

TEXAS A&M UNIVERSITY-COMMERCE

PROCUREMENT MANUAL

UPDATED NOVEMBER 2020

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In accordance with:

- **Texas A&M University System Policy 25.07, Contract Administration**
- **Texas A&M University System Regulation 25.07.03, Acquisition of Goods and/or Services**
- **University Procedure 25.07.03.R0.01, Acquisition of Goods and/or Services.**
- **University Procedure 25.07.99.R1, Contract Administration**
- **University Procedure 25.07.01.R0.02, President's Delegation of Authority for Contract Administration**

**General Information**

Each university of The Texas A&M University System (TAMUS) shall establish or contract with a Purchasing department that is responsible for purchases of supplies, materials, services, and equipment.

With the exception of delegated purchases or purchases from cooperative or State contracts, purchases shall be based on competitive bids and in accordance with the best value decision process. Negotiation of contracts is allowed in the following circumstances:

- emergency purchases when there is insufficient time to solicit bids;
- proprietary purchases or purchases of items for which there is only one source of supply;
- purchases by means of competitive sealed proposals;
- proposed purchases in circumstances where competitive specifications have been advertised but Procurement Services has received only one acceptable bid, or no acceptable bids; provided, however, such negotiation may not result in a material change to the advertised specifications; and
- Procurement Services shall keep records of all purchases processed through the office.

All purchase contracts shall be governed by and interpreted under the laws of the State of Texas.

**Procurement Services Contacts**

Main Contact Information  
903-468-3000  
[purchasing@tamuc.edu](mailto:purchasing@tamuc.edu)  
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**Types of funds:**

With the exception of HEF funds, there are three main funding types at the University. The State only audits State funds. The other funding types are audited by the University and the Texas A&M University System. It is the responsibility of the departments to ensure that the purchasing rules are followed as it relates to the delegated dollar limits. The three main types of funding with account identification are as follows:

<b>Funding Type</b>	<b>Account Information</b>
State Funds	1xxxxx
Local Funds	2xxxxx, 3xxxxx, 4xxxxx, 6xxxxx, 8xxxxx, and 9xxxxx
Federal Funds	4xxxxx

## Delegated Purchases

### Purchasing Authority & Dollar Limitations

**\$0 to \$10,000.** Departments are authorized to make purchases between the specific dollar limit (including freight charges). A purchase order number shall be issued by the department to the vendor through Mane Market. Departments are responsible to follow State, System, and University purchasing procedures.

**Exceptions to Departmental Delegated Authority.** The following types of purchases must be processed using a requisition and forwarded to Procurement Services for processing, as authority has not been delegated to departments, and cannot be purchased using a Procurement Card, unless approved otherwise, in advance, by Procurement Services.

- All Software and Major Hardware Purchases
- All Telecommunication Purchases
- All Capitalized or Controlled Items
- All State Term Contract Purchases
- All Furniture Purchases
- All TIBH set-aside purchases, ex. nameplates, furniture, etc.
- All Purchases of Services, except services identified below in the “Exempt Purchases” section
- Grant-Related or Indirect Cost Purchases must have pre-approval by ORSP

Departments are asked that clear specifications accompany the requisition when routed to Procurement Services.

### Bid Requirement Thresholds

**\$0 to \$10,000.** “No-Bid” limit. At this dollar range, the Procurement Services staff is not required to take bids on products or services. But, as a normal practice, obtaining competitive quotes always ensures the “Best Value”.

**\$10,000.01 to \$50,000.** Departments are not authorized to purchase goods or services within the stated dollar limit regardless of funds. Departments are to forward requisitions (via Mane Market) to Procurement Services for processing *prior* to the purchase of the goods or services.

- Departments are asked that clear specifications accompany the requisition when routed to Procurement Services Department.
- Departments should recommend vendors to Procurement Services. Input the recommendation(s) at the header level in the Mane Market requisition. Procurement Services Department will then solicit vendors through the bid process. Procurement Services will notify the department of the bid results.

- A vendor will be selected and a purchase order will be issued.
- If the item can only be purchased from a single vendor, set the sole source flag and complete the sole source justification form. A sole source letter should be provided by the vendor to ensure this is the correct solicitation method.

To expedite the purchase of goods or services, departments may utilize the following procedures:

- Electronic quotes from the vendor are required and can be obtained by the department, but the HUB requirements should be met. Sufficient time should be given for vendor responses. A quick response, however, will insure quick processing time by Procurement Services.
- Quotes should be uploaded as attachments to the requisition in Mane Market.
- The department shall not enter into an agreement with the vendor (i.e. purchase the item without a purchase order issued by Procurement Services).

**Over \$50,000.** Departments are not authorized to purchase within the stated dollar limit. Expenditures within the stated dollar limit require the solicitation of formal bids and listing on the Electronic State Business Daily (ESBD). All requisitions totaling \$50,000.00 or more must be sent to Procurement Services for processing. The departments should provide a list of suggested vendors. Formal bid invitations will be sent to vendors by Procurement Services. The standard solicitation and vendor response time for formal bid invitations is 14 calendar days unless the Historically Underutilized Sub-contracting Plan is required, which can take up to 25 business days. After such time, Procurement Services will notify the department of the bid results. A vendor will be selected and a purchase order will be issued. The entire process can take between 6-8 weeks.

**\*Important\***

**Under no circumstances shall any employee of the University authorize a purchase without a formal means of order placement. An order is official when an employee pays with his/her ProCard or issues a Purchase Order through Mane Market.**

## General Provisions

### Accessibility Standards for EIR

For detailed information regarding the requirements for the University's EIR Accessibility Standards, please visit the following link: <http://www.dir.texas.gov/management/accessibility/Pages/Overview.aspx>

### After-the-Fact Purchases

An After-the-Fact (ATF) purchase occurs when a department makes a purchase *before* a purchase order number is issued or procurement card is used. For example, authorizing a vendor to begin work before Procurement Services issues a purchase order, even though the department has submitted a requisition, is an ATF. Similarly, obtaining goods or services on credit and subsequently submitting the invoice with a payment voucher is an ATF, unless it is a purchase specifically allowed to be paid by payment voucher. All ATFs, regardless of the dollar amount, presents problems for Procurement Services, Accounts Payable, vendors, and end-users. In many cases, these transactions:

- Place Texas A&M University-Commerce at financial and credit risk and results in higher than necessary costs paid for products and services
- Create unnecessary administrative effort
- Bypass State of Texas encumbrance requirements
- Violate procurement rules and procedures
- Result in supplier contracts with unfavorable terms and conditions signed by unauthorized A&M-Commerce personnel.

#### ATF Procedures:

1. When an ATF purchase has been identified, the individual who placed the order shall complete a Non-Compliant Requisition Form with all supporting documentation attached (i.e. invoices) and forward it to the Department Head for review and signature.
2. The Department Head shall review the purchase and complete the Non-Compliant Requisition Form, which shall include a detailed statement explaining the circumstances surrounding the purchase, what corrective steps have taken to avoid repetition of the problem, and any corrective action with the responsible account manager or employee.
3. The Department Head shall submit the completed Non-Compliant Requisition Form to Procurement Services who shall review for approval or denial and the Chief Procurement Officer will be notified. If approved, the invoice will be processed according to standard procedures. If denied, one or more of the following actions may be taken:
  - Return of the item(s);
  - Responsible person paying for the difference of item(s) if found to be cheaper by Procurement Services; or
  - Responsible person paying for the item(s).

### **ATF Action Ramifications:**

1. First offense results in a written warning via the Non-Compliant Purchase Requisition Letter and also results in the offender being required to take the Online Purchasing Basics training through TrainTraq.
2. Second offense results in a verbal warning via a meeting with the non-complying department.
3. Third offense results in disciplinary actions including removal of delegation of authority, official reprimand, or termination

### **Bids**

For purchases where the estimated dollar amount is to exceed the threshold delegated to the Department, bids (either informal or formal must be solicited).

