



Researcher Guidance - Research Expenditures Involving Procurement (OTPS)

Procurement Standards – OMB Uniform Guidance (2 CFR 200)

The Office of Management and Budget (OMB) issued [Title 2 U.S. Code of Federal Regulations, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards \(Uniform Guidance, “UG”\)](#).

Per 2 CFR 200.109, the OMB must review the Uniform Guidance regulations every five years. As a result of the first five-year review, in August 2020 the Uniform Guidance was revised and a refreshed **frequently asked questions (FAQ)** document related to the Uniform Guidance for grants was issued in May 2021.

The UG procurement standards are very prescriptive and are not NYU choice points.

The procurement standards included in [UG Subpart D, Section 200.317–200.327](#), of the Uniform Guidance apply to procurement of goods and services directly charged to a federal award; the standards don't apply to indirect costs or payroll. The standards have a strong emphasis on procurement methodology to achieve the goals of increased accountability and competition. In reviewing the general procurement standards (§200.318 and §200.319), all federal grant recipients, including NYU, are required to:

- **Document research procurement procedures** that reflect federal law, UG requirements.
 - These procedures must ensure all solicitations clearly and accurately describe the requirements of the goods or services to be procured and identify all requirements that bidders must fulfill and the factors used in evaluating bids.
 - In addition, if procedures include a prequalified list of persons, firms, or products used in procuring goods and services, the list should be current and include enough qualified sources for open competition.
 - These procedures must also document steps and activities required to be completed, including the basis for the type of procurement, contract type, and the basis for the contractor selection and price.
 - Outcomes of the process steps must be documented and maintained to support the history of the procurement, *i.e.*, rationalization for method used, contractor selection or rejection, basis for contract price, etc...
- **Complete necessary research procurement decisions** with a focus on the most economical solution during the procurement process, and avoid using federal funds for the acquisition of unnecessary or duplicative items. This includes considering the use of

shared services and intergovernmental agreements to foster greater economy and efficiency.

- To this end, all federal grant recipients should consider the most efficient and effective approach to purchases, e.g., bulk purchasing, lease versus purchase, agreements for use of common or shared goods and services, use of federal excess and surplus property as opposed to purchasing new equipment, etc.
- sdf
- **Avoid research procurement conflicts of interest** by managing conduct of all employees involved in the selection, award, and administration of contracts. No employee or agent of federal grant recipients may participate in the selection, award or administration of a contract funded by federal grant dollars if he or she has an actual or apparent conflict of interest.
 - All federal grant recipients are required to manage both organizational and personal conflict of interest to prevent unfair or noncompetitive awards being provided.
 - All federal grant recipients must detail (policy or process) of what disciplinary actions would take effect if there are any violations of the conflict-of-interest standards.
 - All federal grant recipients must prohibit using statutorily or administratively imposed state, local, or tribal geographical preferences when conducting procurements, unless federal statutes specifically mandate or encourage geographical preference.
 - All federal grant recipients must provide for full and open competition in procuring goods and services. This means situations must be avoided that may prevent competition, such as placing unreasonable requirements on firms to qualify noncompetitive pricing practices between firms or affiliated companies or specifying only a “brand name.”
- **Perform research procurement expenditure monitoring oversight** to ensure contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
 - All federal grant recipients are responsible to ensure contracts are awarded to those that use funds responsibly and in accordance with the agreement’s terms.
 - All research procurement expenditures should be allowable, allocable, consistent and benefit the project.

UG Prescribed Procurement Methods

NYU must also follow the guidelines for the five methods of procurement outlined in the Uniform Guidance:

- **Micro-purchase:** Purchases where the aggregate dollar amount does not exceed Uniform Guidance thresholds, currently \$10,000. When practical, the institution should distribute micro-purchases equitably among qualified suppliers. No competitive quotes are required if the price is reasonable.

