregate.
(b) Unless excepted above, certified cost or pricing data shall be provided by offerors to support their proposals when:
(1) The contract was not competed, and is expected to exceed $550,000.
(2) An adjustment or modification to a competed contract is expected to exceed $550,000.
(3) The procurement officer determines that the circumstances warrant requiring submission of cost or pricing data.
(c) Cost or pricing data, though not certified may be requested when the procurement officer determines that such is necessary to analyze and support a contract or modification.

AUTHORITY: AS 36.30.400, .480 R05.06.540, .550

12.3 CERTIFICATE OF CURRENT COST OR PRICING DATA
(a) When cost or pricing data must be certified, a certificate substantially as set forth below must be obtained from the offeror, or contractor and included in the contract file along with any award documentation required under these procedures. The offeror, or contractor is required to submit the certificate as soon as practicable after agreement is reached on the contract price or adjustment.

CERTIFICATE OF CURRENT COST OR PRICING DATA
This is to certify that, to the best of my knowledge and belief, cost or pricing data submitted, either actually or by specific identification in writing, to the procurement officer in support of ...*, are accurate, complete, and current as of [date]/[month]/[year]....**
This certification includes the cost or pricing data supporting any advance agreement(s) between the offeror and the University that are part of the proposal.
Firm ...........................
Signature......................
Name ............................
Title ...........................

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Date of Execution ...............***
[End of Certificate]

* Describe the proposal, quotation, (including solicitation number), request for price adjustment or other submission involved.

** The effective date must be a mutually determined date before but as close to the date when price negotiations were concluded and the contract price was agreed to as possible. The responsibility of the offeror or contractor is not limited by the personal knowledge of the offeror's or contractor's negotiator if the offeror or contractor had information reasonably available at the time of agreement, showing that the negotiated price is not based on accurate, complete, and current data.

*** This date should be as soon after the date when the price negotiations were concluded and the contract price was agreed to as practical."

(b) Although the certificate pertains to cost or pricing data, it is not to be construed as a representation as to the accuracy of the offeror's or contractor's judgment on the estimated portion of future costs or projections. It does, however, constitute a representation as to the accuracy of the data upon which the offeror's or contractor's judgment is based. A certificate of current cost or pricing data does not substitute for examination and analysis of the offeror's or contractor's proposal.

(c) Whenever it is anticipated that a certificate of current cost or pricing data may be required, notice of this requirement must be included in the solicitation.

(d) The exercise of an option at the price established in the initial negotiation in which certified cost or pricing data were used does not require rectification or further submission of data.

AUTHORITY: AS 36.30.400, .480

12.4 COST & PRICE ANALYSIS

(a) If, before agreement on price, the procurement officer learns that any cost or pricing data submitted are inaccurate, incomplete, or are not current, the procurement officer shall immediately bring the matter to the attention of the prospective contractor whether or not the defective data increase or decrease the contract price. The price negotiation memorandum (PNM) shall reflect the adjustments or corrections made to the data used to negotiate the contract price.

(b) Cost and pricing data are required to determine acceptable pricing for large dollar value contracts awarded by other than adequate price competition.

(c) Price can be analyzed by comparing quoted or proposed prices with other offers, prior prices, established price lists, or University estimates of reasonable prices. Price analysis is generally used in the purchase of competitive items, commercial items, or relatively low cost items. When price analysis alone is not sufficient, cost analysis must be used to establish the reasonableness of contract price or cost.

(d) Cost analysis is an examination of each cost element in a proposal to determine whether the amounts are appropriate and reasonable. The data used by the offeror or contractor to prepare the proposal establishes the basis for cost analysis. Cost analysis must include consideration of whether the costs are allocable under the applicable cost principles.
12.5 PRICE ANALYSIS TECHNIQUES
Price analysis is used to determine if a price is fair and reasonable. Examples of fair and reasonable price analysis considerations include:
(a) Comparison to prices of other bidders or offerors in the current procurement.
(b) Prior quotations and prices paid for the same or similar items.
(c) Published catalog prices or established price lists.
(d) Open market economic trends.
(e) Valid in-house estimates of cost.

AUTHORITY: AS 36.30.400, .480

12.6 COST ANALYSIS TECHNIQUES
Cost analysis is an examination of each cost element in a proposal to determine whether the amounts are fair and reasonable. The data used by the prospective contractor to prepare its proposal establishes the basis for cost analysis. Cost analysis may require the participation of auditors or technical personnel to validate cost or pricing data, and facilitate the use of this data to evaluate:
(a) Specific elements of costs.
(b) Necessity for certain costs.
(c) Reasonableness of amounts estimated for the necessary costs.
(d) Reasonableness of allowances for contingencies.
(e) Basis used for allocation of indirect costs.
(f) Appropriateness of allocations of particular indirect costs to the proposed contract.
(g) Adequacy of a prospective contractor’s accounting or other compliance systems or procedures.
(h) Reasonableness of the total cost or price.

AUTHORITY: AS 36.30.400, .480

12.7 DEFECTIVE COST OR PRICING DATA
(a) If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or not current as of the date stated in the certificate, the University is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data.
(b) In determining the amount of a downward adjustment, the contractor is entitled to an offsetting adjustment for any understated cost or pricing data submitted in support of price negotiations for the same pricing action up to the amount of the University’s claim for overstated cost or pricing data arising out of the same pricing action.
(c) If the contractor and the procurement officer cannot agree as to the existence of defective cost or pricing data or amount of adjustment due to defective cost or pricing data, the procurement officer shall set an amount in accordance with (a) and (b) of this section and disagreement shall be resolved under the disputes clause of the contract, and as set out in Section 11.

AUTHORITY: AS 36.30.400, .480

12.8 COST PRINCIPLES
(a) Cost principles shall conform to accepted accounting principles and standard business practices.
(b) Cost principles prescribed for use in University contracts must be retained in the procurement transaction file.

AUTHORITY: AS 36.30.400, .480 R05.06.560, .570

12.9 USE OF FEDERAL COST PRINCIPLES

Cost principles prescribed for recipients of federal grants and federal contracts are applicable to University procurements and contracts. The following cost principle guidelines prescribed by federal rules are incorporated in these procedures and are applicable to University procurement.

(a) Office of Management and Budget Circular A-21
(b) Office of Management and Budget Circular A-122 (applies to non-profit subrecipients)
(c) Federal Acquisition Regulations, (48 CFR) Subpart 31.3

AUTHORITY: AS 36.30.400, .480 R05.06.560, .570
SECTION 13 – EXEMPTIONS & EXCLUSIONS FROM COMPETITION

13.1 EXEMPTIONS FROM FORMAL COMPETITION

The following items, services and University activities are, by their nature and of necessity, exempt from the competitive procedures prescribed by AS.36.30. A Request for Alternate Procurement (RAP) form shall be approved for the purchase of exempt items and services. All exempt purchases are subject to a standard of price reasonableness.

