

# NATIONAL TAIWAN UNIVERSITY

## Directives Governing Procurement for Scientific and Technological Research and Development

April 20, 2010	Passed by the 2,619 <sup>th</sup> Administrative Meeting
September 07, 2010	Amended and passed by the 2,636 <sup>th</sup> Administrative Meeting
November 20, 2012	Amended and passed by the 2,739 <sup>th</sup> Administrative Meeting
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### Article 1 Purpose

National Taiwan University (NTU or “the University”) formulates the NTU *Directives Governing Procurement for Scientific and Technological Research and Development* (“the Directives”) in accordance with Article 6, Paragraph 4 of the *Fundamental Science and Technology Act* and the *Regulations Governing Procurements for Scientific and Technological Research and Development*, to increase the efficiency of the University’s procurement process and promote scientific and technological research and development.

### Article 2 Definitions

For the purpose of the Directives, “procurement for scientific and technological research and development” (“S&T procurement”) shall refer to the procurement of construction projects, property, or labor for a scientific and technological research and development project funded or commissioned by a government agency under Article 6, Paragraph 4 of the *Fundamental Science and Technology Act*. The Directives shall apply mutatis mutandis to procurement projects, which use the Technology Research and Development Budget and matching grants from industry.

### Article 3 Scope

1. The provisions herein shall apply to all S&T procurement projects at the University. Matters not addressed herein may be handled in accordance with other applicable regulations, including the *Government Procurement Act*.
2. Whether a procurement project is deemed an S&T procurement project as defined in the preceding subparagraph shall be based upon the terms and conditions of the sponsoring/commissioning contract. In the event of a dispute, the sponsoring/commissioning agency shall reserve the right for final explanation.

### Article 4 Procurement principles

All S&T procurement projects shall be conducive to scientific and technological research and development, and to innovative applications of R&D results that serve the public interest.

### Article 5 Duties and Responsibilities of the Concerned Units

1. Requisitioning unit: Managing requisitions and fulfillment of contracts

2. Procuring unit: Comparing quotes, negotiating prices, announcing and awarding the tender, formulating contracts, and handling project acceptance and disputes. For projects less than NT\$1 million in value, each college, academic program, research center, or administrative unit is authorized to act as the procuring unit. For projects of NT\$1 million or more in value, the Office of General Affairs shall act as the procuring unit.
3. R&D Unit: Reviewing procurement projects to ensure that they are for the University's S&T research and development projects funded or commissioned by a government agency, and that they are consistent with the objectives of the grant/commission.
4. The Accounting Office shall act as the oversight authority for S&T procurement projects of NT\$1 million or more.

#### Article 6 Procurement methods

1. S&T procurement projects may only be initiated after approved by the NTU President or a person authorized thereby.
2. Procurement projects of NT\$1 million or more shall be handled via open tendering procedures or limited tendering procedures and shall be reviewed based on the nature and actual needs of each project.
3. The open tendering procedures shall be followed, except for projects described under Subparagraph 4 herein. The tendering process shall be handled as normal even in the event that only one supplier has submitted a tender.
4. Projects that meet any of the following conditions may be handled through limited tendering, in which a particular supplier may be contracted without requiring a public notice:
  - 1) The sponsoring or commissioning organization has named a particular supplier to fulfill the procurement project, or the University has expressly named a subcontractor in its tender documents that have been included in the contract with the sponsoring or commissioning organization.
  - 2) The procurement project is an extension of a previous procurement project, of which the original tender notice and documentation expressly indicated the period, amount, or quantity of the extension.
5. For procurement projects less than NT\$1 million, the requisitioning unit may forgo the public notice process and directly contact at least one supplier for a written quote or proposal. Such projects may be handled mutatis mutandis in accordance with the provisions of the preceding three subparagraphs. A written record shall be maintained for projects exceeding NT\$100,000.

#### Article 7 Announcement and review

1. A public notice shall be issued at least seven calendar days before the tender takes place, which may be adjusted as necessary.
2. The procuring unit shall review the eligibility of candidate suppliers.
3. For procurement projects that require a review, the requisitioning unit shall establish an ad hoc review committee to review each eligible

candidate supplier's technologies, management, tender terms, past fulfillment records, quality, functionality and pricing of construction/property/labor in accordance with the nature and actual needs of the procurement project. However, the aforementioned review criteria may be adjusted to encourage the participation of start-ups to give them an equal opportunity.

4. The review committee described in the preceding subparagraph shall consist of at least three members, who shall be either faculty members, quota-based staff, or contract employees at the University, or external scholars or experts.
5. The external scholars and experts described in the preceding subparagraph refer to teaching or research personnel at a public or private higher education institution or research organization.
6. A written record of the review process shall be maintained for future reference.
7. Provisions in the preceding six subparagraphs may apply mutatis mutandis to procurement projects less than NT\$1 million in value.

