

# THE UNIVERSITY OF TEXAS AT EL PASO



## **Purchasing Department Operating Procedures**

**Dr. Diane N. De Hoyos, Associate Vice President  
Benjamin Alvarez, Director and HUB Coordinator  
Erika Rosales, Director**

(April 2020)

# TABLE OF CONTENTS

---

## **SECTION 1: ETHICS** **7**

---

Code of Ethics	7
Purchasing Ethics	8
Establishment of Procedures	9
Use of Closed Specifications	9
Transactions with Employees	9

## **SECTION 2: TRAINING & CERTIFICATION PROGRAM** **10**

---

Plan Development	10
Core Training Curriculum	10
Certification Programs	11
Deadlines & Submittal Requirements for Plan	11
Personnel Requirements	11

## **SECTION 3: DELEGATED AUTHORITY** **13**

---

Delegated Approval Limits	13
UT System Rules and Regulations	13
Department of Information Resources Rules and Regulations	14

## **SECTION 4: RELEASE OF PUBLIC INFORMATION** **15**

---

Guidelines	15
Authority to Release Records	15
Form or Request	15
Filing	16

## **SECTION 5: PROTEST PROCEDURES** **17**

---

Protest Procedures	17
Written Determination to Proceed	17
Formal Protest	17
Primary Procurement Officer Review	17

Written Determination	18
Appeal	18
Timely Filing of Protest and Appeal	18
Appeal Final	18
Record Retention	18
<b>SECTION 6: CONTRACTUAL RESPONSIBILITES</b>	<b>19</b>
<hr/>	
Purchasing Office Responsibilities	19
VPBA Office Responsibilities	19
<b>SECTION 7: METHODS OF PROCUREMENT</b>	<b>20</b>
<hr/>	
Methods of Procurement	20
Exclusive Acquisitions	20
Direct Pay Form	22
Release Authority	23
Exceptions	23
<b>SECTION 8: REQUEST FOR PROPOSALS</b>	<b>24</b>
<hr/>	
Guidelines	24
Procedure	24
<b>SECTION 9: ORDERS OVER \$100,000</b>	
<hr/>	
Guidelines	26
Exceptions	26
<b>SECTION 10: INFORMATION TECHNOLOGY</b>	<b>27</b>
<hr/>	
Guidelines	27

<b>SECTION 11: CONSULTING SERVICES</b>	<b>28</b>
<hr/>	
Definition	28
Determining Consulting Services	28
Processing Consulting Agreements	28
<b>SECTION 12: PROFESSIONAL SERVICES</b>	<b>29</b>
<hr/>	
Categories of Professional Services	29
Selection of Vendor (Except Architects, Engineers and Surveyors)	29
Selection of Architects, Engineers and Surveyors	30
Professional Services Request Form	30
Professional Services Agreement	30
<b>SECTION 13: ESTABLISHMENT OF COMMITTED CONTRACTS</b>	<b>31</b>
<hr/>	
Institutional Contracts/Agreements	31
Committed Group Purchasing Organization (GPO) Contract/Agreement	31
Placement of Orders Using a GPO Contract/Agreement	31
<b>SECTION 14: GROUP PURCHASING ORGANIZATION (GPO)</b>	<b>32</b>
<hr/>	
Group Purchasing Organizations (GPO)	32
Comparison of Multiple Contract Awards	32
<b>SECTION 15: PO TRANSPARENCY REPORTING</b>	<b>33</b>
<hr/>	
PO and Contract Transparency Reporting	33
LBB Reporting	33
<b>SECTION 16: PROCUREMENTS FROM FOREIGN SUPPLIERS</b>	<b>34</b>
<hr/>	
Foreign Purchases	34
Customs Requirements	34
<b>SECTION 17: TRIAL, SAMPLE AND EVALUATION PRODUCTS</b>	<b>35</b>
<hr/>	
Guidelines	35

<b>SECTION 18: USED EQUIPMENT</b>	<b>36</b>
<hr/>	
Purchasing Used Equipment	36
<b>SECTION 19: RECORDS DOCUMENTATION AND RETENTION SCHEDULE</b>	<b>37</b>
<hr/>	
Documentation Policy	37
Record Retention Policy	38
Exceptions	38
<b>SECTION 20: FORMAL CONTRACT ESTABLISHMENT</b>	<b>39</b>
<hr/>	
Procurement Overview	39
General Guidelines	39
Guidelines Necessitating Possible Contracts	40
Process Procedures	40
<b>SECTION 21: CONTRACT ADMINISTRATION FOR FORMAL CONTRACTS</b>	<b>41</b>
<hr/>	
General Guidelines and Procurement Overview	41
Contract Administration	41
Contract Completion	42
Procedure for Review and Approval of Business Contracts	42
<b>SECTION 22: HISTORICALLY UNDERUTILIZED BUSINESSES</b>	<b>43</b>
<hr/>	
Good Faith Effort Responsibilities	43
Bid Solicitation	43
Orders over \$100,000	43
<b>SECTION 23: HUB SUBCONTRACTING</b>	<b>44</b>
<hr/>	
Subcontracting Requirements	44
Subcontracting Declaration	44
Non-Subcontracting Declaration	44
Prior Evaluation and Award Review	44
Contract or Purchase Order Requirements	45
HUB Subcontracting Plan Audits	45
Exceptions	45

**SECTION 24: CHANGE ORDERS, CANCELLATIONS & DEENCUMBERANCES FROM AN ORDER 46**

---

Change Orders 46

**SECTION 25: COMPUTER ACQUISITIONS 48**

---

Policy 48

Standards Review 49

Operating Plan 49

Policy Exceptions 49

Grant funded Equipment 49

Exemptions and Waivers 50

Enforcement 50

**SECTION 26: TRADE-IN DISCOUNTS/TRANSFERRING AND DISPOSING OF EQUIPMENT 51**

---

Policy 51

This procedure is issued to establish effective guidelines for ethical practices of procurement personnel consistent with UTEP/UT System Policy and applicable laws and regulations.

All Procurement staff shall follow and adhere to the UT System Board of Regents Rules and Regulations relating to Standards of Conduct, Series 30103 and Conflict of Interest, Series 30104 (<http://www.utsystem.edu/board-of-regents/rules/30103-standards-conduct>)

All Procurement staff shall follow and adhere to the Texas Penal Law, Title 8, "Offenses Against Public Administration" ([http://www.texaspolicecentral.com/Penal\\_Code.pdf](http://www.texaspolicecentral.com/Penal_Code.pdf)).

All official purchasing agents are required to sign and maintain on file a "Conflict of Interest" form. This form should be updated and signed on a yearly basis.

**CODE OF**  
**ETHICS**

1. All officers, faculty and employees, are expected to obey all federal, State, and local laws, rules, regulations and policies of applicable governmental and institutional authorities and the following standards of conduct. Failure to do so may be grounds for disciplinary action up to and including dismissal.
  - A. No employee shall accept or solicit any gift, favor, or service that might reasonably tend to influence the employee in the discharge of his or her official duties or that the employee knows or should know is being offered with the intent to influence his or her official conduct.
  - B. No employee shall intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or performed his or her official duties in favor of another.
  - C. No employee shall accept employment or engage in any business or professional activity which the employee might reasonably expect would require or induce the employee to disclose confidential information acquired by reason of his or her official position.
  - D. No employee shall disclose confidential information gained by reason of his or her official position or otherwise use such information for his or her personal gain or benefit.
  - E. No employee shall transact any business in his or her official capacity with any business entity of which the employee is an officer, agent, or member, or in which the employee owns a substantial interest.

- F. No employee shall make personal investments which could reasonably be expected to create a substantial conflict between the employee's private interest and the public interest.
- G. No employee shall accept other employment or compensation which could reasonably be expected to impair the employee's independence of judgment in the performance of the employee's public duties.
- H. Sexual Harassment and Misconduct: The educational and working environments of the System and its component institutions should be free from inappropriate conduct of a sexual nature. Sexual misconduct and sexual harassment are unprofessional and unacceptable. The components of U. T. System shall adopt policies prohibiting sexual harassment and sexual misconduct and procedures for review of complaints. These policies and procedures shall be reviewed by the Executive Vice Chancellor for Health Affairs or the Executive Vice Chancellor for Academic Affairs, as appropriate, and shall be published in the Handbook of Operating Procedures of each component.

### **PURCHASING ETHICS**

1. First consideration shall be given to the objectives and policies of the System and its component institutions. Every effort shall be made to obtain the best value for each dollar of expenditure.
2. Honesty in sales representation shall be demanded, whether offered through the medium of oral or written statement, an advertisement, or a sample of the product.
3. Purchasing Agents, their staff and others authorized by or under these regulations to make purchases shall not accept personal gifts or gratuities that might in any way result in an obligation to individuals or firms seeking business.
4. All purchases, regardless of the source of funds, shall be made using the method that provides the best value to the component institution or the System and in accordance with (a) the requirements or sections 51.9335, 73.115, or 74.008, Texas Education Code, as applicable, unless otherwise authorized by law, U. T. System policy, or approved component policy; and (b) the component's institutional Handbook of Operating Procedures.
5. No bidder or proposer shall receive special consideration.
6. Any violations of these purchasing ethics shall be reported promptly by the Purchasing Agent to the Vice President of Business Affairs.