(a) Exempt Items & Services include but may not be limited to:

1. Gifts, Awards, & Promotional Items presented or issued by the University as expressions of appreciation, to acknowledge accomplishment, or designed to promote the University in whole or in particular part.

2. Royalties, License & Fees customarily charged for use, performance, or temporary access to works, programs, software, or other copyrighted material.

3. Unpublished Works, Research Data, statistical information, other recorded or printed media or data, including computer data, either original or archival.

4. Professional & Institutional Memberships where approved including dues and fees for participation in mission-related professional organizations.

5. Art, Historical & Cultural acquisitions, including archival materials, objects of art, and items for museum or archival acquisition having cultural, historical, or archaeological significance, and services related to the preservation of such.

6. Media Services:
   a) Subscriptions including magazines, newspapers, periodicals, library networks, subscription, (including those in electronic form) licenses, reference resources, data exchange, book subscriptions, bookbinding services, materials received on approval, etc.
   b) Advertising in copyrighted media. This exemption covers advertising in newspapers, periodicals, electronic, and other media.

7. Inter or Intra-government: Purchases from public procurement units and/or external procurement activities as defined in AS.36.30.790. This includes Reimbursable Services Agreements (RSA) issued by the University to other agencies. Purchases made with funds obtained by the University through RSAs from other agencies are not excluded from the provisions of this manual.

8. Federally funded procurements are exempt only from the Alaska bidders and products preferences and the Alaska business license requirement. All other provisions of AS 36.30 apply.

9. Public agency or Educational Institution agreements: Cooperative agreements, memorandums of understanding, joint use agreements, or contracts with other public agencies.

10. Orders under existing contracts such as orders placed under existing contracts where competition has already been sought either by the University, State of Alaska, federal (where permitted), or any other contracts adopted for use by the University. The procurement officer must obtain a copy of the contract to ensure University compliance with the terms and conditions set out therein. The procurement file shall document the contract name, number, and source.
(11) Medical doctors and dentist contracts. This exemption includes related procedures, supplies, and medications dispensed or prescribed by the provider of the service.

(12) Expert and/or professional witnesses for services relating to actual or potential lawsuits when the University is or may be a party. All requests for these contracts require the approval of the University General Counsel.

(13) Real Property Acquisition: Acquisition of real property is exempt, and shall be executed only by individuals with specific delegated authority. However, contracts for lease of space for use by the University are not exempt. Space leases shall be executed according to prescribed procurement procedures.

(14) Employment and youth job training program products or services. Such programs must be certified by the State as accredited youth education programs.

(15) Correctional Industries products or services as established under AS33.32.

(16) Speakers & Performers contracted to perform for the University.

(17) Radio & Television Production including commercials for broadcasting. Includes contracts with a media production firm for commercials, advertising or public information campaigns, documentaries and related services.

(18) Conferences, workshops, and meetings sponsored or facilitated by the University or as a participant with other sponsors in which the University conducts the supporting procurements, and the costs will be passed through to attendees via paid admission or fees.

(19) Items and services produced by the University in conjunction with training or education programs.

(20) Publications, brochures, software or media designed for resale or for promotion of the University.

(b) Exempt University Activities - Auxiliaries: Auxiliaries (not recharge centers) are University sanctioned activities that derive all or a significant portion of their revenues from the sale of goods or services to students, faculty, staff and where appropriate, members of the public. They are of necessity exempt from the requirements of AS 36.30. The form and degree of competition sought is acknowledged to be a necessary management prerogative. Auxiliaries include, but may not be limited activities such as:

(1) Alumni Organizations
(2) Campus Foundations
(3) Campus Bookstores
(4) Campus Computer Stores
(5) Parking Services
(6) Campus Centers
(7) Campus-operated Food Service Departments
(8) Concessions
(9) Booster Clubs
(10) Sporting events supported by receipts
(11) Fund Raising Campaigns

AUTHORITY: AS 36.30.850 R05.06.723, .735
13.2 EXCLUSIONS FROM PROCUREMENT PROCEDURES

These are expenditures, which, by the nature of the transaction do not fall within the meaning of "procurement," and therefore are not subject to AS 36.30. Even so, if such expenditure is executed on a purchase order, an individual with delegated authority must sign it. Expenditures excluded from procurement procedures may include but are not limited to:

(a) Reimbursement of Employee for authorized out-of-pocket expenses paid for by the employee and followed by a request for reimbursement. Reimbursement is processed as a direct pay to the employee unless there appear to be procurement implications such as competitive requirements, conflict of interest, or other indications that reimbursement may not be appropriate. Examples of reimbursements covered by this exclusion are:

1. Approved business travel of individuals - Includes payments for tickets on common carriers, other incidental transportation, lodging, and items incidental to business in connection with travel. Required approval shall be as set out in accounting procedures for individual travel. Items covered by this exclusion include all items authorized for reimbursement to an employee in connection with approved travel. This section covers travel requests for individuals. Group transportation by charter and team travel do not fall under this exclusion. Note, that the use of the University approved travel card is prescribed, with reimbursement to follow documentation.

2. Approved individual membership dues - Includes dues and fees for participation in mission-related professional organizations, with supervisory approval.

3. Approved conference attendance fees - Includes payment of fees for individual participation in conferences, either local, or during travel status, with supervisory approval.

4. Prohibited:
   a) Contracting for charter, air or marine taxi services in support of research or other projects, (except for an individual’s personal incidental travel). Such contract services shall be executed through the Procurement Department.
   b) A request for reimbursement of expenditure of personnel funds may not be used to circumvent, or nullify expenditures that would otherwise be subject to procurement requirements set out herein.

(b) Payments to Third Parties on behalf of a faculty, or staff member, student, or others to facilitate receipt of services, and such services would not be subject to AS 36.30 if paid for by the individual personally. Examples include:

1. Payments to medical professionals on behalf of students or employees that are subject to recovery from insurance carriers.

2. Payment of approved fees for participants in competitive events.

3. Payments of fees, tuition, etc, for conferences or workshops

(c) Regional Educational Attendance Area Associations (REAAs), or other similarly constituted agencies.

(d) Grants Awarded by the University (e.g., the University Foundation) are not a procurement as defined by AS 36.30, and therefore are excluded by this section. In general, a state appropriation bill, which authorizes the University to make a grant, will state that it is a grant, and will specify the intended recipient(s). Grants received from other agencies are subject to AS 36.30.
(e) Fund Transfers where the end product of the transaction does not result in consideration in the form of supplies, services, or professional services being returned to the University.