- **Small purchase:** Includes purchases up to the Simplified Acquisition threshold, which is currently \$250,000. Informal purchasing procedures are acceptable, but price or rate quotes must be obtained from an adequate number of sources.
- **Sealed bids:** Used for purchases over the Simplified Acquisition Threshold, which is currently \$250,000. Under this purchase method, formal solicitation is required, and the fixed price (lump sum or unit price) is awarded to the responsible bidder who conformed to all material terms and is the lowest in price. This method is the most common procurement method for **construction contracts**.
- **Competitive proposals:** Used for purchases over the Simplified Acquisition Threshold, which is currently \$250,000. This procurement method requires formal solicitation, fixed-price or cost-reimbursement contracts, and is used when sealed bids are not appropriate. The contract should be awarded to the responsible firm whose proposal is most advantageous to the program, with price being one of the various factors.
- **Noncompetitive proposals:** Also known as sole-source procurement, this may be appropriate only when specific criteria are met. Examples include when an item is available only from one source, when a public emergency does not allow for the time of the competitive proposal process, when the federal awarding agency authorizes, or after a number of attempts at a competitive process, the competition is deemed inadequate.

UG Prescription: Micropurchases

This is a method for purchases in which the aggregate dollar amount doesn't exceed the micropurchase threshold - currently \$10,000 or \$2,000 for construction subject to the Wage Rate Requirements as defined by Federal Acquisition Regulation (FAR) at 48 CFR Subpart 2.1 unless a higher threshold is requested by NYU and approved by the cognizant agency for indirect costs. Purchases may be made without cost or price analysis or soliciting any quotes or bids if NYU considers the price to be reasonable based on research, experience, purchase history, or other information and documents it files accordingly. Note: UG rules allow micropurchases to utilize a price beyond the lowest price available. Researchers should take precautionary steps to document why the lowest price was not selected using a [Direct Cost Justification form](#) (see [DCJ FAQ's](#)).

Purchase cards can be used for micropurchases if procedures are documented and approved by NYU. Under this method, regulations encourage NYU to distribute these purchases among qualified suppliers. For example, when purchasing supplies, NYU might consider rotating purchases between vendors that offer similar rates or utilize diverse vendors (minority owned, women owned, LGBTQ owned, etc).

When applying the micropurchase threshold, NYU should note the threshold applies to the aggregate purchase amount rather than the cost of the individual items. For instance, if the purchase is made for multiple kinds of supplies (regents, beakers, latex gloves, etc.) and the total price is \$25,000, this method would not be applicable because the threshold must be applied to the overall purchase total and not the price of individual types of supply items purchased.

In 2020, the UG was revised in §200.320 to allow NYU to increase the micropurchase threshold if certain criteria were met and must be authorized or not prohibited under state, local or tribal laws or regulations. NYU may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the federal awarding agency and auditors, in accordance with §200.334. The self-certification must include a justification, a clear identification of the threshold, and supporting documentation of any of the following:

- A qualification as a low-risk auditee, in accordance with the criteria in §200.520 for the most recent audit
- An annual internal institutional risk assessment to identify, mitigate and manage financial risks
- For public institutions, a higher threshold consistent with state law

Any micropurchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs.

UG Prescription: Small Purchase

Small purchase is a method for expenditures above the micropurchase threshold but below the simplified acquisition threshold (SAT) as defined by FAR - as of 2021, this amount is currently \$250,000, adjusted periodically for inflation. Price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by NYU. This doesn't mean formal bids and solicitations for quotes must be made. Quotes may be obtained from a variety of simple sources (e.g. internet search, vendor price listing, verbal quotes, etc.). Similar to the micropurchase method, no cost or price analysis is required. As with the micropurchase examples, if NYU purchases a variety of supplies that total \$25,000, this would require consideration for quotes. NYU may compare pricing based on an internet search between a local supply store versus a national chain and select a vendor based on these quotes.