### **ESTABLISHMENT OF PROCEDURES**

The Purchasing Agent of each institution and System Administration shall promulgate procedures to facilitate and expedite the purchasing function. Such procedures shall be developed in accordance with sound business practices and applicable State law. New purchasing procedures and changes to existing purchasing procedures shall be implemented only after appropriate review and approval of the chief business officer and the Vice Chancellor and General Counsel; provided, only material changes to purchasing procedures, including new procedures and changes to existing procedures, require review and approval by the Vice Chancellor and General Counsel.

### **USE OF CLOSED SPECIFICATIONS**

Closed specifications shall not be used except in unusual instances clearly justified as being essential to efficient operating performance. Reports of all such exceptions shall be maintained by the Purchasing Agent.

### **TRANSACTIONS WITH EMPLOYEES**

Purchase from, or sale to, any employee of System Administration or an institution of any supplies, materials, services, equipment, or property must have the prior approval of the chief administrative officer. Any such purchases shall be made only if the cost is less than from any other known source. This Section does not apply to sales or purchases made at public auction.

## **SECTION 2**

### **TRAINING & CERTIFICATION PROGRAM**

1. In accordance with UT System Policy 156 (<http://www.utsystem.edu/bor/procedures/policy/policies/uts156.html>) UTEP has established a purchaser training and certification plan that:
  - A. Requires all personnel who process procurements of goods or services on behalf of the institution or System Administration to obtain appropriate training;
  - B. Requires all personnel who process competitive procurements of goods or services in an amount greater than \$25,000 to attain nationally recognized and/or State of Texas buyer certification; and
  - C. Conforms to the guidelines established in this policy.

#### **PLAN DEVELOPMENT**

1. The Purchasing Agent shall be responsible for the establishment, implementation, modification, or change of a training and certification plan.
2. The plan may be implemented, modified, or changed only after review and approval of the Vice President for Business Affairs and the Office of General Counsel.
3. At a minimum, the plan must contain the following:
  - A. Identification of personnel who are required to obtain training and/or certification; personnel training and certification levels shall be classified by the type of purchase (e.g., formal bids, informal quotes, small dollar procurements) and level of commitment authority;
  - B. Training requirements for the identified personnel classifications; the training requirements shall identify the subject matter and the minimum hours of training required; and
  - C. Certification requirements for the identified personnel classifications.

#### **CORE TRAINING DEVELOPMENT**

1. At a minimum, purchaser training must include the following areas:
  - A. Ethics
  - B. Supplier relations
  - C. The University of Texas System HUB program
  - D. Applicable laws, rules, and regulations
  - E. The role of the buyer and the buyer's fiduciary responsibility
  - F. Documentation and records management
  - G. Applicable policies and procedures

- H. Contract administration
- I. Principles of "best value" procurement

### **CERTIFICATION PROGRAMS**

Only the certifications listed below are approved for inclusion in the training and certification plan.

#### **Institute for Supply Management:**

- Certified Purchasing Manager (C.P.M.)
- Accredited Purchasing Practitioner (A.P.P.)
- Certified in Supply Management (C.S.M.)
- Certified Professional in Supply Management (C.P.S.M.)

#### **National Institute of Government Purchasing:**

- Certified Public Purchasing Officer (C.P.P.O.)
- Certified Public Purchasing Buyer (C.P.P.B.)

#### **State of Texas (administered by Texas Procurement and Support Services, a division of the Texas Comptroller of Public Accounts):**

- Certified Texas Purchaser (CTP)
- Certified Texas Purchasing Manager (CTPM)

### **DEADLINES AND SUBMITTAL REQUIREMENTS FOR PLAN**

1. The Purchasing Agent is responsible for maintaining a current purchaser training and certification plan which has been approved by the Vice President of Business Affairs and the Office of General Counsel.
2. The Purchasing Agent shall submit proposed substantive modifications or changes to an institution's plan to the Executive Vice Chancellor of Business Affairs and the Office of General Counsel after the approval of the modification or change by the Vice President for Business Affairs.

### **PERSONNEL REQUIREMENTS**

1. Any individual who is hired after September 1, 2002, and who is required to be certified under his or her institution's plan must be certified within 18 months of his or her date of hire.
2. Job descriptions for each personnel classification shall incorporate the training and certification requirements applicable to that classification in the job description.
3. By January 15 of each fiscal year, the Purchasing Agent at each institution and System Administration must submit to the respective institution's chief business officer a list of all personnel who are certified. The list must include each employee's name, job title, and certification type.
4. If an individual fails to obtain training and/or certification for a particular

personnel classification in accordance with the requirements set forth in his or her institution's training and certification plan, the individual may not make purchases on behalf of the institution that are permitted for that personnel classification. At the sole discretion of the institution, however, the individual may continue to make purchases on behalf of the institution at those levels for which the individual has attained the required training and/or certification.

This procedure is issued to document UTEP's delegated approval limits and establish effective guidelines for the purchase of goods and services that exceed UTEP's delegated approval limits consistent with University of Texas System Rules and Regulations, Department of Information Resources (DIR) Rules and Regulations, and applicable laws.

### **DELEGATED APPROVAL LIMITS**

1. The following individuals have been delegated authority within UTEP to execute contracts/agreements and commit Purchase Orders for goods and services.
  - A. Purchases of goods and services, excluding construction projects and space leases:
    - Richard Aauto, Executive Vice President
    - Diane N. De Hoyos, Associate Vice President, Purchasing and General Services
    - Benjamin Alvarez, Director, Purchasing and General Services
    - Erika Rosales, Director, Purchasing and General Services
    - Procurement analysts
    - Buyers
  - B. New construction projects and renovation projects up to \$4,000,000:
    - Richard Aauto, Executive Vice President
    - Diane N. De Hoyos, Associate Vice President, Purchasing and General Services
  - C. Space lease agreements:
    - Richard Aauto, Executive Vice President
    - Diane N. De Hoyos, Associate Vice President, Purchasing and General Services
  - D. Contracts of any kind or nature, but not including contracts for consulting services for more than \$250,000.
    - Richard Aauto, Executive Vice President
    - Mark McGurk, Vice President for Business Affairs
    - Diane N. De Hoyos, Associate Vice President, Purchasing and General Services

### **UT SYSTEMS RULES AND REGULATIONS**

1. All contracts or agreements, including Purchase Orders, with a total overall cost of more than \$1,000,000, new construction and renovation projects with a total overall cost of more than \$4,000,000 must be approved by the UT System Board of Regents via the docket or the agenda at their quarterly meeting before delivery of goods or commencement of services. The following, do not require prior approval by the UT System Board of Regents regardless of the contract amount:
  - Construction projects previously approved by the Board of Regents in the Capital Improvement Program and Capital Budget

- Replacement of equipment and/or software
  - Routinely purchased supplies
  - Goods or services from Group Purchasing Organizations
  - New equipment or new software identified specifically in UTEP's budget, previously approved by the Board of Regents
2. All contracts for consulting services for more than \$1,000,000 must be approved by the UT System Board of Regents via the docket or the agenda at their quarterly meeting before commencement services.
  3. All Purchase Orders or fully executed contracts/agreements in excess of the limits prescribed above shall be forwarded to UTEP's Office of the Vice President of Business Affairs for inclusion on the UT System Board of Regents quarterly meeting docket.
  4. The Office of the Vice President of Business Affairs will notify the Purchasing Agent if the procurement has or has not been approved following the UT System Board of Regents quarterly meeting
  5. If approved, the Purchasing Agent may then issue the notice to proceed with the contract, agreement or Purchase Order. If not approved, the end user shall consult with the Purchasing Agent. The Notice to Unsuccessful Respondent(s) not selected shall be issued concurrently.
  6. Special Procedure Contracts or other contracts for commodities or services that are \$500,000 or more must be reviewed and approved by OGC prior to execution.

**DEPARTMENT OF INFORMATION RESOURCES RULES AND REGULATIONS**

1. UTEP may not enter into any contract, agreement or issue a Purchase Order for a "Major Information Resources Project" unless the project has been approved by DIR in UTEP's Biennial Operating Plan.
  - A. A "Major Information Resources Project" means any information resources technology project that exceeds \$1 million and that:
    - Requires one year or longer to reach operation status
    - Involves more than one state agency
    - Substantially alters work methods of UTEP personnel or the delivery of services to end-users
2. All requests in excess of the limits prescribed above shall be forwarded to UTEP's Department of Information Technology for review.
3. The Purchasing Agent shall document in the Purchase Order/Contract file that the project has been approved by DIR.
4. If the project has not been approved by DIR, the end user shall consult with the Purchasing Agent.

## SECTION 4

### RELEASE OF PUBLIC INFORMATION

This procedure is established to provide guidelines for compliance with release of records under the Texas Public Information Act (Texas Government Code; Section 552).

