

OREGON INSTITUTE OF TECHNOLOGY

DIVISION 61

PROCUREMENT AND CONTRACTING CODE

580-061-0000

Code of Ethics

(1) The following Code of Ethics will apply to Oregon Institute of Technology employees in relation to chapter 580, divisions 60, 61, 62, and 63 of the University policy. Employees will:

- (a) Give first consideration to the objectives and policies of the Board and the University;
- (b) Strive to obtain the best value for expenditures;
- (c) Fairly consider prospective Contractors insofar as state or federal statutes and University rules and policies require;
- (d) Conduct business in an atmosphere of good faith;
- (e) Demand honesty in representations made by prospective Contractors;
- (f) Promote competition by encouraging the participation of Oregon businesses, emerging small and minority-owned and women-owned businesses, and Qualified Rehabilitation Facilities;
- (g) Comply with the applicable provisions of ORS Chapter 244 and other applicable rules and policies on conflict of interest that may be more restrictive;
- (h) Refrain from having financial interests incompatible with the impartial, objective, and effective performance of duties. Activities that may create a conflict of interest must be addressed in accordance with the procedures outlined in the Oregon Institute of Technology's internal management directives and other applicable rules and policies;
- (i) Receive the written consent of the originator of proprietary ideas and designs before using them; and
- (j) Foster fair, ethical, and legal trade practices.
- (k) Execute the Oregon Institute of Technology Conflict of Interest Statement before any person may participate in the evaluation or selection of a Contractor or vendor under a Formal Procurement process.
- (l) On an annual basis, sign a statement that the employee has reviewed and will comply with the Oregon Institute of Technology Code of Ethics.

(2) This code is for the Oregon Institute of Technology's internal use only and creates no obligations enforceable by Contractors, Proposers, Bidders, or other parties doing business with the University, nor may it be used by Contractors, Proposers, Bidders or other parties doing business with the University who are challenging actions taken by the University or o-22j-0.-3.4 (h)2.3 n(i)-3.3 (n)-0.7e

(10) "Contract Officer" means the Vice President for Finance and Administration or his or her designee at the University with the authority to negotiate and execute Contracts.

(11) "Contract Price" means, as the context requires, the maximum monetary obligation that the University either will or may incur under a Contract, including bonuses, incentives and contingency amounts, Addenda, Change Orders, or approved alternates, if the Contractor fully performs under the Contract.

(12) "Contractor" means the Entity awarded a Contract to furnish a University goods, services, or Work.

(13) "Days" means calendar days, including weekdays, weekends, and holidays, unless otherwise specified.

(14) "Disadvantaged Business Enterprise" means a small business concern as defined in ORS 200.005.

(15) "Disqualification" or "Disqualify" means the preclusion of an Entity from contracting with an agency of the State of Oregon in accordance with chapter 580, division 061, section 0160 of the University policy.

(16) "Electronic Solicitation Response" means a response to a Solicitation Document submitted to the University via the World Wide Web or some other internet protocol.

(17) "Emergency" means an unexpected, serious situation that creates a significant risk of loss, damage, interruption of service, or threat to the public health or safety that requires prompt action to remedy the condition.

(18) "Emerging Small Business" means an Emerging Small Business as defined in ORS 200.005 and that maintains a current certification issued by the Oregon Department of Consumer and Business Services.

(19) "Entity" means a natural person capable of being legally bound, sole proprietorship, corporation,

(c) "Grant"

(35) "University" means the Oregon Institute of Technology under the authority of the Board.

(36) "Public Work" is defined by the Bureau of Labor and Industries (BOLI) in ORS 279C.800(6).

(37) "Qualified Rehabilitation Facility" means a nonprofit activity center or rehabilitation facility authorized by the Oregon Department of Administrative Services to provide goods or services in accordance with ORS 279.835 et seq.

(38) "Request for Information" (RFI) means a Solicitation Document seeking information regarding products or services that the University is interested in procuring.

(39) "Request for Proposals" (RFP) means a Solicitation Document to obtain competitive Proposals to be used as a basis for making an acquisition or entering into a Contract when price will not necessarily be the predominant award criteria.

(40) "Request for Qualifications" means a Solicitation Document issued by the University to which interested Contractors respond in writing by describing their experience with and qualifications to provide the services described in the Solicitation Document.