**AUTHORITY:** AS 36.30.005, .010, .040 R05.06.723
SECTION 14 – INTERGOVERNMENTAL & FEDERAL PURCHASES

14.1 COOPERATIVE PROCUREMENT AGREEMENTS
(a) The University may enter into, participate in, initiate and/or administer cooperative procurement agreements for supplies, or services with other campuses, state, or local agencies, or other external procurement activities, consortiums etc. Cooperative agreements include use of public procurement contracts made available to the University. The University may use, or “piggy-back” State of Alaska contracts by virtue of the University’s definition under AS 36.30 as an agency, or department of the State.

(b) Unless otherwise mandated, or set out in the solicitation and award, the University may use a State of Alaska contract on a non-mandatory basis. Cooperative purchases with the State and other agencies should be part of an on-going effort to access the potential economies of scale available in cooperative agreements.

(c) When a procurement officer contemplates the use of a non-mandatory cooperative agreement, consideration should be given to the following:
   (1) Potential for lower direct costs versus higher administrative costs in issuing a separate University solicitation to meet the need.
   (2) Whether quality, delivery, and other terms and conditions of the cooperative agreement will meet the need if the University.

AUTHORITY: AS 36.30.700 - .720, .790, .910

14.2 GENERAL SERVICES ADMINISTRATION (GSA) CONTRACTS
(a) As of the date of this manual, federal approval for University use of GSA contracts has not been granted. Procurement officers are cautioned not to base an award or include language in purchase orders or contracts at a vendor’s request that reference GSA contracts, or subjects the University to the terms and conditions of a GSA contract. Vendors will often have an in-house pricing program called “Open Market” or other similar pricing title. It will state, "This is not a GSA contract, however, (__________) agrees to abide by the terms and conditions of GSA Contract No. ____.

(1) In a non-competed acquisition such a statement may be acceptable if the procurement officer has reviewed the T&Cs and finds them acceptable.
(2) A review by General Counsel may be necessary depending on the variance from University terms and conditions.
(3) Acceptance of GSA terms and conditions (or any other T&Cs) in a solicitation is not allowable because it results in different terms for different quoters/bidders/offerors.
(4) The fact that a vendor is responding under GSA T&Cs will often not be stated outright in their response, however, signs that GSA T&Cs are governing the response usually include a request for a different FOB point (usually to Seattle with freight prepaid and allowed between Seattle and Alaska). They will often request that the order be made out to the manufacturer "in care of" the local vendor. This renders the vendor non-responsive.

(b) Federal Grants are not eligible to access GSA contracts.

(c) Federal Contractors cost-reimbursement type contracts or other types of negotiated contracts, when the agency determines that a substantial dollar portion is of a cost-reimbursement nature, may be authorized to use GSA
sources of supply. [See GSA Order ADM 4800.2E; paragraph 7(d)(1)]. Authorization must be in writing included in the federal contract, or specifically provided by the federal agency, and is specific to that contract only.

**AUTHORITY:** AS 36.30.910

### 14.3 APPLICATION OF AS 36.30 TO FEDERAL FUNDS

(a) When a conflict exists between the provisions of AS 36.30, regulations, or procedures and a federal requirement, the federal requirement shall prevail.

(b) Preferences for Alaskan bidders, products, etc and the requirement for an Alaska Business License do not apply.

**AUTHORITY:** AS 36.30.890

### 14.4 REVIEW OF FEDERALLY FUNDED REQUISITIONS

(a) Approvals that may be required by federal grants or contracts must be obtained prior to requisitions being submitted to the procurement office.

(b) Requisitions for equipment must be screened in accordance with the procedures set forth in the UA Property Manual for availability of like equipment from University resources.

**AUTHORITY:** AS 36.30, .890

### 14.5 FOREIGN PURCHASES

Domestic purchases will be made whenever feasible. If a foreign purchase is made, the procurement officer will assist in the coordination of customs procedures to provide for duty-free entry for scientific or educational purposes. If federal funds are involved, additional conditions may apply.

**AUTHORITY:** AS 36.30.890

### 14.6 FEDERAL GOVERNMENT SUBCONTRACTS

(a) Purchase orders or contracts issued in support of federally funded government contracts are "government subcontracts". University procurement policy and regulation, procedures, and delegations of authority are applicable to "government subcontracts." including justification of brand name restrictions, sole source, and determination of price reasonableness.

(b) Purchase requisitions, purchase orders or subcontracts, and purchase files must reference:

1. The pertinent federal contract number.
2. Any required "flow-down" provisions.
3. Compliance with property screening requirements for purchase of equipment.

(c) Purchase of foreign-made items must be made in compliance with the Buy American Act. The federal contracting officer cited in the prime contract must grant any exceptions to the act in advance.

(d) Listed below are the types of federal subcontracts and purchase orders that require either prior approval of, or advance notice to, the federal contracting officer:

1. Under cost-reimbursable contracts, the following types of subcontract or purchase order transactions in support of federal prime contracts require prior approval of the federal contracting officer.
a) Any subcontract or purchase order, regardless of dollar amount, which is for experimental or research and development work.
b) Any subcontract or purchase order, regardless of dollar amount, which is for acquisition of facilities.
c) Any subcontract or purchase order for acquisition of special test equipment.

(2) Cost-reimbursable contracts: prior to award of the following types of transactions in support of a federal prime contract, advance notification to the federal Contracting Officer is required in accordance to the limits and conditions set out in the contract.

(3) Under all federal contracts, any other contract-specific approval and consent requirements contained in the provisions of the contract must be satisfied prior to issuance of a purchase order or subcontract in support of the prime contract.

e) Prior approval and advance notice requirements are not applicable to transactions in support of federal fixed price contracts.

**AUTHORITY:** AS 36.30.890 R05.06.730, .735

### 14.7 CONTRACTS USING FEDERAL GRANT FUNDS

(a) Procurements by contract or purchase order which are funded by federal grant funds shall conform to procurement standards established by the federal Office of Management and Budget (OMB) Circular A-110 and University policy and regulation, and procedures. In addition, all grant-specific provisions included in a federal grant award must be satisfied.