#### GUIDELINES

1. Upon receipt of written request by fax, e-mail, or mail the following steps should be taken:
  - A. Receipt by Fax or Email - A request sent via fax or e-mail to anyone other than the PIO or their designee, [the Public Information Coordinator (PIC)], is not a valid request. Respond to the fax or e-mail with the following information:

“In order to submit a request under the Texas Public Information Act via email or fax you must submit your request to [tpia@utep.edu](mailto:tpia@utep.edu) or 915-747-5068. For more information go to [http://admin.utep.edu/Portals/1460/publicinfo\\_hb2014.pdf](http://admin.utep.edu/Portals/1460/publicinfo_hb2014.pdf) or call the Office of the Vice President for Business Affairs at 915-747-5113.”
  - B. Receipt by Regular Mail or Hand-Delivered - A mailed or hand-delivered request can be sent to any UTEP employee and must be addressed within the time allowed by law. The time allowed by law is 10 working days. Upon receipt of the request, immediately have it delivered to the office of the Vice President for Business Affairs in the Administration Building, Room 301.
  - C. The Public Information Coordinator will then forward the request to the Contract Administrator and Compliance Manager who will gather the information requested.

#### AUTHORITY TO RELEASE RECORDS

The Vice President of Business Affairs or his/her designee has the exclusive authority to release any records.

#### FORM OR REQUEST

1. All requests to view or copy Purchasing records must be in writing and should be addressed to the Vice President of Business Affairs. UTEP does not accept or respond to oral requests for public information. If an oral request is received, the requesting party should be directed to address the request in writing to the Vice President of Business Affairs:

Requests can be mailed, hand-delivered, faxed, or sent by electronic mail. Electronic mail or facsimile requests must be sent to the electronic address and fax number listed.

- \* Fax: (915) 747-5068
- \* E-mail: [tpia@utep.edu](mailto:tpia@utep.edu)
- \* Address:

Office of the Vice President of Business Affairs

University of Texas at El Paso  
500 W. University Ave., Suite 301  
El Paso, TX 79968

2. A written request received, but not specifically addressed to the Vice President of Business Affairs is still valid and remains subject to a ten (10) day time limit (from date of receipt) for UTEP to seek an Attorney General opinion on disclosure. The Office of the Vice President of Business Affairs will make such determinations.

**FILING**

A copy of both the request and response letter shall be filed with the Contract Administrator and Compliance Manager. The response letter shall identify the date the information was sent to the requesting party.



## **SECTION 5**

## **PROTEST PROCEDURES**

The University has established formal procedures for handling complaints and protests regarding procurement actions processed by Purchasing or by any UTEP department acting under authority from the Purchasing Agent.

### **PROTEST PROCEDURES**

Any actual or prospective bidder, offer or proposer who is aggrieved in connection with the solicitation, evaluation, or award of a contract may file a formal protest with the Purchasing Agent. Such protests must be in writing and received in the Purchasing Agent's office within ten (10) working days after such aggrieved person knows or should have known of the occurrence of the act or omission being protested.

### **WRITTEN DETERMINATION TO PROCEED**

If a protest meeting the requirements of these procedures is timely received, the University shall not proceed further with the solicitation or with the award of the contract unless the Vice President of Business Affairs, after consultation with the using department and the Purchasing Agent, makes a written determination that it is necessary to proceed with the solicitation or award of contract without delay to protect the best interests of the institution.

### **FORMAL PROTEST**

1. A formal protest must contain:
  - A. A specific identification of the statutory or regulatory provision(s) that the act or omission being complained of is alleged to have violated.
  - B. A specific description of each act or omission alleged to be in violation of the statutory or regulatory provision(s) identified in the section, "Written Determination to Proceed" indicated above.
  - C. A statement of the relevant facts.
  - D. An identification of the issue or issues to be resolved.
  - E. Argument and authorities in support of the protest.

### **PRIMARY PURCHASING AGENT REVIEW**

The Purchasing Agent shall attempt to settle and resolve the protest concerning the solicitation or award of a contract, prior to appeal to the Vice President of Business Affairs. The Purchasing Agent may request additional information from the protesting party and the using department to help in the evaluation and resolution of the protest.

### **WRITTEN DETERMINATION**

1. If the protest is not resolved by mutual agreement, the Purchasing Agent will issue a written determination on the protest.
  - A. If the Purchasing Agent determines that no violation of rules or statutes has occurred, the Purchasing Agent shall inform the protesting party and the end user by letter that sets forth the reasons for the determination.
  - B. If the Purchasing Agent determines that a violation of the rules or statutes has occurred in a case where a contract has not been awarded, the Purchasing Agent shall inform the protesting party and the using department by letter which sets forth the reasons for the determination and the appropriate remedial action.
  - C. If the Purchasing Agent determines that a violation of the rules or statutes has occurred in a case where a contract has been awarded, the Purchasing Agent shall inform the protesting party and the end user by letter that sets forth the reasons for the determination and the appropriate remedial action, which may include ordering the contract void.

### **APPEAL**

The Purchasing Agent's determination regarding a protest may be appealed by the protesting party to the Vice President of Business Affairs. An appeal of the Purchasing Agent's determination must be in writing and must be received in the Vice President of Business Affairs' office no later than 10 calendar days after the Purchasing Agent's determination.

### **TIMELY FILING OF PROTEST AND APPEAL**

Unless good cause for delay is shown or the Vice President of Business Affairs determines that a protest or appeal raises issues significant to procurement practices or procedures, a protest or appeal that is not filed timely will not be considered.

### **APPEAL FINAL**

An appeal to the Vice President of Business Affairs shall be limited to review of the Purchasing Agent's written determination of the protest. A decision issued in writing by the Vice President of Business Affairs shall be final.

### **RECORD RETENTION**

All documents related to protests filed with an institution shall be retained in accordance with the institution's records retention policy.

## **SECTION 6**

## **CONTRACTUAL RESPONSIBILITIES**

The following list is provided to distinguish contractual responsibilities for the Purchasing Office and the VPBA's Office:

### **PURCHASING OFFICE RESPONSIBILITIES**

- Utilities
- Food Services
- Beverage
- Vending
- Commodity
- Services
- Technical
- Software
- Professional Services
- Consulting Services
- Banking Services
- Construction Services
- Ticketing Services
- Custodial
- Hazardous Waste
- Automated Teller Machines
- Radioactive Waste

### **VPBA OFFICE RESPONSIBILITIES**

- Athletic Coaching Agreements
- Facilities Use Agreements
- Interagency Cooperation Agreements
- Space Lease/Rental Agreements
- Special Events/Show Agreements
- Liability, Indemnity, and Release Agreements
- Business Agreements
- Affiliation Agreements
- Logo and Trademark Agreements
- Foreign Institute Agreements
- Search Firm Agreements
- Performers Agreements
- Medical Agreements
- Third Party Agreements for Tuition and Fees

### Methods of Procurement

The procedures, as follows, outline minimum requirements for orders on the open market (e.g., via Spot Purchases, RFQ, ITB, RFP, etc.). Such minimum requirements do not negate the Purchasing Agent's obligation to ensure a competitive procurement process and best value criteria are met.

It is the Purchasing Agents responsibility to determine appropriate methods of procurement while maximizing HUB participation in the solicitation process.

Less than \$15,000.00	Open Market	Non-bid, award to best source
\$15,000.00 to \$49,999	Informal	Minimum; Solicit a minimum of (3) quotes, two of which must be HUBs if available
\$50,000.00 or greater	Formal	A HUB subcontracting plan is required if expected value of purchase exceeds \$100k <b>Exclusive</b>

### Acquisitions

#### A. Introduction

Purchases at the University of Texas at El Paso are made on a competitive basis. However, there may be times when competition does not exist or it is in the university's best interest to use a particular service or product. Since these purchases eliminate competition, the university requires that justification be submitted with any purchase where only one supplier is being considered for requests exceeding \$15,000.00. The justification does not require departments to defend the need for the product or service, but it is necessary to:

- a. Identify the unique features of the particular product or service
- b. Explain the need for the unique features of the product or service
- c. Explain why other products/vendors are not acceptable

For more information, refer to examples of exclusive acquisition justification forms and guidelines for completing the form on the Miner Mall website.

#### B. Types of Exclusive Acquisitions

There are three categories of purchases that require exclusive acquisition.

##### 1. **Sole Source** (as defined in Texas Government Code 2155.067)

Justification for a Sole Source purchase is used when the goods or services are only available through a single source. The Purchasing Office establishes that the selection meets best value criteria. Some examples include:

- a. Equipment maintenance or repair parts from the original equipment manufacturer (OEM).
- b. Pharmaceuticals or chemical reagents that are only available through one supplier.
- c. Software or software maintenance that is only available through one software supplier.

- d. Specific reagents used in long-term experiments. For continuity of research, a lab would need to continue using the same products for the duration of the experiment.
- e. Compatibility with existing equipment. A laboratory is purchasing a new component from a supplier to add to an existing piece of equipment to enhance its quality/performance.
- f. A contract or grant specifically names a supplier, product, or service that is required for the university to use.

