



Purchasing Procedures Manual

New Mexico Tech
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The purpose of this document is to elaborate on various topics regarding the purchasing policies at NMIMT.

This document is continually being updated; we would appreciate any information and/or insight that would help us develop stronger policies for NMIMT's research community.

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I. Glossary

CO	Change Order
CPO	Chief Procurement Officer
DP	Direct Payment
EIN/SSN/TIN	Employer Identification Number / Social Security Number / Taxpayer Identification Number
FAR	Federal Acquisition Regulation
GSA	General Services Administration
ITB	Invitation to Bid
NMIMT	New Mexico Institute of Mining and Technology
N.S.M.A.	New Mexico Statutes Annotated 1978
NTTC	Non-Taxable Transaction Certificate
PA	Pricing Agreement
PO	Purchase Order
PR	Purchase Requisition
PSA	Professional Services Agreement
PSO or Purchasing	Purchasing Services Office
Regents	Board of Regents of NMIMT
RFP	Request for Proposal

II. Introduction

The New Mexico Constitution and Legislature provide for the control and management of New Mexico Institute of Mining and Technology. Article XII, Section 13 of the constitution of the State of New Mexico vests this control and management in the Board of Regents of NMIMT. The Purchasing Services Office is established according to the New Mexico Statutes to function as the central purchasing office for NMIMT. The Chief Procurement Officer is responsible for the development and oversight of all NMIMT procurement systems. Purchasing is organized to serve the procurement objectives of NMIMT and is responsible for educating all departments on policy and procedures regarding procurement.

As a public Institution, all monies received by a department of NMIMT, regardless of their source, are considered to be NMIMT funds and are to be expended under the procedures set forth herein. In order to ensure compliance with New Mexico Statutes Annotated 1978, the Regents' policies, and all Federal and State laws, all purchases of supplies, materials, equipment, and services for the Institute shall be made through Purchasing, unless otherwise stated in these procedures. Institute funds may not be used for personal items and other items as designated by the Board of Regents and the President.

When a procurement involves the expenditure of federal funds, the procurement shall be conducted in accordance with mandatory applicable federal law and regulations. When mandatory applicable federal law or regulations are inconsistent with the provisions of the Procurement Code, compliance with federal law or regulations shall be compliance with the Procurement Code (N.M.S.A. 13-1-30B).

Purchasing has delegated authority to departments for purchases up to \$2,999.99 for goods (excluding computers at \$1000 and above, and all vehicles) and services purchased with a direct payment (DP) at the best obtainable price. Refer to the NMIMT Property Manual regarding the purchase of equipment, computers and vehicles.

Purchasing has the sole authority for ordering supplies, materials, equipment, personal or professional services, leases, rental and construction \$3,000 and above. These purchases require prior submission of a purchase requisition to the purchasing office along with all appropriate background information.

Limited purchasing authority has been delegated to the purchasing satellite offices in Facilities Management and the Energetic Materials and Research Training Center (EMRTC) as described in subsequent sections. A listing of all individuals, their level of authority, and any qualifications shall be maintained in the Purchasing Services Office.

No individual or department may make a purchase directly without approval of Purchasing except as outlined below in specific sections. According to State and NMIMT policy, purchases made without proper approval may become the personal obligation of the person originating such a purchase. In addition, per N.M.S.A. 13-1-199, any business or person that willfully violates the Procurement Code is guilty of:

- A. a misdemeanor if the transaction involves fifty thousand dollars (\$50,000 or less); or
- B. a fourth degree felony if the transaction involves more than fifty thousand (\$50,000).

Subawards may be called subcontracts, sub agreements, subgrants, etc., and they may also have the appearance of procurement agreements in format and language, but they nonetheless remain forms of 'financial assistance' and do not constitute what 2 CFR 200.317-326 describes as a 'procurement action'. Thus their issuance is not subject to the procurement standards specified in this policy.

III. Purchasing Procedures

A. Contracting Authority

Only the NMIMT Board of Regents, the President, the Vice President of Administration and Finance, and the Chief Procurement Officer and their designees may sign a contract that legally binds NMIMT.

B. Conflict of Interest

As per State Law 21-1-35:

"Sales by boards, officers, or employees prohibited; parties to contracts receiving commission or profit; penalty. No board of regents of a state educational institution, no member of a board and no school official or teacher, either directly or indirectly, shall sell to any state educational institution that he is connected with by reason of being a member of a board of regents of a state educational institution or to any school official or teacher, any school books, school furniture, equipment, apparatus or any other kind of school supplies, sell property insurance or life insurance to any employee of that state educational institution or do any work under contract, nor shall any such board or members thereof or school officers or teachers receive any commission or profit on account thereof, and all such persons are prohibited from being parties directly or indirectly to any such contract or transaction; provided that the provisions of this section shall not apply to contracts entered into pursuant to the provisions of the University Research Park Act [21-28-1 N.M.S.A. 1978] or that comply with provisions of the Governmental Conduct Act [10-16-1 N.M.S.A. 1978] and the Procurement code [13-1-28 N.M.S.A. 1978]. Any person violating the provisions of this section shall be fined not exceeding one thousand dollars (\$1,000) or imprisoned not exceeding one year in the penitentiary of New Mexico or be fined and imprisoned as set forth in this section in the discretion of the court.

