



OFFICE OF THE BOARD OF TRUSTEES

## **Public Meeting Notice**

August 10, 2018

**TO:** Southern Oregon University Board of Trustees, Finance and Administration Committee

**FROM:** Sabrina Prud'homme, University Board Secretary

**RE:** Notice of Special Meeting of the Finance and Administration Committee

The Finance and Administration Committee of the Board of Trustees of Southern Oregon University will hold a special meeting on the date and at the location set forth below.

The topic of the meeting is a request to conduct a special procurement for engineering services related to the university's boiler replacement project.

The meeting will occur as follows:

Wednesday, August 15, 2018

3:00 p.m. to 3:30 p.m. (or until business concludes)

Hannon Library, DeBoer Room, 3<sup>rd</sup> Floor, Room #303

Meeting materials are available on the board's website: [governance.sou.edu](http://governance.sou.edu)

The Hannon Library is located at 1290 Ashland Street, on the Ashland campus of Southern Oregon University. If special accommodations are required or to sign-up in advance for public comment, please contact the Office of the Board of Trustees at (541) 552-8055 at least 48 hours in advance.



**Board of Trustees  
Finance and Administration Committee Special Meeting**

**Wednesday, August 15, 2018  
3:00 p.m. – 3:30 p.m. (or until business concludes)  
DeBoer Room, Hannon Library**

**AGENDA**

Persons wishing to participate during the public comment period shall sign up at the meeting.  
Please note: times are approximate and items may be taken out of order.

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|----------|--|--|
| <b>1</b> | <b>Call to Order/Roll/Declaration of a Quorum</b>          | Trustee Vincent  |
| 1.1      | Welcome and Opening Remarks                                |  |
| 1.2      | Roll and Declaration of a Quorum                           | Sabrina Prud'homme,<br>SOU, Board Secretary                              |
| 1.3      | Agenda Review  | Trustee Vincent  |
| <b>2</b> | <b>Public Comment</b>                                      |  |
| 25 min.  | <b>3 Action Item</b>                                       |  |
| 3.1      | Request for Authorization to Conduct a Special Procurement | Greg Perkinson, SOU,<br>Vice President for Finance<br>and Administration |
| <b>4</b> | <b>Adjournment</b>   | Trustee Vincent  |

Policy Title:	Purchasing and Contracts for Personal or Professional Services and Goods and Services
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Governing Body:	Southern Oregon University	Policy Number:	FAD.058 (580-062)
Policy Contact:	Vice President for Finance & Administration	Date Revised:	July 2015
Custodial Office:	Finance & Administration	Date Approved:	July 2015
Approved By:	President	Next Review:	July 2019
Related Policy:	Policy 580-061, 580-063		

#### Revision History

Revision Number:	Change:	Date:
-	Initial version	July 2015
1	Revision	July 2016

#### A. Purpose

This policy codifies and revises as Southern Oregon University Policy the rules previously adopted by the State Board of Higher Education at Oregon Administrative Rule 580, Division 062 and transferred to SOU by operation of law on July 1, 2015.

#### B. Definitions

##### **Division 62, 580-062-0000 Definitions**

All capitalized terms in chapter 580, Division 62 have the meanings set forth in 580-061-0010 (Procurement and Contracting Code) unless the context requires otherwise or except as stated.

#### C. Policy Statement

##### **A. Division 62, 580-062-0005 Procurement and Contracting Procedures**

The procedures set out in 580-061-0000 through 580-061-0160 (Procurement and Contracting Code) will be used for the procurement of personal or professional services or goods and services.

##### **B. Division 62, 580-062-0010 Procurement Card**

The President's Office may maintain procurement card services for the benefit of the university. The Controller's Office will publish policies governing use of the procurement card.

### **C. Division 62, 580-062-0015 Personal/Professional Services, Goods, and Services Contract Procurement Thresholds**

1. When procuring personal or professional services, goods, or services, not including services from Professional Consultants as defined in chapter 580, Division 63, the university will conduct the procurement in accordance with the Direct Procurement, Informal Procurement, or Formal Procurement method, unless another method is applicable, based on the anticipated contract price, including consultant fees, reimbursable expenses, and all amendments contemplated by the parties. Multiple Contracts, purchase orders, or purchasing requisitions will not be issued separately with the intent to circumvent these rules. The university may establish lower procurement thresholds for specific procurements or as a university policy or procedure.

(a) \$25,000 or less — Direct Procurement or other method of procurement that the university deems beneficial to the procurement.

(b) \$25,000.01 to \$150,000 — Informal Procurement, Formal Procurement, or other method of procurement, except the Direct Procurement method, that the university deems beneficial to the procurement.

(c) Greater than \$150,000 — Formal Procurement or other method of procurement, except the Direct Procurement or Informal Procurement methods, that the university deems beneficial to the procurement.

2. Notwithstanding subsection C1, if the source of the funding for the procurement requires a different procurement method, the university may comply with the procurement method required by the funding source.