- A. Informal bids may be gathered at the department level or by Procurement Services for the procurement of goods/services (not requiring a contract) where the expected cost is greater than \$10,000 but less than \$50,000.
  - a) A minimum of three (3) vendors must be contacted with at least two of the three being Historically Underutilized Businesses (HUB), whenever possible.
  - b) Quotes may be returned via e-mail or fax, or pricing may be given verbally. Verbal responses should include the name of the person giving the response, date, pricing, delivery and any other relevant information.
  - c) If the department is gathering the informal bid information, all documentation should be attached to a Requisition and sent through to Procurement Services for verification and purchase order issuance.
  - d) Should the Department choose to let Procurement Services solicit bids on its behalf:
    - i) clear specifications accompany the requisition when routed to Procurement Services.
    - ii) Departments should recommend vendors to Procurement Services. Procurement Services will then solicit vendors through the bid process. Procurement Services will notify the department of the bid results.
    - iii) a vendor will be selected and a purchase order will be issued.
- B. Formal bids are required for the purchase of goods and/or services with an expected cost greater than \$50,000. Formal bids may also be secured for goods and/or services with an expected cost greater than \$10,000 at the discretion of Procurement Services.
  - a) Departments should provide detailed specifications on or attached to the requisition.
  - b) Departments should provide a list of suggested vendors.
  - c) Formal bid invitations will be sent to vendors by Procurement Services. Additionally, the bid will be posted on the Electronic Business Daily website as required by the State of Texas and the Texas A&M University System as well as Procurement Services' website.

- d) The standard solicitation and vendor response time for formal bid invitations is 14 business days unless the Historically Underutilized Sub-contracting (HSP) Plan is required, which can take up to 25 business days. After such time, Procurement Services will notify the Department of the bid results. A vendor will be selected, and a purchase order will be issued. The entire process can take between 6-8 weeks.
- C. If the item can only be purchased from a single vendor, a sole source letter is required (provided by the vendor) should accompany the requisition to ensure this is the correct solicitation method. The sole source justification section of the Requisition Submission Form should be completed by the department when submitting the requisition to Procurement Services.

**The department shall not enter into an agreement with the vendor, i.e. purchase the item without a purchase order issued by Procurement Services.**

### **Bid Submission, Bid Opening and Tabulation**

- A. Formal bid submission. Bids are solicited by Procurement Services on behalf of the requesting Department. The Department submits its requisition with detailed specifications which are then used in the creation of the bid. The completed bid is then sent out to respective vendors for consideration.
  - a) Prospective bidders may request specific bid invitations from Procurement Services at any time prior to the bid opening.
  - b) A bidder may withdraw its bid by written request at any time prior to the bid opening date and hour.
  - c) A bid received after the time and date established by the bid invitation is a late bid and will not be considered.
  - d) A bid received which does not contain adequate bid identification information on the outside of the envelope will be opened to obtain such information and will then be processed as any other bid. If the incorrect information on the envelope causes the bid not to be considered in making an award, the bid will be considered invalid and rejected.
  - e) Bids may be submitted by the methods described in the solicitation. If all or any portion of a bid submitted is received late, is illegible, or is otherwise rendered non-responsive due to equipment failure or operator error, the bid or the applicable portion of the bid will not be considered. The university shall not be liable for equipment failure or operator error, nor will such failure or error require other bids to be rejected or the bid invitation to be re-advertised. A bid that is received in the memory of a fax machine, prior to the bid opening time, will be considered valid. The official time for receipt of bids will be determined by the activity report printed by the fax machine.
  - f) Bids by telegram are not allowed.



- g) An unsigned bid is not valid and will be disqualified.
  - h) A bidder or a department may request, in person at the bid opening, that bids be read aloud. No bid shall be required to be read aloud at any time other than during regular working hours and days.
  - i) When formal bids are required, bids may not be taken or accepted by telephone, email etc. unless specified within the bid document or instructions.
  - j) If an error is discovered in a bid invitation, or departmental requirements change prior to the opening of a bid, Procurement Services will transmit an addendum correcting or changing the specifications to all bidders originally listed on the transmission list for that bid invitation. Bids will not be rejected for failure to return the addendum with the bid, if the change is noted on the bid or the product or service specification would not be changed by the addendum.
- B. By signing and submitting a bid to Procurement Services or to a department acting under delegated purchasing authority, a bidder affirms that it has not given or offered any economic opportunity, employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the bid, and that it does not intend to give or offer any of the foregoing in the future. Signing a bid with a false statement shall void the bid and any resulting contract, and the bidder shall be removed from all future solicitations.
- a) Bid opening and tabulation.
  - b) All bid openings conducted by Procurement Services shall be open to the public.
  - c) Bid opening dates may be changed and bid openings rescheduled if bidders are notified in advance of the new opening date.
  - d) If a bid opening is canceled, all bids will be returned to the bidders.
  - e) All bid tabulation files are available for public inspection. Bid tabulations may be reviewed by any interested person during regular working hours at the offices of Procurement Services. Employees of the University are not required to give bid tabulation information by telephone.

### **Bid Evaluation and Award**

#### A. Bid evaluation.

- a) The University may accept or reject any bid or any part of a bid or waive minor technicalities in a bid, if doing so would be in the University's best interest.
- b) A bid price may not be altered or amended after bids are opened except to correct mathematical errors in calculation of units x unit price.

- c) No increase in price will be considered after a bid is opened. A bidder may reduce its price provided it is the lowest and best bidder and is otherwise entitled to the award.
- d) Bid prices are considered firm for acceptance for 30 days from the bid opening date for bid solicitations and 60 days for proposal solicitations, unless otherwise specified in the invitation for bids.
- e) A bid containing a self-evident error may be withdrawn by the bidder prior to an award.
- f) Bid prices which are subject to unlimited escalation will not be considered. A bidder may offer a predetermined limit of escalation and the bid will be evaluated on the basis of the full amount of the escalation.
- g) A bid containing a material failure to comply with the advertised specifications shall be rejected.
- h) All bids must be based on "F.O.B. destination – freight included" delivery terms unless otherwise specified.
- i) If requested in the invitation for bids, samples must be submitted or the bid will be rejected. The university will require samples only when essential to the assessment of product quality during bid evaluation. Samples for non-winning bids shall be returned to the bidder, whenever practicable, at the bidder's expense. Otherwise, samples will be disposed of in the same manner as surplus or salvage property.
- j) When brand names are specified, bids on alternate brands will be considered if they otherwise meet specification requirements.
- k) Cash discounts are acceptable but are not considered in making an award. All cash discounts offered will be taken if they are earned by the University.
- l) No electrical item may be purchased unless the item meets applicable safety standards of the federal Occupational Safety and Health Administration (OSHA).

B. Award.

- a) All awards shall be made to the bidder complying with the best value criteria stated in the bid document and conforming to the advertised product or service specifications. In determining which bidder is offering the best value, the University shall consider price and may consider and evaluate the factors comprising the best value criteria as may be set forth in the bid.
  - i) In case of tie bids which cannot be resolved by application of one or more preferences described in the Preferences section of these rules, an award shall be made by flip of a coin.
  - ii) Best Value Factors. The University may consider the following factor(s) in determining best value:
    - (1) Any installation costs;

- (2) The delivery terms;
- (3) The quality and reliability of the vendor's goods or services;
- (4) The extent to which the goods or services meet the agency's needs;
- (5) Indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience and responsibility, and the vendor's ability to provide reliable maintenance agreements;
- (6) The impact on the ability of the University to comply with laws and rules relating to Historically Underutilized Businesses or relating to the procurement of goods and services from persons with disabilities;
- (7) The total long-term cost to the University of acquiring the vendor's goods or services;
- (8) The cost of any employee training associated with the acquisition;
- (9) The effect of an acquisition on University productivity;
- (10) The acquisition price; and
- (11) Any other factor relevant to determining the best value for the University in the context of a particular acquisition that is sufficiently described in a solicitation instrument.

C. Selection and Publication of Best Value Criteria.

- a) In any procurement conducted under the requirements of the Bid Evaluation and Award section, the University must identify the specific factors to be analyzed in determining best value. The selection of best value criteria must be tailored to the specific needs of the University and must not necessarily limit competition or discourage the achievement of University procurement objectives.
- b) Every purchase of goods or services conducted in accordance with the requirements of the Bid Evaluation and Award section must include consideration of price as a factor.
- c) The University must publish notice of the specific criteria to be employed by the University in determining best value. The notice may be published in the solicitation instrument, public notice, or public announcement of a proposed procurement of goods or services.
- d) All bid tabulation files are available for public inspection. Bid tabulations may be reviewed by any interested person during regular working hours at the offices of Procurement Services. Employees of the University are not required to give bid tabulation information by telephone.