Pursuant to N.M.S.A. 13-1-190, except as permitted by the University Research Park Act, it is unlawful for any State Agency or local public body employee to participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the business seeking or obtaining a contract. N.M.S.A. 13-1-62 defines "immediate family" as a spouse, children, parents, brothers and sisters.

C. Gifts and Gratuities

No employee of NMIMT, in particular those engaged in the procurement function, shall accept favors, gifts, or gratuities either directly or indirectly from any vendor, representative, or business firm. This applies to every employee regardless of the nature of position at NMIMT.

D. Anti-Kickback

The Anti-Kickback Act of 1986 (41.U.S.C.51-58) was passed to deter subcontractors from making payments and contractors from accepting payments for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or subcontract.

The Act:

1. Prohibits any person from —
 - Providing, attempting to provide, or offering to provide any kickback;
 - Soliciting, accepting or attempting to accept any kickback; or
 - Including, directly or indirectly, the amount of any kickback in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to the United States.
2. Imposes criminal penalties on any person who knowingly and willfully engages in the prohibited conduct addressed in paragraph (1) of this subsection.
3. Provides for the recovery of civil penalties by the United States from any person who knowingly engages in such prohibited conduct and from any person whose employee, subcontractor, or subcontractor employee provides, accepts, or charges a kickback.

Individuals who become aware of violations of this provision shall immediately report the incident to Purchasing.

E. Debarment

Under N.M.S.A. 13-1-177 and 178, Purchasing may suspend a person* from consideration for award of contracts if Purchasing finds that a person has engaged in conduct that constitutes cause for debarment.

* “Person” is defined as “bidder”, “offeror” and “contractor” including principals, officers, directors, owners, partners and managers.

F. Payment for Purchases

Under N.M.S.A. 13-1-158, State law does not permit for payment in advance of delivery of goods and services. Vendors generally will invoice NMIMT for goods and services as they are delivered. Unless specifically excluded within this policy, no warrant, check, or other negotiable instrument shall be issued in payment for any purchase of services, construction, or item of tangible personal property unless the department certifies that the services, construction, or items of tangible personal property have been received and meet specifications.

NMIMT's payment terms for purchase order transactions are Net 30 days from date of invoice. However, when permissible, terms that offer discounts for prompt payment, such as 2% 10, Net 30 days; or terms that have been agreed to by the vendor and Purchasing, shall be utilized.

Prepayment is a request for payment before goods / services have been received. Prepayment should only be made when prepayment is the normal form of payment (i.e. memberships, subscriptions). Reference N.M.S.A. 13-1-98.

NOTE: In order to make any payments the NMIMT Taxpayer Identification Request and Substitute W-9 (Vendor Form) is the only form acceptable to establish a new vendor or to update an existing vendor. Any other forms submitted will be rejected. The most current version of the form is available on the purchasing website.

G. Tax Exemption

NMIMT is an agency of the State of New Mexico and is exempt from all applicable Federal and most State taxes. New Mexico Gross Receipts Tax (NMGRT) should be paid for services, software, and construction projects only.

Departments or contractors may request a New Mexico Non-Taxable Transaction Certificate (NTTC) by notifying Purchasing and providing a valid New Mexico Combined Report System (CRS) number or IRS issued Employer Identification Number (EIN) and a complete corporate mailing address.

NMIMT's State Tax Exempt Certificate Number or CRS: 01-507116-002.

NMIMT's Federal Tax Identification Number: 85-6000-411.

H. Purchase Requisition

Purchase requisitions are intended for internal use only. Purchase requisitions are required regardless of the dollar amount for the following:

1. Purchases involving a total of \$3,000 and above.
2. A purchase order must be issued for any purchase of computers at \$1000 and above, and vehicles regardless of the dollar amount.

3. Purchases involving trade-in of NMIMT property.
4. Construction/Remodeling.
5. Maintenance, Rental and Lease Agreements and Contractual Services with multiple payments.
6. Purchases initiated without obtaining an authorized PO prior to placing an order. These are known as Unauthorized Purchases.
7. Purchases to be charged to other than current fiscal year.
8. Procurements involving a sealed bid or proposal.
9. Multi-term contracts.
10. Loaned equipment and software for trial use by a NMIMT department.