2. **Emergency Purchase** (as defined in Texas [Government Code 2155.086](#))

Justification for an emergency purchase occurs as a result of an unforeseen circumstance that requires an immediate response to prevent financial or operational damage to the university. If a situation arises in which routine compliance with procurement practice is impractical and not the university's best interest, an emergency purchase may be warranted to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the university. Emergency purchases of goods or services are performed to restore a system to its original intended functionality and must not exceed the scope or duration of emergency. The Purchasing Office will establish that the selection meets best value criteria.

3. **Professional Services** (as defined in Texas [Government Code 2254.002](#))

Professional services providers must normally be pre-qualified based upon a Request for Qualifications (RFQ). The contract award is based on negotiation with the most qualified provider. When a professional service is required and no pre-qualification has been established, a contract award must be justified as an exclusive acquisition to establish that the selection meets best-value criteria.

- a. Professional service providers are normally licensed or certified and the scope of their services include:

- i. accounting
- ii. architecture
- iii. landscape architecture
- iv. land surveying
- v. medicine
- vi. optometry
- vii. professional engineering
- viii. real estate appraising
- ix. professional nursing

- b. Professional service providers may not be selected on the basis of competitive bids, but rather on basis of demonstrated competence and qualifications to perform the service and for a fair and reasonable price.

c. Procedure

Departments must use the most current versions of the Exclusive Acquisition Justification form types available on Miner Mall. All information on the forms must be completed or the form and corresponding requisition will be returned by the Purchasing office. Completed forms in Miner Mall will route electronically for all required approvals.

**Prepayment Requests:** The following information is for the issuance of Prepayments in the event that a vendor will not accept a purchase order or procurement card, the end-user will process a prepayment request via a purchase requisition document in Miner Mall by indicating “prepayment” in the **comment section** of the requisition.

The Purchasing Department will notify the Accounts Payable Department on all pre-payment request with:

- Purchase order number
- Prepayment dollar amount (for partial payments, state the vendor terms for the remaining balance)
- Supporting documentation (quotes, invoice, registration forms, entertainment expense form etc.)

**PREPAYMENTS ARE NOT ALLOWED WITH THE USE OF STATE FUNDED ACCOUNTS.**

**Sources:** *TEX. GOV'T CODE ANN. §2113.001(2) State Purchasing and General Services Act, TEX. GOV'T CODE ANN. §§ 2155.383, 2155.386, 2175.368(2).*

**Direct Pay Form**

The Miner Mall Direct Pay Form is used to request a check, payable to a vendor, for items that may not require a Purchase Order.

This form should be used for simple payment transactions that can be processed in an expedited manner or are not subject to state purchasing regulations.

The Direct Pay Form can be used for the following payment types;

- Governmental/Public & Educational Entities
- Intercollegiate Athletic Tournaments/Events
- Licenses excluding Software
- Lodging/Catering/Meeting Rooms
- Mailing Services
- Membership/Association Dues/Registration
- Non-Library Books
- Referees/Officials/Umpires
- Royalty Payment
- Utility Payment

When using the Direct Pay Form, registration or membership forms, subscription applications or other supporting documentation must be attached to the form in order for the Accounts Payable department to process payment.

### **RELEASE AUTHORITY**

No Purchasing Agent or authorized end user may release a Purchase Order to a vendor either verbally or in writing which exceeds his/her release authority until such order is reviewed and approved by personnel who have authority at that level of commitment. Each order submitted for a review must be accompanied by the following documentation:

- Copy of Purchase Order
- Change Order(s), if applicable
- Copy of Requisition or request/authorization memorandum
- Confirming Quotation or Written Bid/RFP (including clarifications & revised bids/proposals)
- Award Recommendation, if applicable
- Bid Tabulation and Justification for Method of Purchase
- Appropriate Justification (e.g., emergency) if applicable
- Department (User) Review/Approval Letter or Evaluation Forms, if applicable
- Best Value Justification – Approval Memo, if applicable
- Bidders list, if applicable
- Copy of all Submitted Quotations or Written Bids/RFPs, if applicable
- HUB Good Faith & Effort Documentation (Orders ≥ \$100,000)
- Miscellaneous correspondence

### **EXCEPTIONS**

The following purchase types shall be processed in accordance with applicable policies and procedures:

- Orders Over \$100,000
- Request for Proposal
- Information Technology
- Consulting Services
- Professional Services
- Construction Services
- Establishment of GPO Contracts
- Procurements from GPO Contracts
- Procurements from Foreign Suppliers

Any other exception to this procedure must be in writing by formal addendum to this procedure or by other formal written exception issued by the Purchasing Agent.

Request for Proposal (RFP) – Purchase Value greater than \$50,000.00; based on factors in addition to price and delivery.

### 1. Guidelines

When the value exceeds the amount of \$50k in goods/services, a formal solicitation process is required. These guidelines apply to the RFP solicitation process:

- An RFP is a solicitation method used when the best value criteria, in addition to price and delivery are considered deciding factors in decision making to which proposer should be awarded the contract.
- When best value criteria is used, it is clearly identified in the RFP. All criteria weighted must be approved by the Purchasing Department and primary stakeholder before the RFP is publicized. Best value criteria must include but is not limited to:
  - Installation costs
  - Life cycle costs
  - Quality and reliability of the goods/services
  - Delivery terms
  - Indicators of probable vendor performance such as past vendor performance, financial resources and/or ability to perform; capability and responsibility; and ability to provide reliable maintenance agreements and support
  - Employee training costs associated with a purchase
  - Effect of purchase or agency productivity
  - Other factors determining best value for the University of a particular purchase
- RFP opportunities are sent to reliable vendors who can provide goods/services. RFP are posted on websites, such as, UTEP Sourcing Manager, and ESBD (Electronic State Business Daily).
- Terms and conditions are included in the RFP. Proposers are allowed to note exceptions to terms and conditions. NOTE: The University may disqualify vendor for not accepting posted terms on the RFP

### 2. Procedure

The establishment of the Evaluation Team

- The department identifies end users and subject matter experts to serve as part of the evaluation team; the primary stakeholder provides a list of potential committee members before RFP is publicized.
- The Purchasing Agent collects Non-Disclosure/Conflict of Interest statements from all team members. The designated Purchasing Agent provides the form
- Both, the Purchasing Agent and the evaluation team develop the scope of work and a list of questions to assist in the process.



The Purchasing Agent prepares the RFP document which includes:

- Background information on the purpose of the solicitation
  - Provides a detailed scope of work
  - List of questions for proposers
  - Execution of Offer
  - Instructions on how to submit proposals
  - Instructions on completion and submission of HSP must be included
  - A schedule, including:
    - If applicable, date of pre-proposal conference
    - Date of submission of written questions from proposers to the University
    - Deadline proposal submission
  - Complete name, telephone number, and email address of the University contact
  - Terms and conditions
- 
- a) The RFP is posted 21 days, minimum. The need for a pre-proposal or HSP may add time to the RFP posting.
  - b) Proposals are held by the Purchasing Agent until the proposal date of submission. If an HSP is required, the HUB Coordinator will review. If deemed not acceptable, the proposal will not be opened.
  - c) Proposers are allowed to attend bid openings. For time and date, the proposer must contact the solicitation's designated Purchasing Agent.
  - d) The Purchasing Agent removes pricing content from the proposal prior to distribution to the evaluation team.
  - e) Each evaluation team member will review proposals, score the RFP criteria, and submit scores to the Purchasing Agent.
  - f) The Purchasing Agent will compile all scores.
  - g) The Purchasing Agent will review scores with the evaluation team members and make a recommendation for award.
  - h) An award letter is then sent to the proposer; contingent on the negotiation of the contract. Regret letters are sent to all unsuccessful proposers.
  - i) The awards are posted on the Texas Comptroller of Public Accounts, ESBD website.
  - j) The Purchasing Agent issues a purchase order to the vendor. If the vendor requires a more appropriate business contract, the Purchasing Agent will notify the Manager of Contract Administration and Compliance.

**SECTION 9****ORDERS OVER \$100,000**

It is the intent of this procedure to establish a uniform method for processing requisitions with an anticipated total value of \$100,000 or greater in accordance with State, TPASS and UT System rules and regulations.

**GUIDELINES**

1. All requests for products and/or services, where the anticipated total value equals or exceeds \$100,000, shall be reviewed by the Purchasing Agent and the HUB Program Coordinator and shall receive written pre-approval prior to solicitation and award.
2. No bid or RFP response that exceeds \$100,000 can be accepted or evaluated without the written consent of the HUB Program Coordinator or designated representative.
3. For detailed information on the appropriate HUB requirements and/or documents, consult the HUB Program Coordinator or the HUB website at <http://admin.utep.edu/Default.aspx?tabid=67818>.

**EXCEPTIONS**

The following purchase types shall be processed in accordance with applicable policies and procedures:

- Construction Services
- Establishment of Committed Contracts
- Procurements from Committed Contracts
- Procurements from Non-Committed Contracts

This procedure is issued to establish effective guidelines for the purchase of Information Technology products and services consistent with best value principles, applicable laws and regulations, and best industry practices.

