



## MAJOR ACQUISITION POLICY

### **Purpose:**

Due to the recent concerns with major acquisitions in other jurisdictions and in light of the recommendations in KPMG's report: "Financial Management and Business Process Risk Review for the University of Windsor" (June 20<sup>th</sup>, 2002), this policy has been put in place to better outline the correct process of making a major acquisition at the University and to protect the University from situations that could have the potential of resulting in unfavourable contracts and transactions.

### **Definition of a Major Acquisition:**

This policy outlines the process necessary for major Requests For Proposals (RFP) or for purchases that would result in a sole source procurement for reasons other than those outlined in the "Policy for the Issuance of Purchase Order Contracts" (Purchasing Policy) for the University of Windsor, dated November 25, 1998. For construction and renovation projects, please contact Physical Plant, Facility, Planning, Design and Construct as per section 3(e) of the Purchasing Policy. Acquisitions of goods or services involving the total cumulative commitment of \$100,000 or more shall be deemed as major. This definition also includes acquisitions that involve multiple deliveries and/or payments over the life of the contract. Any additions or modifications to the contract subsequent to the signing of the original contract have to be relevant to the original contract and should be initiated by the original department or individual responsible for the acquisition.

### **Procedure for making a major acquisition:**

- *Committee Involvement:*

At the University of Windsor, the general environment is one that fosters and utilizes committees for making major decisions that will have a significant impact on the institution and its members. The use of the Committee process is beneficial in helping the University and its employees mitigate risk as well as utilizing the expertise of several different individuals with various backgrounds. Committees are to be used in all major acquisition decisions and are to involve the Purchasing Department either in an advisory role or as a member of the Committee itself. This Committee will operate within the procedures outlined in the Purchasing Policy.

- *Committee Formulation and Membership:*

The individual or department accountable for the final decision should facilitate the establishment of a Committee to govern the decision-making process for the purchase of a major acquisition. The Committee should be comprised of representatives from across campus or from within the department or faculty accountable for the final decision if the major acquisition will not have a significant impact outside of that department or faculty. Consideration should be given to include both technical and general expertise on the Committee. In addition, the Purchasing Manager is to be contacted regarding the decision to include a member of the Financial Services Department on the Committee or to work with the Committee in an advisory role. Proposed Committee membership should be presented to the respective Vice President or designate for their approval.

- *Committee Documentation:*

All committees will keep proper documentation in order to satisfy both the need for a high level of due diligence and the need for accountability. Documentation should include; agendas, minutes of meetings, and clear documentation of decisions and conclusions made. The Committee Chair is responsible for all of the documentation.

- *Responsibilities of the Committee Chair:*

The Committee Chair is ultimately responsible for all decisions made by the Committee. The Chair is also responsible for the accurate record keeping of the Committee. Responsible that the committee process outlined in this Policy is followed. Keep a copy of the documentation for the life of the contract

- *Committee Procedures*

The following are the prescribed steps for proceeding with a major acquisition:

**STEP 1:** The first issue for the Committee to appoint the Committee Chair. In most cases, a member from the department or the position within the University with the ultimate responsibility for the major acquisition is to be appointed the Chair of the Committee. However, in the event that there is not a clear department or position within the University with responsibility for the major acquisition, the Committee shall appoint a Chair who it deems to be most appropriate. Once appointed, the Committee Chair shall be accountable for all actions and decisions of the Committee as outlined in this policy.

**STEP 2:** Once a Committee Chair is appointed, the Committee shall conduct a review of the existing situation and the rationale for the acquisition. This will ensure that all Committee members are fully informed on the background pertaining to the acquisition and hence will be able to participate in the Committee discussions and decisions effectively.

**STEP 3:** The Committee is to conduct a needs analysis to precisely identify what the required specifications are. This will enable the Committee to target appropriate vendors and will lead into the next step. Also, depending on the product or service it may be necessary to post the information electronically in order to comply with the Ontario-Quebec Procurement Agreement as per section 3(d) of the Purchasing Policy. This can be in the form of a letter of interest, full RFP, pre-qualification of vendor or formal tender.