#### Article 8 Selection

1. To select the most advantageous tender, at least half of the committee members shall be present, and more than half of the attending members shall be in concurrence. The number of members in attendance may not be fewer than three.
2. The review process described in Subparagraph 3 of the preceding article may be conducted using either the total score or preferential ranking method. The candidate with the highest total score or the top preferential ranking may be awarded the tender with more than half of the attending committee members in concurrence.
3. If a preferential ranking system is used, each committee member shall assign a score for each of the grading items. The sum of the individual scores shall be calculated and ranked, and the rank of each grading item shall be added up to calculate the overall ranking. The candidate with the lowest total rank value is considered to have the top preferential ranking.
4. If two or more candidate suppliers share the same highest score or top ranking, another comprehensive review shall be conducted for said candidate suppliers to select a final winning supplier with the highest total score. If a tie persists, the winner shall be determined by lot.

#### Article 9 Estimates

1. The requisitioning unit shall set an estimate for each procurement project based on the construction drawings, relevant regulations, contractual terms, costs, and market conditions, excepting projects requiring review, for which the estimate shall be advised by the review committee.
2. The estimate shall be approved by the NTU President or a person authorized by the President.
3. The procedures for making the estimate shall be kept confidential. Extraordinary or complex projects with practical issues that make it impossible to determine an estimate may forgo this process altogether.

#### Article 10 Awarding of tender

1. For projects with an estimate, the candidate supplier whose tender meets the requirements of the tender documentation and who has the lowest tender within the estimate shall be awarded the tender.
2. For projects that require a review and have an estimate, a price negotiation process with each of the eligible candidate suppliers shall be conducted, starting with the top-ranking candidate. The candidate supplier whose tender most closely meets the requirements of the tender documentation and falls within the estimate shall be awarded the tender.
3. For projects that require a review but do not have an estimate, the top-ranking candidate supplier whose tender meets the requirements of the tender documentation, is reasonably priced, and falls within the estimate shall be awarded the tender.

#### Article 11 Negotiation

1. The requisitioning unit may negotiate construction/property specifications or labor needs before signing a contract with the supplier.
2. A written record shall be maintained for negotiations not conducted in writing and shall include details such as the parties involved and the time, place, and content of the negotiation.
3. Negotiation documents, as described in the preceding two subparagraphs, shall be maintained for future reference.

#### Article 12 Bid and guarantee bonds

The University may require suppliers to pay a bid and/or guarantee bond or provide other forms of assurance. It may also stipulate conditions under which the bid/guarantee bonds may be forfeited or refunded.

#### Article 13 Recusals

1. If persons involved in the S&T procurement, their spouses, or relatives within the third degree of kinship—whether by blood or by marriage—have interests involved therein, they shall recuse themselves from the procurement project and all related matters.
2. Persons described in the preceding subparagraph shall include personnel of the requisitioning unit, principal investigators, head of the requisitioning unit, the review committee members, and personnel and heads of the undertaking and supervisory units.
3. Representatives of the University may not be the responsible person, partner, or representative of the supplier.
4. Where the enforcement of the requirements in the preceding three subparagraphs may impede S&T research and development, innovative applications of R&D results, fair competition, or the public interest, such requirements may be waived with the approval of the sponsoring/commissioning organization.
5. Where the obligations of Subparagraphs 1 through 3 are waived in accordance with the preceding subparagraph, the nature of the relationship between the interested party and the supplier and the reason for the waiver shall be publicly disclosed.

#### Article 14 Fulfillment management

1. The requisitioning unit shall exercise due care in managing the supplier's fulfillment of obligations during the contract period. Each responsible unit shall actively help address issues regarding the supplier's applications.
2. The requisitioning unit shall fulfill its inspection duties by conducting audits, testing, or inspections of the supplier's fulfillment conditions during the term of the contract in order to keep track of the progress and the quality of project delivery.
3. The requisitioning unit may conduct the fulfillment management process via written review (by facsimile) or on-site audits, testing, or inspections.

#### Article 15 Acceptance

Procurement projects exceeding NT\$100,000 in value shall go through an acceptance check for which written records shall be maintained. The relevant procedures may be handled *mutatis mutandis* in accordance with the *Government Procurement Act*.

#### Article 16 Benefits of use

1. Equipment procured under the Directives shall be used properly. For equipment valued at NT\$1 million or more, the requisitioning or managing unit shall maintain a written records of its use for future reference.
2. Equipment described in the preceding subparagraph may not be encumbered or disposed of when the sponsoring/commissioning relationship is in effect, unless otherwise stipulated in other regulations or approved by the sponsoring/commissioning organization.

#### Article 17 Disputes

1. The University shall take appropriate measures to address the supplier's objections within 15 days, starting from the day after it receives notice of the grievance. The University shall also notify the supplier of the results in writing.
2. Disputes between the University and a supplier arising from S&T procurement shall be handled in accordance with applicable regulations as well as the contractual terms. Both parties shall attempt to resolve such disputes in good faith and in consideration of public interest, fairness, and reason.
3. Litigation arising from S&T procurement shall be governed by the laws of the Republic of China, and the Taiwan Taipei District Court shall be the court of first instance.

#### Article 18 Supplementary provisions

1. A sponsoring/commissioning contract for a procurement project, or other documentation required for determining the method of procurement, is not necessary for procurement projects of NT\$100,000 or less.
2. The reimbursement of funds for procurement projects shall be handled in accordance with applicable regulations.

#### Article 19 Implementation

The Directives shall be passed by the Administrative Meeting and then implemented on the date of promulgation.