

**In Accordance with University Purchasing Authority  
25.07.03**

**TEXAS A&M INTERNATIONAL UNIVERSITY**  
Procedures for Purchasing Authority

**October 2014**

**TEXAS A&M INTERNATIONAL UNIVERSITY**  
**Standard Administrative Procedures for Purchasing Authority**

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## 25.07.03 Acquisition of Goods and/or Services

Approved October 7, 2009  
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### Regulation Statement

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This regulation establishes purchasing authority for The Texas A&M University System (system) members. This regulation allows system members to procure goods and/or services according to sound business practices and best value and to comply with applicable state of Texas statutes relating to the Historically Underutilized Business (HUB) Program and purchasing from persons with disabilities.

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### Reason for Regulation

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This regulation is required to ensure compliance with the state statutes and rules, as well as the system policies and regulations by setting minimum guidelines for the procurement of goods and/or services by system members. It complies with Section 51.9335, Texas Education Code, which allows “An institution of higher education [to] acquire goods or services by the method that provides the best value to the institution.”

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### Procedures and Responsibilities

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#### 1. ADMINISTRATION

- 1.1 Each system member shall promulgate standard operating procedures as necessary to facilitate and expedite the acquisition of goods and/or services as deemed to be in the best interest of the member and in accordance with sound business practices and applicable state laws.
- 1.2 The primary procurement officer (PPO), who has been delegated procurement authority by the system member’s chief executive officer (CEO), has the authority to delegate specific procurement authority to individual(s) or departments for the acquisition of goods and/or services, and shall establish a maximum dollar limit for those individual(s) or departments to acquire goods and/or services. The PPO may withdraw delegated procurement authority in whole or in part.

1.3 In addition to and in conjunction with System Policy *07.01, Ethics*, system employees who perform purchasing functions under the delegated authority granted by the PPO shall adhere to the same ethical standards established by the PPO and required of the PPO employees and shall avoid all conflicts of interest in their procurement activities.

1.4 The PPO has the discretion to exempt the acquisition of any goods and/or services within his/her delegated purchasing authority from the established standard operating procedures. The PPO shall keep a list of the types of goods and/or services that are exempt.

1.5 The PPO shall establish dollar limit guidelines for the acquisition of general and/or specific goods and/or services.

## 2. ACQUISITION (OR PROCUREMENT) OF GOODS AND/OR SERVICES

### 2.1 Best Value

System members shall acquire goods and/or services through best value. In determining best value, the members may consider the best value methods and factors as identified in Sections 51.941 and 51.9335 of the Education Code.

### 2.2 The HUB Program and the Purchase of Products and Services from People with Disabilities

All acquired goods and/or services shall comply with Chapter 2161, Texas Government Code, and System Policy *25.06, Participation by Historically Underutilized Business*, relating to making a good faith effort to procure goods and/or services with historically underutilized businesses, and Chapter 122, Human Resource Code, relating to the purchases of products and services from people with disabilities.

### 2.3 Solicitation for Goods and/or Services

Methods for distributing solicitations and receiving submissions for goods and/or services shall be determined by the PPO according to sound business practices and applicable state law.

### 2.4 Applicable Statutes, Codes, Policies, and Regulations

Each system member is responsible for identifying and complying with applicable statutes, codes, policies and regulations when acquiring goods and/or services.

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## **Related Statutes, Policies, or Requirements**

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[Tex. Educ. Code § 51.9335 – Acquisition of Goods and Services](#)

[Tex. Gove't Code Ch. 2161 – Historically Underutilized Businesses](#)

[Texas Hum. Res. Code § 122.003 – Texas Council on Purchasing from People with Disabilities](#)

[System Policy 07.01, Ethics](#)

[System Policy 25.06, Participation by Historically Underutilized Business](#)

[System Policy 25.07, Contract Administration](#)

[System Regulation 41.01.01, Real Property](#)

[System Policy 51.04, Delegations of Authority on Construction Projects](#)

The October 2009 version of this system regulation supersedes:  
System Regulation 25.99.02, *Component Purchasing Authority*

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## **Definitions**

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Best Value – the means/methods that goods and/or services are procured as defined by Education Code 51.9335.

Exempt purchase – a purchase of goods or services that is not subject to the standard competitive process. These items are available only under special market conditions which may preclude them from competitive bidding or from standard bid procedures.

Historically Underutilized Business – an entity with its principal place of business in Texas and is at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American and/or American woman who resides in Texas and has a proportionate interest in and demonstrates active participation in the control, operation and management of the entity's affairs.

Primary Procurement Officer – employee who is delegated procurement authority by the system member CEO and has the responsibility for managing all procurement activities.

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## **Member Rule Requirements**

A rule is not required to supplement this regulation.

## **Contact Office**

Office for HUB & Procurement Programs  
(979) 458-6410

**TEXAS A&M INTERNATIONAL UNIVERSITY (TAMIU)  
STANDARD ADMINISTRATIVE PROCEDURE  
FOR PURCHASING AUTHORITY**

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In accordance with

**25.07.03 Acquisition of Good and/or Services**

October 7, 2009

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**Introduction**

The Office of Purchasing and Support Services serves all university departments for the procurement of goods and services. While the majority of purchases are made through the procurement office, departments are allowed to purchase goods and services within their delegated authority through the use of a procurement card. The mission of the Texas A&M International University Office of Purchasing and Support Services is to acquire quality products and services and obtain the best value for the university while maintaining the highest level of professional ethics and integrity.