### **GUIDELINES**

1. All requests for Information Technology goods shall be processed in accordance with Best-Value Procurement and all Purchase Orders and contracts/agreements shall include the following clause:  
  
**Access by Individuals with Disabilities.** Contractor represents and warrants (“EIR Accessibility Warranty”) that the electronic and information resources and all associated information, documentation, and support that it provides to the University under this Agreement (collectively, the “EIRs”) comply with the applicable requirements set forth in Title 1, Chapter 213, Rule §213.41 of the *Texas Administrative Code* and Title 1, Chapter 206, Rule §206.70 of the *Texas Administrative Code* (as authorized by Chapter 2054, Subchapter M of the *Texas Government Code*.) To the extent Contractor becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Contractor represents and warrants that it will, at no cost to University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that Contractor is unable to do so, then the University may terminate this Agreement and Contractor will refund to the University all amounts the University has paid under this Agreement within thirty (30) days after the termination date.
2. All requests for Information Technology, where the anticipated total value exceeds \$100,000, shall be reviewed by the Purchasing Agent and the HUB Program Coordinator prior to solicitation and award.
3. All requests for Information Technology, where the anticipated total value exceeds \$1,000,000, must be approved by the State of Texas’ Department of Information Resources prior to solicitation and award.
4. The purchase of goods or services over \$50k must be posted on the Electronic State Business Daily (ESBD) and when applicable UTEP’s Sourcing Manager web site.

### **SOFTWARE LICENSING**

For all procurements of software that require a separate software license to be executed (i.e. non-shrink wrap software; MS Windows, MS Office, etc.) shall be in the form prescribed by UT System Office of General Counsel and be reviewed, approved and executed by the Purchasing Agent.

This procedure is issued to establish effective guidelines for the purchase of Consulting Services consistent with best value principles, applicable laws and regulations, and best industry practices.

### **DEFINITION**

The Texas Government Code, Section 2254.021, defines consulting services as the service of studying or advising a state entity under a contract that does not involve the traditional relationship of employer and employee.

To “study:” a state entity would mean to consider some aspect of the entity in detail, such as its financial status or its method of performing an administrative function and to present that information to the entity. To “advise” a state entity would mean to provide a recommendation or identify options with respect to some course of action.

### **DETERMINING CONSULTING SERVICES**

To recognize whether a would-be consultant is studying or advising as opposed to doing something else, is to look at the deliverable involved. A true consultant delivers information or provides assistance that enables the university to take some course of action. If the information provided enables the would-be consultant to take some course of action on the university’s behalf which is itself not a consulting service (such as developing software) then this would more than likely not be a true consultant contract within the meaning of the code.

### **PROCESSING CONSULTING AGREEMENTS**

All requests for Consulting Services shall be processed in accordance with Best-Value Procurement except for the following conditions:

- All Consulting Services shall be contracted for, after award, via a Consulting Agreement between UTEP and the Consultant.
- The Consulting Agreement shall be in the form prescribed by UT System Office of General Counsel.
- The Consulting Agreement shall be reviewed, approved by and executed by the Vice President of Business Affairs or the Purchasing Agent.
- All requests for Consulting Services, where the anticipated total value exceeds \$100,000 shall be reviewed by the Purchasing Agent and the HUB Program Coordinator prior to solicitation and award.
- Consulting Services anticipated to be over \$50k must be advertised on the Electronic State Business Daily (ESBD) and UTEP’s Sourcing Manager website.

## **SECTION 12**

## **PROFESSIONAL SERVICES**

This procedure is issued to establish effective guidelines for the purchase of Professional Services consistent with applicable laws and regulations.

### **CATEGORIES OF PROFESSIONAL SERVICES**

Professional Services mean services in the following categories:

- Accounting
- Architecture
- Landscape Architecture
- Land Surveying
- Medicine
- Optometry
- Professional Engineering
- Real Estate Appraising
- Professional Nursing

Or persons in connection with professional employment or practice who are licensed as:

- Certified Public Accountant
- Architect
- Landscape Architect
- Land Surveyor
- Physician, including a Surgeon
- Optometrist
- Professional Engineer
- State Certified or State Licensed Real Estate Appraiser
- Registered Nurse

### **SELECTION OF VENDOR (EXCEPT FOR ARCHITECTS, ENGINEERS, or SURVEYORS)**

1. In accordance with Texas Government Code, Section 2254, the selection of a vendor providing professional services cannot be made on a competitive basis.
2. The selection and award of a Vendor of professional services shall be made:
  - On the basis of demonstrated competence and qualifications to perform the services; and
  - fair and reasonable price.
3. The professional fees under the contract:
  - Must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and
  - may not exceed any maximum provided by law.

### **SELECTION OF ARCHITECTS, ENGINEERS OR SURVEYORS**

1. In accordance with Texas Government Code, Section 2254.004, procuring the services of a vendor providing architectural, engineering, or land surveying services, requires the university to:
  - Select the most highly qualified vendor of those services on the basis of demonstrated competence and qualifications; and
  - Attempt to negotiate with that vendor an agreement at a fair and reasonable price.
2. If a satisfactory agreement cannot be negotiated with the most highly qualified vendor:
  - Formally end negotiations with that vendor;
  - Select the next most highly qualified vendor; and
  - Attempt to negotiate an agreement with that vendor at a fair and reasonable price.
3. The University shall continue the process described above to select and negotiate with vendors until an agreement is entered into.

### **PROFESSIONAL SERVICES REQUEST FORM**

To process a Professional Services form:

- Initiate your purchase requisition via Miner Mall.
- Complete the electronic Professional Services Form available in Miner Mall regardless of the total cost of services.
- Include and attach any of the following for Purchasing to review:
  - Quotes
  - Service agreements
  - Engagement letters
  - Letters of Intent
- Submit the Electronic Form so that it may route to the appropriate department Approvers.
- Form will then route electronically to the Purchasing Department for final approval.

### **PROFESSIONAL SERVICES AGREEMENT**

1. All Professional Services shall be procured via a Professional Services Agreement between the University and the vendor.
2. The Professional Services Agreement shall be in the form prescribed by UT System's Office of General Counsel.
3. The Professional Services Agreement shall be reviewed, approved, and executed by the Purchasing Agent.
4. All requests for Professional Services, where the anticipated total value exceeds \$100,000, shall be reviewed by the Purchasing Agent and the HUB Program Coordinator prior to selection and award.

**SECTION 13****ESTABLISHMENT OF COMMITTED CONTRACTS**

This procedure is issued to establish a uniform method for entering into Committed Contracts/Agreements, which include Institutional and Committed Group Purchasing Organization (GPO) Contracts/Agreements.

**INSTITUTIONAL CONTRACTS/AGREEMENTS**

Institutional Contracts/Agreements must be established in accordance with Best-Value Procurement.

**COMMITTED GROUP PURCHASING ORGANIZATION (GPO) CONTRACT/AGREEMENT**

1. The terms, conditions and requirements of a GPO Contract/Agreement may be negotiated between all three parties (i.e., UTEP, GPO and Vendor).
2. If a "Commitment Letter" is required, it must be approved and signed by the Purchasing Agent, then an original copy of the commitment letter is forwarded to the GPO, vendor and the Purchasing Agent. Orders may then be placed against UTEP's commitment to the GPO Contract/Agreement with the vendor.
3. All Commitments, where the anticipated total value exceeds \$100,000, shall be reviewed by the Purchasing Agent and the HUB Program Coordinator prior to commitment.

**PLACEMENT OF ORDERS UTILIZING A COMMITTED CONTRACT/AGREEMENT**

Placement of orders utilizing a Committed Contract/Agreement shall be processed in accordance with Section 16 (Procurements from Committed Contracts).

### Group Purchasing Organizations (GPO)

The University utilizes certain GPOs for the sole of obtaining best value for the university. The GPOs approved for use include, but not limited to:

- UT System Supply Chain Alliance (UTSSCA)
- Educational & Institutional Cooperative Purchasing (E&I)
- BuyBoard
- The Cooperative Purchasing Network (TCPN)
- US Communities
- Education Service Center (ESC) – Region 19

Sales representatives whose companies have current contracts within a GPO may provide information to Faculty & Staff on the specifics for the contracts. The contract type and number must be included on all sales quotes. Additionally, Purchasing Agents familiar with GPO contracts may provide assistance to Faculty & Staff in purchasing goods/services.

### Comparison of Multiple Contract Awards

If UTEP uses a contract procured by a state agency or GPO other than an Alliance or Premier GPO, UTEP will obtain a minimum of three valid proposals (or two, if there are only two firms in the category) from contracted suppliers within the awarded category in order to identify “best value.” This applies to procurement of both goods and services.

If UTEP uses a contract procured by a Premier GPO, UTEP will obtain a minimum of three valid proposals (or two, if there are only two firms in the category) from contracted suppliers, in order to identify “best value” if the spend is anticipated to exceed the applicable spend threshold of \$2 million.

If UTEP uses a contract procured by the Alliance, UTEP is not required to obtain and compare proposals from multiple contracted suppliers, in order to identify “best value.”



