



UNIVERSITY POLICY

SUBJECT: PURCHASING SERVICES

TITLE: WAIVER OF BIDS

CODING: 00-01-60-10:00

ADOPTED: 03/20/07

AMENDED: 03/20/07

LAST REVIEWED: 03/20/07

I. PURPOSE

To establish guidelines and procedures, and to define the responsibilities of University employees (as defined in IV. K. of the "Purchasing Process" policy), in connection with the initiating, processing and managing of Waivers of Bids for the procurement of goods and services (as defined in the "Purchasing Process" policy) by the University outside the public bidding process. This policy is intended to, and shall, supplement the "Purchasing Process" policy and not in any way to supersede any provision thereof.

II. ACCOUNTABILITY

Under the general oversight of the Board of Trustees, the President shall ensure compliance with this policy and New Jersey State statutory law concerning competitive bidding. The Executive Vice President, Senior Vice Presidents, Deans, Presidents/CEOs of the Healthcare Units and Vice Presidents shall implement this policy.

III. APPLICABILITY

This policy shall apply to all UMDNJ employees in connection with the procurement of goods and services by purchase, lease or otherwise under the authority or acting on behalf, of UMDNJ under contracts let without competitive bidding under waivers of bids.

IV. DEFINITIONS

- A. Bid Waiver – A request to procure a product, professional or technical service for which the dollar amount exceeds the threshold as amended (currently \$24,000) outside the public bidding process. Waiver criteria are governed by N.J.S.A. 52:34-9 and 52:34-10 and include narrow and limited exceptions to the open public bidding statutes enumerated under the UMDNJ Waiver of Bids policy. A bid waiver shall be granted on a one time basis for a specific item from a vendor and for a specific dollar amount.
- B. Blanket Waiver – A blanket waiver is granted for a recurring need and may include multiple items from multiple vendors to be procured within a specific Fiscal Year. It authorizes the University to procure a product, professional or technical service for which the dollar amount will exceed the threshold as amended outside the public bidding process. The Board of Trustees has authorized blanket waivers exclusively for: grant subcontracts, group purchasing organizations, organ transplants, blood products, and outside legal counsel.

V. COMPLIANCE

- A. Employees have a responsibility to prudently process waiver of bid requests for only those supplies or services needed for the effective operation of the University and properly exempt from the bidding requirements of the State Bidding Laws as set forth in EXHIBIT A and University policy as set forth herein and in the "Purchasing Process" policy.

- B. Any employee who fails to comply with the requirements of the UMDNJ policies regarding waiver of bids may be subject to appropriate personnel actions up to, and including, termination. Any party to this process that knowingly misrepresents information, or participates in such misrepresentation, and any party that fails to follow directions given regarding this process, may be held liable to the University for any sums of money due and owing to any vendor that provided goods or services to the University in reliance upon representations made by the UMDNJ employee. Instances of non-compliance with these procedures will be identified through ongoing monitoring of the process for appropriate action.

VI. POLICY

A. Requirements:

1. The University shall make every reasonable effort to optimize its purchasing activities by practicing due diligence in seeking competitive bids under the public bidding process, or when appropriate in obtaining competitive quotes, for the procurement of goods and services to support its operations.
2. Bid waivers will only be used in limited circumstances and will only be permitted as outlined in the State Bidding Laws as provided in EXHIBIT A and University policy.
3. Blanket waivers will only be permitted to procure products or services that fall within the following categories:
 - a. grant subcontracts
 - b. group purchasing organizations
 - c. organ transplants
 - d. blood products
 - e. outside legal counsel
4. All requests for bid waivers must follow the Bid Waiver Procedure as set forth generally in the Purchasing Process policy and more specifically herein.
5. All requests for bid waivers must be initiated by using the Request for Waiver of Public Bid Form. Copy attached as EXHIBIT B.

B. Responsibilities:

1. The Purchasing Services Department is responsible for:

posting, advertising and employing a competitive process for all procurement contracts to the extent it is feasible and economical to do so.
2. The requesting department is responsible for:
 - a. working in conjunction with the Waiver Coordinator when preparing a waiver request to purchase goods and services that are excluded from public bidding under the State Bidding Laws as provided in EXHIBIT A.
 - b. making sure the Request for Waiver of Public Bid Form, a copy of which is attached as EXHIBIT B, is fully completed by including justification, waiver category, vendor(s), specific items or services to be purchased, requested amount and a purchase requisition (where applicable).
3. The department head is responsible for:

reviewing and authorizing the waiver request, and demonstrating the need for the good or service and attesting that the representations relating to the justification to waive public bidding are accurate.

