



PROCUREMENT & DISPOSAL POLICY

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1.0 INTRODUCTION

The USIU-A procurement process is guided by the Constitution of Kenya, and various statutory provisions including the public procurement legislative framework, the Universities Act, 2012, statutes thereon, and internal administrative guidelines that are issued from time to time.

The policy seeks to give guidance, advice and operating instructions on all matters relating to procurement within the University. Procurement is guided by the Constitution of Kenya 2010, the Private Public Partnerships Act, 2013, The Public Private Partnership Regulations, 2014, the Public Procurement and Disposal Regulations, 2006 and the Public Procurement and Assets Disposal Act, 2015.

The Constitution of Kenya sets out the values which are paramount to Procurement. It states that when a state organ or public entity contracts for goods and services, it should do so in accordance with a system that is fair, equitable, transparent, competitive and cost effective. These by extension also apply to private institutions, *to wit* USIU-A.

It is the University's policy to ensure financial probity and efficiency in the acquisition of goods and services by prescribing a range of appropriate methods for purchasing and procurement, including where appropriate, a competitive tendering and contracting (CTC) process.

2.0 Application & Scope

This policy shall apply to all procurement and asset disposal related activities within United States International University- Africa.

3.0 OBJECTIVES

The University recognises that the procurement and asset disposal function plays a supportive role for the university to achieve its strategic goals. Towards this end, the specific objectives of this policy document are:

3.1 Obtaining the best value for its purchases, in both cost and quality terms

Evidenced by:

- i. Using competitive bidding and contracting.
- ii. Involvement of users in the inspection of deliveries before they are received in the University main store.
- iii. Preferences to dealers or manufacturers where applicable.
- iv. Prequalification of vendors to ensure the University vendor listing is credible. Pre-qualification shall only be used for complex and specialized goods, works or services.
- v. Involvement of experts in developing the BQs, specifications and scope of works/service and giving professional advice on complex and specialized tenders .
- vi. Sign off of job cards/ completion certificates by the users or technical department before payment is made.
- vii. Use of quality and price as some of the key criteria for bid evaluation.
- viii. Contracts with vendors specifying the quality, cost and deliverables.

3.2 An efficient purchasing process

Evidenced by:

- i. Use of technology for Local Purchase Orders (LPO's) processing and approval.
- ii. Clear and user friendly purchase requisition documentation.
- iii. Match purchases with approved budgets
- iv. A procurement plan prior to the commencement of each financial year.
- v. Evaluation of purchasing officers based on delivery lead time
- vi. Provision of regular updates on procurement status
- vii. Availability of store item inventories in the main store
- viii. Use of standard procurement documents that ensure fairness, equitability and transparency.

3.3 Ensuring financial probity and accountability

Evidenced by:

- i. Segregation of supply chain functions and responsibilities
- ii. Approved purchase budget for the University
- iii. Competitive bidding and contracting
- iv. Various procurement committees (as may be deemed necessary from time to time)
- v. Price and bid analysis
- vi. Matching vouchers before payment
- vii. Use of technology at various stages of the supply chain
- viii. Performance bonds / bank guarantees from vendors who request for a pre-payment amounting to Kshs. 3 million and above
- ix. A declaration not to engage in corruption; by any person that submits a tender, proposal or quotation. This declaration shall provide that the person will not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in procurement proceedings. Preparation of annual procurement plans within the approved budget prior to the commencement of every financial year.
- x. Preparation of a technical report that takes into account the real market price and the reserve price for purposes of asset disposal.

3.4 Preventing potential conflicts of interest in procurement and asset disposal

Evidenced by:

- i. Policy statement for conflict of interest in the HR manual
- ii. Prequalification of vendors
- iii. Segregation of supply chain duties and responsibilities
- iv. Updated list of registered suppliers, contractors and consultants for the various categories of goods, works or services procured by the University.
- v. Ensuring that no goods shall be disposed of to an employee of the University or a member of the University Council or Board of Trustees.