PO and Contract Transparency Reporting

On a monthly basis, UTEP will post all POs and contracts regardless of amount and funding source onto the Purchasing website. The postings will include the following PO information.

- Date
- PO #
- Vendor Name
- PO Total
- Contract Term (Length)
- Commodity and Service Purchased
- Method of Procurement
- Justification for Procurement Method

Contract Transparency Reporting (Section 2101.041)

- Reporting of all contracts regardless of value and funding source
  - Contract No.
  - Vendor Name
  - Contract Value
  - Awarded Date
  - Expiration Date
  - Commodity and Service Purchased
  - Justification for Procurement Method

RFP Transparency Reporting (Section 2101.041)

- Reporting of all contracts regardless of value and funding source
  - Start Date
  - End Date
  - RFP/Contract Name
  - Summary

## LBB Reporting

The following PO's and contracts which utilize appropriated funding sources will be reported to the LBB (Legislative Budget Board) (subject to applicable thresholds) under Appropriations Bill Rider Article IX, Sections 7.04 and 7.12.

- Appropriated Fund Source
  - Contracts exceeding \$10M (competitive)
  - Contracts exceeding \$1M (non-competitive)
  - Purchases exceeding \$50K

The following PO's and contracts regardless of funding source will be reported to the LBB (Legislative Budget Board)

- All Funding Sources
  - Professional Services exceeding \$14K
  - Major information Systems exceeding \$1M

## Foreign Purchases and Customs Requirements

### 1. Foreign Purchases

Before issuing a purchase order, a department must determine the currency to be used to make the purchase and the foreign exchange rate determined when payment is not made in U.S. dollars. Note: the conversion rate used is the current rate on the shipment date.

OANDA is the most commonly online currency converter used to assist departments with exchange rates. <http://www.oanda.com/currency/converter/>

OAFIC maintains SDN as it maintains names of individuals and organizations in which the United States prohibits from doing business with. All departments must verify companies are not in the SDN list.

### 2. Customs Requirements

Purchasing products manufactured outside the United States requires clearance by U.S. Customs and Border Protection upon entry into the U.S. Information can be found on the U.S. Customs and Border Protection website.

UTEP retains services of a U.S. Customs Broker to assist with purchasing in foreign countries. The Purchasing Agents can provide contact information to the departments.

Products imported from foreign countries are subject to a variety of duties, fees, and taxes. The departments making the purchases are responsible for all associated additional charges. To avoid, fines, fees, or penalties for paying incorrect purchase amounts, the Purchasing Agent strongly recommends departments work with a U.S. Customs Broker.

**SECTION 17****TRIAL, SAMPLE & EVALUATION PRODUCTS**

This procedure is issued to establish effective guidelines to enable Vendors to bring in products for trials and/or evaluation at no charge.

**GUIDELINES**

1. Departmental personnel are responsible for completing and having the vendor sign the "UTEP Vendor Release Form" which can be attained by contacting the Manager of Contract Administration and Compliance. If the products will be shipped to UTEP, the Department will also contact Central Receiving (915) 747-7149 to make arrangements for delivery. The vendor should identify all containers as "Trial" or "Loan".
2. Upon receipt of the "UTEP Vendor Release Form", the Purchasing Agent shall maintain a file at the end of the trial period, Purchasing Agent will ensure that the trial or evaluation products have been returned to the vendor.

Once the trial or evaluation period is completed and the products have been returned to the vendor, the Purchasing Agent shall initial the form as completed then file the form in the vendor file.

This procedure is issued to establish effective guidelines for the procurement of used or demonstrator equipment.

**PURCHASING USED EQUIPMENT**

1. On occasion, it may be necessary or advantageous to purchase used or demonstrator equipment and supplies due to the inability to secure new equipment, lack of adequate funds for new equipment, or the used equipment will satisfy the University's need at a substantial savings.
2. If purchasing used or demonstrator equipment, the Buyer must:
  - A. Obtain a minimum of three quotes (two from certified HUB vendors) if the purchase amount is \$15,000 or greater.
  - B. Obtain a letter or signed statement from the vendor guaranteeing the quality and condition of the used equipment or supplies.
  - C. Obtain a letter from an authorized person connected with the vendor that states the equipment or supplies have been personally examined and describes the condition and value of the item(s).
3. If the purchase amount is under \$15,000, B and C apply. If the purchase amount is over \$15,000, A, B, and C, apply.

## SECTION 19

### RECORDS DOCUMENTATION AND RETENTION SCHEDULE

To comply with the state retention guidelines and to better control the documentation and storage of records in Purchasing, the following Record Retention Schedule and Documentation Guidelines has been established.

#### DOCUMENTATION POLICY

##### 1. Purchase Orders

The Purchasing Order file in Miner Mall shall be prepared by the Buyer and shall, at a minimum, consist of:

- Purchase Order
- Copy of all Submitted Quotations or Written Bids/RFPs, if applicable
- Appropriate Justification (e.g., emergency, sole source, professional services), if applicable
- Bidders list, if applicable
- HUB Good Faith & Effort Documentation (Orders \$100,000 or more)
- Award Recommendation, if applicable
- Department (User) Review/Approval Letter or Evaluation Forms, if applicable
- Best Value Justification if applicable
- Bid Tabulation and Justification for Method of Purchase
- Change Order(s), if applicable
- Miscellaneous correspondence
- Contract Administration Audits/Documentation, if applicable

##### 2. Contract Files (Including Capital Equipment and Software Licenses)

The Contract File shall be prepared by the Buyer and shall, at a minimum, consist of:

- Signed Contract and/or Copy of Purchase Order
- Bidders list, if applicable
- Original response from the awarded vendor (including clarifications & revised bids/proposals)
- Copy of all responses, if applicable (including clarifications & revised bids/proposals)
- HUB Good Faith & Effort Documentation (Orders \$100,000)
- Appropriate Justification (e.g., emergency, sole source, professional services), if applicable
- Evaluation forms
- Response Tabulation and Justification for Method of Purchase
- Award Recommendation, if applicable
- Addendum(s) to the Contract or Change Order(s), if applicable
- Miscellaneous correspondence
- Contract Administration Audits/Documentation, if applicable

## **RECORD RETENTION SCHEDULE POLICY**

Procurement Records shall be retained for a period of seven (7) years from the date of award or expiration of Contract, as described below:

### 1. **Purchase Orders and Awarded RFP Files**

- A. The Purchasing Agent who processed the Purchase Order is responsible for filing the Purchase Order and all other relevant documentation within thirty (30) days of Purchase Order release.
- B. Purchase orders will be maintained by Purchasing.
- C. Purged purchase orders will remain in storage for seven (7) additional years prior to being destroyed.

### 2. **RFP Files (Not Awarded)**

- A. The Purchasing Agent who processed the RFP is responsible for providing Contract Administrator with the RFP file and all other relevant documentation within thirty (30) days of determination not to award.
- B. RFP files will be maintained by Purchasing during the current fiscal year plus one year.
- C. At a minimum, one original copy of the RFP, supporting documentation and one copy of all responses will be maintained for a one year period prior to destruction.
- D. All extra copies of the responses will be destroyed immediately upon determination not to award.

### 3. **Procurements Utilizing Federal Funds (e.g., Federal Grant or Contract)**

Procurement records for the acquisition of goods and services utilizing federal funds shall be retained for a period of seven (7) years from the date of submission of the grant's or contract's final expenditure report or, for grants and contracts that are renewed quarterly or annually, from the date of the submission of the grant's or contract's quarterly or annual financial report, as authorized by the federal awarding agency.

## **EXCEPTIONS**

- 1. If any litigation, claim, or audit is started before the expiration of the ten (10) year Records Retention Schedule, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.
- 2. Any other exceptions must be in writing by formal addendum to this procedure or other formal written exception by the Purchasing Agent.

## SECTION 20

### FORMAL CONTRACT ESTABLISHMENT

This procedure is issued to assist in defining contract establishment and the circumstances that may necessitate the requirement for a formal contract.

#### PROCUREMENT OVERVIEW

1. In determining the need for a formal contract, several topics must be reviewed. In general, the Contract process is much less efficient than the procedures used when issuing Purchase Orders. Purchase Orders however, may not protect the University from potential risks in the same manner as a formal contract or Agreement. In determining the need for a formal contract as opposed to a purchase order, buyers must weigh several factors such as risk, complexity, dollar amount and efficiency.
2. The proper procurement method must first be determined. Most contracts are established as the result of an RFP, RFQ or CSP process (which allows for negotiation) rather than from a bid. A primary rationale for establishing any contract is to finalize the actual scope of work (SOW) and terms and conditions that the contractor and University have agreed to be mutually acceptable. The bid process assumes all terms, scope and/or specifications are extremely clear in the procurement stage. Acceptance of the services or commodities resulting from a bid, as opposed to an RFP for instance, should simply be a matter of "awarding" to a vendor precisely what was stated in the bid documents. Considering these factors, a complete understanding of the contractual processes is not possible without a thorough knowledge of the RFP procedures. Buyers must familiarize themselves with the details of the RFP process listed in Section 11. A sample contract must/shall always be included with the RFP solicitation. After award and negotiations, a signed contract will be set forth in place.
3. Financial Risks: The total estimated value of the procurement request must be established. Before the RFP, RFQ or CSP is advertised. Do not proceed until this amount is determined. Keep in mind the initial purchase request may not realistically portray the true amount of the contract. Delegation policies may come into play once this amount is confirmed. All procurements must follow the delegation authorities and procedures listed in Section 3. Individual procurements should be reviewed for specific delegation policies (i.e. Real Property and Space Leases). NOTE: When establishing the monetary value, the full estimate amount of the life of the contract, "including all renewals and extensions," must be considered rather than the financial commitment per fiscal year.