4. The Waiver Coordinator responsible for:
 - a. working in conjunction with the requesting department to assist in the preparation of waiver requests.
 - b. reviewing and recommending either approval or disapproval of waiver requests based on state statutes, regulations, and an evaluation of propriety of the waiver of public bid and the necessity for the goods or services to be procured.
 - c. in the event that the Waiver Coordinator finds that the purchase can be publicly bid, the requesting department will be notified and the procurement will be referred to the Purchases Services Department. The Waiver Coordinator will provide an explanation to the Department to facilitate an understanding of the public bidding process.
 - d. maintaining a log of purchase orders charged against approved blanket waivers to ensure that the waiver criteria and the cumulative volume is within the approved dollar amount.
 - e. maintaining a log or file of those waiver requests that have been recommended for approval and those that are disapproved.
 - f. insuring that all bid waivers and blanket waivers are submitted to the Finance Committee and to the Board of Trustees on recommendations of the Finance Committee, for considerations and approval before any contracts are let.
 - g. insuring that blanket waivers are approved at least annually by the Board of Trustees.
5. Both the Purchasing Services Department and the requesting department are responsible for maintaining records of all purchasing transactions in accordance with University policy, Records Management, 00-01-10-50:00, to document the department's efforts to obtain the best goods and services for the University on the most favorable terms and conditions.
6. The Office of Legal Management is responsible for review of waiver requests for form and legality and to safeguard the University's interests.
7. The Vice President for Supply Chain Management is responsible for approving waiver requests if it is determined that the requested goods or services properly fit within one of the exclusions under the State Bidding Laws as provided in EXHIBIT A.

VII. PROCEDURE

A. Waiver of Bids Request Process

Performed by:

Requesting Department, Department Head, Vice President, Dean

Action Taken:

1. Identifies a need for a product or service whose dollar value will exceed the threshold as amended (currently \$24,000) and needs to be procured outside the public bidding process and provides a scope of work or item description as appropriate.
2. Consults the Waiver Coordinator for guidance.

Performed by:

Waiver Coordinator

Action Taken:

3. Reviews the need and refines scope of work or item description, as needed
 - Identifies any possible alternate products/vendors/sources including state sources, and will consult with the Office of Supplier Diversity and Vendor Development to identify set-aside vendor(s).
 - Gathers information from any other departments that might have pertinent information regarding this request.
 - In the case of sole source requests, verifies the Department's claim of a single source of supply.
 - Determines whether the appropriate waiver is being requested for the products or services being procured.
 - Writes a memorandum of justification for invoking the exception to be certified by the President.
 - Consults with Contracts Management as necessary to confirm past vendor performance.
4. Advises the requesting department of the appropriate course of action. In the event that the Waiver Coordinator finds that the procurement can be publicly bid, the Waiver Coordinator will notify the requesting department and also refer the procurement to the Director of Purchasing Services for assignment to a staff member.

Requesting Department, Department Head, Vice President, Dean

5. For purchases under \$100,000: Prepares a case for the waiver (using the information provided by the Waiver Coordinator); obtains a contract/agreement from the requested vendor(s); prepares a Request for Waiver of Public Bid Form and a purchase requisition where applicable. Obtains Department Head's endorsement and the appropriate Vice President's or Dean's authorization. The Department will also produce a memorandum summarizing the Department's investigation regarding prospective suppliers and provide reasons supporting the Department's determination that both the recommended vendor and the vendor's price are appropriate. This memorandum will accompany the documentation mentioned above when the Waiver request is submitted for approval.

For procurements over \$100,000: Prepares a draft executive summary memorandum (using the information provided by the Waiver Coordinator) a hard copy of which is to be submitted with the other documentation listed herein, and an electronic copy of which is to be submitted simultaneously to the Office of Legal Management and the Vice President of Supply Chain Management; obtains a contract/agreement from the requested vendor(s); prepares a Request for Waiver of Public Bid Form and a purchase requisition. Obtains Department Head's endorsement and the appropriate Vice President's or Dean's authorization.

Performed by:

Action Taken:

The Department will also produce a memorandum summarizing the Department's investigation regarding prospective suppliers and provide reasons supporting the Department's determination that both the recommended vendor and the vendor's price are appropriate. This memorandum will accompany the documentation mentioned above when the Waiver request is submitted for approval.

Requesting Department, Department Head, Vice President, Dean

6. Forwards the waiver request and the purchase requisition to the unit's Business Manager.

Business Manager

7. Encumbers the funds.

8. Forwards the waiver request and the purchase requisition to the Waiver Coordinator, verifying the existence and source of funding.

Waiver Coordinator

9. Reviews all documentation supplied by the **requesting** Department. Contacts the Department if information is insufficient, incomplete or incorrect and provides direction as to what must be done.

10. Once all documentation is complete and deemed acceptable and appropriate by the Waiver Coordinator, the Waiver Coordinator will forward the Waiver documentation to the Director of Purchasing Services for assignment to a buyer for processing.

Director of Purchasing Services

11. Logs-in the waiver request and assigns to a buyer.

12. Reviews the waiver request and the purchase requisition against a specific checklist of approval criteria.

13. If additional justification or clarification is required, returns the waiver request to the requesting department with copies to the Department Head, Dean and/or Vice President.

Requesting Department

14. Resubmits the revised waiver request to the assigned Buyer in Purchasing Services.

Purchasing Services Buyer

15. Reviews for corrections/clarifications and forwards the waiver request through the Director of Purchasing and to the Vice President, Supply Chain Management.

