



1.0 GENERAL PURCHASING SERVICES POLICY

SCOPE

This policy ensures that Caltech's purchasing procedures and processes are in compliance with Federal, State, and local laws, and it ensures appropriate stewardship of Caltech assets, integrity when acquiring goods and services, and accountability to Caltech's sponsors.

DEFINITIONS

As used in this policy:

Commercial Contract

A legally binding agreement between Caltech and another party in which the parties are obligated to complete a particular task or satisfy a particular objective.

Conflict of Interest

A situation in which a Purchasing Official is in a position to derive personal benefit from actions or decisions made in their official, or unofficial capacity.

Ethics

The moral principles governing or influencing conduct, including fairness, integrity, and transparency in Caltech's purchasing activities.

Federal Acquisition Regulation (FAR) (48 CFR)

Federal legislation that governs Federal contracts in the pre-award phase, award phase, and post-award phase of a contract.

Federal Contract

Agreements between a Federal agency of the United States and Caltech to perform a specific job, supply labor and materials, or for the sale of goods and services.

Government Grant

A financial award given by the Federal, State, or local government to Caltech for a specific public purpose.

Gratuity

Anything of more than nominal value given in exchange or in excess of the market value of that which is provided.

Interested Party

Any individual or contractor that may be affected by a situation, or is hoping to make financial gain out of a situation.

Law of Agency

Commercial law that deals with a set of contractual, quasi-contractual and non-contractual fiduciary relationships that involve an agent (Purchasing Official) that is authorized to act on behalf of the principal (Caltech) to create legal relations with a third party.

Non-Purchasing Official

An individual who is not authorized to acquire goods and services on behalf of Caltech, including administrators, principle investigators (PI), staff, faculty, students, visiting associates, part-time staff, or other affiliates.

Order of Precedence

A sequential hierarchy of terms and conditions used to assist courts in contract interpretation and to dictate which terms and conditions prevail over the contract when sections of the contract contradict each other.

Purchasing Official

An individual with delegated authority to acquire goods and services on behalf of Caltech, including P-Card Holders, SOS Buyers, Purchasing Agents, Contracting Officers, Senior Contracting Officers, Contract Managers, Associate Director of Purchasing Services, the Director of Procurement Services, and the Associate Vice President for Finance and Treasurer.

Uniform Guidance

The Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) is Federal legislation that governs the Federal grant process from pre-award to post-award administration.

POLICY

Purchases and contracts for goods and services made on behalf of Caltech should be made within the law of agency, procurement laws and regulations, and with the highest ethical standards, including appropriate stewardship of Caltech assets, integrity when acquiring goods and services, and accountability to its funding sponsors.

1.1 Law of Agency

A Purchasing Official is delegated authority to acquire goods and services on behalf of Caltech and must comply with the [Delegation of Authority](#), Caltech's [General Purchasing Services Policy](#), and [Purchasing Goods and Services Policy](#). Purchasing Services is the only department with authority to bind Caltech to contractual agreements for goods and services. However, the Director of Procurement Services can delegate purchasing responsibilities to other Purchasing Officials, known as Speedy Ordering System (SOS) Buyers, in other divisions and departments on campus.

Purchasing Officials should have thorough knowledge of their personal liability and obligations. If a Purchasing Official exceeds or violates their authority granted under the law of agency, then the Purchasing Official becomes liable for his/her own actions, including but not limited to making false statements, deceiving others, incurring damages to others, and performing illegal acts.

Non-Purchasing Officials must be fully aware of their personal liability and obligations when they communicate with contractors. Caltech is liable for any acts and promises made by the Non-Purchasing Official to a contractor. Non-Purchasing Officials are prohibited from promising commitments to contractors and signing contracts on behalf of Caltech.

1.1.1 Delegation of Authority

The Director of Procurement Services has been delegated authority by the Vice President of Business and Finance to review and approve contracts for goods and services up to one million dollars. Contracts that exceed one million dollars or are "sensitive in nature" are subject to review by the Office of General Counsel (OGC) and must be reviewed and approved by the Associate Vice President for Finance and Treasurer.

The Director of Procurement Services can delegate authority to other Purchasing Officials within Purchasing Services and other divisions and departments on campus. The Director of Procurement Services determines the level of signature authority by the complexity of the contract and the level of responsibility of the Purchasing Official. The following Delegation of Authority outlines the different levels of responsibility of different Purchasing Officials and their respective signature authority limits:

Delegation of Authority - Signature Authority Limits

Purchasing Official	Limit
SOS Buyer I	\$5,000.00
SOS Buyer II	\$10,000.00
Purchasing Agent	\$25,000.00
Contracting Officer	\$ 50,000.00-\$ 150,000.00
Senior Contracting Officer	\$250,000.00
Contracting Manager	\$250,000.00
Associate Director, Purchasing Services	\$500,000.00
Director of Procurement Services	\$1,000,000.00
Associate Vice President for Finance and Treasurer	> \$ 1,000,000.00

1.2 Procurement Law

Contracts for goods and services must comply with Federal, State, and local laws. The primary governing authorities are determined by the source of funds being used, jurisdiction, and the governing body incorporated into the contract.

1.2.1 Commercial Contract Law

State governments of the United States are the primary authority that govern commercial contracts.

Contracts for acquiring goods, borrowing money, or leasing equipment using Caltech private funds are governed by the Uniform Commercial Code (UCC). The UCC articles have been adopted by State governments of the United States. However, some State governments have not adopted all articles of the UCC or have adopted modified versions. The State of California has adopted UCC articles into the California Commercial Code.