(b) Purchase requisitions, purchase orders or contracts, and purchase files must refer to:

1. Any required "flow-down" provisions.
2. Compliance with property screening requirements for purchase of equipment.

**AUTHORITY:** AS.36.30.890 R05.06.730, .735

### 14.8 SMALL, DISADVANTAGED, MINORITY BUSINESS ENTERPRISES

The University of Alaska encourages the participation of small and minority business enterprises in bidding requirements of the University. To this end a provision substantially as follows is included in all University contracts to compel support by University contractors of the University's small business plan:

"**UTILIZATION OF SMALL BUSINESS, MINORITY-OWNED, WOMAN-OWNED, AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS AND LABOR SURPLUS AREA FIRMS.**

(a) In the event the contractor subcontracts any part of the work to be performed under this contract, the contractor agrees to make good faith efforts to utilize small business concerns, woman-owned, minority-owned, and other economically disadvantaged small business enterprises, and federally identified HUB Zones to the maximum extent consistent with the efficient performance of this contract. The contractor shall include this provision, including this statement, in every subcontract.”

(b) The CPO or designee will issue and maintain the University of Alaska Small Business and Small Disadvantaged Master Subcontracting Plan as required for conformity and compliance with federal requirements. Small and disadvantaged
business subcontracting goals required under federal contracts should be established by departments only under the master plan, and after consultation with the responsible procurement officer.

AUTHORITY: AS 36.30.890

R05.06.720 - .735
SECTION 15 – ETHICAL STANDARDS & BUSINESS PRACTICES

15.1 STANDARD OF ETHICAL CONDUCT

(a) University policy and regulation requires that procurement officers, including all persons delegated any level of procurement authority, shall meet a high ethical standard. AS 39.52 and Board of Regents Policy and Regulation 05.06 set out the Code of Ethics and standards of conduct and are incorporated herein by reference. AS 39.52 addresses exercise of official position, gifts, disclosure of information, influence in grants, contracts, leases, or loans, improper representation, outside employment, and restriction of employment after leaving University service. Persons making or authorizing procurements must at all times uphold the public trust and be especially sensitive even to the appearance of impropriety. Ethical conduct expectations should be covered in orientation of new employees.

(1) Persons shall not allow themselves to be placed in a position where a conflict of interest might arise from the acceptance of favors, gratuities, or any other action which would interfere with the strict impartiality that must prevail where the public interest is involved, and

(2) No supplier shall be given special information or benefit that is not also given to all competing suppliers.

(b) University policy and regulation requires avoidance of organizational conflicts of interest in procurement matters, including even the appearance of such conflicts. An organizational conflict of interest exists when the nature of the work to be performed under a contract, if there is no restriction on future activities may:

(1) Result in an unfair competitive advantage to the contractor.

(2) Impair the contractor’s objectivity in performing the contract work.

(c) Types of organizational conflict of interest restrictions on procurement actions include:

(1) No contract or purchase order shall be awarded which will put a contractor in a position to make decisions favoring its own products or capabilities.

(2) No contract or purchase order shall be awarded which puts a contractor in a position of unfair advantage over others who have no prior knowledge of or no opportunity to influence content of the specifications. This does not prohibit either two-step or design-build procurements, or development contracts.

(d) Procurement officers shall exercise delegated procurement authority free from undue influence. Procurement officers are required to report any attempt by anyone to unduly influence their procurement actions in violation of AS 36.30, University policy and regulation, and these procedures. Reports of exertion of undue influence shall be made to the CPO and General Counsel.

(e) ANNUAL ACKNOWLEDGEMENT:

(1) At least annually, those delegated written procurement authority shall complete an ethics recertification form. The form shall have attached, or included by reference, the appropriate sections of this manual, BOR Policy and Regulation 05.06, AS 36.30, AS 39.52, FAR 52.203-7, and other codes of conduct or guidance as appropriate. The certification form shall include a place for the signature and date attesting that each
person to whom authority has been delegated has read and understands the requirements in the above cited sources.

(2) A file containing the pertinent text of the cites, and the certification containing the original signatures shall be maintained in the procurement office. A copy of the signed certification form shall be forwarded to the CPO.

(3) Certification should be secured as new employees, or delegations are issued throughout the year.

(f) It is a violation of this section for an employee of the University to seek or to accept the purchase of supplies, equipment or services at the same price the University secured for the University's own use if that price is not also available to the general public. This does not apply when a vendor has a published practice of providing discounts such as those to military personnel, senior citizens, public employees or other large identified groups that includes all University employees.

**AUTHORITY: AS 36.30.920 R05.06.738**

15.2 ANTI-COMPETITIVE BUSINESS PRACTICES

An anti-competitive practice is any action taken by bidders or offerors that illegally reduces or eliminates competition, or restrains trade, including but not limited to submitting collusive bids or proposals. It may result from illicit business actions that have the effect of restraining trade, such as controlling the resale price of products or an improper collective refusal to bid. Suspected anti-competitive practices must be reported in accordance AS 36.30.920 and R05.06.738. Patterns of vendor conduct that may indicate anti-competitive practices include:

(a) Rotated low bids or proposals result where all bidders or offerors participating in the collusive scheme submit bids and by agreement alternate being the lowest bidder or offeror. To aid in determining whether rotation may be occurring, the procurement officer must review past similar procurements in which the same bidders or offerors have participated.

(b) Resale price maintenance consists of an agreement between a manufacturer and a distributor or a dealer to fix the resale price of a supply. A procurement officer should consider the possibility that such an agreement exists where prices offered adhere to an established pattern, such as a published price schedule, and when identical bidding occurs.

(c) Sharing of the business occurs where potential bidders or offerors allocate business among themselves based on the customers or the territory involved. Thus, a procurement officer might discover that a potential bidder or offeror is not participating in a University procurement because a particular University department or a particular territory has not been allocated to the bidder or offeror by the producer or manufacturer.

(d) "Tie-in" sales are those in which a bidder or offeror attempts to sell one supply or service only upon the condition that the procurement officer purchase another particular supply or service.

(e) Group boycott results from an agreement between competitors not to deal with another competitor or not to participate in a particular procurement unless and until certain conditions are met. The boycott of one competitor by other competitors may adversely effect price and availability of goods and services to the University. A group of bidders or offerors who consistently decline to bid on University procurements may be abstaining because they are not willing to
participate in the volume sharing, rotating, or price fixing schemes agreed to by the anti-competitive participants. The suspicion of patterns of anti-competitive behavior may be confirmed by exploring why businesses engaged in selling and contracting for the general public in the types of procurements solicited by the University choose not to do business with the University.

(f) Identical bidding & price fixing means the submission by bidders or offerors, by agreement, of the same total price or the same price on a particular line item. The submission of identical bids by bid rigging or agreement between the parties is collusion. All identical bids are not the result of bid rigging or anti-competitive practices, since random chance may be the cause. Circumstances may cause identical bids without any collusion, such as when the supply is a commodity with a well-established market price or a brand name with a "suggested retail price."