**STEP 4:** The Committee is to assess what is available in the marketplace in comparison to what the Committee deems as its needs. By accomplishing this task the Committee will have identified all suitable vendors to contact. The purchasing department may be consulted for assistance with this step.

**STEP 5:** The Committee is to decide whether to submit a Request For Proposal (RFP). If the decision is made not to submit a RFP then the reasons for such a decision must be clearly and fully documented by the Committee. If a RFP is not used the Committee must decide whether to use a tender or a sole source and must abide by the guidelines set out in the purchasing policy that govern tenders and sole source procurements.

**STEP 6:** Following the RFP decision, the Committee will review all the vendor information packages (technical specifications, quotes, product description, etc.) that it has received and will decide upon the number of vendors to invite to make a further presentation of their offerings. In some instances the number of vendors may have to be narrowed down more than once and may take more than one presentation or Committee meeting to accomplish.

**STEP 7:** Once the Committee has heard from all vendors and has acquired all the pertinent data required it should deliberate upon the information gathered and discuss all possible alternatives. The Committee's final decision should be based on criteria that the Committee as a whole finds to be relevant to the acquisition, while also taking into account any restrictions (budgetary or otherwise) that may be present. The criteria used to formulate the final decision should be clearly documented and should outline how factors were weighted in regards to the vendor comparisons.

***STEP 8: Negotiating the Contract***

The Committee should select one or two representatives in addition to the Committee Chair to negotiate the contract for the acquisition. This negotiation process should include the Purchasing Department, either as a member of the negotiation team or in an advisory role. As a guideline, the representatives should be the individuals with the most knowledge and experience of the items being acquired as well as a familiarity with the financial implications of contracts and negotiations. **In circumstances involving complex contracts, the Committee representatives are advised to consult with the University's Legal Counsel.**

***STEP 9: Reviewing the Contract***

Once the contract has been negotiated, the Committee as a whole should review the contract in order to ensure that due diligence has been taken. If necessary, the Committee should also consult the University's Legal Counsel to discuss the financial or legal implications of the contract on the University. Once the contract has been reviewed and accepted, all Committee documentation (Agendas, Minutes, etc.) is to be sent to the Purchasing Manager to ensure that the Committee process as outlined in this policy was followed. *If the documentation or lack thereof sent to the Purchasing Manager reveals that the proper process has not been followed, then the Purchasing Manager shall contact the Director of Finance, who in turn shall contact the appropriate Vice-President and together they shall take suitable action.* If the documentation at this point is in order, the Purchasing Department will assume its usual responsibilities of coordinating all the facets of the purchase, which will likely involve the issuance of a purchase order.

***STEP 10: Signing the Contract***

As per the University of Windsor's Board of Governors BY-LAW NO. 40 (attached), contracts can **ONLY** be signed by the following University of Windsor Officers:

- The President
- Any one of the Vice-Presidents
- The Chairman (or Acting Chairman) of the Board

**Non-Adherence**

Violations of this policy should be reported to the Purchasing Manager and/or the Director of Finance for their investigation. The investigation will be conducted in collaboration with the appropriate Vice-President. Disciplinary action will depend upon the extenuating circumstances and can range from reprimand to termination of employment.



**BY-LAW NO. 40**

Being a By-Law providing for amendment to By-Law No. 1 of the University of Windsor.

Be it enacted as a By-Law of the University of Windsor as follows:

1. Article 4, subsection a) of By-Law No. 1 of the University of Windsor be and the same is hereby repealed and the following substituted therefor.

a) contracts, documents or any instruments in writing requiring execution on behalf of the Board shall be signed by any one of the President, the Vice-President, the Chairman or acting Chairman of the Board or any member of the Board designated from time to time by resolution of the Board, together with the Secretary, Assistant Secretary, Treasurer or any other person designated from time to time by resolution of the Board, and all contracts, documents and instruments so signed shall be binding upon the University without further authorization or formality.

2. The foregoing amendment is hereby declared to be in full force and effect from and after the date hereof.

Dated at Windsor, Ontario, this 12<sup>th</sup> day of April, 1965.

(Board of Governors' Minutes – April 12, 1965)