Purchases may not be artificially divided (split) to avoid competitive requirements. Orders placed in such a manner may be determined to be the responsibility of the requester and will be considered a misdemeanor or 4th degree felony depending on the amount. Reference N.M.S.A. 13-1-125 D and 13-1-199.

I. Unallowable Purchases

The following are examples of unallowable purchases on any NMIMT account. The list should not be considered all-inclusive but merely a guide for purchases that are not allowed.

- Annual fees on credit cards.
- Gift cards.
- Donations.
- Alcoholic beverages (except for resale).
- Personal care products.
- Compensation for personal services.
- Fines and penalties.

Purchase of any product or service from a vendor which violates an exclusive or semi-exclusive supply and price relationship established by Purchasing is unallowable. An example would be the NMIMT campus catering contract.

J. Procurement Card and Gas Card

Purchases up to \$999.99 per order / transaction may be made at the best obtainable price and processed with a Procurement Card. It is recommended that price comparisons be made from multiple sources to determine the “best obtainable price”. Prior approval of Purchasing is not required.

In most cases, the Procurement Cards allow expenditure of NMIMT funds prior to review, and are therefore not appropriately used for all transactions. Items on the restricted purchases list require an approval prior to the transaction; the Procurement Card waiver form is available on the purchasing website. Items on the prohibited list are strictly forbidden with NMIMT funds. These purchases, if made with a Procurement Card, shall require a refund from the vendor or reimbursement by the cardholder and tracked as a cardholder violation.

Procurements using the approved NMIMT Procurement Card shall follow policies and procedures as established and maintained by Purchasing and approved by the Regents, President, and Vice President, Administration and Finance.

The Gas Card may be used for NMIMT vehicles only for the purchase of gasoline, car washes, emergency towing and vehicle related expenses. The Gas Card policy is available at the same link as the Procurement Card.

K. Inspection of Items Received by Property Control, Shipping and Receiving

Accepting or rejecting an order: It is the responsibility of the Property Control, Shipping and Receiving to inspect all orders received and either accept or reject the order immediately when it arrives. Late inspection and notification of damaged items or incomplete receipts may prevent a claim for replacement or relief from payment for the items. The shipment received should be checked for condition and compliance with the quantity. If the shipment received is not as ordered, the supplier should be notified immediately and requested to replace or correct the deficiency. On all returns, a Letter of Authorization from the vendor to return merchandise must be obtained before merchandise is returned. NOTE: Certain vendors may levy a restocking fee.

Satisfactory receipt: Send the receiving copy of the purchase order, or a photocopy for partial receipts, to the Accounts Payable office. Indicate what has been received, sign and date the receiving copy and send to Accounts Payable within ten (10) calendar days of actual receipt. For final payment against a purchase order, ensure "FINAL" is written on the document prior to submission to Accounts Payable.

Unsatisfactory receipt - damaged or short shipments: Damaged shipment claims must be processed immediately to assure proper claims handling. The following procedures should be followed:

1. Inspect all boxes and containers for visible damage immediately upon receipt.
2. If container is damaged, write "container damage" on the delivery person's log sheet before signing for the receipt.
3. Open and inspect the contents immediately for damage. If any items are damaged, notify the supplier immediately. Be sure to retain the damaged container and all packing materials for claims inspection; if a shipping carton is

received in good physical condition, and there is “hidden damage” to the contents, call the supplier immediately.

4. In the case of all damaged shipments, be certain to keep the shipping carton, as it will be needed for claims processing.
5. For claims involving a purchase order, please notify the appropriate buyer regarding the damage. The buyer will work with the vendor to request a return merchandise authorization (RMA) and replacement of the damaged goods.

NOTE: Purchase Orders for only services are not received by Property Control, Shipping and Receiving. Those receiving reports are handled at the department level.

L. Procurement Thresholds

A single purchase involving an expenditure at or below \$2999.99 may be made on a Direct Payment (DP) at the best obtainable price by written quote. The exception is computers at \$1000 and above, and vehicles regardless of the cost, must be on a purchase order. All inventoriable property must be purchased using a standard Purchase Order. Records of such purchases shall be maintained by Purchasing for auditor's inspection.

Under N.M.S.A. 13-1-125 C a single purchase involving an expenditure greater than \$3,000 but less than \$19,999.99 for services, construction or items of tangible personal property may be procured by obtaining one written quote at the “best obtainable price”.

A single purchase involving the expenditure between \$20,000 and less than \$59,999.99 shall be made by a buyer in Purchasing or satellite office after attempting to secure at least three (3) bona fide written, responsible quotes. A written “no bid” may be used as one of the three attempts.