3.5 Ensuring transparent competitive tendering & contracting (CTC) process

Evidenced by:

- i. Prequalification of vendors
- ii. SOP on tendering process that elucidates the procurement processes and procedures.
- iii. Segregation of bids evaluation functions and responsibilities into technical and financial bids
- iv. Tender opening and Evaluation committees formed by the Vice Chancellor.
- v. Authorization of purchases by user Departments

3.6 Preventing complaints and legal action by potential suppliers

Evidenced by:

- i. Drafting and review of contracts by the Director/ Legal Services & Company Secretary
- ii. Open, transparent and competitive procurement process
- iii. Regular updates on procurement and asset disposal process

4.0 GOVERNANCE

4.1 Supervision - This policy is issued by the University Council and supervision is vested in the Management Board who shall:

- i. Ensure they are familiar with the contents of this Policy;
- ii. Oversee budget preparation and application through purchase requests approvals;
- iii. Keep track of their procurement budget activities;
- iv. Ensure timely initiation of projects and acquisition of goods and services under their docket;
- v. Nominate representatives to the tender opening and evaluation committees where applicable;

- vi. Ensure all members of staff within their area of responsibility understand and exercise their procurement responsibilities.

It is acknowledged that senior managers may wish to delegate responsibility for the routine work involved in managing procurement activities under their divisions, but the overall responsibility remains with them.

4.2 Operational Management – is vested in the Vice Chancellor with the responsibility of:

- i. Ensuring that procurement of goods, works or services of the University is within the approved budget of the University,
- ii. Constituting all procurement committees,
- iii. Ensuring the preparation of procurement plans within the approved budget prior to the commencement of each financial year as part of the annual budget preparation process,
- iv. Ensuring proper documentation of procurement proceedings and safe custody of all procurement records,
- v. Ensuring all procurement contracts are approved and signed in accordance with the University's authority limits.
- vi. Ensuring the procurement and asset disposal process complies with this policy,
- vii. Ensuring that the procurement processes are handled by different professional offices in respect of procurement, initiation, processing and receipt of goods, works and services.

4.3 Execution – shall be vested in the Chief Manager-Procurement who shall report directly to the Vice Chancellor. The functions of the Chief Manager-Procurement shall include, but not be limited, to:-

- (a) Maintain and continually update standing lists of registered suppliers required by the University;
- (b) Prepare tender documents to facilitate fair competition and in compliance with the best practices as relates to format for tender documents;
- (c) Prepare, publish and distribute procurement opportunities including invitations to tender, request for quotations and proposals, prequalification documents and invitations for expressions of interest;
- (d) Coordinate the receiving and opening of tender documents;
- (e) Submit shortlists and lists of pre-qualified tenderers to the Vice Chancellor for approval;
- (f) Issue procurement documents to candidates;
- (g) Propose the membership of the evaluation committee to the Vice Chancellor for consideration and appointment;
- (h) Coordinate the evaluation of tenders, quotations and proposals;
- (i) Recommend for consideration the negotiation of a procurement by the evaluation committee where negotiations are allowed and participate in negotiations;

- (j) Prepare and publish tender awards;
- (k) Ensure contract documents are prepared in line with the award decision;
- (l) Prepare and issue debriefing letters;
- (m) Communicate all contract variations and modifications to the Division of Legal Services & Company Secretary for drafting of contracts.
- (n) Maintenance and archiving of the procurement documents and records for the required period;
- (o) Provide information, as required, for any investigation to debar a tenderer or contractor;
- (p) Implement the decisions of the Vice Chancellor, including coordinating all procurement activities;
- (q) Act as a secretariat to the evaluation, inspection and acceptance committees;
- (r) Monitor contract management by user departments to ensure implementation of contracts in accordance with the terms and conditions of the contracts;
- (s) Report any significant departures from the terms and conditions of the contract to the Vice Chancellor and the Director - Legal Services & Company Secretary;
- (t) Prepare consolidated procurement plans in consultation with the Vice Chancellor;
- (u) Coordinate internal monitoring and evaluation of the procurement and asset disposal function;
- (v) Carry out market surveys to inform the placing of orders;
- (w) Conduct periodic and annual stock taking;
- (x) Certify the invoices and vouchers to facilitate processing of payment to suppliers;
- (y) Recommend extension of the tender validity period;
- (z) Verify that the available stock levels warrant initiating a procurement process.