## **Centralized Master Bidders List**

- A. Texas Procurement and Support Services (TPASS) maintains the Centralized Master Bidders List (CMBL) of the names and addresses of vendors that have applied and have been accepted for inclusion on the CMBL. The CMBL is maintained for the State's use in obtaining competitive bids for purchases, for registering vendors who wish to be designated as qualified information systems vendors and for identifying certified HUB vendors. No vendor will be placed on the CMBL to receive bid invitations for information purposes only. Bid invitations and requests for proposals may be transmitted to vendors on the CMBL for solicited commodities and/or services.
- B. An error in addressing a bid invitation or request for proposal or a failure of the post office to deliver the solicitation will not be sufficient reason to require the University to reject all other bids or proposals.

**Texas A&M University-Commerce will use the CMBL for selecting bidders for bid solicitations but may also supplement the CMBL with vendors having the known ability to supply the product(s)/services requested.**

## **Competitive Sealed Proposals**

Texas A&M University-Commerce has adopted the Texas A&M University System Contract Management Guide for the acquisition of goods and services by the competitive sealed proposal process.

## **Computers**

A department needing to purchase a new desktop or laptop should first contact the Center for Information Technology Excellence (CITE). Their staff will assist in putting together specifications and/or in getting a formal quote. Technology Services must approve all computer purchases either by a signature on the Requisition or with an attached formal quote bearing the designee's name. The requisition will route for approval then to Procurement Services who will secure the item(s).

Mobile Communication Devices will be governed by the following procedure:

<http://www.tamuc.edu/aboutus/policiesproceduresstandardsstatements/rulesProcedures/25ExpenditureOffunds/25.99.09.R0.01CellularCommunicationDevicesandServices.pdf>

## **Conflict of Interest**

No employee, employee family member or appointee of Texas A&M University-Commerce shall have any interest in, or in any manner be connected with, any contract or bid for furnishing supplies, materials, services, and equipment of any kind to any agency of the State of Texas.

Neither shall any member or employee, employee family member or appointee, under penalty of dismissal, accept or receive from any person, firm, or corporation to whom any contract may be awarded, directly or indirectly, by rebate, gift, or otherwise, any money or other thing of value whatever, nor shall any employee receive any promise, obligation, or contract for future reward or compensation from any such party.

## **Contracts**

In some instances, it is necessary to issue a written contract instead of a purchase order. All contracts,

excluding Advertising, are to be routed to the Procurement Services prior to execution of contract. The State of Texas requires the review and approval of contractual service by Procurement Services.

Contracts of \$100,000 or more may require the review of the Office of General Counsel at Texas A&M System offices.

All contracts are reviewed for compliance with State of Texas Statutes and A&M System Policies. The Chief Procurement Officer or delegate, or Assistant Director(s) of Procurement Services are the ONLY people, delegated to sign contracts for the University. The standard services agreement/contract can be found on the Procurement Services web page at:

<http://www.tamuc.edu/facultyStaffServices/purchasing/ContractAdministration/default.aspx>

### **Consulting Services**

A sometimes confusing aspect of dealing with a consultant contract is recognizing one. A contract with someone who calls himself or herself a consultant is not necessarily a “consultant contract” within the meaning of the Texas Government Code.

Texas Government Code, Chapter 2254, Subchapter B, defines “consulting service” as the service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee.

Studying or advising is the core of a true consultant contract and should be construed broadly. To “study” a state agency typically would mean to consider some aspect of the agency in detail, such as its financial status or its method of performing an administrative function, and to present that information to the agency. To “advise” a state agency typically would mean to provide a recommendation or identify options with respect to some course of action. The service of studying or advising also would include certain direct activities, such as “to assist” or “to coordinate” unless those activities are performed with respect to an exempted service.

One way to recognize whether a would-be consultant is “studying or advising” as opposed to doing something else, is to look at the deliverable involved. Generally speaking, a true “consultant” delivers information or provides assistance that enables the state agency to take some course of action. On the other hand, if the information simply enables the would-be consultant to take some course of action on the agency’s behalf which is itself not a consulting service (such as developing software), then one is likely not dealing with a true “consultant contract” within the meaning of the code.

However, the State recognizes that sometimes true consultant contracts will necessarily involve a mixture of consulting (studying or advising) and other services. Such contracts are referred to as “mixed” contracts. According to Texas Government Code, Section 2254.038, “A mixed contract is still a true consultant contract when the primary objective is to study or advise”.

*Before entering into a consulting contract, consult Procurement Services for guidance. As a general rule, however, the following limits apply:*

- A. For consulting services less than \$50,000, no bids are required. The Department will be required to submit a “Best Value” letter stating why the particular consultant was chosen.
- B. For consulting services greater than \$50,000, formal bidding through either a Request for Qualification (RFQ) or Request for Proposal (RFP).

The transaction must be completed by Procurement Services to ensure legislative requirements are satisfied.

### **Customized Products**

A customized product is defined as any product that is especially prepared for Texas A&M University-Commerce.

Types of customized products include but are not limited to:

- Specialty imprinted products
- Printing
- Screened products, including clothing

Because of production methods common to the industry, customized products are subject to quantity variations either above or below the quantity ordered. Limitations to such under/overruns are limited to 10% of the quantity ordered. If under/overruns are not acceptable, then the bid or the purchase order must state "EXACT QUANTITY – NO UNDER/OVERRUNS WILL BE ACCEPTED". Overruns in excess of the 10% percent will be considered a no-charge donation to the University. The invoice will be adjusted to the allowable overage based upon the original net quantity indicated on the purchase order.

### **Emergency Purchases**

An emergency purchase is defined as "a purchase of goods or services so badly needed that [the institution/agency] will suffer financial or operational damage unless they are secured immediately."

When possible, contact the Procurement Office prior to acquiring the goods or services. If the situation allows, informal bids will be taken. Department should submit a requisition after the order has been placed and include a letter of justification that must:

- State the reason for the emergency purchase by explaining what the emergency is and what caused the emergency situation.
- State the financial or operational damage that will occur if needs are not satisfied immediately; and
- State why the needs were not or could not be anticipated so that the items could have been purchased through regular procurement procedures.

### **Ethics**

The Procurement Office has delegated the authority to departments to make purchases of goods and services up to \$10,000 (including freight and/or postage) unless the purchase is on the exception list. All employees making purchases under this delegated purchasing authority shall adhere to the Texas A&M University System Ethics Policy and the NAEP Code of Ethics endorsed by Texas A&M University-Commerce.

## **NAEP Code of Ethics**

- Give first consideration to the objectives and policies of my institution.
- Strive to obtain the maximum value for each dollar of expenditure.
- Decline personal gifts or gratuities.
- Grant all competitive suppliers equal consideration insofar as state or federal statute and institutional policy permit.
- Conduct business with potential and current suppliers in an atmosphere of good faith, devoid of intentional misrepresentation.
- Demand honesty in sales representation whether offered through the medium of a verbal or written statement, an advertisement, or a sample of the product.
- Receive consent of originator of proprietary ideas and designs before using them for competitive purchasing purposes.
- Make every reasonable effort to negotiate an equitable and mutually agreeable settlement of any controversy with a supplier; and/or be willing to submit any major controversies to arbitration or other authorized third party review, insofar as the established policies of my institution permit.
- Accord a prompt and courteous reception insofar as conditions permit to all who call on legitimate business missions.
- Cooperate with trade, industrial and professional associations, and with governmental and private agencies for the purposes of promoting and developing sound business methods.
- Foster fair, ethical and legal trade practices.

### **Exempt Purchases**

Due to the nature of the purchase, certain goods and services cannot be competitively bid. Below is a list of goods and services Texas A&M University-Commerce will exempt from the competitive bid process regardless of dollar amount.