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## 1. Glossary

The following words and terms, when used in the TAMIU's Purchasing Authority Procedures, shall have the following meanings, unless the context indicates otherwise.

**Approved products list** - This list is also referred to as the "approved brands list" or "qualified products list." It 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 state 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 TAMUS.

**Bid** - An offer to contract with the state submitted in response to a bid invitation issued by the Purchasing Department. A bid is not a binding contract.

**Bid deposit** - A deposit required of bidders to protect the state in the event a low bidder attempts to withdraw its bid or otherwise fails to enter into a contract with the state. Acceptable forms of bid deposits are limited to: cashier's check, certified check, or irrevocable letter of credit issued by a financial institution subject to the laws of Texas; a surety or blanket bond from a company chartered or authorized to do business in Texas and United States Treasury listed; a United States Treasury Bond; or certificate of deposit.

**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 agent, employees, and representatives.

**Blanket bond** - A performance bond which insures a respondent'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 TPASS and contracting entities based on the respondent's annual level of participation in the state purchasing program. Acceptable forms of blanket bonds are those described in the definition of bid deposit.

**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.

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

**Cooperative Purchasing** - A program for qualified entities to use the TPASS contract resources.



**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 Central Procurement Office for a component.

**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 critical that an agency will suffer financial or operational damage unless they are secured immediately.

**Environmentally sensitive products** - Products or services, also called “eco-friendly”, that are not harmful to the atmosphere or surroundings.

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

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

**Formal Proposal** – 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.

**Informal Solicitation** - An unsealed, competitive solicitation used for purchases less than \$5,000 submitted by letter, telephone, telegram, or other means.

**Invitation for bids (or IFB)** - A written request for submission of a proposal response

**Late bid** - A response that is received after the time set for response due date and at the place designated in the solicitation.

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

**Manufacturers’ price list** – A purchasing procedure by which the agency establishes one or more levels of quality and performance and makes more than one award at each level.

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

**Noncompetitive purchase** - A purchase of goods or services that does not exceed the amount stated in the component 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 and may be used in lieu of issuing a purchase order.

**Performance bond** - A deposit, pledge, or contract of guaranty supplied by a contractor to protect the state against loss due to the contractor's inability to complete the contract as agreed. Acceptable forms of performance bonds are those listed in the definition of payment bond.

**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 solicitation, in the presence of anyone who wishes to attend. On request of any person in attendance, bids will be read aloud.

**Purchase orders** - A document issued by a purchaser to a seller, indicating types, quantities, and agreed prices for products or services the seller will provide to the agency. Sending a purchase order to a supplier constitutes a legal offer to buy products or services. Acceptance of a purchase order by a seller usually forms a one-off contract between the buyer and seller, so no contract exists until the purchase order is accepted

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

**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 Commission on Environmental Quality in consultation with the Comptroller of Public Accounts.

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

**Request for information (RFI)** - A document to determine what products and services are potentially available in the marketplace to meet the agency's needs and to know the capability of a vendor in terms of offerings and strengths. RFIs are commonly used on major procurements, where a requirement could potentially be met through several alternate means. An RFI, however, is not a request for pricing, is not binding on either the agency or vendors, and may or may not lead to an RFP or RFO.

**Request for Offer (RFO)** - To be used in the Purchase of Automated Information System (AIS) or Telecommunication procurements.

**Request for proposal (RFP)** - The written solicitation document concerning goods or services the state intends to acquire by means of the competitive sealed proposal procedure. The procedure allows changes to be made after other proposals are opened and contemplates that the nature of the proposals and/or prices offered will be negotiated prior to award.

**Request for Qualifications (RFQ)** - A solicitation document often distributed before initiation of the RFP process. It is used to gather vendor information from multiple companies to generate a pool of prospects. This eases the RFP review process by preemptively short-listing candidates which meet the desired qualifications.

**Purchase requisition** - An internal document by which agency personnel provide their written requests for commodities or services to the budget and purchasing departments.

**Responsible vendor** - A vendor who has the capability to perform all contract requirements in full compliance with applicable state law, ethical standards, and applicable component 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 response which is kept secure and unopened until after the due date and time specified.

**Solicitation** - Documentation prepared and presented to vendors for response for specification commodities or services such as Invitation for Bid, Request for Proposal or Request for Offer.

**Specification** - A **specification** (often abbreviated **spec**) is an explicit set of requirements to be satisfied by a material, product, or service. Should a material, product or service fail to meet one or more of the applicable specifications, it may be referred to as being *out of specification*. Specs are a type of technical standard.

**Set-Aside Contract** - Term often used when referring to TIBH and Texas Correctional Industries (TCI) statutory purchasing programs.

**Standard specification** - The established and fixed measure used in assessing quality or performance.

**Tabulation of bids** - The recording of responses for purposes of Documents all received for evaluation and recording purposes.