AUTHORITY: AS 36.30.920 R05.06.738

15.3 UNETHICAL PROCUREMENT PRACTICES

(a) Procurement Officers and Evaluation Committee Members: Improper conduct can also occur within procurement functions or among members of the evaluation committee in the conduct of University and departmental business. Suspected anti-competitive practices must be reported. Examples of the type of activity, which should be reported, if suspected, include:

(1) Disclosure of one vendor’s prices to another vendor before award of a contract.

(2) Exaggeration of the seriousness of a problem to one supplier in order to extract a lower price or some other concession to assure award to a particular vendor.

(3) Asking one or more vendors to quote knowing they will be high, in order to favor another vendor.

(4) Basing the choice of suppliers to be solicited on one’s personal preference, or tailoring specifications to meet the qualifications of one particular supplier.

(5) Splitting purchases to circumvent competitive or other statutory requirements.

(6) Intentionally divulging the number and the names of potential bidders or offerors in a competitive process to another bidder or offeror in order to give that bidder or offeror an advantage over other bidders or offerors, or in negotiating with the University.

(7) Failure by an evaluation committee member, or technical evaluation team member to divulge a real or apparent conflict of interest in the outcome of the committee deliberations. Such conflict of interest could include, but not be limited to personal financial gain, outside employment, continued employment, promotion or other advantage that could reasonably be expected to influence the individual’s judgment.

(b) In order to assist in ascertaining whether an anti-competitive practice has occurred, procurement officers should be alert and sensitive to conditions of the market place and will often find it necessary to study past procurements including, as appropriate, the following.

(1) A study of the competitive procurement history of a supply or service over a period of time sufficient to determine any significant bidding patterns or changes.
(2) A review of similar University contract awards over a period of time.
(3) Consultation with outside sources of information, such as bidders or offerors who have competed for similar University business in the past but who are no longer competing for the business.

AUTHORITY: AS 36.30.315, .920, .930, .940 R05.06.738

15.4 REPORTING SUSPECTED ANTI-COMPETITIVE PRACTICES
A procurement officer who suspects a bidder, offeror, or contractor of committing an anti-competitive practice shall file a report with the General Counsel. The University may initiate suspension, debarment, or internal corrective action if an investigation confirms that a person has engaged in illegal activity.

AUTHORITY: AS 36.30.920 R05.06.680, .800

15.5 DETERMINATION: SOLICITATION OR AWARD VIOLATES LAW
(a) A solicitation or award may be in violation of the law due to actions of University employees, bidders, offerors, contractors, or other persons. After consultation with the General Counsel, the CPO may determine that a solicitation or contract award is in violation of the provisions of AS 36.30 or University policy and regulation. The determination must be made in writing after a thorough review. The determination is subject to judicial review.

(b) Bad faith or fraud may not be assumed. Specific findings showing reckless disregard of clearly applicable laws or regulations are necessary to support a finding of bad faith. Specific findings that show willful acts in disregard of clearly applicable laws or regulations are necessary to support a finding of fraud.

(c) A contract or solicitation found to be illegal is void. A finding by the CPO, confirmed by General Counsel, that a solicitation or proposed award is in violation of law constitutes a cogent and compelling reason to cancel or revise a solicitation or proposed award. When such a written determination has been made, immediate action to cancel, revoke, or otherwise terminate the illegal action will be taken by the responsible official.

(d) This section only applies to those actions considered to be anti-competitive, fraudulent, or committed in bad faith.

AUTHORITY: AS 36.30.040, .687, .880 R05.06.690, .720

15.6 CIVIL AND CRIMINAL PENALTIES
(a) Any University employee who knowingly makes a false statement in support of a sole source procurement, limited competition, or emergency procurement, such employee is guilty of a Class A misdemeanor.

(b) A person who knowingly, and under a scheme or artifice contracts for or purchases supplies, or services in violation of law is guilty of a class C felony and is liable for all costs and damages to the University arising out of the violation.

AUTHORITY: AS 36.30.930, .940 R05.06.720, .738
SECTION 16 – UNAUTHORIZED PURCHASES

16.1 DEFINITION
(a) “Unauthorized Purchases” is an agreement, a commitment, or an order for goods or services, or changes to existing contracts by any person who does not have express written delegation of procurement authority to bind the University. This includes changes under existing contracts that are made by persons who do not have delegated procurement authority. Unauthorized purchases are not binding on the University. Procurement transactions in excess of a person’s delegated authority are also considered unauthorized.

(b) Unauthorized Purchases include:
(1) Making commitments with grant money without the required approval of the Grants & Contracts Office or the Procurement Office.
(2) Placing an order after submitting the requisition on the assumption that the PO has or will be approved.
(3) Coercing a vendor to initiate an order on the promise that a PO will be forthcoming.
(4) Using personal funds to make a purchase of goods or services that would normally require Procurement’s involvement to secure competition, approve sole source or otherwise comply with State law and BOR policy and regulation. The University is not obligated to reimburse an employee who takes such action.
(5) Failure to timely submit a requisition for renewal of on going services such as maintenance agreements, etc.

AUTHORITY: AS 36.30.040, .920, .930, .940 R05.06.720, .725, .727, .738, .740

16.2 RATIFICATION OF UNAUTHORIZED PURCHASES
(a) Unauthorized purchases may be ratified in accordance with delegated authority when:
(1) While not condoning the unauthorized purchase, it is in the best interest of the University to accept and pay for the supplies or services.
(2) The resulting commitment would otherwise have been proper.

(b) The procurement officer determines the price paid to be fair and reasonable.
(1) The procurement officer recommends payment.
(2) Funds are available and the ratification is otherwise in accordance with any other limitation prescribed under University procedures. The procurement officer may elect to require that the campus chief financial officer review unauthorized purchases when the:
   a) Amount is unusually high.
   b) Individual or department has initiated numerous unauthorized purchases.
   c) Nature of the unauthorized purchase is particularly sensitive.

(c) The Procurement Department shall maintain a file of unauthorized purchases. Each unauthorized purchase file shall include a memo from the person who made the purchase relating the pertinent facts of the unauthorized purchase including why the individual failed to use the required procurement procedures. The Dean or Director shall sign this memo.

(d) The Procurement Office shall provide periodic reports of unauthorized purchases to the VCAS, Provost, Deans, Directors and others as appropriate.
The Director of Procurement may restrict access to the procurement system of those departments that fail to meet an acceptable standard of compliance.