UG Prescription: Simplified Acquisition Thresholds

NYU is responsible for determining an appropriate SAT based on internal controls, an evaluation of risk, and its documented procurement procedures, which must not exceed the threshold established in the FAR - as of 2021, this is currently \$250,000 adjusted periodically for inflation. When applicable, a lower SAT used by NYU must be authorized or not prohibited under state, local or tribal laws or regulations.

UG Prescription: Sealed Bids

This method is for purchases greater than the SAT. Bids are publicly solicited, and a firm fixed-price contract is awarded to a responsible bidder who has the lowest price and conforms to all the material terms and conditions of the invitation for bid. Price is a significant factor in this method and generally is the preferred method for procuring construction. This method is used if bids may be solicited from an adequate number of suppliers (two or more), a complete and realistic specification or purchase description is available, the purchase results in a firm fixed-price contract and the selection may be made based on price. A cost and price analysis

must be performed for these purchases, and NYU must make independent estimates before receiving bids or proposals.

UG Prescription: Proposals/Request for Proposal (RFP)

This method is for purchases greater than the SAT in situations where sealed bids aren't appropriate. This may be the case when price isn't the only factor in awarding a contract. In general, this results in a fixed-price or cost-reimbursement type contract. Under this method, the following requirements apply:

- RFPs must be publicized and identify all evaluation factors and their relative importance
- Proposals must be solicited from an adequate number of qualified sources
- NYU must have a written method for evaluating and selecting recipients
- Contracts must be awarded to a responsible firm

Similar to sealed bids, a cost and price analysis must be performed for RFP purchases.

UG Prescription: Non Competitive Procurement (Sole Source)

This method results in solicitation from a sole source and may be used if one or more of the following conditions apply:

- The acquisition of property or services, the aggregate dollar amount of which does not exceed the micropurchase threshold (\$10,000)
- Item is available from only one source
- Public emergency won't permit a delay resulting from publicizing a competitive solicitation
- Awarding agency authorizes noncompetitive proposals in response to a written request from NYU
- After soliciting a number of sources, competition is determined to be inadequate

Sole-source purchases are applicable at any level if one of the aforementioned criteria is met.

At NYU sole-source procurement is a method often employed for the procurement of research goods and services. This is due, in part, to the fact that the compatibility of the equipment is of paramount consideration, the compatibility of accessories or replacement parts is of paramount consideration, the sole source supplier's item is needed for trial use or testing. When using the sole-source procurement method it's important to document the justification for sole source.

Documentation should include:

- Specifying unique performance factors
- Stating of why they were required
- Demonstrating the evaluation of other products, and reasons for rejection stated

UG Prescription: Supplier Diversity

With any of the above methods, the procurement standards in §200.321 also emphasize contracting with small and minority-owned businesses, women's business enterprises and labor surplus area firms. NYU must use these firms when possible. Methods for inclusion include placing these businesses on the vendor list, soliciting pricing from them when they're potential sources, breaking up projects or orders into smaller tasks to permit participation by these firms, or requiring contractors to follow these guidelines for subcontracts.

NYU research enterprise is at risk for non-compliance if we don't demonstrate increased supplier diversity. For more information about [NYU Supplier Diversity](#), please contact: Justin Szypot (justin.szypot@nyu.edu) or Juan Minera (juan.minera@nyu.edu).