(41) "Request for Quotes" (RFQ) means a Solicitation Document to obtain competitive quotes to be used as a basis for making an acquisition or entering into a Contract when best value will be the award

(49) "Solicitation Response" means a binding offer submitted in response to a Solicitation Document.

(50) "Specifications" means a description of the physical or functional characteristics, or of the nature of the goods or services, including any requirement for inspecting, testing, or preparing the goods or services for delivery and the quantities or qualities of the goods or services to be furnished under a Contract. Specifications generally will state the result to be obtained and may describe the method and manner of performance.

(51) "Women Business Enterprise" means a Women Business Enterprise as defined in ORS 200.005 and that maintains a current certification issued by the Oregon Department of Consumer and Business Services.

(52) "Work" means the furnishing of all materials, equipment, labor, transportation, services, and incidentals necessary to successfully complete any individual item or the entire Contract and carrying out and completion of all duties and obligations imposed by the Contract.

(53) "Written" or "Writing" means letters, characters, and symbols inscribed on paper by hand, print, type, or other method of impression intended to represent or convey particular ideas or means. "Written" or "Writing," when required or permitted by law, or required or permitted in a Solicitation Document, also means letters, characters, and symbols made in electronic form and intended to represent or convey particular ideas or meanings.

580-061-0015

Purchasing and Contract Records

(1) The University will maintain records relating to all University purchasing and contracting transactions in accordance with the requirements of the Secretary of State and its own internal University policy.

(2) Documentation of all purchasing and contracting transactions will be made available for inspection by the public as outlined in applicable public records laws.

(3) The University will maintain records relating to all University purchasing and contracting transactions that may include:

(a) An executed Contract and any amendments or Change Orders;

(b) The record of the actions used to develop the Contract;

(c) A copy of the Solicitation Document, if any;

(d) Any required findings or statement of justification for the selection of the Contractor or the procurement method used;

(e) The record of any negotiation of the Specifications, the Work, the Contract Price and related Contract terms;

(f) All information describing how the Contractor was selected, including the basis for awarding the Contract;

(g) The names of Entities and cost estimates considered.

580-061-0020

Designation of Contract Officers

The University Vice President for Finance and Administration will designate staff authorized to enter into Contracts and Public Improvement Contracts for the University.

(1) The University will maintain a list identifying Contract Officers and describing the types and Contract Price of Contracts and Public Improvement Contracts they are authorized to enter into. The University will provide an updated list annually to the Board. The Vice President for Finance and Administration may designate staff authorized to enter into Contracts and Public Improvement Contracts on behalf of the University.

(2) Contracts or Public Improvement Contracts entered into by individuals not designated as authorized Contract Officers and unauthorized procurements or expenditures that do not follow the Procurement and Contracting Code will be voidable at the sole discretion of the University. The University may take appropriate actio2 (h)-4.7 (47 (o)-0.008 Tw 0.2170 Tc .002 Tc 0 Tw -28.17.01 T5.9 (hEB 0 Tw EJ-0-3.3 (t)--3 (v)5u (p)-0.7 (

Business, unless otherwise provided, by fully completing the information set out on the Oregon public universities procurement website. The University is encouraged to unbundle contracts, when appropriate, to expand contract opportunities for Historically Underrepresented Businesses and Oregon-based businesses.

(2) The University will not knowingly contract with or procure goods or services from any Entity that discriminates on the basis of age, disability, national origin, race, marital status, religion, sex, or sexual orientation.

(3) Offerors will certify, as part of the Solicitation Response that such Offeror has not discriminated against Historically Underrepresented Businesses in obtaining any required subcontracts.

(4) The University will comply with the Equity Contracting and Purchasing Policy and Data Reporting Procedures.

580-061-0035

Emerging Small Business Program

(1) The Board encourages participation of Emerging Small Businesses by creating an Emerging Small Business Program.

