



COLLEGE OF CHARLESTON POLICY AND PROCEDURE

Number & Title: 3.3.1.1. Authority to
Contract

Originated: 12/01/09

Owner: Procurement

Reviewed:
Revised:

1.0 Introduction:

This Policy Statement sets forth the nature and extent of the contracting authority of the College of Charleston and how it may be exercised. This Policy Statement applies whenever the College is party to a Contract. The term "Contract" means all types of agreements (regardless of what they may be called) for the procurement or disposal of supplies, services, information technology or construction. Contracts include and may be referred to as an Agreement, Grant, Cooperative Agreement, Lease, License, Memorandum of Understanding or Memorandum of Agreement, purchase order, a consulting or other revenue-generating agreement, operational or program agreements, and contractor/vendor agreements, whether verbal or written. Types of contracts include, but are not limited to: Affiliation, Barter/Trade, Combination (Multi-Purpose), Sponsored Project Agreement, and Sponsorship.

Certain conditions and requirements apply to all College Contracts regardless of the source of the money that will be used to pay for the procurement. These conditions and requirements are necessary to appropriately accomplish the Contract's designated business purpose while mitigating associated legal risks to the College and complying with state and/or federal law.

2.0 Purpose:

To identify those officials or employees of the College of Charleston who are authorized to execute Contracts on behalf of the College and to describe the procedure for the review and approval of Contracts prior to execution.

3.0 Applies To:

This Policy must be followed by all faculty, staff and employees and is applicable to all College Contracts including, but not limited to, those associated with student organizations.

4.0 REQUIREMENTS:

No faculty member, staff member or student of the College of Charleston shall sign any Contract, or make any other agreement, intending to legally bind the College to do something, or refrain from doing something, unless such an individual has been delegated, in writing, the authority to execute that type of Contract, for the dollar amount of the contemplated transaction, on behalf of the College. A person's authority to execute a Contract on behalf of the College must occur in advance of that person's execution of the Contract. Delegations are granted in accordance with the South Carolina Consolidated Procurement Code and through a grant of authority from the College Board of Trustees to the President. That authority is exercised as follows:

Except as provided in Section D. below, the President, Executive Vice President for Business Affairs, Director of Procurement, and designated Procurement Officers are the only persons authorized to bind the College to any Contract. In addition, the Senior Vice President for Legal Affairs may sign agreements, under authority from the South Carolina Attorney General, to procure the services of outside legal counsel. The College of Charleston Procurement Office is the central authority for the procurement of goods and services required by any College department or operating unit. Unless specifically exempted, or excluded, as provided for in Sections C and D of the Procedures specified below, all procurements must be made in accordance with the South Carolina Consolidated Procurement Code, rules and regulations, and those College policies prescribed by the Director of Procurement. Such College Policies include, but are not limited to, the *Purchasing Card Manual* and the *Procurement Services and Supply Manual* (collectively referred to herein as "College Procurement Policies") (see <http://spinner.cofc.edu/~procure/?referrer=webcluster&>).

In all events and regardless of the position of the employee, the authority to sign Contracts does not permit the holder of that authority any right to violate or improperly circumvent any provision of the South Carolina Consolidated Procurement Code, or rules and regulations promulgated under that statute.

ANY CONTRACT SIGNED BY AN INDIVIDUAL WITHOUT DULY DELEGATED AUTHORITY SHALL NOT BE BINDING UPON THE COLLEGE AND MAY RESULT IN PERSONAL LIABILITY FOR THE INDIVIDUAL SIGNING.

5.0 Procedure:

A. Purchasing Authority

The Division of General Services of the South Carolina Budget and Control Board has certified and delegated to the College of Charleston the authority to make direct purchases of up to \$300,000 for goods and services, including consultant services; and up to \$200,000 for information technology equipment and services. The Certification also allows for direct purchases of up to \$50,000 for construction services. Purchases above these amounts are made by the South Carolina Division of General Services or the Office of the State Engineer (if for construction services) in the State's Materials Management Office. Information technology requirements above the delegated threshold are made by the State's Information Technology Management Office.

