

Contact: Aimee Claeys

BOARD POLICY MANUAL REVISIONS – CHAPTER 2.2

Action Requested: Approve, as a first and final reading, revisions to Board of Regents Policy Manual Chapter 2.2.6 as further outlined in this memorandum.

Executive Summary: Pursuant to Iowa Administrative Code section 681-8.2(3), the Board of Regents retains the authority to approve contracts for legal services. Given the unique nature of engagements for legal services and in consideration of the Board's reservation of approval authority, the Board office has consistently advised that contracts for legal services are not subject to the standard procurement process. To memorialize the Board Office's advice within the policy manual, the following new subsection is proposed.

2.2.6.C.iii - Purchases Exempt From Competition: Purchases exempt from competition may be subject to other Board or institutional procurement policies and processes.

- a. Emergency Purchase - An emergency includes but is not limited to one of these conditions:
 1. In which an immediate or emergency need exists for the item or service because of events and circumstances not reasonably foreseeable.
 2. Critical to sustaining patient care or human life, maintaining critical equipment or services, or similar.
 3. In which there is a need to protect the health, safety, or welfare of persons occupying or visiting a public property.
 4. In which an institution must act to preserve critical services or programs.
 5. Purchases that are considered time sensitive and would result in increased costs due to delay or the inability to continue to provide necessary services to patients, students, public, etc.
 6. Each institution will submit a quarterly summary of emergency purchases over \$50,000 to the COO.
- b. Sole Source Purchase - In some instances equipment, supplies or services may be required which are obtainable only from a sole source. Sole source purchases must be documented and reviewed/approved by the institutional purchasing designee.
- c. Negotiation - Competitive and non-competitive negotiation may replace competitive bidding when in the best interest of the institutions. Justification for such use must be documented and available upon request.
- d. Legal and Related Services - Contracts for legal and related services include, but are not limited to, engagements for external: lawyers for all matters related to institutional operations (including, but not limited to, regulatory and transactional matters), adjudicators, investigators, mediators, and consultant or service agreements that are directly related to any of the foregoing. The engagement of lawyers shall be submitted to the Executive Director or designee for approval.