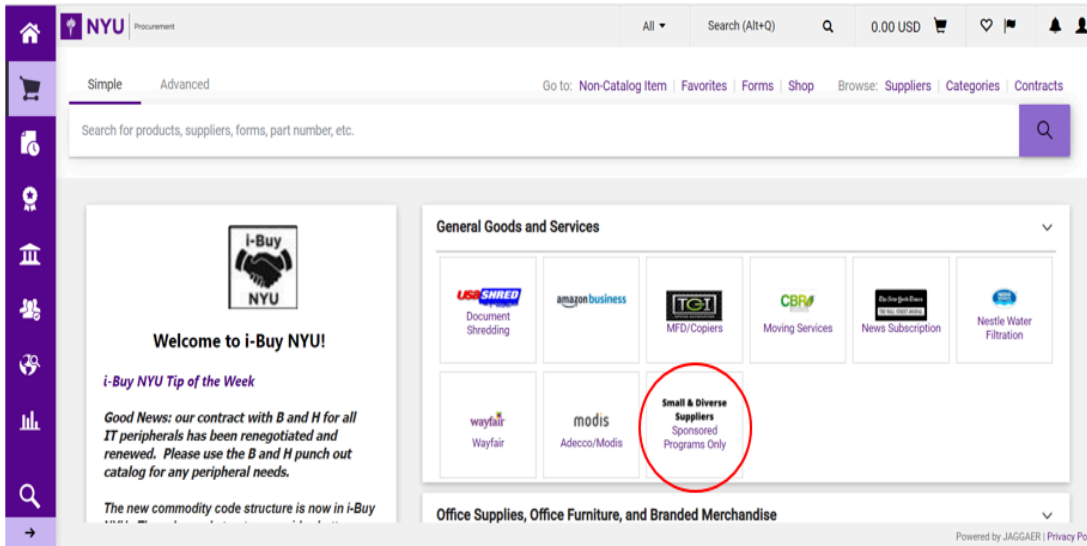
Minority & Women-owned Business Enterprise (M/WBE)

NYU is committed to promoting the growth and development of Minority and Women-owned businesses in New York State. NYU researchers are encouraged to make purchases using certified M/WBE where feasible and in the best interest of the university.

- A minority-owned business is defined as being owned, capitalized, operated and controlled by a member of an identified minority group. Ownership by minority individuals means the business is at least 51% owned by such individuals or, in the case of publicly-owned business, at least 51% of the stock is owned by one or more such individuals.
- A women-owned business is defined as being owned, capitalized, operated and controlled by a woman or group of women. Ownership by women means the business is at least 51% owned by a woman or group of women. In the case of a publicly-owned business, at least 51% of the stock is owned by one or more women.

NYU researchers should complete purchases with good faith efforts to include meaningful participation with M/WBE when soliciting bids/proposals. In addition, purchases up to \$250,000 from a certified small, minority or women-owned businesses do require reasonableness of price.

NYU Procurement has collaborated with OSP and RFS/SPA to create a [searchable directory of Small and Diverse Suppliers \(including M/WBE vendors, products and services\)](#). This directory also lists certification types and should be used in proposal development, proposal/award budget, proposal/award budget justification, award setup and award management. Researchers and Research Administrators can also find this directory in iBuy:



In addition, the [NYS Empire Development](#) has a MWBE directory to search specific vendors, products or services.

The use of non-NYS certified firms is not acceptable for M/WBE goal attainment. Only M/WBE firms certified by the Empire State Development Corporation (ESDC), Division of Minority & Women's Business Development can be utilized to meet M/WBE goals.

Suppliers can obtain information on becoming certified in New York State as a minority or woman-owned business by contacting one of the offices below:

- Albany Department of Economic Development - Division of Minority and Women's Business Development
- New York City Department of Economic Development

Suppliers can also obtain information on becoming certified via New York City as a minority or woman-owned business by contacting [NYC Small Business Services](#) and/or utilizing [NYC Subcontractor Resources](#).