The Emerging Small Business Program is limited to businesses that meet the definition in DRS 200.005(3) and that maintain a current certification issued by the State of Oregon. When conducting procurements, the University may implement the Emerging Small Business Program by methods including, but not limited to:

(a) Priority of Contract Award. In the event of a tie low Bid, when price is the sale determinative factor, give priority to a certified Emerging Small Business;

(b) Exclusive Emerging Small Business Opportunities. The University has the authority to create opportunities that are only open to certified Emerging Small Businesses. When the University issues a I Busu(Td{rt)-(t)-6 (

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All Entities that wish to contract with the University will be notified on the Oregon public universities procurement website that the Board has adopted policies applicable to Contractors that prohibit sexual harassment and that the Contractor's company and employees are required to adhere to the University's policy prohibiting sexual harassment in their interactions with members of the University's community.

“Contractors will use recycled products, as defined in ORS 279A.010(1)(ii), to the maximum extent economically feasible in the performance of the Contract.”

580-061 -0060

Basis for Awarding Contracts

The University will select Contractors and award Contracts based on such factors as are identified in the Solicitation Document and such other factors as are reasonable under the circumstances.

580-061-0065

Contract Amendments (Including Change Orders and Extra Work) and Expired Contracts

An amendment for additional Work or goods that is reasonably related to the scope of Work under th1 r3 (f(o)7.3)3.2 (t

(1) The University may authorize submission of Solicitation Responses through facsimile or electronic methods.

(2) If the Solicitation Response is in response to an RFP or ITB and the Solicitation Document permits submission via electronic means, the University must establish a method of receiving, identifying, recording, and preserving the "Sealed" requirement of the Formal Procurement.

(3) Solicitation Responses submitted through facsimile and electronic methods must contain Written signatures indicating intent to be bound by the offer.

(4) The University may execute or open electronic submissions to verify receipt of documents prior to the Closing, but will not verify responsiveness of Solicitation Responses.

580-061-0080

Solicitation Response Submissions

(1) Identification of Solicitation Responses. To ensure proper identification and special handling, if any, Offeror must appropriately mark its Written Solicitation Response. The University will not be responsible for the proper identification and handling of Solicitation Responses not submitted in the designated manner or format as required in the Solicitation Document.

(2) Receipt of Solicitation Responses. It is the Offeror's responsibility to ensure that Solicitation Responses are received by the University at the required delivery point, prior to the Closing as indicated in the Solicitation Document, regardless of the method used to submit or transmit the Solicitation Response.

580-061-0085

Pre-Solicitation Response Conferences

(1) Pre-Solicitation Response conferences may be scheduled. Each pre- Solicitation Response conference will be described in the Solicitation Document as "voluntary" or "mandatory." If such a conference is designated as "mandatory," an Offeror must attend in order to submit a Solicitation Response.

(2) If the Offeror is an individual, the Offeror may authorize a representative other than himself/herself to attend the pre-Solicitation Response conference.

(3) Statements made the university representatives at the pre-Solicitation Response conference will not be binding unless a Written Addendum to the Solicitation Document is issued.

580-061-0090

Offer Security

Solicitation Document (or the place of Closing if no location is specified), and received by the university prior to the Closing. The Offeror, or authorized representative of the Offeror, may also withdraw its Solicitation Response in person prior to the Closing, upon presentation of appropriate identification and evidence of authority satisfactory to the University.

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(a) The university, in its sole discretion, may waive or permit an Offeror to correct a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the Solicitation Response or an insignificant mistake that can be waived or corrected without prejudice to other Offerors. Examples of minor informalities include an Offeror's failure to:

(A) Return the correct number of Signed Solicitation Responses or the correct number of other documents required by the Solicitation Document; or

(B) Sign the Solicitation Response in the designated block, provided a Signature appears elsewhere in the Solicitation Response, evidencing an intent to be bound; or

(C) Acknowledge receipt of the Solicitation Response.

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- (e) Is late; or
 - (f) Is not in substantial compliance with the Solicitation Document; or
 - (g) Is not in substantial compliance with all prescribed solicitation procedures; or
 - (h) Does not include the Solicitation Response security as required by the Solicitation Document; or
 - (i) Does not include an executed certification of non-discrimination in compliance with chapter 580, division 061, section 0030 and compliance with Oregon tax laws.
- (3) The University may reject an Offeror upon the University's findings that include, but are not limited to, the Offeror:
- (a) Has not met any required mandatory prequalification;
 - (b) Has been disqualified pursuant to OAR 137-046-0210(3) (Disadvantaged Business Enterprise Disqualification);
 - (c) Has not met the requirements of the Emerging Small Business Program created in chapter 580, division 061, section 0035 of the University policy, if required in the Solicitation Document.
 - (d) That has been debarred in accordance with ORS 279B.130 or 279C.440;
 - (e) Has been declared ineligible by the Commissioner of Bureau of Labor and Industries under ORS 279C.860;
 - (f) Has within the last five years been found, in a civil, criminal, or administrative proceeding, to have committed or engaged in fraud, misrepresentation, price-rigging, unlawful anti-competitive conduct, or similar behavior;
 - (g) Is non-Responsible. Offerors are required to demonstrate their ability to perform satisfactorily under a Contract. Before Awarding a Contract, the University must have information that indicates that the Offeror-