#### *Item or Nature of Services*

- Advertising
- Conference Expenses
- Hotels and Conference Rooms
- Moving Expenses: institutional funds only
- Lecturers/Guest Speakers/Entertainers: fees for speakers/lecturers/entertainers hired on a one-time basis (does not include fees for speakers on a continuous basis)

- Student Travel: expenses related to student travel
- Library materials: specific for A&M-Commerce Libraries
- Legislative information services: bill analysis services
- Membership fees and dues
- Newspaper and magazine subscriptions direct from the publisher
- Freight
- Postage
- Services provided by other State of Texas agencies, System members, or by other local governments (inter-agency and inter-local agreements must be reviewed by Procurement Services)
- Registration fees and associated books and materials
- Rental of exhibit space (booths for display purposes)
- Goods and services provided by the Texas Department of Criminal Justice
- Goods and services provided by the Texas Industries for the Blind and Handicapped
- Internal repairs
- Insurance premiums
- Acquisitions from federal agencies
- Utilities
- Acquisition of livestock
- Catering services
- Group Purchasing Programs (Co-Op)
- Medical Doctor Services
- Acquisitions from the GSA Contracts
- Software
- Artists (Painters, Sculptors, Compositions, Performers)



- Works of Art
- Employee & Prospective Employee Travel

## **Export Control**

When vendors are added to the Master Vendor List, the AggieBuy vendor help team at Texas A&M University checks the Texas debarment lists and, among others, the Federal System for Award Management (SAM) and Visual Compliance (VC) for any exclusions. If a vendor appears on any of the lists, the vendor help team is notified and they change the status of the vendor from active to suspended. Once the vendor is eligible, they are restored to active status.

For international agreements not routed through Mane Market, the Contracting Officer will run a Visual Compliance check on the other parties to ensure Export Control compliance. Should the Contracting Office be unavailable, the Office of Sponsored Programs may run the VC. Any discrepancies will be referred to the Empowered Official. Following the VC, international contracts will be routed to OGC for approval.

## **Facility Services**

*Provided by out-sourced vendor, Southeast Services Corporation (SSC)*

Procedures for completing projects with Facility Services through SSC can be found on the Procurement Services website (<http://www.tamuc.edu/facultyStaffServices/purchasing>).

The department is encouraged to keep track of the project with SSC and to consult with the Contract Administrator (Assistant Director, Contracts) for the SSC contract or the University Project Officer.

## **Food Purchases**

The use of state funds for the purchase of food is very limited. **State funds cannot be used for the purchase of coffee or related items for consumption by employees or departmental visitors.** State funds can be used to pay for food purchases related to research or teaching in a class or lab setting.

Expenditures for food and/or refreshments from institutional funds are authorized to the extent that such expenditures enable the state agency to carry out an educational function, promote education in the State of Texas, or perform public service.

*All food purchases must have a Food Purchase/Justification form with the description of who, what, when, where and why the food is being purchased.*

*Outside food purchases must have an alcohol statement on the request to purchase – “No alcoholic beverages were purchased or consumed”.*

“Catering” is generally referred to when the food is brought in, set-up, and the room is cleaned up by a vendor. Sodexo (current contracted service provider) should be used for any catering events on campus.

“Outside Food” is generally when departmental personnel purchase the food, perform the set-up and clean-up. In this case, food may be purchased from an outside source.

## **Gift Cards**

The purchase of gift cards is strictly prohibited, with the exception of the following.

### **Gift Cards Given as "Incentives" to Non-A&M System Employees to Participate in Research Projects**

The following information is needed to process a voucher payment through University Accounts Payable. (Typically a log is submitted with this information filled out but a log is not required as long as all the information is presented.)

- If the gift card is less than \$100 per participant, the following is needed for a voucher:
  - a. Name of the participant.
  - b. Signature of the participant that received the card.
  - c. Date of the study.
  - d. Amount of the card received by the participant.
  - e. Project title.
  - f. Research Project number.
- If the gift cards are \$100 or more per participant, vouchers need the above PLUS:
  - a. Address of the participant.
  - b. Social security number of the participant.
- The object code used will vary based on the situation of the sponsored award. For questions regarding the award and correct coding, please contact the project administrator. Common choices are as follows:
  - a. Use object code 6379 to record payment for sponsored participant support costs. This is a budget category 10 code.
  - b. Use object code 5667 to record payment to human subjects paid (in form of gift card in this instance) for participating in research. This is a budget category 08 code.
- Taxed through 1099 process if an individual's sum totals \$600 or more in a calendar year.
- Need clear benefit to the University project.

## **Group Purchasing Programs**

Texas A&M University-Commerce may purchase materials, supplies, or equipment through group purchasing programs (cooperatives, alliances, GSA contracts etc.). Some of these programs include:

- E&I – [www.eandi.org](http://www.eandi.org)
- TIPS/TAPS – [www.tips-usa.com](http://www.tips-usa.com)
- U.S. Communities – [www.uscommunities.org](http://www.uscommunities.org)

- TCPN – [www.tcpn.org](http://www.tcpn.org)
- BuyBoard – [www.buyboard.com](http://www.buyboard.com)
- Houston-Galveston Area Council – [www.hgacbuy.org](http://www.hgacbuy.org)
- Federal Gov't – [www.gsa.gov](http://www.gsa.gov)

*Group purchasing programs are responsible for the bidding of the materials, supplies, or equipment to be purchased. Therefore, these purchases are exempt from the bidding process.*

### **Historically Underutilized Businesses (HUB)**

In accordance with the Texas Government Code, state agencies **shall make** a good faith effort to utilize Historically Underutilized Businesses (HUBs) in contracts for construction, services, including professional and consulting services, and commodity contracts.

Historically Underutilized Businesses are classified as corporations, sole proprietorships, partnerships, or joint ventures in which at least 51% of the business is owned, operated, and actively controlled/managed by a minority or woman. To be identified as a HUB vendor in the State of Texas, a qualified vendor must be HUB Certified with the State. The State of Texas classifies such businesses as:

- Woman-Owned, Female - WO/F
- Hispanic-Owned, Male - HI/M
- Hispanic-Owned, Female - HI/F
- Black-Owned, Male - BL/M
- Black-Owned, Female - BL/F
- Asian-Owned, Male - AS/M
- Asian-Owned, Female - AS/F
- American Indian-Owned, Male - AI/M
- American Indian-Owned, Female - AI/F
- Service-Disabled Veteran

HUB Program Mission: To encourage and effectively promote the utilization of Historically Underutilized Businesses (HUBs) by all state agencies, and to promote full and equal business opportunities for all businesses in state contracting in accordance with the goals specified in the State of Texas Disparity Study. The goals and categories are as follows:

- 11.2% for heavy construction other than building contracts;

- 21.1% for all building construction, including general contractors and operative builder's contracts;
- 32.7% for all special trade construction contracts;
- 23.6% for professional services contracts;
- 24.6% for all other services contracts; and
- 21.0% for commodities contracts.

HUB vendors may be identified by visiting the Texas Procurement and Support Services (TPASS) web site at: <https://mycpa.cpa.state.tx.us/tpasscmlsearch/index.jsp>. HUB vendors listed under both categories, HUBs on CMBL and HUBs not on CMBL, are certified by the State of Texas.

**As stated above, Texas A&M University-Commerce is fully committed to the HUB Program and strongly encourage purchases be made with certified HUB vendors whenever possible.**

### **Inspection and Order Cancellation**

#### A. Inspection of merchandise.

Departments shall inspect all shipments received against orders and report any discrepancies to Procurement Services immediately. Central Receiving only verifies the number of boxes received from freight carriers, not their contents.

- a) If unlisted shortages are discovered, the vendor and Procurement Services shall be notified immediately. Unless shipments are checked by the department or University immediately upon arrival and such shortage reports are made within 15 days, the contractor cannot be held responsible for shortages.
- b) A contractor may be required to pick up any merchandise not conforming to specifications and replace the merchandise immediately.

#### B. Substitutions. Substitutions of items called for in a contract are not permitted without Procurement Services' prior approval. No such approval will be granted unless substituted items are of equal quality and are offered at the same or lower price.

#### C. Cancellations.

- a) Cancellations on orders issued by a department are not permitted without Procurement Service's prior approval.
- b) Orders may be canceled without the contractor's consent due to unsatisfactory performance or nonperformance by the contractor.
- c) Orders may not be canceled, without first obtaining the consent of the contractor, if the reason for cancellation is not the fault of the contractor.
- d) A contract or a portion of a contract may be canceled on request of the contractor if the contractor is unable to perform due to circumstances beyond its control. In these instances,

Procurement Services will consider such requests when presented in writing with proper documentation.