AUTHORITY: AS 36.30.040, R05.06.720, .725, .727, .738, .740

16.3 PERSONAL FINANCIAL LIABILITY

The individual who made the unauthorized purchase may be held financially liable for all or part of the obligation in the following circumstances:

(a) The procurement officer recommends, and the campus chief financial officer agrees that the University is not obligated for all or some portion, nor is it in the best interest of the University to assume all or a portion of the debt. In such case the vendor, and the individual who made the unauthorized purchase shall be notified and provided documentation denying all or part of the obligation, and directing the parties to resolve the matter independent of the University.

(b) Upon the recommendation and approval above, the goods or services could have been procured for less than the amount paid. The chief financial officer shall notify the individual of any indebtedness and prescribe means of handling payment for goods or services.

(c) The chief financial officer will forward a copy of the final determination to the appropriate accounting department to preclude payment by the University and notify the vendor that the University is not liable and will not pay for the unauthorized action.

AUTHORITY: AS 36.30.040, .930, .940, R05.06.720, .725, .727, .738, .740
SECTION 17 – ACQUISITION PLANNING

17.1 SCHEDULING MAJOR ACQUISITIONS
(a) The reliable way for a department to estimate how much time will be required to secure goods or services is to begin with the date on which the commodity or service must be delivered/installed, and then work backwards to determine when the process must begin.
(b) The requisitioning department shall work with the Procurement Office from the earliest stages of the project. Often projects that are highly complex, highly technical, or "leading edge" will require the requisitioner and the Procurement Office to jointly develop and issue a Request for Information (RFI) to determine the level of interest, capability and availability for the goods or services in the marketplace. The information provided is non-price and non-binding at this point, but is necessary for the requisitioner to develop the Scope of Work and draft critical performance or design specifications, timelines, etc. An RFI is executed before the formal solicitation process can be initiated. The RFI can be time consuming and is not included in the timelines below. The scheduling of the acquisition and the length of time required to successfully complete it will vary according to the size of the procurement, the complexity of the final selection process and the existing demands on the Procurement Office from other departments (especially in the last quarter of the fiscal year).

AUTHORITY: AS 36.30.010, .040 R05.06.725, .727

17.2 INVITATION FOR BID (IFB) SCHEDULING.
(a) An IFB is used to purchase routine commodities and non-personal services. Award is made to the low responsive, responsible bidder. This process can be expedited by bringing the procurement officer into the planning process well in advance of submitting the specifications, scope of work, etc. to the Procurement Office.
(b) The timelines below assume:
   (1) The department involved the procurement officer early in the development of the specifications.
   (2) The procurement is of a relatively routine nature.
   (3) The department meets its time commitments.
   (4) The solicitation and award does not result in a protest sufficient to delay the process.
   (5) After all necessary information has been received from the Department, plan on:
      5-7 calendar days for the Procurement Office to prepare the formal IFB documents, print bid packets, mail.
      21 calendar days minimum IFB publication time required by law.
      10 calendar days to open bids, review bids for compliance, meet with departments, etc.
      3-5 calendar days to complete the Memorandum of Selection and issue the Notice of Intent to Award.
      10 calendar days publication of the NOITA as required by law.
      3-5 calendar days to prepare and mail Purchase Order.
      50-60 calendar days to complete the IFB process + Delivery Time.
17.3 REQUEST FOR PROPOSALS (RFP) SCHEDULING.

(a) An RFP is the preferred method to acquire high cost, complex, or high technology commodities or professional services. The timeframe for completion can be from 120 to 180 calendar days. This is a lengthy process requiring a large time commitment from both the requesting department and Procurement which will span anywhere from a few to several months. It is much more than the development of complex specifications, special terms and conditions, evaluation criteria and meeting the legal requirements for publication. A major commitment of time from both the requisitioning department and the Procurement Office are needed. The time for completion of an RFP process tends to be unique to each RFP. Sufficient time must be allotted for possible pre-proposal conferences, site visits, evaluation committee meetings, clarification of offers, vendor presentations, final committee evaluations, the required public notices, and contract negotiations.

(b) The timelines below assume:

(1) The department involved the procurement officer early in the development of the specifications.
(2) The department meets its timelines for information submittal.
(3) The Evaluation Committee members are available as needed.
(4) The solicitation and award does not result in a protest sufficient to delay the process.
(5) After all necessary information has been received from the Department, plan on:
   7-10 calendar days for the Procurement Office to prepare the formal RFP documents, print offer packets, mail.
   30 calendar days RFP publication time during which pre-proposals conferences and site visits are conducted.
   10 calendar days to open offers, prepare abstracts, conduct initial compliance review, prepare evaluation forms, and schedule Evaluation Committee preliminary meetings.
   45-90 calendar days to conduct Evaluation Committee meetings, secure vendor clarifications, schedule vendor presentations, secure best and final offers, and conduct final Evaluation Committee meetings.
   5-7 calendar days to complete the Memorandum of Selection and the NOITA.
   10 calendar days publication of the NOITA as required by law.
   10-15 calendar days to conduct final contract negotiations
   3-5 calendar days to prepare contract documents for signature.
   120 - 180 calendar days to complete the RFP process + Delivery Time.

(c) It is common for departments to assume that the time estimate is excessive. While the process may occasionally be executed in less time, poor planning and preparation can delay the process even further.
SECTION 18 – MISCELLANEOUS PROVISIONS

18.1 INDEPENDENT CONTRACTOR DETERMINATIONS

(a) The IRS, not the University, mandates Independent Contractor Determinations. The IRS begins with the premise that all non-incorporated individuals providing service to the University should be University employees. If the services provided are of a nature that the University routinely hires employees to perform, the individual does not qualify as an Independent Contractor under IRS rules. This is the case even if the individual provides the same services to other organizations as an Independent Contractor under IRS rules. They must be paid as an employee, and income taxes deducted from their paycheck.

(b) The IRS’s intention is to prevent any employer from avoiding tax collection, payment of benefits, workers compensation and other benefits by designating persons Independent Contractors when the employer (the University) should otherwise hire employees to perform the service. Services that will likely fail to qualify the individual as an independent contractor are those contained within University job descriptions. Contact the campus Human Resources Department for assistance and clarification.

(c) The University is subject to fines and penalties for failure to comply with these IRS regulations.

(d) Independent Contractor Determinations require the review and approval of the campus Risk Manager who shall assess the level of liability that may result from the contractor’s activities. The risk manager shall specify appropriate types and levels of insurance that the contractor must have in place prior to start-up.