A single purchase of services, construction, items of tangible personal property, or professional services in an amount equal to or greater than \$60,000 shall be made only after notice that sealed bids or proposals will be received. The invitation for sealed bids or request for proposals shall be published at least once in a newspaper of general circulation in the area where NMIMT is located. Notices shall appear in the newspaper no later than ten (10) calendar days before the date of opening bids or the due date for responses to request for proposals. These requirements of notice are in addition to any other procedure that may be adopted by Purchasing to notify prospective bidders that bids will be received.

Separate purchases of the same or similar materials or services from the same supplier at the same time or about the same time shall be considered a single purchase. Purchases shall not be artificially divided to avoid competitive requirements under N.M.S.A 13-1-125, and if split may become the responsibility of the requester.

NOTE: For all procurements which utilize federal funding or are subject to federal flow-down provisions, the applicable federal requirements may differ and the Federal Acquisition Regulation (FAR) and 2 CFR 200 should be consulted prior to proceeding.

The following table does not cover Sole Sources which are discussed later in the policy.

Quick Reference Matrix

Threshold	Competition Requirement	Method of Procurement to be used by the Department
Purchases at or less than \$999.99	One quote at best obtainable price	Procurement Card
Purchases at or less than \$2,999.99 (excludes computers at \$1000 and above, and all vehicles, which must be on a purchase order)	One written quote at best obtainable price	Direct Payment
Purchases between \$3,000 and \$19,999.99	One written quote at best obtainable price	Purchase Order
Purchases between \$20,000 and \$59,999.99	Three written quotes	Purchase Order
Purchases \$60,000 and greater for goods / services	Bid / Proposal	Purchase Order
Purchases \$60,000 and greater for professional services	Proposal	Purchase Order
Purchases against any competed GSA, NMIMT pricing agreement or state of New Mexico pricing agreement*	A copy of the applicable contract or pricing agreement should be submitted with a purchase requisition	Purchase Order

* When a department seeks to utilize a state of New Mexico Pricing Agreement for indefinite delivery and indefinite quantity general services for a purchase greater than \$60,000, three quotes from the state list of awardees must be obtained per SPD Policy Memo #FY18-001.

M. Lowest Price

Purchases shall be made at the lowest prices possible, with equal consideration to quality and availability. Therefore, quotations should be solicited from three (3) or more competitive sources whenever possible. Purchasing will obtain bids on all requirements greater than \$60,000. When trademark goods are desired, at least two (2) other brands of comparable quality should be listed on the purchase requisition, if possible. All purchases will be made by purchase requisition through regular channels, except in emergencies as defined in the N.M.S.A. 13-1-127.

N. Price or Cost Analysis

Purchasing will perform price or cost analysis on single or sole source procurements and always on procurements of \$20,000 or more using state funds. All federal procurements shall have price or cost analysis regardless of the dollar amount.

O. Invitation to Bid (ITB)

For all procurements exceeding \$60,000, Purchasing shall purchase all materials and services by issuing Purchase Orders based on the lowest responsible bid when bids are required. Reference N.M.S.A. 13-1-104.

Purchasing will issue all bids for procurements greater than \$60,000 upon receipt of a purchase requisition from the department. Purchasing and satellite offices as the office of record for procurements exceeding \$3,000 will provide the necessary audit trail. When the user requires materials or services that are produced by only one manufacturer and the estimated cost of the purchase exceeds \$60,000, Purchasing shall specify the manufacturer's make or brand in the bids and shall obtain competitive bids from authorized dealers or distributors of the manufacturer as outlined in this section. If the manufacturer is the sole source of supply, Purchasing will make that determination, after posting the sole source information on the purchasing website for the mandatory thirty (30) day period, and provide supporting documentation in the file. This applies to state funded sole source procurements.

Where competition exists, Purchasing may obtain bids on this classification of items to establish pricing agreements whenever Purchasing feels that such practices are in the best interest of NMIMT.

The bid will be advertised and a notification posted to the Purchasing website. Additionally, a bid notification will be sent to qualified vendors selected by Purchasing and / or provided by the end user and their department, and to those businesses that have signified in writing an interest in submitting bids for particular categories of items of tangible personal property, construction and services. The department will be notified of the date, time, and location of bid opening. Normally bids are opened at 2 p.m. MT on the day stated in the bid invitation.

After the bid opening, Purchasing will indicate who the apparent responsive bidder is and forward a copy of the bid results to the department for review. If the lowest bid is rejected, the department must state in writing why the bid did not meet specifications and recommend whether to accept the next lowest bid or to reject all bids and re-bid the procurement. If no bids were received, or the bids received are rejected, Purchasing will re-advertise and solicit bids one additional time. If after the re-bid no bids are received or the re-advertised bids are also unacceptable, Purchasing may negotiate the required procurement on the open market. Official bid responses must not be altered in any way, and all original documentation must be returned to Purchasing.