D. Damages for failure to perform.

- a) A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the University.
- b) If any merchandise delivered under a contract has been used or consumed by a department and upon testing is found not to comply with specifications, no payment may be approved by the University for such merchandise until the amount of actual damages incurred has been determined.
- c) A vendor who fails to pay damages assessed by the University may not be awarded additional contracts until such damages have been paid or the matter has been otherwise resolved.

### **Institutional Memberships**

Institutional Memberships – Requires a Requisition and approval by applicable Departmental Vice President or an approved designee. Approved Requisition is routed to Business Services for payment. Institutional Memberships must be in the name of the University and not in that of an individual.

### **Insurance**

The State of Texas requires that **All State Agencies including Higher Education** require Insurance for REPAIR OR IMPROVEMENT TO REAL PROPERTY. This is primarily used in construction and maintenance type items which involve labor. Examples of improvement to real property include:

- Repair of windows
- Laying of carpet
- Striping of parking lots
- Sidewalk construction

Improvement to Real Property DOES NOT INCLUDE repair to equipment or installation of equipment.

Consult Procurement Services for Insurance requirements.

Additionally, the Texas A&M University System requires that vendors performing services on campus provide a certificate of insurance meeting certain dollar limits. Those limits may be found on the A&M website located at:

<http://www.tamus.edu/offices/risk/riskmanage/guide/review/contract-insurance-language-vendor/>

Departments should contact Procurement Services with questions about whether a particular service requires insurance. The Office of Risk Management and Safety may also assist with insurance questions

### **Lease or Lease-Purchase Contracts**

A Department may acquire capital equipment by lease or lease-purchase if it is cost effective.

If a proposed lease or lease-purchase is for information technologies resources, as defined in Texas Government Code, Chapter 2054, the requisition must include written evidence that the Department of Information Resources has approved the university's Biennial Operating Plan. Procurement Services will determine the cost effectiveness of a lease or lease-purchase. To establish cost effectiveness, the requisitioning department should submit the following information:

- Anticipated interest charges over the life of the purchase to the extent it can be determined;
- Anticipated cost savings which would be realized through the present acquisition of the equipment with the outright purchase of the equipment at a later time, when adequate funds become available;
- Any other information the Department considers relevant; and
- Letter certifying that “in spite of the additional interest cost to the State, this purchase could not be accomplished as economically through any other available means. Therefore, the lease(or installment) purchase of this equipment is the most cost effective means of obtaining the needed equipment.

**NOTE: This letter needs to be signed by the Chief Procurement Officer or higher authority in the requesting agency.**

Any lease, lease-purchase or installment payment purchase utilizing any state-appropriated funds that is either in excess of \$250,000 or has a term in excess of five (5) years must be submitted to the Texas Bond Review Board for approval.

### **Merchandise Returns/Repairs**

When it is necessary to return an item or ship an item for repair, then a Shipping Request form must be completed by the department before Central Receiving will be able to pick up. This form can be obtained from the Central Receiving Department (extension 9835) or may be downloaded from the Purchasing website.

Merchandise ordered by Procurement Services (Vendor received a hard copy of a Purchase Order) should be arranged by Procurement Services.

Merchandise ordered by Department Personnel with a Purchase Order or with the Procurement Card should be arranged by the person placing the order.

The department is responsible for packaging the merchandise for shipping. Central Receiving does not provide packaging materials. The package(s) must be sealed with the appropriate mailing label affixed.

*Remember to adequately insure all merchandise for return.*

### **Multiple Award Contract Procedure**

- A. The university may use the multiple award contract procedure when a determination is made in the best interest of the university. In arriving at a determination, Procurement Services Director or designee will consider the following factors:

- a) the quality, availability, and reliability of the supplies, materials, equipment, or service and their adaptability to the particular use required;
  - b) the ability, capacity, and skill of the bidder;
  - c) the sufficiency of the bidder's financial resources;
  - d) the bidder's ability to provide maintenance, repair parts, and service;
  - e) compatibility with existing equipment;
  - f) the need for flexibility in evaluating new products on a large scale before becoming contractually committed; and
  - g) any other relevant factors.
- B. When the university finds that one or more of the above factors is important to the contract and that objective specifications for those factors cannot be prepared, the university may determine that the multiple award contract procedure will serve the best interest of the university.
- C. Bids on multiple award invitations will be evaluated as are other bids under the Bid Evaluation and Award section, except that more than one award may be made. The basis for determining awards shall be reasonably related to the factors relied upon in using the multiple award contract procedure and shall be disclosed in the bid invitation.

### **Personal Purchases**

State resources cannot be used to receive or deliver personal packages. When placing personal orders, **do not** use the Central Receiving address or departmental post office box. Texas A&M University-Commerce will not accept personal packages.

### **Preferences**

To claim a preference, a bidder shall mark the appropriate box on the face of the bid invitation. If the appropriate box is not marked, a preference will not be granted unless other documents included in the bid show a right to the preference.

- A. Texas resident bidders.
  - a) A Texas resident bidder shall be given preference over a nonresident bidder when the cost, and quality of the goods or services are equal.
  - b) The University may award a contract to a nonresident bidder only if its bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the same amount that a Texas resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state where the nonresident's principal place of business is located. In evaluating a bid of a nonresident bidder, an amount will be added equal to the amount a Texas resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state where the nonresident bidder's principal place of business is located, otherwise known as reciprocal preference. After the amount is added, an award may be made to the nonresident

bidder if it is determined to have the lowest price and best bid. The amount added is for evaluation purposes only; in no event shall an amount be awarded in excess of the amount actually bid.

B. Texas and United States products.

- a) Supplies, materials, or equipment produced in Texas shall be given preference over comparable goods produced outside Texas when the cost and quality of the goods are equal. Supplies, materials, and equipment are considered to be produced in Texas if they are manufactured in Texas; "manufactured" does not include the work of packaging or repackaging.
- b) Agricultural products grown in Texas shall be given preference over comparable products grown outside Texas when the cost and quality of the goods are equal. Agricultural products are considered grown in Texas if they contain any amount grown in Texas. In case of tie bids between agricultural products claiming the preference, the bidder whose product contains the greatest percentage of the product grown in Texas will prevail. For purposes of this preference, agricultural products include, among other things, textiles and fiber products, processed and unprocessed foods, feed, lumber and forestry products, live animals, plants, flowers, and nursery stock.
- c) Supplies, materials, equipment, or agricultural products produced or grown in the United States shall be given preference over foreign products when the cost and quality are equal. Supplies, materials, equipment, or agricultural products produced or grown in Texas shall be given preference over United States products when the cost and quality are equal.

C. Products of persons with mental or physical disabilities. A preference shall be given to manufactured products of workshops, organizations, or corporations whose primary purpose is training and employing persons with mental or physical disabilities, if the products meet state specifications as to quantity, quality, and price. Competitive bids are not required for purchases of blind-made goods or services offered as a result of efforts by the Texas Council on Purchasing from People with Disabilities, if the goods or services meet state specifications as to quantity, quality, price, delivery, life cycle costs, and costs no more than the fair market price of similar items.

D. Recycled, remanufactured or environmentally sensitive products. A preference shall be given to recycled, remanufactured or environmentally sensitive products if the products meet state specifications as to quantity, quality, **price**, and defined best value factors.

E. Energy efficient products. A preference shall be given to energy efficient products if they meet state requirements as to quantity and quality, and are equal to or less than the cost of other products offered. This preference shall be applied by evaluating the energy use of the products offered and considering the costs of such energy use over the expected life of the equipment. The methodology for evaluating energy use and costs shall be included in the bid invitation.

F. Rubberized asphalt paving material. A preference shall be given to rubberized asphalt paving material made from scrap tires by a facility in this state if the cost, as determined by life-cycle cost benefit analysis, does not exceed the bid cost of alternative paving materials by more than 15%.



## Pre-Payments

A state agency may not pay for goods or services before their delivery to the agency, except if there is a legitimate public purpose for making the payment in advance.

