

3.0 APPLICABILITY

A. General Applicability

These rules apply to all *goods* and *services* procured by and through the University regardless of funding source. For the avoidance of doubt, these rules do not apply to transactions where University funds are not expended nor to contracts that are solely *revenue producing*.

B. Exclusions

The following situations are excluded from the competitive *procurement* requirements included in these rules. Other than as mentioned in item 7 below, purchases using Sponsored Program Funds and Research Funds are not subject to this Exclusions section:

1. The *procurement* is for a *construction contract* as delegated from State Buildings to the Office of Planning and Construction.
2. The *procurement* is between the University and a *public entity* including any agency of a federal, state, county or municipal government, a school district or other special district.
3. The *procurement* is for *services* provided by architects, engineers, landscape architects, industrial hygienists or land surveyors. (See C.R.S. § § 24-30-1401 through 24-30-1407).
4. The *procurement* is for specialized professional *services* for speaking engagements or teaching or research *services*.
5. The *procurement* is for contracts and expenditures for litigation or other legal expenses, including experts, mediators, court reporters, process servers, witness fees, and attorney *services*.
6. The *procurement* is for a vendor's item procured for *resale*.
7. The *procurement of goods or services* from a specific vendor has been approved in advance by the contracts or grants officer and is necessary to comply with the specific terms and conditions of a sponsored project grant or *contract*.
8. The *procurement* is for the lease, sale, purchase, transfer, disposal or any other transaction involving an interest in real property.
9. The *procurement* is for an employment *contract*.
10. The *procurement* is for insurance policies for the University and its employees.
11. The *procurement* is for a defined contribution plan administrator and/or record keeper.
12. The *procurement* is for travel related expense (e.g., airfare, accommodations, conference events, charter transportation).
13. The *procurement* is for a publicly regulated utility (e.g., water, electricity, natural gas).
14. The *procurement* is for fuel.
15. The *procurement* is for display, performance, or use of work of art, works of entertainment, literary works, magazine subscriptions, museum collections, music, film, or other copyrighted materials specific to the purpose of the procuring department.
16. The *procurement* is for library collections in all formats, including books, periodicals, serials, electronic resources, multimedia/streaming video, etc.

17. The *procurement* is for advertising such as in a newspaper, magazine, television commercial, radio advertisement, outdoor advertising, indoor display, social media, or other media outlet where the University brand or programs are being advertised to a specific consumer segment.
18. The *procurement* is for **used or pre-owned** equipment or vehicles, provided that the *purchasing agent* has determined that competition is not practical or would not be advantageous to the University. Such purchases require cost or price analysis, certificate of working order and warranty unless waived by the Risk Manager and Director, Business Operations.
19. The *procurement* is for component parts that are specific to existing equipment, software that is specific to existing equipment, or maintenance that can only be provided by the manufacture of the existing equipment.
20. The *procurement* is for dues and/or memberships.
21. The *procurement* is for tuition, registration, or fees charged for trainings, classes, conferences and seminars.
22. The *procurement* is for software license renewals, software maintenance, and upgrades to existing software used by the University.

Notwithstanding the foregoing exceptions from formal competition, the *purchasing agent* may require a reasonable method of competition, price or value comparison, or negotiation in order to assure that (i) the *goods* or *services* to be obtained will reasonably meet the University's bona fide requirements; (ii) the award of University business to a vendor or contractor is fair to all concerned; and (iii) known or perceived conflicts of interest are avoided or mitigated in accordance with applicable laws.

C. **Waiver Process**

The Risk Manager and Director, Business Operations, in his or her sole discretion, may grant the request of a waiver, allowing procurement rule(s) to be waived in special circumstances. The waiver request shall include evidence that due diligence was exercised in receiving the best deal for the University and provides a benefit to the University at least equal to the cost and risk of not conducting a solicitation. The Risk Manager and Director, Business Operations must ensure there is no evidence that waiving the rule(s) will allow for any unethical conduct or undue preference to a specific vendor(s).