If any NYU researcher needs support in obtaining a M/WBE, please visit [NYU Supplier Diversity](#) and/or contact: Juan Minera (juan.minera@nyu.edu) or Justin Szypot (justin.szypot@nyu.edu) Please also find additional resources below:

<u>Resource</u>	<u>Website</u>	<u>Description</u>
System for Award Management	SAM.gov	For certification status verification and to find new suppliers to do business with
Small Business Administration	sba.gov	For more information on small businesses

Women's Business Enterprise National Council	wbenc.org	For more information on women-owned businesses
National Minority Supplier Development Council	nmsdc.org	For more information on minority-owned businesses
National LGBT Chamber of Commerce	nglcc.org	For more information on LGBT-owned businesses
National Veteran Business Association	navoba.org	For more information on veteran-owned businesses
NY State	https://its.ny.gov/minority-and-womens-business-enterprise-mwbe-supplier-diversity-program	For more information on NYS certified small and diverse businesses and to find new suppliers
New York City	https://sbsconnect.nyc.gov/certification-directory-search/	Search for NYC certified suppliers: M/WBE, LBE, EBE
NY State Contract System	https://ny.newnycontracts.com/	Search for New York State M/WBE suppliers

Federal Contracts - Small and Small Disadvantaged Businesses Subcontracting Plans

For federal contracts exceeding \$750,000 (\$1.5 million for construction), the [Federal Acquisition Regulation \(FAR\) clause 52.219-9](#) requires NYU to develop a subcontracting plan for use of Small and Small Disadvantaged Businesses. FAR part 19 defines subcontracting as any procurement vehicle used to pay for or obtain goods or services from anywhere outside the institution. In other words, the government does not distinguish between subcontracts for commercial goods and services and those for collaborative programmatic activity - these are all subcontracts under the FAR.

When these plans are required, prime contractors, such as NYU, agree to purchase a percentage of the supplies and services required for the performance of the contract from small and minority businesses. Some Federal agencies set specific goals. Most rely on the prime contractor to make “a good faith effort”. The Subcontracting Plan specifies which items/commodities will be purchased from small and minority businesses, the total dollars to be spent each with small and minority businesses and the percentage of total dollars budgeted for supplies that these purchases represent.

When required, the Subcontracting Plan is included into the full research proposal and budget, and is submitted by the Principal Investigator (PI) to the sponsor via the Office of Sponsored Projects (OSP). If the proposal is awarded, the Subcontracting Plan becomes part of the contract and the Principal Investigator is expected to meet the goals set forth in the Subcontracting Plan. Research Finance Support (RFS) and Procurement personnel are available to facilitate.

For more information about [NYU Supplier Diversity](#), please contact: Juan Minera (juan.minera@nyu.edu) or Justin Szypot (justin.szypot@nyu.edu).

Independent Contractors/Vendors Providing Professional Services Necessary to Accomplish the Goals of an Externally Funded Research or Sponsored Project Grant/Contract:

An Independent Contractor (IC) is generally an individual who is in an independent trade, business, or profession and offers services to the general public. An IC may work as an individual or through a business entity such as a sole proprietorship, partnership, or limited liability corporation. ICs are sometimes also referred to as consultants, 1099s, contractors, or vendors.

A worker's preference is not relevant to the classification determination, nor is that of the local department or unit wishing to engage the IC/Vendor.

An IC/Vendor is not a research subrecipient/consorta (where a research subaward is issued). For more information on Research Subawards, Collaborations and Contracts, please visit this [webpage](#) and review the differences between subrecipients and contractors (vendors).

Please follow the steps below to establish an IC/Vendor:

Documents needed to complete this process:

- [Master Independent Contractor Agreement](#)
- [Insurance Waiver Request Form](#) [If insurance waiver is applicable.]

Step 1: On-boarding of IC/Vendor in i-BUY

- IC/Vendor MUST be on-boarded in i-BUY before proceeding to the below steps. Please visit the [Supplier Information](#) webpage for more information, including [Supplier Onboarding](#) details and a [step-by-step guide for IC registration](#) (tip: on page 4 of the IC registration, researchers and their delegates should clearly address insurance determination questions because a “no” reply for each question will avoid triggering eBix. If there are any “yes” replies or an IC needs to waive or reduce insurance coverage, this will trigger eBix).