AUTHORITY: AS 36.30.010, .040

R05.06.725, .727

18.2 CERTIFICATION OF NEED FOR RESTRICTIVE SPECIFICATIONS

(a) The University recognizes, that in certain narrow applications, a specific brand/model of scientific/academic equipment, or a specific source of scientific/academic service may be so critical that failure to secure it will jeopardize the outcome of the academic program or the results of the specific research. In this case the University will rely on the credibility and integrity of the principle investigator, or faculty member.

(b) When such a condition arises and the procurement is in excess of the small dollar limit, the principle investigator or faculty member may sign a formal "certification" stating that, in their professional or scientific judgment, any brand/model, or service provider other than listed on the certification is likely to jeopardize their program or research results. The ethical standard for signing such a statement is high.

(c) When the certification is provided, the Procurement Department shall restrict competition to only those vendors that are authorized to sell that brand. When Procurement determines that the product is available only from a single vendor, the procurement shall be executed as a sole source.

(d) The certification is not applicable for ancillary equipment that may be used in support of the project, but is not intrinsically scientific or academic in nature. Purchase of such equipment is supported by other procurement procedures covering "brand name or equal specifications", performance or function specifications, need for compatibility, etc.
18.3 HONORARIUMS
(a) An honorarium is a gift for services for which no fee has been set or agreed upon in advance. For example, an honorarium could be used as a 'thank you' gift to a guest speaker or performer who, at no charge to the University, makes a presentation; and we respond to their kindness with a token payment, gift or other tangible gesture of appreciation. Protocol and custom suggest that the honorarium should be processed in advance so that the gift may be presented timely.

(b) Any compensation, monetary or non-monetary, negotiated, committed to, or otherwise forming an obligation to pay, made in advance is, by definition, not an honorarium. It is a fee, and is subject to the applicable University policies and regulations, IRS and other relevant agencies. Any verbal or written agreement in which the University will be obligated to pay for services or expenses or accommodations is a contractual arrangement and must be made in accordance with University policies and regulations.

(c) A fee cannot be paid to any current employee, permanent, part-time, full-time or temporary. Payroll and other taxes must be withheld from any payments made to any employee. The campus Personnel Office must approve a bonus or monetary award to an employee.

(d) Honorariums may not be used in conjunction with contracts awarded by the University.

18.4 RESTRICTED USE OF APPROPRIATED FUNDS
(a) Appropriated funds may not be used for extravagant or personal items or services, nor for items or services that are not prudent or necessary to carry out University business. Examples of prohibited expenditure include, but may not be limited to: personal letterhead or stationery; Christmas cards; personal photographs, pictures, frames; elaborate business cards; office area coffee pots; plants, flowers, vases for decorating individual offices or classrooms; gifts other than approved awards; coffee, pastries, foodstuffs for consumption by staff except in approved conference settings; personal or social memberships to clubs, organizations, associations (institutional or approved individual professional memberships are acceptable). Where "approved" is used in these prohibitions it means approved as required by either this section or the statewide accounting procedures.

(b) Waivers of such restrictions must be approved in advance by the chancellor or vice chancellor, campus director, or designee.

18.5 REPRESENTATIONAL ALLOWANCES
(a) Representational Allowances are University funds used to provide refreshments, meals, snacks, beverages, catering, decorations or entertainment in support of an event or occasion. Only the President of the University can authorize the establishment of representational accounts. The chancellor or other individuals granted representational accounts may not make expenditures beyond their allowance.
(b) Both representational and nonrepresentational entertainment expenses require a representational allowance form to be completed prior to purchase.

(c) University policy and regulation establishes guidelines for expenses such as for "staff only" functions, student functions, public functions, and special ceremonies or celebrations of importance to a campus.

(d) All catering, food items (except field/ship provisions), restaurant charges, gifts purchases (bowls, plaques, shirts, flowers, etc.) and decorations require a rep allowance form, no matter what account code is provided by the department.

(e) The cost of refreshments/catering/decorations may be charged to nonrepresentational commodities or contractual services accounts for functions or events. A representational allowance form must be completed and turned in with the receipts for payment.

1. Involving students, and are directly related to an education program.
2. For which a fee is charged and the fee includes a provision for the meal or refreshments provided.
3. Involving students, faculty, staff and/or the public when these are official, traditional or special ceremonies, or celebrations of importance to the University. Such events would include meals or receptions during commencement activities, student honors events, parent’s day programs, athletic or student leadership events, faculty awards ceremonies, and similar occasions.

(f) The chancellor, vice chancellor, or campus director must authorize the approval of expenditures against either representational or nonrepresentational accounts, or other person as specifically designated in writing by the chancellor to authorize such expenditures.

(g) Entertainment expenses are restricted to specific budgeted representational accounts. The University president is the only person authorized to approve the establishment of such accounts. Chancellors may submit annually their requests to the president in this regard. When the president sets the amount of any representational allowance account, that account may not be exceeded without prior approval of the University president.

(h) Expenditures against representational allowances must be approved by the individual to whom the allowance is awarded and who has authority to spend from the account. Restricted funds require the signature of the Principal Investigator. Claims for reimbursement must have receipts attached, a description of the event and the reason for its occurrence (name of individual if recruitment), the specific names of individuals attending, the function, the date, the number of people involved, and the account to be charged. The person requesting reimbursement for each representational account must sign the following statement: "I certify the expense as explained on this claim and attached receipts was incurred in the performance of official University duties and obligations."

(i) Chancellors, or others who may be authorized by the University president to have a representational allowance account may establish controls and procedures with respect to prior and post approval of expenditures against such accounts, for example, purchase alcoholic beverages requires the specific approval or delegated approval of the Chancellor.

(j) The procurement office shall be diligent in reviewing requisitions for such items as listed above in order to ensure strict compliance.

**AUTHORITY: AS 36.30.010, .040  R05.06.725, .727**
18.6 USED EQUIPMENT PURCHASES
Public funds are for the purchase of new, unused equipment from manufacturer’s or their authorized representative. Such representatives shall be authorized to make the University the first holder of title to the equipment, and shall be authorized to implement the manufacturer’s warranty. Deviation from this is an exception that must be supported in writing and approved by the CPO. Exceptions are generally only approved when such purchase is from the manufacturer on refurbished, warranted equipment, or from an established secondary market such as brokers or dealers as defined under the Uniform Commercial Code, Section 2.

AUTHORITY: AS 36.30.010, .040, .060 R05.06.070, .725, .727

18.7 PROCUREMENT OFFICER, DEFINED
When the term procurement officer is used it means the individual acting within their formal delegated authority. This includes actions that the law, University policy and regulation, or this manual specifically require of a Director, Chief Procurement, Hearing Officer, General Counsel or the President of the University.