Bids will be awarded to the lowest responsible bidder, giving due consideration to price, quality of product, and time of delivery pursuant to the ITB. Once department approval has been given to accept the bid, Purchasing will prepare and distribute the Purchase Order resulting from a sealed bid.

Every attempt will be made by Purchasing to act fairly in obtaining bids, proposals, and information for preparation of bid and proposal requirements and specifications. NMIMT will attempt not to favor one firm, individual, or company over another in obtaining information for preparation of specifications.

Exception: Bids for sale of NMIMT property will be awarded to highest bidder. Both the Property and Purchasing Offices will work with any department who wishes to auction any property. All property to be sold must be cleared through Property before Purchasing will issue the required bid.

P. Request for Proposal (RFP)

When Purchasing makes a determination that the use of competitive sealed bidding for items of tangible personal property, services or professional services greater than \$60,000 is either not practicable or not advantageous to NMIMT, a procurement shall be effected by competitive sealed proposals.

Competitive sealed proposals shall be solicited through a Request for Proposal upon receipt of a purchase requisition from the department which shall include the specifications for the services or items of tangible personal property to be procured. The average requirement for a proposal is thirty (30) days.

Each proposal shall state the relative weight to be given to the factors in evaluating the responses. Purchasing will work with the requesting department to assign evaluation criteria.

For the purpose of obtaining best and final offers (BAFO), offerors submitting proposals may be afforded an opportunity to discuss and revise their proposals. Revisions may be permitted after submission of proposals and prior to the award. Negotiations may be conducted with responsible offerors whose proposals show the most promise for selection for award. NMIMT reserves the right to award based solely on the response received.

The contents of any proposal shall not be disclosed to other offerors during the negotiation process. The award shall be made to the responsible offeror(s) whose proposal is the most advantageous to NMIMT.

It is the responsibility of prospective offerors to deliver their sealed proposal to the Purchasing Services Office by the designated date and time. Responses received after this date and time will be returned unopened. The end user department will be informed of the proposal opening date and time. Departments are welcome to attend all proposal openings; however, outside entities are not allowed to attend. RFP's are normally scheduled to open at 2 p.m. MT every working day.

Under no circumstances should a NMIMT official, representative, or employee accept the responsibility of delivering a sealed bid or proposal to the Purchasing Services Office.

Q. Resident Preference and Veterans Preference

Whenever sealed bids or proposals are received from resident suppliers, as defined in the Public Purchases Act, the sealed bid of the resident supplier shall be preferred if it does not exceed the sealed bid or proposal of a nonresident supplier by more than five (5) percent. A copy of the certificate issued by the New Mexico Department of Taxation and Revenue to the supplier must be submitted with the bid or proposal for the preference to be considered.

A New Mexico resident veteran contractor, upon providing certification as a resident veteran and verification of annual revenues for the last complete year of business, shall be given a preference of ten (10) percent, subject to the statutory limit. The preference may not be combined with the residential preference, but may be used once Veterans Preference cap is reached.

In both cases, the supplier or contractor must have a valid in-state certification number issued by the New Mexico Department of Taxation and Revenue and that number must appear on the sealed bid or proposal response. This stipulation does not apply when the purchase involves the expenditure of Federal funds, informal solicitations conducted under NMIMT Pricing Agreements, State Pricing Agreements or General Services Administration (GSA) Contracts, or solicitations for discounts from list prices. Reference N.M.S.A. 13-1-22

R. Contractual Agreements

All licensing, rental, maintenance, and lease agreements requiring NMIMT approval are not legally binding until signed by the Board of Regents, the President, the Vice President of Administration and Finance, Chief Procurement Office or their designees as indicated herein. Regardless of the dollar amount, NMIMT faculty and staff are prohibited from signing documents committing NMIMT; those documents should be forwarded directly to the CPO for review and signature.

A multi-term contract for items of tangible personal property or services may be executed for any period of time deemed to be in the best interests of NMIMT, not to exceed four years, provided that the term of the contract and conditions of renewal or extension, if any, are included in the specifications; that funds are available for the first fiscal period at the time of contracting; and that any services are in accordance with New Mexico procurement regulations. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds. Under certain circumstances, a multi-term agreement may be issued for a maximum of eight (8) years.

All contractual agreements and lease agreements must be reviewed by the CPO prior to requesting signatures.

S. Pricing Agreements (PA)

Purchasing has Pricing Agreements for many standard equipment systems and services that are repetitively requisitioned and have been competitively bid. Use of these agreements waives competitive requirements, in most cases. Contact Purchasing for further information on the use of existing pricing agreements or to initiate a NMIMT pricing agreement.