(E) If the Offeror has supplied all necessary information in connection with the inquiry concerning Responsibility. If the Offeror fails to promptly supply information requested by the University concerning responsibility, the University may base the determination of responsibility upon any available information or may find the Offeror non-Responsible.

(4) Form of Business Entity. For purposes of this rule, the University may investigate any Entity submitting a Solicitation Response. The investigation may include the Entity's officers, directors, owners, affiliates, or any other person acquiring ownership of the Entity to determine application of this rule.

(5) Notice. If an Offeror or a Solicitation Response is rejected in accordance with this rule, the University will provide written notice of such rejection to the Offeror. The notice will include the grounds for rejection and a statement of the Offeror's appeal rights and applicable appeal deadlines. If an Offeror wishes to appeal the decision to reject the Offeror or Solicitation Response, the Offeror must notify the University, in Writing, within seven (7) Days after receipt of the notification.

580-061-0135

Rejection of All Solicitation Responses

Rejection. The University may reject all Bids or Proposals whenever the University finds it is in the University's best interest to do so.

580-061-0140

Disposition of Solicitation Responses if Solicitation Cancelled

(c) The rejection of a Solicitation Response, unless notice of rejection has been previously provided under chapter 580, division 061, section 0130(5) of the University policy:

(d) The content of a Solicitation Document;

(e) The selection of one or more Contractors. A protest may be submitted only by an Entity that can demonstrate that it h

The Vice President for Finance and Administration, or designee will issue a Written final agency order of the protest in a timely manner. If the protest is upheld, in whole or in part, the university may, in its sole discretion, either Award the Contract to the successful protestor or cancel the procurement or solicitation. Contract Award may be made prior to issuance of the final agency order if authorized by the Vice President for Finance and Administration, or their designee.

(9) Judicial Review. Judicial review of the University's decision relating to a Contract Award protest will be available pursuant to the provisions of ORS 183.480 et seq.

580-061-0150

Right to Inspect Plant

The University may, at reasonable times, inspect the part of the plant or place of business of a Contractor or any subcontractor that is related to the performance of any prospective Contract or Awarded Contract.

580-061-0155

Invitation to Bid and Request Proposal Negotiations

(1) The University may negotiate with the lowest-cost Bidders after determining that that the Bids are Responsive and from Responsible Bidders.

(2) The University may, if it has given notice in the Solicitation Document, commence negotiations in accordance with sections (3) and (4) of this rule with Proposers in the competitive range. For purposes of this rule "competitive range" means the highest-ranked Proposers based on evaluating all Responsive Proposals in accordance with the evaluation criteria set forth in the Solicitation Document.

(3) If the University chooses to enter into discussions with and receive best and final P

or any other offense indicating a lack of business integrity or business honesty that currently, seriously, and directly affects the person's responsibility for the Entity;

(c) A primary employee of the Entity has been convicted under state or federal antitrust statutes;

(d) A primary employee of the Entity has committed a violation of a contract provision that is regarded by the University or the Construction Contractors Board to be so serious as to justify disqualification. A violation may include, but is not limited to, a failure to perform the terms of a contract or an unsatisfactory performance in accordance with the terms of the contract. However, a failure to perform or an unsatisfactory performance caused by acts beyond the control of the Entity may not be considered to be a basis for disqualification;

(e) The Entity does not carry workers' compensation or unemployment insurance as required by statute.

(3) The University 544 (1) 30289.30-1m-9.00311 (m) 6) 47 DMH 3W) 10.6 (b) 6.62 (b) 26.62 (7) (a) 2.38 973 (4) ETj-1(3 (an