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Purpose

The purpose of this procedure is to define Florida State College at Jacksonville (FSCJ/College) federally funded purchase and contracting procedures for goods and services in order to ensure compliance with the Code of Federal Regulations, 2CFR, Title 2, Part 200 (2CFR).

Procedure

The College's Procedures for federal purchases are required to comply with 2 CFR, as well as State of Florida Statutes, State Board of Education Rules, and FSCJ District Board of Trustee (DBOT) Rules. Additional resources for purchasing with federal funds can be found on the Purchasing Department's [Federal Purchases](#) website.

A. How to apply 2 CFR and FSCJ purchasing procedures:

1. All purchases will adhere to FSCJ procedures except when federal procedures conflict with FSCJ procedures. If federal procedures are more restrictive than FSCJ procedures, federal procedures will be used. For federal purchases where FSCJ procedures are more restrictive than federal procedures, then FSCJ procedures will be used. In all cases, limitations noted in federal procedures will be met or exceeded.
2. College and Purchasing staff are encouraged to utilize governmental public cooperative agreements pursuant to Florida Statutes and federal 2 CFR compliant terms and conditions included in the agreement, as long as said agreements are not in conflict with 2 CFR.
3. The following table incorporates both FSCJ and federal thresholds and associated procedures:

FSCJ and Federal* Dollar Thresholds	FSCJ College Procedure for Non-Federal Purchases
\$0 - \$7,499.99	Should seek best price. One (1) written quote is required.
\$7,500 to \$19,999.99	Should seek best price. Two (2) written quotes are required.
\$20,000-\$64,999.99	Should seek best price. Three (3) written quotes are required.
\$65,000 or over	Formal Public Solicitation.
\$325,000 or over	FSCJ DBOT approval is required to solicit and enter into negotiations with awarded supplier.

*State exemptions for competitive bidding are not recognized for federal purchases, but 2 CFR does recognize the use of cooperative agreements and sole source purchases.



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B. 2 CFR requires the following contractual provisions based on the value and type of contracts that are federally funded. The provisions are summarized in the chart and then detailed in Sections C-1 through C-11.

Provision	Contract Threshold	Notes
1. Rights to inventions made under contract or agreement	All	For research and development contracts
2. Energy efficiency	All	Must comply with the Energy Policy and Conservation Act
3. Debarment and suspension	All	Must ensure that no contracts are awarded to parties listed on the Exclusion Extract on SAM.gov
4. Procurement of recovered materials	\$10,000	Applicable for state and local governments
5. Termination for cause and convenience	\$10,000	Must include basis of settlement and effects of termination
6. Equal employment opportunity	All construction contracts	References 41 CFR Part 60-1.3
7. Davis-Bacon Act	\$2,000 (Construction contracts when required by law)	Must include Copeland "Anti-Kickback" Act
8. Contract Work Hours and Safety Standards Act	\$100,000 (Contracts involving mechanics or laborers)	Does not apply to the purchases of supplied or materials ordinarily available on the open market
9. Byrd Anti-Lobbying Amendment	\$100,000	Contracts must file a certification
10. Breach of Contract	Simplified acquisition threshold	Must identify sanctions and penalties
11. Clean Air Act and Federal Water Pollution Control Act	Simplified acquisition threshold	Should include statement that violations will be reported to federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA)

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C. Summary of Contractual Federal Provisions:

1. Rights to inventions made under a contract or agreement - The College will incorporate language to require any sub-recipient to a research and development federal funding agreement to comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements." Additional language may be added by the College to reflect implementing regulations issued by the awarding agency.
2. Energy efficiency - The College will incorporate language in funding agreements with sub-recipients and contractors to agree to adhere to mandatory standards and policies relating to the Energy Policy and Conservation Act (42 USC. 6201).
3. Debarment and suspension - College purchasing will verify that federal suppliers have not been debarred or suspended by verifying those federal suppliers are not listed in the Excluded Parties List System in the System for Award Management (SAM). Compliance is documented as part of the expenditure support regardless of payment type. The purchasing department is responsible to verify that suppliers have not been debarred or suspended prior to their signatory approval (if it has not already been done and is documented in the backup support for the expenditure).
4. Procurement of recovered materials - The College is required, when applicable, to procure designated items composed of the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. This applies only to federal grant purchases where the College purchases \$10,000 or more worth of the same or similar items during the course of the fiscal year or where the cost of such items or of functionally equivalent items purchased during the preceding year was \$10,000 or more.
5. Termination for cause and convenience - College staff will ensure that all contracts in excess of \$10,000 will address termination for cause and convenience by the College including the manner by which termination will be effected and the basis for settlement.
6. Equal Employment Opportunity - Purchasing staff will ensure that the following Equal Employment Opportunity clause will be incorporated into all federally assisted construction contracts. During the performance of this contract, the contractors agrees to adhere to the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
7. Davis-Bacon Act - When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 USC. 3141-3144 and 3146-3148) as supplemented by Department of



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Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). The contracts must also include a provision for Compliance with the Copeland "Anti-Kickback" Act (40 USC 3145) as supplemented by Department of Labor regulations 29 CFR Part 3. The Purchasing department will ensure that these provisions requiring contractor compliance are written into applicable contracts, that all solicitations for this type of resulting contract will have a copy of the current prevailing wage determination from the Department of Labor, and that any College decision to award a contract must be conditioned upon the acceptance of the wage determination.

8. Contract Work Hours and Safety Standards Act (40 USC 3701-3708)
 - a. Where applicable, all contracts awarded by the College in excess of \$100,000 that involve the employment of mechanics or laborers will include a provision for compliance with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Purchasing or grants development staff will ensure that these provisions, as appropriate, will be incorporated into contracts or sub-grants and that the College enters into meeting these conditions.
 - b. Under 40 USC 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half (1 ½) times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 hours USC 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.
 - c. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
9. Byrd Anti-Lobbying Amendment - Purchasing or grants development staff will ensure that contractors that apply or bid for an award of \$100,000 or more will file the required certification as part of their bid response. The College will disclose any lobbying activity that it has knowledge of to the granting entity.
10. Breach of contract - For contracts and sub-grants for more than the simplified acquisition threshold that is currently set at \$150,000, purchasing or grants development staff will ensure that administrative, contractual or legal remedies such as sanctions are built into contracts in the event that contractors violate or breach contract terms.
11. Clean Air Act - Purchasing or grants development staff will ensure that contracts and sub-grants of amounts in excess of the Federal Simplified Acquisition Threshold will contain a provision that requires the non-Federal awardee/contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC 1251-1387). Violations will be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).



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REFERENCES: Federal Register Part III Office of Management and Budgets, 2 CFR Chapter II Part 200, § 317-326, 29 CFR Part 3, CFR Part 5, 37 CFR Part 401, 41 CFR Part 60 1.3, 1.4(b), 41 CFR Part 60, 40 USC 3702 and 3704, Clean Air Act (42 USC 7401-7671q), Contract Work Hours and Safety Standards Act (40 USC 3701-3708), Copeland “Anti-Kickback” Act, Davis Bacon Act (40 USC. 3141-3144 and 3146-3148), Energy Policy and Conservation Act (42 USC. 6201), Executive Order 11246 “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), Executive Order 11375, Federal Water Pollution Control Act, as amended (33 USC 1251-1387), F.S. 237.02, SBE Rule 6A-14.734

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