10 Steps to the Purchase of Products or Services *Revisited*

New Vendors
Independent Contractors
Insurance Requirements

Presented by....
Accounts Payable
Purchasing
Office of Risk Management & Insurance

November 3, 2010
Plan for Today

- Review the 10 Steps to the Purchase of Products or Services
- Discuss typical “snags” in the process & tips for overcoming
- Determine other ways We can help You
Why Do We Care?

• Ensure compliance with IRS regulations & prevent fines for non-compliance

• Protect the University in case of claims
  – General Liability (bodily injury & property damage)
  – Workers’ Compensation
  – Professional Liability

• Minimize “special” agreements

• Maximize the use of everyone’s time
Before You Begin

Keep in mind that....

• Purchase of Products & Services must be in accordance with Purchasing Policies:
  – Board Policy Subpart 4-2
  – Business Policy Letter 2004:05

• Planning ahead & adherence to policies & “Steps” will help prevent “snags”
• For purposes of today’s discussion, we have split the Process into two parts:
  – Vendor Process
  – Purchasing Process

• Though we’ve laid the steps out sequentially, some steps in the two processes MAY occur simultaneously, depending on the circumstances
The Vendor Process
Step 1: New or Existing Vendor?

Determine whether Vendor is a New or Existing Vendor

- Not sure? Use FTIIDEN
- If Existing Vendor, proceed to Step 7
- If New Vendor, proceed to Step 2
Step 2: Business or Individual?

Determine whether the New Vendor is a business or an individual

- If a business (Corp., Co., LLC, or PC), no Independent Contractor Determination Checklist (ICDC) is necessary; proceed to Step 7
- If an individual AND a current employee, proceed to Step 4
- If an individual AND NOT a current employee, proceed to Step 3
Determine whether the individual New Vendor is in business (“hanging out his/her shingle”) to offer these products or services to others

– (Or is this individual just doing this occasionally “on the side”)

• If Yes, proceed to Step 7
• If No, proceed to Step 4
Step 4: ICDC

- Complete the Independent Contractor Determination Checklist:
  [http://www.ferris.edu/htmls/administration/purchase/Documents/Forms/ICDC-2010.pdf](http://www.ferris.edu/htmls/administration/purchase/Documents/Forms/ICDC-2010.pdf)

- Use your best judgment in answering the questions

- Send completed form to Purchasing
• Purchasing reviews completed ICDC and verifies determination
• Purchasing notifies you via e-mail of determination
• If Vendor is determined to be an employee, use a PAF to pay for services
• If Vendor qualifies as Independent Contractor, proceed to Step 6
Step 6: W-9

- Obtain a W-9 for the Vendor & send to Purchasing
- Complete a Conflict of Interest, if necessary
- Proceed to Step 7
The Purchasing Process
Step 7: Product or Services?

- If you are purchasing a product WITHOUT services, proceed to Step 10

- If you are purchasing services (or a product WITH services), proceed to Step 8
Step 8: Purchase of Services

• ALL purchases of services require an agreement/contract!
  – Short Form Service Provider Agreement
  – Standard Service Provider Agreement
  – Campus Contract
  – Vendor-produced Contract
  – General Counsel-created Contract

• All of these agreements/contracts require the vendor to provide evidence of insurance EXCEPT the Short Form Service Provider Agreement
• List of insurance requirements:

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<th>ACTIVITY or SERVICE</th>
<th>ACTIVITY or SERVICE COST</th>
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<td>Amusement &amp; Game Activities</td>
<td>Workers' Compensation with Employers' Liability: Statutory Limits &amp; EL $1,000,000</td>
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<td>Commercial General Liability: $1,000,000 per occurrence &amp; $2,000,000 aggregate</td>
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<td>Professional Liability: $2,000,000 per occurrence &amp; $2,000,000 aggregate</td>
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<td>Auto Liability: $1,000,000</td>
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<td>Excess Liability (umbrella): $5,000,000 per occurrence</td>
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<td>University Added as Additional Insured</td>
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<td>Artists or Performers</td>
<td>Workers' Compensation with Employers' Liability: Statutory Limits &amp; EL $1,000,000</td>
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| Armored Truck Services | Workers' Compensation with Employers' Liability: Statutory Limits & EL $1,000,000 |
|                       | Commercial General Liability: $1,000,000 per occurrence & $2,000,000 aggregate |
|                       | Professional Liability: $2,000,000 per occurrence & $2,000,000 aggregate |
|                       | Auto Liability: $1,000,000 |
|                       | Excess Liability (umbrella): $1,000,000 per occurrence |
|                       | University Added as Additional Insured |

• Dynamic list
• Questions? Call Purchasing
Short Form Service Provider Agreement