Director of Purchasing Services

16. Reviews the request against a specific checklist of approval criteria.

17. Forwards the waiver request to the Office of Legal Management for approval of form and legality.

Legal Management

18. If the waiver amount is greater than \$100,000, Legal Management will arrange to have the contract placed on the agenda of the Finance Committee and the agenda of the Board of Trustees.

Performed by:

Action Taken:

Senior Vice President for Finance

19. Upon approval by the Office of Legal Management, reviews and approves/disapproves the waiver request with copies to the Department Head, Dean and/or Vice President.

If the waiver amount is between \$50,000 and \$100,000, forwards the waiver to the Office of the President for review and approval.

Office of the President

20. Reviews and approves waivers between \$50,000 and \$100,000 and reports the approval or disapproval to the Vice President, Supply Chain Management-

21. The President shall certify that the circumstances warrant application of the exception.

Finance Committee

22. Reviews and approves all waivers and reports the approval or disapproval to the Vice President, Supply Chain Management and recommends approvals to the Board of Trustees.

Board of Trustees

23. Considers all bid waivers for approval or rejection on the recommendation of the Finance Committee for approval.

Senior Vice President for Finance

24. Upon receipt of approved/disapproved waivers from the Office of the President, Finance Committee or Board of Trustees, transmits approved waivers to the Director of Purchasing Services for distribution to the Purchasing Services Buyer, and contacts the department in the case of waivers that are disapproved by the Office of the President.

Purchasing Services Buyer

25. Processes the purchase requisition.

26. Issues a purchase order to the vendor.

27. Maintains a listing of expenditures to ensure that the approved waiver amount is not exceeded.

Director of Purchasing Services

28. Submits quarterly compliance reports to Vice President, Supply Chain Management.

Senior Vice President for Finance

29. Submits quarterly report to the Finance Committee of the Board for information.

IV. EXHIBITS

A. New Jersey State Bidding Laws

B. Request for Waiver of Public Bid Form

EXHIBIT A

NEW JERSEY STATE BIDDING LAWS

52:34-9. Subject matter making advertising unnecessary under s 52:34-8

Any such purchase, contract or agreement may be made, negotiated, or awarded when the subject matter thereof consists of:

- (a) services to be performed by the contractor personally which are (a) of a technical and professional nature, or (b) to be performed under the supervision of the Director of the Division of Purchase and Property and paid for on a time basis; or
- (b) the purchase of perishable foods or subsistence supplies; or
- (c) the lease of such office space, office machinery, specialized equipment, buildings or real property as may be required for the conduct of the State's business; or
- (d) the acquisition of any real property by gift, grant, purchase or any other lawful manner in the name of and for the use of the State for the purpose of the administration of the State's business in accordance with appropriations made therefore when moneys are required for the acquisition; or
- (e) supplies or services as to which the bid prices after advertising therefore are not reasonable or have not been independently arrived at in open competition; provided, that no negotiated purchase, contract or agreement may be entered into under the paragraph after the rejection of all bids received unless (a) notification of the intention to negotiate and reasonable opportunity to negotiate shall have been given by the Director of the Division of Purchase and Property to each responsible bidder, (b) the negotiated price is lower than the lowest rejected bid price of a responsible bidder, and (c) such negotiated price is the lowest negotiated price offered by any responsible supplier.

52:34-10. Circumstances under which advertising is unnecessary under s 52:34-8

Any such purchase, contract or agreement may be made, negotiated or awarded when:

- (a) the purchase is to be made from, or the contract to be made with, the Federal or any State Government or any agency or political subdivision thereof; or
- (b) the public exigency requires the immediate delivery of the articles or performance of the service; or
- (c) only 1 source of supply is available; or
- (d) more favorable terms can be obtained from a primary source of supply; or
- (e) articles of wearing apparel are to be purchased which are styled or seasonal in character; or
- (f) commodities traded on a national commodity exchange are to be purchased and fluctuations of the market require immediate action; or
- (g) the equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest.

EXHIBIT B

REQUEST FOR WAIVER OF PUBLIC BID FORM



University of Medicine and Dentistry of New Jersey

WAIVER #

Request for Waiver of Public Bid

Instructions: Complete all items in Part 1. Refer to Policy #00-01-55-40:00 for statutory citations

Part 1- Must be Completed by Requesting Department

1. Using Department	2. Contact Person/Phone/e-mail	
3. Suggested Vendor (Name and Address)	4. Statutory Citation	5. Delivery Date
	6. Index	7. Account
	8. Total Amount Requested	9. Requisition #

10. Provide a brief, concise summary of nature and purpose of waiver. Explain what attempts were made to obtain competition. Attach all proposals, quotation, etc. received.

Check List for Waiver Requests	Yes	N/A	14. Department Certification:
11. Is a vendor proposal (s) attached detailing the scope of work or item description, including an explanation of rates/prices?			I certify to the accuracy of the above statements and request a Waiver of Public Bid
12. Confirming/Unauthorized Waiver?			Signature of Requestor Date
13. Have goods or services been received/performed? If yes, provide a justification signed by Department Head.			Signature of Department Head Date