### **D. Division 62, 580-062-0020 Methods of Procurement**

The university will use the following methods of procurement when procuring personal or professional services or goods and services.

1. Direct Procurement. A process where the university negotiates directly with a single Entity to provide personal or professional services or goods and services.

2. Informal Procurement. A Competitive Process where the university posts an advertisement of the opportunity on the university procurement website for a reasonable time necessary to obtain at least three (3) Solicitation Responses. The university may also directly contact prospective Offerors. If the notice has been posted for a reasonable time period and fewer than three Solicitation Responses have been submitted, the university may enter into a Contract with a Responsible Offeror based on the Specifications contained in the Solicitation Document.

3. Formal Procurement. A Competitive Process where the university:

(a) Creates a Solicitation Document that contains the procurement procedures and necessary Specifications.

(b) Publishes a notice of the procurement on the university procurement website and, at the discretion of the university, in a trade periodical, newspaper of general circulation, or other historically underrepresented business-targeted periodicals, university website, or other medium for advertising. The notice must specify when and where the Solicitation Document may be obtained and the Closing Date/Time. The notice must be published for a duration reasonable under the circumstances for the procurement.

(c) Conducts the procurement in accordance with chapter 580, Division 61, section 0000 through 0160 (Procurement and Contracting Code).

4. Emergency Procurement. The President or Vice President for Finance and Administration, or their designee, may declare an Emergency when such a declaration is deemed appropriate. The reasons for the declaration will be documented and will include justifications for the procedure used to select the Entity for a Contract within the scope of the Emergency declaration. After the President, or designee, has declared an Emergency, the university may

negotiate a Contract with any qualified Entity for services included in the scope of the Emergency. The university will maintain appropriate records of negotiations carried out as part of the contracting process.

5. Retainer. The university may conduct a Formal Procurement to enter into Retainer Contracts with multiple Entities to provide personal or professional services or goods and services at contracted rates of compensation or based on pre-qualifications.

6. Alternative Processes. Notwithstanding the foregoing procedures, the university Contract Officer may authorize alternative procurement methods that provide a Competitive Process to two or more Entities to contract with the university and meet the following objectives:

- (a) Responds to innovative business and market methods; or
- (b) Contributes to university productivity improvement and process redesign; or
- (c) Results in comprehensive cost-effectiveness and productivity for the university.

7. Exempt. The university need not follow, regardless of value, a Competitive Process when seeking or acquiring or paying for the following goods and services:

- (a) Educational services.
- (b) Advertising and media services, excluding consulting services.
- (c) Price-regulated goods and services, including utilities, where the rate or price for the goods or services being purchased is established by federal, state, or local regulatory authority.
- (d) Goods or services under federal contracts. When the price of goods and services has been established by a contract with an agency of the federal government pursuant to a federal contract award, the university may purchase the goods and services in accordance with the federal contract. In addition, the university may purchase specific equipment that is only available from one source or use specific Entities that are expressly required under the terms of the contract.
- (e) Copyrighted materials. Copyrighted materials covered by this exemption may include, but are not limited to, textbooks, workbooks, curriculum kits, reference materials, software, periodicals, library books, library materials, and audio, visual, and electronic media.
- (f) Investment contracts and retirement plan services, excluding consulting services.
- (g) Food and food-related products.
- (h) Maintenance services directly from the contractor providing the goods.
- (i) Used personal property.
- (j) Goods purchased for resale to outside entities.
- (k) Goods or services related to intercollegiate athletic programs.
- (l) Cadavers or cadaveric organs.
- (m) Hotel sites for large conferences and workshops.
- (n) Dues, registrations, and membership fees.
- (o) Gasoline, diesel fuel, heating oil, lubricants, natural gas, electricity, and similar commodities and products and the transportation thereof.
- (p) Supplies, maintenance, and services for ocean-going vessels when they are in other than home port.
- (q) Repair and overhaul of goods or equipment.
- (r) Goods or services purchased in foreign countries.
- (s) Insurance and insurance-related contracts, not including consulting or brokerage contracts.
- (t) Grants, including Grant applications and proposals.
- (u) Contracts for legal services, including professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the university is or may become interested.

(v) Contracts entered into, issued, or established in connection with:

(A) The incurring of debt by the university, including but not limited to the issuance of bonds, certificates of participation, and other debt repayment obligations, and any associated Contracts, regardless of whether the obligations that the Contracts establish are general, special, or limited;

(B) The making of program loans and similar extensions or advances of funds, aid, or assistance by the university to a public or private body for the purpose of carrying out, promoting, or sustaining activities or programs authorized by law; or

(C) The investment of funds by the university as authorized by law and other financial transactions of the university that by their character cannot practically be established under the Competitive Process.

(D) Grant-funded projects where professional or personal service providers are named in Grant or identified in the Grant budget, unless the university determines it is in its best interest to require a Competitive Process.

(w) Contracts for employee benefit plans as authorized by law.