4.4 Procurement Planning

The Chief Manager-Procurement shall prepare a procurement plan for each financial year as part of the annual budget preparation process.

4.5 Contents of a Procurement Plan

The annual consolidated procurement plan for the University shall include:

- (a) A detailed breakdown of the goods, works, or services required;
- (b) A schedule of the planned delivery, implementation or completion dates for all goods, works, or services required;
- (c) An indication and justification whether it shall be procured within a single year period or under a multi-year arrangement;
- (d) An indication of which items can be aggregated for procurement as a single package or for procurement through any applicable arrangements for common user items;
- (e) An indication of which items shall be packaged into lots;
- (f) An estimate of the value of each package of goods, works or services required and an indication of the budget available;
- (g) An indication of the appropriate procurement method for each procurement requirement; and

(h) The estimated cost for procurement of items which shall include insurance, clearing and forwarding, demurrage charges, warehousing, advertisement and all other incidental costs where applicable.

4.6 Eligibility to Bid –

A person is eligible to bid for a contract in procurement only if the person satisfies the following criteria:-

- (a) The person has the legal capacity to enter into a contract;
- (b) The person is not insolvent, in receivership, bankrupt or in the process of being wound up;
- (c) The person, if a member of a regulated profession, has satisfied all the professional requirements;
- (d) The person and his or her sub-contractor, if any, is not debarred from participating in procurement by the University;
- (f) The person has fulfilled tax obligations;
- (g) The person has not been convicted of corrupt or fraudulent practices; and
- (h) Is not guilty of any serious violation of fair employment laws and practices.

4.7 Tender Opening Committee

The Vice Chancellor shall appoint a tender opening committee in accordance with the following requirements and such other requirements as may be prescribed:-

- i. The committee shall have at least three members; and
- ii. At least one of the members shall not be directly involved in the processing or evaluation of the tenders.

The function of the tender opening committee shall be to open all tenders received before the deadline for submission of tenders.

The tender opening committee shall prepare tender opening minutes which shall set out—

- i. a record of the procedure followed in opening the tenders; and
- ii. The particulars of those persons submitting tenders, or their representatives, who attended the opening of the tenders.

To acknowledge that the minutes are a true reflection of the proceedings held, each member of the tender opening committee shall—

- i. Initial each page of the minutes;
- ii. Append his or her signature as well as initial to the final page of the minutes indicating their full name and designation.

4.8 Evaluation Committee

4.8.1 Formation of Evaluation Committee

The Chief Manager - Procurement shall ensure that an ad hoc evaluation committee is established in accordance with this Policy.

Where technical expertise is required from outside the University such expertise may be obtained from other procuring entities or procured to join the committee, on recommendation, in writing, by the Chief Manager - Procurement, and the committee shall be appointed by the Vice Chancellor, in writing.

An evaluation committee shall;

- (a). Deal with the technical and financial aspects of a procurement as well as the negotiation of the process including evaluation of bids, proposals for prequalification, registration lists, Expression of Interest and any other roles assigned to it;
- (b) Consist of between five and seven members appointed on a rotational basis comprising heads of user department and two other departments or their representatives and where necessary, procured consultants or professionals, who shall advise on the evaluation of the tender documents and give a recommendation on the same to the committee within a reasonable time;
- (c) Have as its secretary, the Chief Manager - Procurement;
- (d) Comply with the University's Procurement Policy.
- (e) Complete the procurement process for which it was appointed and no new committee shall be appointed on the same issue unless the one handling the issue has been procedurally disbanded;
- (f) Adopt a process that shall ensure the evaluation process utilized adheres to the Constitution of Kenya, 2010.