T. Maintenance and Service Agreements

A Maintenance / Service Agreement is a contract between NMIMT and a supplier, authorizing the supplier to perform routine maintenance and service on equipment owned or leased by a department. All service contracts must be signed by Purchasing.

When renewing a Maintenance / Service Agreement, it is the department's responsibility to obtain pricing from the vendor and to initiate the renewing purchase requisition. If the pricing is based on a State Pricing Agreement or a GSA Contract, a copy of the cover sheet showing the GSA contract number, expiration date and a copy of the page showing the price should be forwarded to Purchasing for processing.

The make, model, serial number, and NMIMT tag numbers must be included on all maintenance purchase orders.

U. Equipment Leases

New leases: All equipment lease documentation, which should include the quote, contract, and a purchase requisition, shall be reviewed, signed, and approved by Purchasing. No documentation should be signed by a department that commits NMIMT. Once a PO and contract are signed and sent to the vendor, the equipment can then be delivered.

Existing leases: With a typical lease of 36, 48 or 60 months, copier leases are an example, there are three choices a department should consider prior to the lease expiration:

1. Return the equipment to the company from which it is being leased.
2. Extend the lease for another twelve (12) months.
3. Buy the equipment at Fair Market Value (FMV). One dollar buyouts are prohibited by New Mexico law under State v. Montano.

Demonstration or loaned equipment: Departments may try out demonstration or loaned equipment, but, without exception, that equipment must be returned to the vendor. Departments cannot keep the demonstration model and attempt to lease / purchase it. This would be considered an unauthorized purchase. It also puts NMIMT and the vendor at risk if the equipment is not on a state contract or NMIMT cannot agree to the vendor's terms and conditions. Prior to the demonstration equipment being installed, a department should work with Purchasing to issue a \$00.00 PO to the vendor. More information on demonstration or loaned equipment is available in the NMIMT Property Manual.

Rental Agreements: A Rental Agreement is a Term Agreement involving payment for use of goods. At the end of the Rental Agreement, the goods are returned to the supplier.

V. NMIMT Surplus Property

The NMIMT Property Office is responsible for the disposing of all NMIMT property, except property to be used by Purchasing as a trade-in or exchange. Purchase requisitions that include trade-in of existing property must be approved by the Property Committee prior to issuing the ITB / RFP. No other person or department is authorized to sell or exchange any item at any time.

W. Trade or Exchange

Departments are not authorized to sell, trade, or delete any item of any value at any time. This function shall be handled by the Property Office only. When a purchase involves a trade or exchange as partial payment, a description of the property and the NMIMT tag number is required on the purchase requisition.

IV. Federal Purchases

A. Federal Flowdown Clauses

Purchase Orders over \$3,000 shall contain all flowdown clauses as required by the Federal Acquisition Regulations (FAR). A copy will also be provided to potential vendors when a bid or proposal is issued. On all procurements greater than \$60,000 involving the use of Federal funds, Purchasing shall ensure that the following vendor signed certifications are in place:

1. Certification Regarding Debarment, Suspension, Proposed Debarment, and other Responsibility Matters - (FAR 52.209-5).
2. Certification regarding Anti-Kickback Act of 1986 - (FAR 52.203.7).
3. Certification of Non-Collusion.

Additionally, verification that the supplier is not on the Excluded Parties List of Suppliers shall be included in each procurement file.

B. Equipment Screening

All procurements exceeding \$3,000 or more will be screened by the property office to determine if like equipment may already be on campus and available for use before approving the purchase requisition.

C. Small and Disadvantaged Business Concerns

NMIMT intends that businesses and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have maximum practicable opportunity to participate in the performance of federally funded contracts.

In accordance with 45 CFR Part 74.43, Purchasing shall ensure that there is maximum competition among contractors and that positive steps are taken to assure that minority firms, women's' business enterprises, and labor surplus firms are utilized. Per 2 CFR 200.321 NMIMT shall:

1. Place qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

4. Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Require the prime contractor, if subcontracts are to be let to take the affirmative steps listed in paragraphs (1) through (5).

NOTE: For all procurements which utilize federal funding or are subject to federal flow-down provisions, the applicable federal requirements may differ and the Federal Acquisition Regulation (FAR) and 2 CFR 200 should be consulted prior to proceeding.

D. Contract Provisions for Non-Federal Entity Contracts Under Federal Awards (Appendix II to Part 200)

1. Contracts for more than the simplified acquisition threshold must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
2. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
3. Equal Employment Opportunity. Must include the equal opportunity clause provided under 41 CFR 60.1.4(b).
4. Davis-Bacon Act, as amended (40 USC 3141-3148).
5. Contract Work Hours and Safety Standards Act (40 USC 3701-3708).
6. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401.
7. Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act (33 USC 1251-1387).

8. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM).
9. Byrd Anti-Lobbying Amendment (31 USC 1352).
10. Procurement of recovered materials (2 CFR 200.323).
11. Prohibition on certain telecommunications and video surveillance equipment or services (2 CFR 200.216).
12. Domestic preferences for procurements (2 CFR 200.322).

V. Construction**A. Construction**

All construction projects shall be accomplished in conformance with the policies outlined in Chapter 13, Article 4 of the New Mexico Statutes.

B. Wage Rates

When equipment or service procurements require installation and the combined cost exceeds \$60,000, wage rates will be requested from the New Mexico Department of Workforce Solutions by Purchasing. When federal funds are used for construction over \$2,500, Davis-Bacon wage rates apply.

C. Building Repairs, Alterations, Construction

Requests for alterations to buildings, electrical, plumbing, carpentry work, and related items less than \$59,999.99 should be submitted to Facilities Management. Facilities will make a determination whether or not the work will be accomplished using Facilities staff or an outside contractor.

Subject to Facilities Management's determination, projects up to \$19,999.99 require one written quote, and projects between \$20,000.00 to \$59,999.99 require three (3) written quotes from licensed contractors. Remodeling projects over \$60,000.00 and new construction projects will require sealed bids. Requests for planning and design of these projects should be made through Facilities.

All contractors awarded a Purchase Order must have appropriate licensure for the type of work to be performed at the time they submit their bid, and prior to the start of a project, and must provide a Certificate of Insurance, and when applicable, a Performance Bond, and a Labor and Material Payment Bond.

Detailed information regarding construction policy, procedures, licensing requirements, bonding and insurance can be obtained from Purchasing.

E. Bonding and Insurance

Construction contractors, or any contractor performing work on NMIMT premises, shall have in force during the life of any contract insurance coverage as required by the contract documents. The contractor shall purchase and maintain statutory limits of Workers Compensation, public liability, and automobile liability insurance. The Certifications of Insurance shall be executed by an insurance company authorized to do business in the State of New Mexico. NMIMT shall be included as a loss payee and / or additional insured.

Public Liability and Automobile Liability insurance shall include as a minimum the following coverage:

Public injury, each person, excluding medical and medically-related expense	\$400,000
Medical and medically-related expenses	\$300,000
Bodily injury, each occurrence, excluding medical and medically-related expenses	\$750,000
Property Damage, each occurrence	\$100,000

VI. Special Procedures

A. Unauthorized Purchases

Any person, firm or corporation that willfully violates any provisions of the Procurement Code is subject to the penalties outlined in N.M.S.A. 13-1-196 through 13-1-199, in addition to any disciplinary action taken by the Institute up to, and including, termination of employment.

Procurements not properly authorized in advance by Purchasing shall require a written statement of justification to Purchasing by the person originating such a purchase, detailing events that led to the unauthorized purchase, along with a statement of actions being taken to prevent repetition of future unauthorized purchases. The statement will require the review and approval by the Department Head and the appropriate Vice President. The statement will be included in the procurement file.

On a case-by-case basis, NMIMT reserves the right to reject or make payment, in total or any portion thereof, as it deems appropriate. Any unauthorized purchase or portion thereof, rejected for payment by the Institute will be the personal responsibility of the individual causing such unauthorized purchase.

B. Amending Purchase Orders

Purchase Orders may be amended when changing quantity, price, description of line items, changes to fund, or addition / deletion of line items. All Change Orders (CO) will be processed into Banner by Purchasing or the appropriate satellite office using the CO request form. A CO should not be used to release an encumbrance after final payment is made.

C. Emergency Purchases

An emergency condition is a situation that creates a threat to public health; welfare, safety, or property such as may arise by reason of floods, epidemics, riots, equipment failures or similar events. The existence of the emergency condition creates an immediate and serious need for services or construction that cannot be met through normal procurement methods. Poor planning on the part of the department or end user does not constitute an emergency. Expiration of funds does not constitute an emergency.

Once an emergency is identified, immediate written notification is to be made to the CPO. At that time the CPO may either initiate or authorize others via written instructions to make emergency procurements, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. The CPO shall provide a written determination of the basis for the emergency procurement and for the selection of the particular contractor shall be included in the procurement file. The CPO shall also put all information relating to the emergency procurement on the purchasing website within three (3) business days of award.

In the event of an emergency, as defined above, Purchasing may purchase without bids. During regular working hours, Purchasing should be immediately informed of an anticipated Emergency Purchase.