As an **exception**, a state agency or institution of higher education may:

- use money appropriated for a particular fiscal year to pay for a utility service provided during that fiscal year and September of the next fiscal year.
- pay rent for leased space a maximum of seven days before the payment due date.
- pay for a periodical subscription a maximum of six weeks before the renewal date.
- pay a rental fee for a meeting room, exhibit booth, or registration fee in advance if there is a legitimate public purpose for making the advance payment. Examples of legitimate reasons include significant cost-savings or reserving a space when enrollment is limited.
- process a purchase voucher/payment request for the purchase of real property anytime during the seven days before the closing date if the check/state warrant will be delivered to the seller no earlier than the closing date.
- pay an annual maintenance agreement, an internet connection, a post office box rental, insurance, or a surety or honesty bond in advance, regardless of whether it covers more than one fiscal year.
- make an advance payment to a federal agency or another state agency for goods purchased from the agency if the advance payment will expedite the delivery of the goods.
- pay tuition directly to an institution of higher education not earlier than the 6 weeks before the class begins. However, a state agency may not reimburse a state employee for tuition before the class begins.
- pay for books and other published library materials before receiving them if reasonably necessary for the efficient operation of the institution's libraries.
- make an advance payment if significant cost savings would result from making the payment in advance.
- make an advance payment to a vendor who is selling specialized or proprietary goods or services to the agency if the vendor requires the payment be made in advance.

If your department must make an advance payment for a reason not listed above, contact the fiscal office for additional guidance on this issue. A state agency that makes an advance payment to a vendor is responsible for ensuring that the vendor provides the good or service, or for pursuing appropriate legal remedies to recover the payment if the vendor fails to provide the good or service.

## Printing

**Standard vs. Non-Standard Printing.** As defined by Procurement Services, printing falls either in the Standard or the Non-Standard category. Standard printing includes (but is not limited to) business cards, letterhead, carbonless forms, informals, and envelopes. All other projects that do not fall under this

category are considered Non-Standard Printing.

At Texas A&M University-Commerce, Standard Printing can be purchased with a purchase order or procurement card. All Standard Printing falls under the normal delegation of authority limit to departments at \$10,000.

At Texas A&M University-Commerce, all Non-Standard Printing is delegated to departments up to a total of \$10,000, including freight and postage costs. Projects below this threshold may be purchased via Purchase Order or via procurement card. Non-Standard Printing over \$10,000 must be secured by the Procurement Services in accordance with State Purchasing Guidelines and best practices via the competitive-bid process. All Non-Standard Printing projects must be reviewed and approved by Marketing Communications prior to production. Procurement from an outside source will include the client and Procurement Services working together to provide the following:

- A detailed Statement of Work (SOW) to cover all aspects of the job delivered to Procurement Services. (Client)
- Receiving an estimate of the acquisition price based on client specifications. (Procurement Services)
- Setting an acceptable delivery date. (Client and Procurement Services)
- Development of correct and accurate purchasing documents. (Client) Award of project to outside vendor. (Procurement Services)
- Review and/or approval of all files and artwork by Marketing Communications. (Marketing Communications)
- Acceptance and upload of files to outside vendor; order placed. (Procurement Services or Marketing Communications)
- Production proof check and/or Blueline check; press check if required. (Procurement Services or Marketing Communications)

Printing will then be delivered via Central Receiving to the originating department upon completion.

### **Professional Services**

Professional Services are those services directly related to the professional practices as defined by the Professional Services Procurement Act (Texas Government Code, Chapter 2254, Subchapter A). These services include:

- Accounting - a certified public accountant (CPA);
- Architecture - an architect;
- Landscape Architecture;
- Land Surveying - a land surveyor;
- Medicine - a physician, including a surgeon;

- Optometry - an optometrist;
- Professional Engineering - a professional engineer;
- Real Estate Appraising - a state certified/licensed real estate appraiser; or
- Professional Nursing - registered nurse.

However, services provided by professionals outside the scope of their profession, e.g., management consulting services provided by accounting firms, are not considered professional services.

Professional services are exempt from the competitive bid process. Instead, professionals compete based upon their qualifications and the ability to perform the scope of work as described in the Request for Qualifications (RFQ).

Before entering into an agreement for Professional Services, contact Procurement Services for guidance. **However, this general rule applies: Contracts for professional services where the estimated cost of the contract is less than \$25,000 do not have to be bid by RFQ.**

The transaction should be completed by Procurement Services to ensure legislative requirements are satisfied.

### **Proprietary Purchases (Sole Source)**

When Procurement Services finds that a department has submitted a requisition containing specifications or conditions of purchase which are proprietary to one vendor and does not permit an equivalent product to be supplied, it shall require written justification before processing the requisition.

A written justification for the use of proprietary specifications or conditions is included on the Requisition Submission Form and the information entered by the department must contain:

- identification of the agency and the contracting activity, and specific identification of the document as a “Justification for other than full and open competition”;
- the nature and/or description of the action being approved;
- a description of the supplies or services required to meet the University’s needs (including the total estimated value);
- the statutory authority permitting other than full and open competition; and
- a demonstration that the proposed contractor’s unique qualifications or the nature of the action require the use of the authority cited.

### **Purchasing Accountability & Risk Analysis Procedure**

Texas Government Code 2261.256 states that each state agency shall develop and comply with a purchasing accountability and risk analysis procedure. Below is a list of contracts that may require enhanced monitoring:

- Outsourcing agreements

- Construction contracts (multi-trades)
- Contracts over \$1,000,000
- Agreements that require progress payments based on performance
- Agreements that extend beyond five years
- Agreements where a vendor is failing to meet their obligations
- Complexity of the Project

#### Risk factors related to Information Technology

- Software Technology Customization
- Impact on Existing Application or Infrastructure
- Interface Connectivity

In addition to the list above, TAMUC may establish additional parameters or types of contracts that require enhanced monitoring.

#### **Requisitions**

A Purchase is initiated when a department submits a requisition containing desired specifications and conditions of the purchase in Mane Market. Once approved, the department is authorizing Procurement Services secure the goods or services indicated.

#### **A Requisition form should never be sent outside of the University.**

Requisitions should be submitted to Procurement Services far enough in advance to allow sufficient time for preparing and advertising bid invitations, receiving and evaluating bids, awarding contracts and permitting a normal delivery schedule.

Procurement Services may require clarification of the specifications in order to foster open competition. If the Department's specifications unreasonably limit competition, Procurement Services may require an additional written explanation.

#### **Review of Purchase Documents and Payment Vouchers**

Procurement Services may review departmental delegated purchases and revoke any delegation as deemed necessary. Based on the review of the documents, Procurement Services may revoke any delegation as deemed necessary. All delegated departmental purchases are subject to audit.

#### **Software/Site License Purchasing Procedure**

Software purchases are **not** delegated to departments regardless of cost. Most software can be purchased from DIR, so bidding is not required. Sole-source software purchases, which are not on DIR, are handled on an individual, case-by-case basis. "SELL" at Texas A&M University in College Station also has software available for purchase by A&M System Members.

- <http://www.dir.texas.gov> (DIR software link)
- <http://cis.tamu.edu/customer-sales/sell/index.php> (A&M College Station software link)

We have a campus-wide Microsoft Software agreement in place, which includes some common Microsoft Office software products. Please, contact CITE for further information.

We have a campus-wide Adobe Creative Cloud Software agreement in place, which includes some common Adobe software products. Please, contact CITE for further information.

#### A. DIR Website

- Search for software publisher on DIR link above to find DIR contracted software vendor.
- Some vendors will have price lists accessible through this link, while others will have websites and/or contact information.
- Follow “How to Order” instructions on DIR contract page.
- If a quote is needed, identify the DIR contract number for the software in your quote request (ex., DIR-SDD-198).

#### B. Purchase Order

- The DIR contract number will need to be on the requisition and purchase order.
- Software purchases require end user information (name, telephone number, and email address).

#### C. Serial Numbers. Software serial numbers arrive by one of a couple of different methods:

- on the software disk,
- in an email to the end user,
- or by way of an emailed link.

### **Specifications**

Procurement Services will review the specifications and conditions of purchase submitted by a department. Procurement Services will not significantly change specifications or conditions of purchase without written approval from the department, but it may correct typographical errors if doing so will not significantly change the specifications. Incorrect, inadequate, or incomplete requisitions may be returned to the department, with a written explanation for the return and the requirements for acceptable re-submission.