The University shall where a member of the *ad hoc* evaluation committee contravenes any provisions of this policy, institute disciplinary measures in accordance with the University's disciplinary measures.

4.8.2 Responsibilities of the Evaluation Committee

An evaluation committee shall be responsible for:

- (a) The technical and financial evaluation of the tenders or proposals availed in strict adherence to the compliance and evaluation criteria set out in the tender documents.
- (b) Performing the evaluation with all due diligence and within a period of thirty days after the opening of the tenders.
- (c) Under no circumstances may any member of an evaluation committee enter into direct communication with any of the tenderers participating in a tender or proposal that such evaluation committee is considering.
- (d) An evaluation committee shall prepare a report on the analysis of the tenders availed, and final ratings assigned to each tender and make recommendations and submit the report to the Chief Manager – Procurement.

4.9 Technical Evaluation

- (1) Each member of the evaluation committee shall evaluate independently from the other members prior to sharing his or her analysis questions and evaluation including his or her rating with the other members of the technical evaluation committee.
- (2) The individual score sheets shall be kept as records for a procurement proceeding.
- (3) Upon sharing of individual evaluators ratings, the committee shall moderate the analysis to arrive at a common rating.
- (4) Averaging of individual ratings shall be avoided.

5.0 Financial Evaluation

The financial evaluation of the tenders or proposals received shall be in strict adherence to the compliance and evaluation criteria set out in the tender documents or request for proposals.

5.1 Post Qualification

Where the lowest evaluated responsive tenderer is determined not to be qualified, the tender shall be rejected and a similar confirmation of qualification shall be conducted on the tenderer who submitted the second lowest evaluated responsive bid.

5.2 Evaluation Report

- 1) An evaluation committee shall prepare a report on the analysis of the tenders received, and final ratings assigned to each tender and submit the report to the Chief Manager-Procurement
- (2) The report prepared under sub-regulation (1) above shall include;
 - (a) A summary of the tenders or proposals opened;
 - (b) The results of the preliminary evaluation, with reasons why any tenders or proposals were rejected;
 - (c) The scores awarded by each evaluator for each tender or proposal; and
 - (d) A summary of the relative strengths and weaknesses of each tender or proposal

5.3 Procurement Professional Opinion

The evaluation report shall be reviewed by the Chief Manager - Procurement, and forwarded to the Vice Chancellor together with the professional opinion.

- (2) The Chief Manager - Procurement may seek for clarification from the evaluation committee before making a professional opinion.
- (3) The professional opinion shall include, but not be limited, to the following information:
 - (a) A review of the procurement;
 - (b) Adherence to evaluation criteria disclosed in the bid documents;
 - (c) Legality of tender award recommendations;
 - (d) Whether the recommendations are realistic and within the prevailing market prices;
 - (e) Availability of funds; and

(f) A recommendation for change of scope, where the bid document had provided for change of scope, if the successful bid is above the budget available of the University, taking into account the effect of the scope of change to the entire evaluation of the tender.

(4) Where the Vice Chancellor has approved the recommendation of the Chief Manager - Procurement sub-clause (3) (f) above, the Chief Manager - Procurement shall:

- (a) Inform the user department for concurrence;
- (b) Refer the matter back to the evaluation committee for review and recommendation to the Vice Chancellor;
- (c) Inform the successful bidder for concurrence; and
- (d) Make appropriate recommendation to the Vice Chancellor, taking into account the views of the user department, the evaluation committee and the successful bidder.

Approval by the Vice Chancellor

Upon receipt of the evaluation report and professional opinion, the Vice Chancellor shall take into account the contents of the professional opinion and shall in writing:

- (a) Approve award to the successful tenderer; or
- (b) Seek clarification from the Chief Manager - Procurement or the evaluation committee prior to approving or rejecting the award; or
- (c) Reject the recommendation(s);

(2) Where the Vice Chancellor has rejected the recommendation(s) in sub-clause (1) (c) above, he or she shall provide further directions to the Chief Manager - Procurement function in writing.