When circumstances beyond the department's control prevent following established procedures or when delay would be detrimental or prove costly to NMIMT, an Emergency Purchase may be made with the approval of the CPO.

Under 13-1-127, the existence of the emergency condition creates an immediate and serious need for services, construction or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:

- (1) the functioning of government;
- (2) the preservation or protection of property; or
- (3) the health or safety of any person.

An Emergency Purchase includes purchases that must be made during hours other than normal working hours. The option of providing the vendor with a purchase order "after-the-fact" (the next business day), if the vendor is willing, should be taken over an individual employee purchase and subsequent reimbursement.

D. Procurement of Used Items

When procuring used items with an estimated cost of five thousand dollars (\$5,000) or more, the procurement shall be treated as if procuring new items. The equipment purchased must have a minimum 90-day warranty and independent certification of working order. Reference N.M.S.A. 13-1-155.

E. Sole Source

A procurement exceeding \$20,000 may be awarded for services, construction, items of tangible personal property or professional services without competitive sealed bids or competitive sealed proposals when the CPO makes a determination. The determination process for the sole source request submitted by the department or satellite office involves posting the sole source information on the purchasing website and / or the State of New Mexico Sunshine Portal for the mandatory thirty (30) day period when state funds are utilized. If the sole source is challenged and found to have merit, competition shall be made by obtaining three (3) quotes for procurements between \$20,000 and \$60,000, and for procurements exceeding \$60,000 by competitive sealed bid or proposal, after the mandatory thirty (30) day period. Purchasing shall conduct negotiations, as appropriate, as to price, delivery and quantity in order to obtain the price most advantageous to NMIMT.

Any procurement using federal funds, in whole or part, is exempt from the mandatory thirty (30) day requirement, under N.M.S.A. 13-1-30 B. However, the sole source will be verified by the CPO prior to any procurement action and price reasonableness will be performed for all federal purchases.

The Application for Determination of Sole Source Procurement form, in addition to other Purchasing forms, is available on the Purchasing website. The Application can be supplemented with additional documentation such as correspondence and literature.

Brand-Name Specification. A brand-name specification may be used only when the CPO makes a determination that only the identified brand-name item or items will satisfy the needs of the department requesting the purchase.

Unless Purchasing makes a determination that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand-name or equal specifications shall include a description of the particular design, function or performance characteristics which are required.

Purchasing shall seek to identify sources from which the designated brand-name items can be obtained and shall solicit competitive prices.

NOTES: For all procurements which utilize federal funding or are subject to federal flow-down provisions, the applicable federal requirements for sole and brand name specification purchases differ and the Federal Acquisition Regulation (FAR) and 2 CFR 200 must be consulted prior to proceeding.

Subawards proposed to and approved by external funding agencies and administered by NMIMT Sponsored Projects Administration (SPA) are not considered procurements and shall be processed independently through that office and in accordance with SPA policy. Sole Source documentation is not required. The Purchasing office will continue to process purchase requisitions and issue purchase orders for subawards.

F. Professional Service Agreements (PSA)

Services performed by an individual, a medical provider, or a licensed professional such as an attorney, accountant, architect or engineer requires a Professional Service Agreement (PSA). If the person is performing in the capacity of a temporary employee, the transaction should be processed through the NMIMT hiring system. Professional services \$5,000 and greater require both a purchase requisition and PSA form with the contractor's signature be forwarded to Purchasing. All payments for services must be supported by a contractor invoice.

G. Official Procurement Files

Purchasing procurement files are the official files for all procurement transactions. All actions authorized by N.M.S.A. shall be fully documented and maintained in the Purchasing files. All related procurement documents shall be maintained in secure files for a period outlined in N.M.A.C. 1.21.2. Documents may be retained beyond that time or turned over to the Business Office for retention or disposal. Designated satellite offices shall maintain their procurement files under the same requirements as the Purchasing Services Office.

H. Regent's Notification and Approval Requirements

Federal funds: Procurements utilizing federal funds exceeding \$300,000 require Regents' notification by formal correspondence through the Purchasing Services Office or designated satellite office.

State funds: Procurements utilizing state funds exceeding \$300,000 require Regents' approval by formal correspondence through the Purchasing Services Office prior to the issuance of a purchase order.

VII. Links

Property Control:	http://www.nmt.edu/property/index.php
Purchasing Forms:	http://www.nmt.edu/finance/purchasing/forms.php
EPSL Screening:	https://www.sam.gov/portal/public/SAM/
Facilities Management:	http://www.nmt.edu/facilities/index.php
Procurement / Gas Card:	http://www.nmt.edu/finance/purchasing/pcard.php
Tax-Exempt Certificate:	http://www.nmt.edu/finance/purchasing/forms.php