#### GENERAL GUIDELINES

1. The following circumstances and situations are presented as examples of when a formal contract should be considered. These examples are presented as guidelines and do not encompass all circumstances when a contract should be considered nor does every situation listed necessarily merit the formation of a contract. The multiple factors listed must be considered in making this determination.



2. Purchasing Agents must weigh the complexity, risk, monetary value and efficiency of these situations. For instance, if an RFP is issued in which the same service will routinely be requested, the SOW remains relatively constant, and all relevant terms have been established within the RFP, a notice of award may be sufficient.

### **GUIDELINES NECESSITATING POSSIBLE CONTRACTS**

1. If the procurement is of the "Job Order" variety in which multiple purchase orders or contracts will be issued over a period of time resulting from the same solicitation.
2. If the complexity of the procurement is such that a purchase order will not sufficiently protect the University from the potential risks involved (i.e. orders involving direct student interaction, contract workforce, term contracts, procurements involving safety and security, etc.).
3. Procurements involving extensive and prolonged use of campus facilities by the contractor (i.e. training-style contracts).
4. Solicitations in which the specifics of the SOW still require clarification even upon the issuance of a Best and Final Offer (BAFO). Job-Order style contracts usually fit this example.
5. Procurements exceeding the delegated authority of the Purchasing Office and/or the University.
6. Revenue-generating contracts.
7. Auxiliary Services (i.e. Bookstore, Food Services).
8. Space Leases.
9. Sole Source Purchases
10. Contracts provided by Suppliers. These contracts are reviewed by Contract Administrator and brought into compliance with UTEP, UT System and State of Texas standards.

### **PROCESS PROCEDURES**

1. If it is deemed that a purchase order, Notice of Award and/or Notice to Proceed is sufficient and a contract is not necessary, the award must reference the terms and SOW in the RFP solicitation. Specific terms that need to be addressed can be added as comments in the Purchase Order.
2. See Contract formation/Completion Processes in Section 21.

This procedure is established to assist in the processing of projects which may result in the issuance of a formalized contract or agreement. Provisions of this procedure will also provide guidance for other methods of purchase, specifically general service procurements.

### **GENERAL GUIDELINES AND PROCUREMENT OVERVIEW**

If it is suspected that a project may result in a contract/agreement, procurement staff and those involved in the contract review must be aware of the following processes:

- Assurance must be taken that all procurement regulations are met.
  - Development of service requirements must be coordinated during the procurement stage and all ambiguous provisions must be clarified prior to the initiation of contract services. Sole source/proprietary requests should be rare occurrences and reviewed with utmost scrutiny. If a sole source method is followed, all documentation and justification are required upon submission for signature. The result of an RFP process is a contract/agreement enforceable by law.
- The form of payment contract must be established and finalized at the procurement stage.
  - The appropriate contract/agreement classification (e.g. fixed-price, unit price, time & materials, cost-plus, turn-key, labor hour, maximum guarantee) must be initiated dependent on the maximum value and/or benefit obtained by the University. Mandatory performance indicators can be a key in determining method of contract. Progress payments may be used when performance milestones are met.
- The contract/agreement term, “initial start date, expiration date, and options to renewal,” including cancellations and termination must be evaluated to assure best value is obtained.
- A standard UT System contract/agreement template should always be selected whenever possible. The sample contract/agreement must/shall be included in the solicitation phase.

### **CONTRACT ADMINISTRATION**

1. Upon execution of a contract or agreement by both parties, Procurement Staff, will provide contract/agreement, performance bonds, proof of insurance and all supporting solicitation documents to Contract Administrator.
2. Contract/agreement check list is completed and made part of the contract file.
3. Contract/agreement information is entered into contract database for tracking purposes.
4. Contract Administrator prepares contract amendments and obtains approval and signature from the Purchasing Agent when changes or renewals to contract terms are negotiated.

5. End users are periodically asked to complete a contract survey to measure the performance of contracted vendors. Any deficiencies are brought to the attention of the Contractor and a solution is obtained and documented.

### **CONTRACT COMPLETION**

1. Upon final completion of a contract/agreement, the end user is asked to complete a survey on Contractors overall performance during the term of the contract/agreement. This documentation is kept in the contract file for future reference.
2. Submit the contract/agreement along with a cover memo of email that includes a brief description of the proposed services, estimated amount of contract, departmental contact information and any other relevant information that will assist the Purchasing Office in the contract review. Please note, any service contract exceeding \$25,000 must have been processed using a competitive solicitation process. Contract/agreement is flagged in contract database as being completed or expired.
3. Contract/agreement is archived for appropriate retention period.

### **PROCEDURES FOR REVIEW AND APPROVAL OF BUSINESS CONTRACTS**

On occasion, a vendor may require a business contract/agreement to be executed prior to services being rendered. The following steps should be taken for review, approval and execution by the Purchasing Office:

- A. Submit the contract/agreement along with a cover memo of email that includes a brief description of the proposed services, estimated amount of contract, departmental contact information and any other relevant information that will assist the Purchasing Office in the contract review. Please note, any service contract exceeding \$50k must have been processed using a competitive solicitation process.
- B. The contract/agreement will be reviewed to insure the University is at minimal risk and that the contract/agreement complies with UTEP and UT System policies and UT System Board of Regent rules.
- C. Any contract/agreement considered to be a Special Procedure Contract as specified by the Office of General Counsel (OGC) (<http://www.utsystem.edu/ogc/IntellectualProperty/>) or that exceeds the University's delegated amount as indicated in Section 3, will require review by OGC and may delay the approval process.
- D. Once the contract/agreement has been reviewed and approved, the contract/agreement will be executed by the Purchasing Agent and sent to the contractor for execution.
- E. Upon receipt of a fully executed contract, one copy will be retained by the Purchasing Office, one copy will be retained by the contractor and one copy will be sent to the requesting department.

**SECTION 22**

**HISTORICALLY UNDERUTILIZED BUSINESSES**

This procedure establishes guidelines to increase the utilization of Historically Underutilized Business (HUB) firms in the award of contracts and procurements for goods and services consistent with rules, regulations and goals established by UT System, Texas Procurement and Support Services (TPASS) and UTEP.

**GOOD FAITH EFFORT RESPONSIBILITIES**

Each Purchasing Agent shall encourage the participation and utilization of HUB firms in advertising, competing and awarding of contracts and procurements. In addition, HUB Coordinator shall make outreach efforts to recruit, establish and disseminate information to HUB firms; to include, but not limited to:

- Attend HUB related Trade Shows
- Meet with HUB firms
- Assist HUB firms in completing HUB Subcontracting Plans (HSP)

**BID SOLICITATION**

Consistent with Methods of Procurement, Section 7, each Purchasing Agent shall solicit bids/quotes from qualified HUB firms per the requirements prescribed below:

Less than \$15,000.00	Open Market	Non-bid, award to best source
\$15,000.00 to \$49,999	Informal	Purchasing Agent must solicit (3) quotes, two of which must be HUBs if available
\$50,000.00 or greater	Formal	A HUB subcontracting plan is required if expected value of purchase exceeds \$100k

**ORDERS OVER \$100,000**

In accordance with Government Code, Section 2161, and Texas Administrative Code, Section 111.14, all orders with an estimated purchase price exceeding \$100,000, require the submission of a HUB subcontracting plan.

This procedure establishes guidelines to increase the utilization of Historically Underutilized Business (HUB) firms in the award of Subcontracts for the procurement of goods and services consistent with rules, regulations and goals established by UT System, Texas Procurement and Support Services (TPASS) and UTEP.

**SUBCONTRACTING REQUIREMENTS**

In accordance with Government Code, Section 2161, and Texas Administrative Code, Section 111.14, for all orders with an estimated total purchase price of \$100,000 or more, the Purchasing Agent in consultation with the HUB Program Coordinator shall determine whether a Subcontracting opportunity exists.

**SUBCONTRACTING DECLARATION**

1. If a Subcontracting opportunity exists, the solicitation must include the "HUB Subcontracting Plan Package" in the solicitation, as well as the following "Subcontracting Declaration" in the Notice to Bidder's section:  
UTEP has reviewed this ITB or RFP in accordance with Chapter 1, Texas Administrative Code, Section 111.14 (a) and has determined that subcontracting opportunities are probable under this solicitation. Accordingly, a HUB Subcontracting Plan (HSP) is required as a part of your bid, (proposal, offer, or other applicable expression of interest). The HSP shall be developed and administered in accordance with the UTEP Policy on Utilization of Historically Underutilized Businesses (HUBs). Information on completing the HSP is attached hereto as Exhibit 1, HUB Subcontracting Plan Package.
2. A listing of Texas certified HUB's can be obtained from the Texas Procurement and Support Services' Centralized Master Bidders List (CMBL). It can be accessed via the Internet at <http://www2.cpa.state.tx.us/cmb/cmbhub.html>.