(3) Any further directions, approval and/or rejection by the Vice Chancellor shall form part of the procurement records.

5.4 Inspection and Acceptance Committee

The Vice Chancellor upon the recommendation of the Chief Manager - Procurement shall establish an ad-hoc Inspection and Acceptance Committee composed of a Chairman and at least two other members. The committee shall immediately after the delivery of the goods, works or services:-

- a) Inspect and where necessary, test the goods received;
- b) Inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract;
- c) Accept or reject, on behalf of the University, the delivered goods, works or services
- d) Ensure that the correct quantity of the goods is received;
- e) Ensure that the goods, works or services meet the technical standards defined in the contract;
- f) Ensure that the goods, works or services have been delivered or completed on time, or that any delay has been noted;
- g) Ensure that all required manuals or documentation has been received;
- h) Issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.

5.5 Asset Disposal

5.5.1 Disposal Committee

The Vice Chancellor shall establish a disposal committee for the purpose of disposal of unserviceable, obsolete, obsolescent or surplus stores, equipment or assets.

The disposal committee shall be responsible for verification and processing of all disposal recommendations in liaison with the Chief Manager-Procurement

5.5.2 Disposal Procedure

(1) The employee in charge of unserviceable, obsolescent, obsolete or surplus assets shall, within a reasonable time after the assets become unserviceable, obsolete or surplus bring the matter to the attention of the disposal committee through the Chief Manager-Procurement

(2) There shall be a technical report where appropriate, by a relevant expert of the subject items for disposal that takes into account the real market price and in so doing, the technical expert shall set up a reserve price which shall be the minimum acceptable price below real market value of the boarded items.

(3) The disposal committee shall meet within the prescribed period to conduct a survey and review the items, while considering the technical report and shall recommend the best method of disposal to the Vice Chancellor.

(4) The Vice Chancellor shall disclose the reserve price to the prospective tenderer based on the technical report and prices set under sub- clause 3 above.

(5) Where there is no responsive bidder under sub – clause 4, the Vice Chancellor shall have the powers based on the recommendations of the disposal committee to revise the reserve price to ensure expeditious disposal of assets and set it forth in the disposal documents so as to be known by any prospective buyer of the boarded items.

(6) After receiving the recommendations of the disposal committee, the Vice Chancellor may approve or reject the recommendation of the committee.

(7) If the Vice Chancellor approves the recommendations of the disposal committee, the assets that became unserviceable, obsolete or surplus shall be disposed off in accordance with those recommendations.

(8) If the Vice Chancellor rejects the recommendations of the disposal committee, they shall give further direction on the matter and may refer the matter back to the committee for further consideration.

5.5.3 Methods of Disposal

(1) Sale by public tender or auction to the highest bidder subject to a reserve price;

(2) Trade – In;

(3) Donation to charitable organizations such as children’s homes and orphanages;

(4) Destruction, dumping or burying where stores are harmful to human health such as expired food, chemicals etc.

(5) Waste Disposal Management.

Despite the sub-clause above, radioactive or electronic waste shall be disposed of only to persons licensed to handle the respective waste under the Environmental Management and Coordination (Amendment) Act, 2015.

5.5.4 Restriction on disposal to employees

(1) The Vice Chancellor shall ensure that no assets of the University are disposed off to an employee of the University or a member of the University Council or Board of Trustees.