B. Required Reviews by Executive Vice President of Business Affairs and Senior Vice President for Legal Affairs

All of the following purchasing actions must receive legal review by the Senior Vice President for Legal Affairs and the approval of the Executive Vice President of Business Affairs prior to execution:

1. College expenditures of \$50,000 or more for the acquisition of goods or services, construction, repair, or alteration of facilities, or for architectural and/or engineering services;
2. Contracts that involve real property, including all actions for the purchase, sale, rental, lease or license of real property;
3. Contracts that involve the intellectual property of the College (e.g. use or licensing of innovations, patents, trademarks, and copyrights);
4. Contracts involving employee benefit programs;
5. Contracts that are intended for the President's signature, or that affect the President or the Office of the President, other than Contracts of a routine nature required in the normal course of business operations (e.g. office supplies and equipment);
6. Contracts that can potentially expose the College to significant liability even though there is no direct expenditure of funds; and,
7. Contracts that are determined by an Executive Vice President or the Senior Vice President of Legal Affairs, in the exercise of their discretion, to require review, whether on an exceptional basis or by category of supplies or services being procured.

C. Procurement Exclusions

Any procurement where the total, cumulative value of the goods or services is \$2,500 or less and a purchasing card is used shall be exempt from all College Procurement Policies except the Purchasing Card Manual.

The following procurements are exempt from the application of the South Carolina Consolidated Procurement Code and from all College Procurement Policies:

1. Agreements between two or more units, divisions or departments of the College.
2. Procurements made with certain Federal funds, but only to the extent provided for in S.C. Code Ann. §11- 35-40(3).
3. Gifts and the issuance of grants¹ and scholarships by the College.
4. Other supplies or services as may, from time to time, be exempted under the Procurement Code and College Procurement Policies.

Notwithstanding the exclusion described in the first sentence of this Section C. (dealing with Contracts of \$2,500 or less), the Office of Procurement reserves the right to review any Contract, on a case by case basis, regardless of the dollar amount.²

D. Specific Exemptions from Central Purchasing Authority

The supplies and services listed below may be made by the employee who is serving in the position listed next to each item:

- Copyrighted Print and Non-Print Library Materials (Dean of Libraries)
- Travel, under Travel Authorization (Controller)
- Bookstore Resale Items (Bookstore Contractor)
- Campus Shops Resale Items (Shop Manager)
- Classified and Unclassified Employee Costs (Director of Human Resources)
- Construction/Permanent Improvement Projects (Director of Physical Plant)
- Acquisition/Disposal of Land and/or Buildings (Vice President of Facilities Planning)
- Architectural and Engineering Services related to a Permanent Improvement Project (Vice President of Facilities Planning)
- Real Property Leases through State Real Property Management (Vice President of Facilities Planning or Director of Auxiliary Services)

¹ College purchases from third parties financed with internal grants from one College unit to another College unit are subject to the South Carolina Consolidated Procurement Code and College Procurement Policies.

² While the South Carolina Consolidated Procurement Code is inapplicable to certain other types of procurements regardless of value, the College has nevertheless elected to make those procurements subject to College Procurement Policies in order to maintain adequate internal controls on the expenditure of College funds.

E. Contract Execution and Monitoring

Contract form, content, and monitoring must comply with the South Carolina Consolidated Procurement Code and rules and regulations promulgated under that statute. The Contract execution process must include a business review to determine the appropriateness of the acquisition and a procurement review to assess risk and compliance with controlling regulations. In addition, as indicated under Section B., certain types of Contracts may also require a prior legal review.

6.0 Responsibility:

The Director of Procurement and Supply shall be responsible for the periodic review and maintenance of this Policy. Such reviews shall take place no less frequently than once during each three year period.

This Policy and Procedure may be amended at anytime in accordance with the Colleges *Campus Wide Policy Making Procedures*.