Step 2: Filling out the IC/Vendor Agreement

- Once the vendor is on-boarded in iBUY, please complete the University's [Master IC/Vendor Agreement](#) unless the Contracts Office, Procurement, or the Office of General Counsel expressly approves the use of another agreement.

IMPORTANT:

- The completed Master IC/Vendor Agreement MUST NOT be signed by either party.
- An authorized official MUST be listed as the signatory for New York University on the Master IC/Vendor Agreement (including the Statement of Work Section). The PI or other research personnel cannot be listed as signatory.

Step 3: Insurance Compliance

- Almost all IC's/Vendors are required to have insurance, so the IC/Vendor must provide proof of the required insurance in the full amount required by NYU (\$2M for General Liability and \$2M for Professional Liability). The insurance certificate must be sent to insurance.vendor.cert@nyu.edu. This requirement and limits are established by the Treasury (Risk Management), not Procurement, nor RFS/SPA.
 - For more information, please see [minimum insurance requirements](#), [vendor samples of insurance certificates](#) or contact Risk Management via Cecil Brown (clb15@nyu.edu).
- Once the insurance certificate is provided to insurance.vendor.cert@nyu.edu and is verified, the Ebix communications will be turned off and you may proceed to the next step.
- Some IC/Vendor activity does not require insurance and/or does not require the full \$2M insurance amounts (General Liability and Professional Liability). For example, an on-site training/consultant, has insurance limits of \$2M for general liability, but only \$1M for professional liability, while a videographer has insurance limits of \$2M for general liability, but \$0 for professional liability. For more information, please see [minimum insurance requirements](#).
 - In these cases, please complete the [Insurance Waiver Request Form](#) in its entirety and email the form along with a copy of the master independent contractor agreement and the statement of work (SOW) to insurancecontractreview@nyu.edu. Please specify if your IC/vendor is wanting a reduction of insurance coverage or is seeking to waive the insurance entirely. You may use the following email template:

Hi Risk Management Team (Treasury),

In collaboration with RFS/SPA and Procurement, I'm requesting a research waiver [specify reduction in coverage amount or waiving insurance entirely] for [Enter name of Independent Contractor] who is an independent contractor providing [Enter type of service] service from [Enter contract start date] to [Enter

contract end date]. The IC/Vendors name is [Enter IC/Vendor name in i-BUY] and the supplier ID is [Enter supplier ID for IC/Vendor from i-BUY].

- Please answer "Yes" to the question on the [Insurance Waiver Request Form](#) after the financial officer of your department has been informed that you are requesting a waiver for this vendor/supplier.
- Risk Management will return a copy of the master IC/Vendor agreement to you with the insurance language removed, if a waiver is granted.
- If a waiver is granted, Risk Management will remove the Ebix insurance requirement in i-BUY until the contract end date. The IC/Vendor will not receive Ebix communications.
- After the contract end date, the IC/Vendor will be deactivated in i-BUY and Ebix. Should you desire to use the same IC/Vendor the following Fiscal Year, please email your fiscal officer and ask that they reactivate the IC/Vendor in i-BUY but they will need to grant another insurance waiver.
- If a contract amendment is processed to increase the dollar value of a contract which received an insurance waiver by Risk Management to exceed the total contract amount of \$6,500 in a Fiscal Year, Risk Management will reactivate the Ebix requirement and Accounts Payable will not process any new payments without proof of insurance.

For more information on Insurance Compliance, please contact Risk Management via Cecil Brown (clb15@nyu.edu).

Step 4: Contract Creation via Total Contract Manager (TCM) in iBUY

- Please follow the instructions on the [TCM Contract Requester Tip Sheet](#) in order to access TCM and upload the master IC/Vendor agreement for review and signing.
- You MUST upload the unsigned Microsoft Word copy of the master IC/Vendor agreement. If a waiver was granted, you MUST instead upload the copy of the Master IC/Vendor Agreement that was edited by Risk Management.