5.6 USIU Procurement Officers

The University procurement officers have responsibility for the procurement duties as outlined in this policy and other relevant assignment instructions. These include:

- i. Sending Request for Quotations (RFQ), Request for Proposals (RFP) and Request for Bids (RFB) to vendors;
- ii. Analysis of RFQs, RFPs, and RFQs in consultation with the user department who will be responsible for technical advice;
- iii. Preparation, dissemination of orders to vendors, and expediting deliveries of goods and/or services;
- iv. Managing and storing procurement and asset disposal documents;
- v. Communicating order status to users;
- vi. Coordinating the inspection of deliveries;
- vii. Matching of procurement document for payment;
- viii. Conducting market research;
- ix. Comply with the University's procurement policy.

5.7 Staff and Faculty

Every member of staff and Faculty has a responsibility to:

- i. Participate in budgeting process for requirement to be purchased.
- ii. Provide clear and concise specifications of goods/services to be procured or disposed.
- iii. Get the approval for purchase from the respective Head of the Department function.
- iv. Comply with the annually approved budget.
- v. Provide the correct budget code for purchase request.
- vi. Comply with the University's procurement policy.

5.8 Enforcement of the Policy

The University will:

5.8.1 Ensure that the preparation of specific requirements relating to the goods, works or services being procured are clear, give a correct and complete description of what is to be procured and allow for fair and open competition among those who may wish to participate in the procurement proceedings. The specific requirements shall include all the University's technical requirements with respect to the goods, works or services being procured. The technical requirements shall, where appropriate;

- (a) Conform to design, specification, functionality and performance;
- (b) Be based on national or international standards whichever is superior;
- (c) Factor in the life of the item;
- (d) Factor in the socio-economic impact of the item;
- (e) Be environment-friendly;
- (f) Factor in the cost disposing the item; and

(g) Factor in the cost of servicing and maintaining the item.

5.8.2 Ensure there is no conflict of interest between the employees and the vendors;

5.8.3 Encourage the procurement staff to consider environmental principles (as per the NEMA environmental management guidelines and the University SOP on Green Procurement alongside economic and ethical principles when making procurement decisions;

5.8.4 Use system Purchase Orders (POs);

5.8.5 Allow use of Petty cash for a single purchase not exceeding Kshs 5,000 (five thousand);

5.8.6 Insist on the competitive contracting as the preferred procurement method;

5.8.8 Annually prequalify vendors;

5.8.9 Use prequalified vendors in the first instance unless authorized otherwise;

5.8.1.1 Use single sourcing purchasing method/direct procurement only in the case of an emergency such as war, invasion, disorder, and natural disaster or there is an urgent need for the goods, works, services and engaging in tendering proceedings or any other method of procurement would therefore be impractical;

5.8.1.2 Discourage financing vendors through advance payment;

5.8.1.3 Ensure there is confidentiality such that during or after procurement proceedings, no employee shall disclose the following:-

- (a) Information relating to a procurement whose disclosure would prejudice legitimate commercial interests, intellectual property rights or inhibit fair competition;
- (b) Information relating to the evaluation, comparison or clarification of tenders, proposals or quotations; or
- (c) The contents of tenders, proposals or quotations.

5.8.1.4 Establish the tender threshold that shall contain the procurement method, the maximum or minimum level of expenditure allowed for the use of a procurement method and the segregation of duties for different officers and committees in the various procurement cycles;

5.8.1.5 Encourage enterprises owned by women, youth, persons with disabilities and disadvantaged groups to participate in the procurement process.

5.8.1.6 Ensure that no assets of the University are disposed off to an employee or member of the University Council or Board of Trustees.

5.8.1.7 Ensure that a technical report is prepared, where appropriate by a relevant expert of the subject terms for disposal that takes into account the real market price and set a reserve price which shall be the minimum acceptable price below real market value of the boarded items.

This policy will be periodically reviewed to ensure it remains relevant to the University's needs and reflect the changes in law.

5.9 Procedures

This Procurement policy supports the following procurement standard operating procedures (SOPs) which are accessible and available on the Policy Portal.

- i. Vendor pre-qualification SOP
- ii. Vendor evaluation SOP
- iii. Purchase order preparation SOP
- iv. Conflict of Interest – HR staff handbook
- v. Tendering methods SOP