Procurement Services will normally specify delivery times that are standard in the industry. If a department requires shorter than standard delivery times, it must state the requirement in its requisition. If the delivery requirement can only be met by one vendor, written justification will be required. If a department does not require early delivery but wishes to take advantage of it if available, the bid invitation will state that the ability to make early delivery may be a factor in making the award. In such cases, when it is to the university’s advantage, Procurement Services may accept a bid other than the lowest after consulting with the department. If the bid invitation contains no statement regarding early

delivery, Procurement Services may not consider early delivery in making an award.

Bids are no longer required to be posted on the Texas Market Place. However, if it is determined to be in the best interest of the University, or required by statute, Procurement Services may elect to post the bid for 21 days.

**Writing Specifications:**

- State the commodity class and item number if applicable.
- State the product or service to be purchased.
- Describe in simple, concise, and clear language what is required or desired of the product or service, i.e., performance specifications.
- Describe what the successful bidder must furnish.
- Identify the minimum requirements of the end user.
- Allow competition.
- Provide for verification (testing) - a reasonable means to determine whether minimum requirements are met.
- When possible, identify some commercially available brand and make or model number or some standard specifications; e.g., State of Texas specifications.
- Be fair to bidders.
- If a service, state the period of service and the method of payment.

**Characteristics of an Effective Specification:**

- SIMPLE: Avoid unnecessary detail, but be complete enough to ensure that requirements will satisfy their intended purpose.
- CLEAR: Use terminology that is understandable to the Agency and bidders. Use correct spelling and appropriate sentence structure to eliminate confusion. Avoid legalese type language and jargon whenever possible.
- ACCURATE: Use units of measure that is compatible with industry standards. All quantities and packing requirements should be clearly identified.
- COMPETITIVE: Identify at least two commercially available brands, makes, or models (whenever possible) that will satisfy the intended purpose. Avoid unneeded "extras" that could reduce or eliminate competition and increase costs.
- FLEXIBLE: Avoid totally inflexible specifications which prevent the acceptance of a bid that could offer greater performance for fewer dollars. Use approximate values such as dimensions, weight, speed, etc. (whenever possible) if they will satisfy the intended purpose. If approximate dimensions are used, it should be within a 10% rule of thumb unless otherwise stated in IFB.

## **State of Texas Contracts (State Contracts)**

Texas Procurement and Support Services (TPASS) establishes term contracts by commodity/service codes as a supply source for user entities. Contracts are based on estimated quantities, specified by TPASS, and may be ordered as needed. There are two basic types of term contract purchases – **managed or TXSMARTBuy**. The term of a contract is determined by TPASS. A list of term contracts and details may be located on the State’s website at:

[http://www.window.state.tx.us/procurement/contracts/all\\_term/index.php](http://www.window.state.tx.us/procurement/contracts/all_term/index.php)

The TXMAS (Texas Multiple Award Schedule) Program adapts existing competitively awarded government contracts to the procurement needs of the State of Texas. The vast majority of TXMAS Contracts are adapted from GSA (General Services Administration) Federal Supply Service contracts.

DIR (Department of Information Resources) – [www.dir.texas.gov](http://www.dir.texas.gov) - allows State Agencies to purchase technology and technological services using over 750 cooperative agreements.

Departments may utilize state contracts but are not required.

## **Subscriptions**

Subscriptions to magazines, newspapers, professional journals, etc. (documents printed on paper) should be requested via a requisition in Mane Market. Ensure an accurate commodity code for subscriptions is used to properly route the document.

## **Taxpayer/Vendor Hold**

Texas A&M University-Commerce, a member of the Texas A&M University System, an Agency of the State of Texas, is bound by its rules and regulations. Under Section 2155.004, “Certain Bids and Contracts Prohibited” of the Texas State Government Code, the Comptroller’s Office has required that all vendors, regardless of type of funds or purchase amount (over \$150), be checked prior to bid or purchase to see if the vendor has paid their State sales and franchise taxes and are compliant with Texas Family Law. When purchasing goods or services, each department is required to search the Taxpayer and Vendor Account database with the Comptroller’s Office. The University should not conduct business with a vendor until it is in good standing under State tax law with the Comptroller’s Office. Failure to comply may result in delayed or withheld payments.

For questions about sales tax issues, the Comptroller’s phone number is 1-800-252-5555.

For questions about franchise tax and Family Law issues, the Comptroller’s phone number is 1-800-252-1381.

To search the Taxpayer and Vendor Account web page:

1. Access the Comptroller’s Office web page (<https://cpafmprd.cpa.state.tx.us/tpis/search.html> ).
2. Enter Business Name.
3. Click on the search button.
4. Check to see if vendor is in good standing and not on vendor hold.

Print the page and retain it in department for audit documentation.

### **Trade-Ins**

Equipment may be purchased with a trade-in of old equipment of a similar type if the following requirements are satisfied:

- A. Describe the age, condition, make, model and serial number (if applicable) of the used equipment;
- B. Give a realistic estimate of the used equipment's value; and
- C. State on the Invitation for Bid, "Less trade-in at state's option: to be picked up by the successful bidder where is, as is."

Amounts offered for trade-ins are reviewed as part of the bid evaluation process. If it is determined that an insufficient trade-in allowance has been offered, then the equipment will be purchased without a trade-in. The older equipment may be disposed of as surplus property.

### **Used Equipment**

As a rule, the purchaser should procure new equipment, but sometimes it is necessary or advantageous to purchase used or demonstrator equipment and supplies. The most common reasons are:

- the inability to secure new equipment;
- the lack of adequate funds for new equipment; or
- used equipment will satisfy the agency's need at a substantial savings.

### **Purchases of used and demonstrator equipment are to be processed as follows:**

The ordering entity must:

- A. Obtain a minimum of three (3) signed bids which have been properly prepared whenever possible;
- B. if only one bid is received, prepare a statement explaining why no competition exists;
- C. provide a letter or signed statement from the bidder(s) guaranteeing quality and condition of the merchandise offered;
- D. provide a letter from an authorized person connected with the ordering entity that: a. states that the equipment or supplies have been personally examined, and b. describes the condition and value of the equipment or supplies;
- E. forward to the TBPC with an open market requisition if the purchase exceeds your delegated authority.

### **Verbal Purchase Orders**

Procurement Services has delegated the authority to departments to make purchases of equipment and supplies up to \$10,000 (including freight) with the exception of controlled or restricted items

- A. This delegation refers to orders that can be placed verbally only. When the vendor requires a written order, this procedure does not apply and a Requisition must be processed.
- B. Departments are not to exceed the authorized delegated limit. Purchases may not be broken down into small purchases in order to stay under the delegated amount (including freight). Delegation of



purchasing authority may be revoked for misuse of authority.

C. Departments are encouraged to purchase equipment and supplies, less than \$10,000 from Historically Underutilized Businesses (HUBs) whenever possible. HUBs may be found through the Texas Procurement and Support Services' website: <https://mycpa.cpa.state.tx.us/tpasscdblsearch/index.jsp>

D. How to place a verbal order:

- a) Determine needs, estimated cost, and source.
- b) Process a requisition in Mane Market, then identify the Purchase Order number (ensure the order category is "2 – Confirming – Do Not Distribute");
- c) Call vendor. In placing order please include:
- d) Agreed upon price, including who is responsible for freight charges;
- e) Ship to address (for all freight or express service deliveries);

Texas A&M University-Commerce

Central Receiving

2600 South Neal

2601 Commerce, TX 75428

f) **Ask vendor to put PO number on shipping label.**

g) Bill to address:

Texas A&M University-Commerce

Financial Services

PO Box 3011

Commerce, TX 75429

E. NOTE: If a vendor will not accept a verbal order then you must process a Requisition for Procurement Services to handle.

F. If a vendor will not take the PO verbally and requests something from you in writing listing items being purchased; then this is no longer a verbal PO.

G. **Please do not**

a) **Send a letter stating the PO number and items to be purchased.**

b) **Send a copy of the Requisition**

H. These are not binding purchase orders for the University.

- I. If a vendor requires something in writing then submit a Requisition and Procurement Services will handle the ordering process.

**REMEMBER: All Requisitions must be sent to Procurement Services via Mane Market.**

## Glossary of Definitions

The following words and terms, when used in the Texas A&M University-Commerce Guide, shall have the following meanings, unless the context clearly indicates otherwise.