Contracts for acquiring services are governed by State statutes, common and private law.

Caltech's Commercial Terms and Conditions are incorporated and binding for all commercial contracts.

1.2.2 Government Grant Law

The primary governing authorities for government grants are the terms and conditions of the individual grant and the agency specific provisions. Federal government grants are governed by the *Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost*

[Principles, and Audit Requirements for Federal Awards \(2 CFR Part 200\)](#), also known as the Uniform Guidance.

Contracts for goods and services using Federal grants include various terms and conditions, including individual grant terms and conditions, program provisions, agency specific provisions, and Caltech's terms and conditions. All levels of terms and conditions are incorporated and binding. However, when there is a conflict, the order of precedence determines which terms and conditions prevail over the conflicting terms and conditions.

Caltech's Commercial Terms and Conditions and [Government Funded Grant Provisions](#) are incorporated and binding for all contracts using Federal grants.

1.2.3 Federal Contract Law

The primary governing authority of Federal contracts is the [Federal Acquisition Regulation \(FAR\) \(48 CFR\)](#).

The award's terms and conditions, flow-down provisions, agency specific provisions, Caltech's Commercial Terms and Conditions, and Caltech's [Government Funded Subaward Provisions](#) are incorporated and binding for all Federal contracts.

1.2.4 International Contract Law

International contracts are governed by various governing bodies, including domestic and foreign governments, international treaties, and international trade organizations. The most notable international trade organizations are the World Trade Organization (WTO), the North American Free Trade Agreement (NAFTA), and the General Agreement on Tariffs and Trade (GTT).

International contracts must comply with Caltech's [Export & Import Requirements: Procurement](#) should include Federal laws that impact international contracts, including Foreign Corrupt Practices Act (FCPA), Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), trade sanctions, and anti-boycott regulations.

1.3 Ethics

The highest level of ethical conduct is to be upheld at all times in performing purchasing activities on behalf of Caltech. At a minimum, the standards set forth in the [Caltech Community's Statement on Ethical Conduct](#).

1.3.1 Personal Conflict of Interest

Compliance with Caltech's [*Conflict of Interest Policy*](#) and the [*Anti-Kickback Act of 1986*](#) is a requirement. Soliciting or accepting gratuities or other things of value from an interested party either directly for themselves, or for persons with whom they have personal, business or financial ties is strictly prohibited with the following exceptions:

- Any unsolicited advertising or promotional item, other than money, with a market value of no more than \$25.00 per item or event (e.g., pens and calendars);
- Plaques, certificates or mementos of no monetary value;
- Local transportation on official business (e.g., when alternate arrangements are impractical or where it will facilitate the conduct of official business);
- Attending a celebration or other major event related to a Caltech project, so long as the event is attended by a number of parties representing a range of mutual interests; and
- Accepting lunches from contractors if the total value of the meal is less than \$25.00. Lunches must not be accepted twice per year from the same contractor and never during pre-award and award phases of a contract.

1.3.2 Organizational Conflict of Interest

The three primary categories of organizational conflict of interest (OCI) as outlined by the United States Government Accountability Office (GAO), including impaired objectivity, biased ground rules and unequal access to non-public information in competition for Caltech contracts must be avoided or mitigated.

To avoid or mitigate an organizational conflict of interest, Purchasing Officials should:

- Identify and evaluate potential OCIs at the pre-award phases of the contract;
- Avoid, neutralize, or mitigate significant potential OCIs;
- Ensure equal access to information for all contractors;
- Ensure that contractors are not involved in writing the Statement of Work (SOW) for a solicitation;

- Exclude contractors from participating in source selections activities or barring access to sensitive data; and
- Reduce or alleviate the impact of an unavoidable OCI.

1.3.3 Disciplinary Action

Failure to obey the foregoing policies, could be the basis for appropriate disciplinary action or discharge of employment from Caltech.

ROLES AND RESPONSIBILITIES

Director of Procurement Services

The Director of Procurement Services is responsible for recommending policy changes and updates to establish and maintain compliance with government laws and to oversee the competitive procurement process while ensuring appropriate stewardship of Caltech assets.

Division and Department Administrators

Division and Department Administrators are responsible for holding their SOS Buyers accountable for the purchasing activities they make on behalf of Caltech and to ensure that they comply with all of the [*General Purchasing Services Policy*](#) and the [*Purchasing Goods and Services Policy*](#).

Non-Purchasing Officials

Non-Purchasing Officials are responsible for understanding their liabilities and obligations when they communicate with contractors. Non-Purchasing Officials are prohibited from making promises to contractors and signing contracts for goods and services on behalf of Caltech. In the event that a Non-Purchasing Official negotiates terms and conditions of a contract for goods and services, the Non-Purchasing Official must consult with Purchasing Services prior to making any commitments to a contractor.

RELATED REFERENCES

Related Information

[*Caltech's Business and Finance*](#)

[*Caltech's Export Compliance*](#)

[*Caltech's Office of Sponsored Research*](#)

[*Caltech's Office of General Counsel*](#)

[*Purchasing Goods and Services Policy*](#)

POLICY ISSUED BY

This policy is issued and approved by Procurement Services. Any exceptions that require a deviation from this policy shall be reviewed and approved by the Director of Procurement Services and coordinated with the Purchasing and Payment Services business units.

EFFECTIVE DATES AND UPDATES

Action	Effective Date	Description of Action
Issued Policy	10/01/2007	Issued by the Procurement Services
Revised Policy	7/01/2016	<i>Revised for consistency with Uniform Guidance and to put the document into new policy format.</i> Reviewed and revised by <i>Procurement Services</i> .