**NON-SUBCONTRACTING DECLARATION**

If a Subcontracting opportunity does not exist, the solicitation must include the following "Non-Subcontracting Declaration" in the Notice to Bidder's section:

UTEP has reviewed this ITB or RFP in accordance with Chapter 1, Texas Administrative Code Section 111.14 (a) and has determined that subcontracting opportunities are not probable under this solicitation. Accordingly, a HUB Subcontracting Plan is not required.

**PRIOR EVALUATION and AWARD REVIEW**

Prior to evaluation and award, all solicitations with a total value of \$100,000 or greater, where a Subcontracting opportunity was determined, shall be reviewed by the HUB Program Coordinator. The HUB Program Coordinator shall determine whether the bid/proposal complies with all HUB requirements. If a bid/proposal does not comply with the HUB requirements, it shall be disqualified from consideration or award.

## **CONTRACT OR PURCHASE ORDER REQUIREMENTS**

1. All Contracts or Purchase Orders issued in response to a solicitation where a Subcontracting opportunity was determined shall incorporate the "HUB Subcontracting Plan" submitted by the vendor. No changes are allowed in the "HUB Subcontracting Plan" submitted prior to incorporation of the contract/agreement or purchase order.
2. All contracts/agreements or purchase orders issued in response to a solicitation where a Subcontracting opportunity was determined shall be filed with Contract Administration for tracking and auditing purposes.

## **HUB SUBCONTRACTING PLAN AUDITS**

1. On a semi-annual basis, HUB Coordinator will conduct an audit of all Contracts or Purchase Orders that include a HUB Subcontracting Plan. Such audits will, at a minimum, consist of:
  - Contractor, and Contractor's Performance, is in compliance with the Subcontracting Plan
  - Payments to HUB Subcontractors are in compliance with the HUB Subcontracting Plan

Results of each audit will be documented. A copy of the audit and documentation of any action taken, if applicable, will be placed in the Contract File and the Vendor File, if applicable.

2. If a vendor's performance with the HUB Subcontracting Plan is deficient, as determined by the HUB Program Coordinator, then the vendor may, in addition to any other remedies, be subject to disbarment from any further procurement opportunities with UTEP.

## **EXCEPTIONS**

1. The following purchase types shall be processed in accordance with applicable policies and procedures:
  - Procurements from Committed Contracts
  - Procurements from Non-Committed Contracts
2. Any exceptions must be in writing and authorized by the HUB Program Coordinator.

**SECTION 24****CHANGE ORDERS, CANCELLATIONS AND  
DISENCUMBERED FUNDS FROM AN ORDER**

This procedure is issued to provide university departments with guidance when revisions are required to a purchase order which has been final approved.

1. When revisions are required on a purchase order, a change order request is initiated by the department.
  - A. Departments will initiate a change order via the Change Order Request form in Miner Mall.
  - B. Change orders should only be used for the following:
    - To cancel a purchase order
    - To cancel a line item
    - To modify a line item (non-catalog items only)
    - To change the funding source
    - To close a purchase order to relieve an open encumbrance
    - To add additional funding due to unforeseen circumstances
  - C. Supporting documentation should be attached to each change request form.
2. The Purchasing Office has sole authority to make changes to existing purchase orders without requesting a change order from the originating department.
3. The Purchasing Office may initiate a change order without requesting permission from the originating department if the difference is 10% or less than the total purchase order and does not exceed \$200.
4. Change requests which exceed 25% of the original Purchase Order must include documentation as to why the additional costs could not have been anticipated.





1. A Computer Acquisition Policy has been established to provide guidance for the purchase of desktop and portable computers, acquisition procedures, implementing configuration standards for procuring computers and for specifying officially supported equipment. Desktop and Portable Computers are an integral part of the IT infrastructure and continue to be added on to the network at a significant rate. This equipment requires maintenance and upgrading on a regular basis. Technical support personnel will be able to resolve problems and provide maintenance more efficiently with the standardization of equipment. In order to control costs and provide technical support for computers, we have adopted standards for the end-user to realize effectiveness in operations, UTEP has adopted standard configurations for computer purchases. These configurations have restrictions in order to maximize system performance and to reduce maintenance costs. Different standard configurations exist depending on the end user and final installation location and purpose. Some of the benefits of implementing these standards are:

- Streamlined processes for computer acquisitions;
- Reduction in errors in configuring and ordering;
- Speedier deployment to the end user;
- On-Site hardware warranty and support;
- Automated asset management;
- Faster support resolution for problems;
- Reduced maintenance requirements;
- Reduced support cost associated with ownership and maintenance of equipment;
- Campus network connectivity;
- Cost savings by obtaining the best value for funds expended on the acquisitions of computers; (leverage buying volume discounts, partnership) and
- Suitability for campus-wide use.

#### **POLICY**

2. Purchasing and Information Technology Departments will maintain established standard configurations for all computers procured at UTEP. These computer systems will be procured with standardized hardware and software configurations as determined jointly by the Information Technology Department and the Purchasing Department. Information Technology will install, connect to the network, support, or repair computers which are procured in accordance with this policy, unless the equipment was either:

- Exempt from this policy (see exemptions below)
- Authorized by the Director of Information Technology prior to the purchase

The current computer standards may be found at: <http://admin.utep.edu/DesktopDefault.aspx?tabid=3334>

## **STANDARDS REVIEW**

The configurations set for herein are agreed upon and shall be managed jointly by the UTEP Purchasing Department and the UTEP Information Technology Department. Both departments will mutually review and update the standard configurations and pricing when new hardware and software is released by vendors, or when University requirements change.

## **OPERATING PLAN**

Computers will be delivered pre-configured with necessary software and settings to UTEP Central Receiving. The list of security and productivity software included with the current standards can be found at <http://admin.utep.edu/Default.aspx?tabid=38609>. Once computers have been received and checked into inventory, they will be delivered to the requesting department. Information Technology maybe contacted to setup and install any additional software required in the computers.

Once computers are delivered to the end user, the computer shall not be reconfigured or rebuilt by any individual that is not employed by the Information Technology Department.

All computers governed under this policy shall be members of the "Miners" domain. This domain membership shall not be changed by any individual that is not employed by the Information Technology Department.

## **POLICY EXCEPTIONS**

The Computer Acquisition Policy includes computers configured with the Microsoft Windows operating system only. The following items are not covered by the standard at this time:

- Server-class machines.
- Computers which will not be running Microsoft Windows© or Mac OS operating systems.
- Computers not intended for desktop applications or usage.
- Computers for special purpose applications.

However, the standards governed by this policy shall be considered when performance characteristics and compatibility are substantially the same.

## **GRANT FUNDED EQUIPMENT**

Grants which are written on behalf of the University which require the purchase of computers shall adhere to this policy. Grant-funded equipment must be supported, and eventually becomes the property of the University at termination of the grant; therefore, it is essential that this equipment follow the same standard set forth herein.

### **EXEMPTIONS AND WAIVERS**

1. If an individual believes that his or her work cannot properly be conducted using equipment from the pre-approved list, an exemption/waiver memo may be submitted to the Information Technology Department. The Information Technology Department may grant a standing exemption based on the nature of the work. A requisition must be processed by submitting a Non-Standard Computer Requisition through Miner Mall.
2. After reviewing the request, a determination will be made by Information Technology as to whether the non-standard purchase will be approved. If the exemption request is denied, the requesting department may appeal the decision, and a meeting will be scheduled for the appeal by the Information Technology Department. The appeal will require the presence of the submitting department, Information Technology, and optionally the Purchasing Department.

### **ENFORCEMENT**

All University employees are encouraged, whenever possible, to follow the standards and procedures set out in this policy. Breach of this policy may result in the cancellation of purchase orders.

**SECTION 26****TRADE-IN DISCOUNTS/TRANSFERRING AND  
DISPOSING OF EQUIPMENT**

The University of Texas at El Paso (UTEP) is committed to the responsible use of and the orderly transfer of equipment to UTEP and from UTEP to external entities. UTEP adheres to University of Texas System guidelines and state and federal regulations regarding the transfer of supplies and equipment. For the purposes of this section, "equipment" refers only to capital and controlled equipment (refer to UTEP Inventory Management Policies and Procedures for definitions of capital and controlled equipment).

All equipment transfers, disposals, trades, must be final approved by the VPBA office. The requestor must submit a memorandum to the VPBA office, through the department chair, Dean or VP, and the VP of Research, if necessary.

The memorandum for approval should list the equipment to be traded and should include the description, inventory tag number, acquisition cost and account number original charged.

The equipment shall not be removed from UTEP until all approvals have been obtained and the inventory tags have been removed by Inventory.