**Approved products list**--The list is also referred to as the "approved brands list" or "qualified products list". This is a specification developed by the evaluation of brands and models of various manufacturers and listing those determined to meet the minimum level of quality. Testing is completed in advance of procurement to determine which products comply with the specifications and standards requirements.

**Award**--The act of accepting a bid, thereby forming a contract between the university and a bidder.

**Best Value**--The optimum combination of economy and quality that is the result of fair, efficient, and practical procurement decision-making and which achieves the procurement objectives of Texas A&M University-Commerce.

**Bid**--An offer to contract with the university, submitted in response to a bid invitation issued by Procurement Services.

**Bid deposit** – A deposit required of bidders to protect the university in the event a low bidder attempts to withdraw its bid or otherwise fails to enter into a contract with the university. Acceptable forms of bid deposits are limited to: cashier's check, certified check, **Texas A&M University System Bid Bond** (Form C-2), or irrevocable letter of credit issued by a financial institution subject to the laws of Texas and entered on the United States Department of the Treasury's listing of approved sureties; a surety or blanket bond from a company chartered or authorized to do business in Texas.

**Bid sample**--A sample required to be furnished as part of a bid, for evaluating the quality of the product offered.

**Bidder**--An individual or entity that submits a bid. The term includes anyone acting on behalf of the individual or other entity that submits a bid, such as agents, employees, and representatives.

**Blanket bond**--A surety bond which provides assurance of a bidder's performance on two or more contracts in lieu of separate bonds for each contract. The amount for a blanket bond shall be established by the university based on the bidder's annual level of participation with the university.

**Brand name**--A trade name or product name which identifies a product as having been made by a particular manufacturer.

**Centralized master bidders list (CMBL)**--A list maintained by the Commission containing the names and addresses of prospective bidders and qualified information systems vendors.

**Commission**--The Texas Building and Procurement Commission (Commission).

**Commodity** – Any good or service to be purchased

**Debarment**--An exclusion from contracting or subcontracting with state agencies and TAMUS on the basis of any cause set forth in Texas Administrative Code §113.102 (relating to Vendor Performance and Debarment), commensurate with the seriousness of the offense, performance failure, or inadequacy to perform.

**Director**--The director of a Procurement Department for a university.

**Distributor purchase**--A purchase of repair parts for a unit of major equipment that are needed immediately or for maintenance contracts on laboratory/medical equipment.

**Emergency purchase**--A purchase of goods or services so badly needed that the university will suffer financial or operational damage unless the items are secured immediately.

**Environmentally sensitive products**--Products that protect or enhance the environment, or that damage the environment less than traditionally available products.

**Equivalent product**--A product that is comparable in performance and quality to the specified product.

**Escalation clause**--A clause in a bid providing for a price increase under certain specified circumstances.

**Formal bid**--A written bid submitted in a sealed envelope in accordance with a prescribed format, or an electronic data interchange transmitted to the university in accordance with procedures established by the university.

**Group purchasing program**--A purchasing program that offers discount prices to two or more state agencies, institutions of higher education or other public entities.

**Historically Underutilized Business (HUB)** - A small minority or woman owned business.

**Informal bid**--An unsealed, competitive bid submitted by letter, telephone or other means.

**Invitation for bids (IFB)**--A written request for submission of a bid; also referred to as a bid invitation.

**Late bid**--A bid that is received at the place designated in the bid invitation after the time set for bid opening.

**Level of quality**--The ranking of an item, article, or product in regard to its properties, performance, and purity.

**Mane Market**—The e-Procurement system used by Texas A&M University-Commerce. This may also be referred to as “AggieBuy” since it is a shared Texas A&M University System initiative.

**Manufacturer's price list**--A price list published in some form by the manufacturer and available to and recognized by the trade. The term does not include a price list prepared especially for a given bid.

**Multiple award contract procedure**--A purchasing procedure by which Procurement Services establishes one or more levels of quality and performance and makes more than one award at each level.

**Non-competitive purchase**--A purchase of goods or services that does not exceed the amount stated in the university rule or delegation of authority (relating to Delegated Purchases).

**Notice of award**--A letter signed by the director or his designee, which awards and creates a contract.

**Performance bond**--A surety bond which provides assurance of a bidder's performance of a certain contract. The amount for the performance bond shall be based on the bidder's annual level of potential monetary volume with the university. Acceptable forms of bonds are those described in the definition for "bid deposit".

**Post-consumer materials**--Finished products, packages, or materials generated by a business entity or consumer that have served their intended end uses, and that have been recovered or otherwise diverted from the waste stream for the purpose of recycling.

**Pre-consumer materials**--Materials or by-products that have not reached a business entity or consumer for an intended end use, including industrial scrap material, and overstock or obsolete inventories from distributors, wholesalers, and other companies. The term does not include materials and by-products generated from, and commonly reused within, an original manufacturing process or separate operation within the same or a parent company.

**Proprietary**--Products or services manufactured or offered under exclusive rights of ownership, including rights under patent, copyright, or trade secret law. A product or service is proprietary if it has a distinctive feature or characteristic which is not shared or provided by competing or similar products or services.

**Public bid opening**--The opening of bids at the time and place advertised in the bid invitation, in the presence of anyone who wishes to attend. On request of any bidder or department in attendance, bids will be read to the assembled group.

**Purchase orders**--A document detailing the specifications, terms and conditions of goods or services being offered to purchase to a supplier.

**Purchasing functions**--The development of specifications, receipt and processing of requisitions, review of specifications, advertising for bids, bid evaluation, award of contracts, and inspection of merchandise received. The term does not include invoice, audit, or contract administration functions.

**Qualified information systems vendor catalogue proposal**--A request for offers or quotations of prices from catalogue vendors (QISV).

**Recycled material content**--The portion of a product made with recycled materials consisting of pre-consumer materials (waste), post-consumer materials (waste), or both.

**Recycled materials**--Materials, goods, or products that contain recyclable material, industrial waste, or hazardous waste that may be used in place of raw or virgin materials in manufacturing a new product.

**Recycled product**--A product that meets the requirements for recycled material content as prescribed by the rules established by the Texas Natural Resource Conservation Commission in consultation with the Commission.

**Remanufactured product**--A product that has been repaired, rebuilt, or otherwise restored to meet or exceed the original equipment manufacturer's (OEM) performance specifications; provided, however, the warranty period for a remanufactured product may differ from the OEM warranty period.

**Request for proposal**--A written request for offers concerning goods or services the university intends to acquire by means of the competitive sealed proposal procedure.

**Purchase requisition**--An initiating request from a department describing needs and requesting Procurement Services to purchase goods or services to satisfy those needs.

**Responsible vendor**--A vendor who has the capability to perform all contract requirements in full compliance with applicable state law, ethical standards, and applicable university rules.

**Reverse auction**--A bidding process that allows bidders to view previously submitted bid prices and allows for the re-submittal of bid pricing for a specified period of time.

**Sealed bid**--A formal written bid which is opened in accordance with the bid/ proposal instructions.

**Solicitation**--An invitation for bids or a request for proposals.

**Specification**--A concise statement of a set of requirements to be satisfied by a product, material or service, indicating whenever appropriate the procedures to determine whether the requirements are satisfied.

**Standard specification**--A description of what the purchaser requires and what a bidder or proposer must offer.

**Successor-in-interest**--Any business entity that has ownership similar to a business entity. For purposes of the Procurement Code (relating to Vendor Performance and Debarment), it shall be presumed that a business entity that employs, or is associated with, any partner, member, officer, director, responsible managing officer, or responsible managing employee, of a business entity that was previously debarred is a successor-in-interest.

**Tabulation of bids**--The recording of bids and bidding data for purposes of bid evaluation and record keeping.

**Testing**--An element of inspection involving the determination, by technical means, of the properties or elements of item(s) or university(s), including function operation.

**Texas uniform standards and specification**--Standards and specifications prepared and published by the standards and specifications program of the Commission.

**Total expenditures on products with recycled material content, remanufactured products, and environmentally sensitive products**--The total direct acquisition costs (vendor selling price plus delivery costs) of all such products.

**Uniform standards and specifications**--Specifications and standards developed by nationally recognized standards-making associations.

**Unit price**--The price of a selected unit of a good or service, e.g., price per ton, per labor hour, or per foot.

**University**-- An agency, university or health science center within The Texas A&M University System.

**Vendor**--A supplier of goods or services to the state.