AUTHORITY: AS 36.30.010, .040 R05.06.725, .727

18.8 WRITTEN DETERMINATIONS
(a) A person required to prepare a written determination may delegate its preparation, however, the responsibility and execution of the determination may not be delegated.
(b) Each written determination must set out sufficient facts, circumstances, and reasoning necessary to substantiate the specific determination being made.
(c) While a particular person may be responsible for the execution of the written determination, other personnel, particularly technical personnel from the using department are responsible for furnishing the procurement officer information pertinent to the determination. The information must be furnished in writing to the procurement officer who has the authority to decide the final form and content of the determination and to resolve any questions or conflicts arising with respect to the determination.
(d) Each written determination must be retained in the solicitation or contract file to which it applies. Where specific Blanket Determinations exist a copy shall be made a part of the procurement file. Where Blanket Determinations are set out herein, such determinations must be cited (Section and subsection) in the procurement file.

AUTHORITY: AS 36.30.010, .040 R05.06.725, .727

18.9 FUND EXPIRATION
(a) University funds are subject to expiration as set out below:
   (1) Expiring June 30:
      a) Fund 10 – Unrestricted
      b) Fund 14 – Matching
      c) Fund 17 – Recharge
      d) Fund 19 - Auxiliary
         Note: Fund 17 and 19 do lapse on June 30, but are carried forward to the next fiscal year. The effect is the same as if they did not lapse.
   (2) Expiring September 30 - Fund 3, Restricted (Federal Grants, Contracts)
   (4) Expiration set in funding document:
a) Fund 18 - BOR Restricted.

b) Fund 4 - Student Loan funds.

c) Fund 5 - Unexpended Plant.

d) Fund 6 - Debt Service.

e) Fund 7 - Renewal & Replacement.

f) Fund 8 - Investment & Plant expire, (if there is an expiration date)

(5) No Expiration: Fund 9 Agency accounts, such as for student government, student clubs, Fairbanks Symphony, Friends of the Museum, etc.

(b) EXCEPTION: When compelling reasons exist, and in order to avoid harm to the University, it is possible to encumber funds beyond the end of the June 30 fiscal year. The following procedures apply:

(1) A formal solicitation process is required and time constraints do not allow issuance of the order prior to June 30.

(2) The responsible procurement officer shall prepare a written determination setting out the circumstances that preclude a timely solicitation and award of the anticipated contract. The CPO shall approve the exception and provide notification to the UA Vice President for Finance.

(3) Public notice of the solicitation required under AS 36.30 shall be issued prior to June 30.

(4) Award shall not be made later than the year end closing date. The actual year end closing date is established each year, but generally occurs around the third week of July. The procurement office must schedule and closely monitor solicitation dates, including the NOITA, and the effect of any protests. The year end deadline is absolute.

CAUTION: Due to the time constraints above, use of this exception must be carefully, and realistically reviewed. Any delays in processing, protests, needed amendments, etc., can mean that the year end deadline won’t be met. The departments must be made fully aware of this considerable risk. Once beyond the June 30 date, options for emergency purchase, or other expedited procurement are expired. Failure to meet the deadline will result in lapse of the reserved funds. It is for this reason that this exception is not widely published, nor relied upon.

AUTHORITY: AS 36.30.010, .040

18.10 SUPPLY OF PERSONNEL, INFORMATION, AND SERVICES

Requests made to the University by a public procurement unit or external procurement activity make available personnel, services, information, or technical services pursuant to AS 36.30.730 may be accommodated to the extent that it is in the best interest of the University. When supplying procurement resources to another agency, beyond the limits of inter-agency courtesy and cooperation, the parties shall set out in a written agreement, the terms, conditions, remuneration, etc. that shall govern.

AUTHORITY: AS 36.30.730
SECTION 19 – PROPERTY MANAGEMENT

19.1 CONTROL AND ACCOUNTABILITY
(a) University departments are accountable and responsible for property (University owned equipment and supplies) under their control.
(b) Records of purchases for equipment in excess of $2,500, and for weapons and vehicles regardless of dollar amount, shall be provided to the responsible Property Officer. MSO certificates for new vehicle purchases will be forwarded to the Statewide Property Officer. Refer to the "Property Manual" for additional requirements.
(c) Departments may trade-in equipment as part of a procurement process executed by the Procurement Department, but may not otherwise sell, or dispose of property owned by the University except as set out below.
(d) Departments must notify the CPO, or designee of all excess property. Departments may suggest a dollar value to be received from any transfer or disposition of excess property. This amount is a baseline only and does not establish a minimum sale or transfer amount. These figures are not public information until transfer or sale.
(e) When practicable, excess property will be transferred to other University departments. The price of the property transferred is the fair market price based on previous sales of similar products in the open market, or on an appraised value, and must be one mutually agreed upon between the department and the recipient.

AUTHORITY:  AS 36.30.070 R05.06.580 - .605

19.2 EQUIPMENT TRADE-IN
(a) Equipment may be traded-in to the vendor providing the replacement equipment. The solicitation, if any, and the purchase order must state that the used equipment is traded-in “as is, where is and no warranty is either stated or implied.”
(b) A solicitation that provides for trade-in of like equipment shall state that acceptance of the trade-in price is the University’s option. If trade-ins are accepted, the price of the new equipment minus the trade-in price shall be the basis for cost evaluation.
(c) The requisitioning department shall notify the campus property officer when the trade-in equipment is picked up by, or shipped to the vendor so that it may be removed from the property records.

AUTHORITY:  AS 36.30.070 R05.06.580 - .605

19.3 DISPOSITION OF SURPLUS PROPERTY
(a) The disposition of surplus property shall be in accordance with the procedures contained in the Statewide Property Manual.
(b) Surplus property will be offered through competitive sealed bids, public auction, established secondary markets, contract for consignment, or for posted prices.
(c) Only U. S. Postal Money Orders, cashier’s checks, (not certified checks -- certified checks only certify that money was available at the time of the certification, and does not guarantee said funds), credit cards (if processing is available), or cash may be accepted for sales of surplus property.
(d) Notice of sale of surplus property by competitive sealed bidding will be posted for public viewing by the issuing office at least ten (10) days before the date set for opening of bids.

(e) An employee of the owning or disposing department may not directly or indirectly purchase or agree with another person to purchase surplus property if the employee is, or has been, directly or indirectly involved in the purchase, disposal, maintenance, operation or use of the surplus property, or preparation for sale of the surplus property.

**AUTHORITY: AS 36.30.070**
SECTION 20 – CONSTRUCTION, ARCHITECTURAL, ENGINEERING, LAND SURVEYING, & RELATED SERVICES.

(Facilities Construction Procurement Manual under development)