(x) Services provided by those in the medical community including, but not limited to, doctors, physicians, psychologists, nurses, veterinarians, and those with specific license to administer treatments for the health and well-being of people or animals.

(y) Artists, performers, photographers, graphic designers, website design, and speakers.

(z) Sponsorship agreements for university events or facilities.

8. Sole Source. A process where the President, or designee, has made a Written determination that due to special needs or qualifications, only a Single Seller is reasonably available to provide such personal or professional services or goods or services. Sole source procurement will be avoided except when no reasonably available alternative source exists.

(a) The university will provide public notice of its determination that the person or professional services or goods or services are only available from a Single Seller. Public notice may be provided on the university procurement website. The public notice will describe the personal or professional services or goods or services to be acquired from the Single Seller, identify the prospective Contractor, and include the date, time and place that protests are due. The university shall give Entities at least seven (7) Days from the date of notice publication to protest the sole source determination.

(b) An Entity may protest the university's determination that the personal or professional services or goods or services are available from a Single Seller in accordance with 580-061-0145 Protest of Contractor Selection, Contract Award, and Protest of Solicitation Document.

(c) On an annual basis, the President will submit a report to the Board summarizing approved sole source procurements for the university for the prior fiscal year. The report will be made available for public inspection.

## 9. Special Entity

(a) The university may purchase goods or services, without using a Competitive Process, if purchasing from a federal, state, local governmental agency, public corporation (including, but not limited to, OHSU), or a state Qualified Rehabilitation Facility certified by the Oregon Department of Human Services or the Oregon State Procurement Office.

(b) The university may participate in cooperative procurements with other contracting agencies or Entities or utilize other public contracts or cooperatively-procured contracts if it is determined, in Writing, that the solicitation and award process used to award that Contract was reasonably equivalent to the respective processes established in these rules, including notice during solicitation process that the contract resulting from the procurement may be utilized by other entities. Determinations regarding equivalency and adequacy of processes for cooperating procurements will be made by the Vice President for Finance and Administration.

10. **Special Procurement.** A special procurement is an exemption from competitive procedures that the Finance and Administration Committee of the Board determines is appropriate because it:

- (a) Is reasonably expected to result in substantial cost savings to the university or to the public; or
- (b) Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with others processes described in this rule.

This policy may be revised at any time without notice. All revisions supersede prior policy and are effective immediately upon approval.

#### D. Policy Consultation

This policy was transferred to SOU by operation of law on July 1, 2015 from Oregon Administrative Rule 580, Division 062. Revisions to the text of the policy were posted for campus comment on June 21, 2016.

#### E. Other Information

The Policy Contact, defined above, will write and maintain the procedures related to this policy and these procedures will be made available within the Custodial Office.



## **Architect Engineering Services for SOU Boiler Replacement Project**

### **Summary**

SOU is seeking the Finance & Administration Committee's determination pursuant to SOU Policy FAD.058 that Special Procurement is appropriate architect engineering (AE) services. SOU seeks the Committee's approval on the basis that awarding the contract as a Special Procurement to Evergreen Engineering ("Evergreen") will result in substantial cost savings to the university and, by extension, the public. The total value of the contract will be \$155,500 plus a 10% contingency.

Evergreen has provided three Engineering studies of the Central (Boiler) Plant at SOU over the last four years (valued at approximately \$60,000). The latest study was completed in November 2017 and formed the basis for successful legislative advocacy and action, resulting in the spring 2018 approval of an emergency funding request from the state, totaling \$2,855,000 for SOU's Boiler Replacement project.

The university initially considered whether it could proceed with a "sole source" procurement for AE services to Evergreen based on time urgency, the firm's unique knowledge of SOU's Central Plant, and project requirements. After conducting a planning meeting with Evergreen, the firm submitted a proposal totaling \$155,500. However, we ultimately determined the proposal did not meet the standards for a sole source procurement. Thereafter, SOU proceeded with the "formal procurement" process and issued a request for proposals (RFP). Evergreen's key point of contact made a mistake, and failed to respond so its bid was not included in the RFP. The RFP resulted in two qualified bids, ranging in cost from \$232,000 (plus \$29K in add/alter) to \$323,000. Because those bids were \$75,000 to \$160,000 higher than the original estimate provided by Evergreen, SOU ultimately cancelled the RFP. Given the anticipated cost savings a bid by Evergreen would have offered, the University staff hereby recommend that the Committee approve awarding the project to Evergreen.

Under SOU's procurement policy, a "special procurement" is "an exemption from competitive procedures that the Finance and Administration Committee of the Board determines is appropriate because it: (a) Is reasonably expected to result in substantial cost savings to the university or to the public; or (b) Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with other processes" described in the policy. Staff believe the proposed course of action meets the criteria in (a) above, by saving SOU from \$75,000-\$160,000.

### **Question**

Does the Finance and Administration Committee approve the Special Procurement of architect engineering services between SOU and Evergreen Engineering for \$155,500 plus contingency?