After you upload the required documents, the master IC/Vendor agreement will be reviewed and signed in TCM. You will receive a notification that the contract was signed by all parties and is now complete. Once notified, you may proceed to the next step.

Step 5: PO Creation

- The signed master IC/Vendor agreement MUST be downloaded from TCM and used to create a [Standing Order](#) that covers the agreement period in the current Fiscal Year.

For example, if I have an IC/Vendor agreement that starts on June 12, 2022 and ends on November 9, 2022 that states that the independent contractor is receiving \$6,500 in FY22 and

another \$6,500 in FY23, then your Fiscal Officer must set up a Standing Order to cover FY22 [June 12, 2022 to August 31st, 2022] now and in late august, reach out to your Fiscal Officer to make sure the vendor is reactivated in i-BUY for the remainder of the agreement in FY23 [September 1, 2022 to November 9, 2022] for \$6,500.

- The standing order MUST be established BEFORE the IC/Vendor begins the work.

Step 6: Invoicing

- The IC/Vendor will invoice NYU in accordance with the invoicing terms in the IC/Vendor agreement.

Step 7: Payment

- The standing order PO number MUST be added to the top of the IC/Vendor's invoice and sent to nyuinvoices@nyu.edu in order to begin the invoice payment process.
- In 48 to 72 hours, a voucher will be generated by the i-BUY system against the PO in the amount of the invoice and paid by Accounts Payable in accordance with [NYU's Payment Terms](#).
- Please reference the [Managing Invoices Guidelines](#) in order to determine the invoice payment status.

NYU Research Financial Compliance

Regardless of what procurement method, tools or decision, documentation of the procurement must be kept (e.g. maintaining printouts of internet searches for quotes or documenting in a memo the reasons for acceptance or rejection of bidders in sealed bids or competitive proposals). The UG procurement standards are very prescriptive.

NYU Tools for Procurement

NYU complies with procurement standards and facilitate the purchasing of goods and services through the following primary methods, including:

- **i-Buy:** i-Buy is NYU's online portal for authorized personnel to shop and purchase goods such as office supplies, promotional items, computer supplies, photo related supplies, medical & dental supplies, facilities, catering, and office furniture. i-Buy is a preferred method for procurement since the i-Buy marketplace contains suppliers with whom the University has negotiated contract pricing. Pricing is typically competitive and helps demonstrate the reasonableness of the expenditure when directly charging to a federal award. If a vendor is not found in iBuy, please visit the [NYU Procurement](#) webpage that has information on [how to request and register new suppliers](#).
- **Requisition:** Requests to purchase materials, parts, supplies, equipment, or other services on behalf of the university must be made using a Purchase Requisition. Purchase

Requisitions are created electronically using the i-Buy System. Purchases totaling more than \$1000 are generally processed via i-Buy unless another authorized mechanism such as a [Purchasing Card](#) or as indicated in the [Business Expense Policy](#). Requisitions over \$10,000 must go through a competitive bidding process.

- **Purchasing Card:** The NYU Purchasing Card, commonly referred to as a “P-Card,” is a tool offered to New York University employees who are responsible for procuring goods and services for their department. The P-Card is a University liability Master Card used for purchasing low-dollar items not available on the i-Buy marketplace; it has no effect on the cardholder’s personal credit. The P-Card provides University employees with a quick and convenient method of payment. The P-Card may not be used for travel-related expenses. The P-card should not be used to circumvent iBuy. All P-Card transactions are reviewed by Internal Audit. In almost all cases, iBuy should already have the lowest price (in addition to automatically utilizing any tax exemptions). The [NYU Procurement webpage](#) has a [form](#) to indicate a good/service has been found at a cheaper price. Bonny Urban is the Procurement point of contact for pricing issues.

For more information on buying and paying, please see the [How to Buy at NYU](#) page on the FinanceLink website and please refer to the Purchasing [Policies and Procedures Manual](#).