• May be used for Independent Contractors
• May NOT be used if the vendor has employees
• Does NOT require vendor to provide evidence of insurance
• May be used for speakers, interpreters, models, entertainment contracts less than $5,000, game officials, etc.
• May be used to pay honorariums (as long as vendor is an individual)
Guests with Travel Expenses Only

• Speakers, interviewees, etc. who are NOT being paid for services AND

• Are being reimbursed for travel expenses ONLY

• May use University Travel Voucher to process payment

• No other contract or paperwork is required
• Must be used if vendor has employees
• May be used for most other service agreements
  – Waste pick-up
  – Photographic services
  – Security services
  – Maintenance/service agreements
  – Professional service agreements
  – Small contractor jobs
• Requires vendor to provide evidence of insurance, but also offers some flexibility
Some contractors don’t want to provide workers’ comp coverage
  – Not required by law for sole proprietors
  – Trying other ways to avoid covering their workers

BUT the University can be held responsible if there’s a claim in the State of Michigan

Purchasing has sources for obtaining WC coverage

Workers’ Comp Info: http://www.michigan.gov/wca
Campus Contracts

• Contract pre-negotiated by Purchasing
  – Copier/printer/typewriter repair
  – Document shredding
  – Beverages
  – Car rentals, etc.

• Individual department contract with vendor NOT required

• List of Contracted Vendors:
  http://www.ferris.edu/fsuintranet/purchase/intranet/

• Vendor insurance requirements handled by Purchasing
Vendor-produced Contracts

• In some cases, the vendor will not agree to use the University’s contract

• All vendor-produced contracts must be reviewed IN ADVANCE by:
  – General Counsel’s Office
  – Risk Management & Insurance
  – Purchasing

• Requires vendor to provide evidence of insurance
General Counsel
Custom Contracts

• In some cases, the University’s Standard Service Provider Agreement may not be sufficient
  – Special risk-associated circumstances
  – Complexity of the components

• General Counsel’s Office will develop a custom contract

• Requires vendor to provide evidence of insurance
Step 9: Authorization & Completion

• Not everyone is authorized to sign contracts!
• Contracting Authority Signature Delegation List:
• Send a copy of the signed contract to Purchasing, referencing the Requisition # (or other payment method)
Determine the correct method of payment

- **Purchasing Card (P-Card)**
  - For purchase of products totaling < $2,000
  - For purchase of services totaling < $2,000 with Purchasing approval IN ADVANCE

- **Direct Pay**
  - For purchases of products < $400
  - For services < $400 obtained via Short Form Service Provider Agreement

- **Requisition/Purchase Order**
  - For all purchases  \( \geq \) or = $2,000
  - Purchases where P-Card is not accepted
Snag #1: Payments “After the Fact”

- Purchasing Procedures should always be followed!
- Process the paperwork BEFORE you buy!
- Purchasing Policy allows for exceptions, but these should not be the rule!
Snag #2: Insurance Requirements

- Standard Service Provider Agreement allows for flexibility

- Workers’ compensation insurance with statutory limits.
- Commercial general liability insurance with limits not less than Choose Limits. Such general liability coverage shall include Bodily Injury Liability, Broad Form Property Damage Liability, Contractual Liability, and Products and Completed Operations coverage. Ferris State University shall be included as an Additional Insured on certificate of insurance.
- Professional liability insurance with limits not less than Choose Limits.
- Excess or umbrella insurance with limits not less than $1,000,000.
- All Risk Property insurance providing replacement cost coverage for any property damage to Contractor’s property, which is caused by a loss of any kind and description to any property brought onto University's premises. Contractor agrees to waive on behalf of itself and its insurance company subrogation against University for any loss or damage which is covered or should be covered by this insurance.
- Automobile Liability Insurance with combined single limits not less than $1,000,000 for all of Contractor’s owned, non-owned, and hired automobiles.

Additional Insurance Requirements per Manager of Risk Management & Insurance: ________________________________

Amendment/Waiver of Insurance Requirements Signature: ________________________________ Date: ______________

Christina Weber, Manager of Risk Management & Insurance
Snag #2: Insurance Requirements, cont.

- Always try to get the Vendor to comply with requirements FIRST
- Requirements can be amended or waived – Call Purchasing for assistance
- Must be done BEFORE the Agreement is signed
Snag #3: Bids & Quotes

- All purchases $10,000 - $150,000 require, at the least, 3 ADVANCE quotes (some may also require a formal bid)
- Purchasing will accept the following for quotes:
  - Print-out from vendor Web site
  - Any written quote from vendor
  - An invoice is NOT a quote
- Purchases ≥ $150,000 (≥ $250,000 for construction) require a formal bid AND approval by the President
- Board of Trustees must approve:
  - All purchases of services ≥ $25,000
  - All other purchases ≥ $250,000
• Plan ahead!!!
• Try to use existing agreements!
• Involve Purchasing, Risk Management, Accounts Payable, & General Counsel’s Office **early** in the process!
• When in doubt, call Purchasing!