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

**Texas uniform standards and specification** - A specification adopted by the TPASS and used whenever possible in the purchase of the items involved. Established standard of minimum quality for items or services purchased in volume by the state.

**Term Contract Purchase** - A purchase by an agency under a term contract which establishes a source of supply for particular goods at a given price for a specified period of time. TxSmartBuy Term Contract and TPASS Managed.

**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 potential supplier of goods or services to the state.

## 2. Dollar Guideline for all Funding Accounts

### Dollar Thresholds

**\$0 to \$5,000 - “No-Bid” Limit (Spot Purchase).** The university is authorized to make purchases between \$0 and \$5,000 (including freight, postage, installation, and other extra charges) regardless of funding type without soliciting competitive bids. However, it is in the best interest of the university to obtain multiple bids whenever possible.

**\$5,000.00 - \$25,000 – Informal Bid Limit** - Expenditures within the stated dollar limit are known as the informal (telephone/fax/email) bid process. Departments are required to send a completed purchase requisition to the procurement office for processing. Bid solicitations will be sent by the procurement office to selected vendors. The standard solicitation and vendor response time for informal bid invitations is up to five (5) business days. After such time, the procurement office will notify the department of the bid results; the department will select the best value vendor; and the procurement office will issue a purchase order. The procurement office, at its discretion, may either utilize the formal bid process based on the type of goods or services being requested or an existing contract. If the purchase is time sensitive, the department may solicit informal bids on their own and submit the bids along with the purchase requisition to the procurement office.

**Greater than or Equal to \$25,000 – Formal Bid Process.** Expenditures within the stated dollar limit require the solicitation of formal bids and are subject to listing on the Electronic State Business Daily (ESBD). Departments are required to send a completed purchase requisition to the procurement office for processing. Formal bid invitations will be sent by the procurement office to vendors. The standard solicitation and vendor response time for formal bid invitations is 14 to 21 business days. After such time, the procurement office will notify the department of the bid results; the department will select the best value vendor; and the procurement office will issue a purchase order. The entire process may take between 4-6 weeks.

Departments are encouraged to purchase equipment, supplies and services from Historically Underutilized Businesses. The Purchasing Department will assist departments in identifying vendors from whom to make their delegated purchases.

## **2. Bid Opening and Bid Tabulation**

### **Response Due Date and Receipt**

The response due date and time shall be clearly specified in the solicitation document.

Late Response: A response received after the due date and time established by the solicitation document is a late response. Late responses will be returned unopened with a cover letter indicating the reason.

The agency may receive responses in person, by US mail or by express mail with the addresses included in the solicitation. The clock used by the agency's mail room or the procurement staff facilitating the receipt will be the sole determiner of the time of day. All responses must be in the possession of the procurement staff and stamped not later than the published response due date and time.

At the discretion of the University, receipt of responses by fax or email is solely for the convenience of respondents and the procedure must be included in the solicitation. If all or any portion of a response submitted by fax or email is received late, is illegible, or is otherwise rendered non-responsive due to equipment failure or operator error, the response or the applicable portion of the response will not be considered. The agency shall not be liable for equipment failure or operator error. Such failure or error shall not require other solicitation documents to be rejected or require the solicitation to be re-advertised. Typically, late responses are not accepted unless the solicitation specifically provides for such a provision.

Cancellation: If a solicitation is cancelled, all responses will be returned unopened with a cover letter indicating the reason for the cancellation.

### **Public Opening**

It is at the discretion of the University to determine if a public opening will occur on a solicitation. In cases where a solicitation requires cancellation due to required changes in specifications or scope of work which will result in a re-advertisement, the decision not to release information will protect each respondent's information and pricing, providing fairness to all.

A change in the response due date and time or in the public opening date and time must be published through an Addendum to the solicitation and respondents must be properly notified in advance.

If a solicitation is canceled, all responses being held for opening will be returned to the respondents unopened with a cover letter indicating the reason for cancellation.

### **Unsigned Responses**

Responses should be checked for signature before tabulation. Responses without a signature will be disqualified. The pricing for these will NOT be tabulated and will reflect "Unsigned/Disqualified" in the comment area of the tabulation sheet and on the response document. They will be kept with the main file, and will not be returned to the respondent.

### **Response Tabulation**

The responses and all documents and information about the evaluation of responses and respondents will be withheld until after contract award.

As a general rule, responses should be tabulated when opened but there are times when this is not practical. It is recommended that the tabulation be prepared within three (3) business days from the opening date.

After award, the response tabulation files shall be available for release through the Public Information Act.

### **3. Bid Evaluation and Award**

#### **Evaluation**

An award is made through an evaluation process to the respondent offering the best value for the state while conforming to the specifications or statement of work required. Complying with the specified time limit for submission of written data, samples, or models is essential to the acceptability of a proposal.

The criteria must not be arbitrary or capricious and must be specifically addressed in the solicitation pursuant to the provisions of Texas Government Code §§ 2155.074 and 2155.075.

Typical criteria that should be used in determining the proposal offering the best value in addition to price are:

- The quality, availability, and adaptability of the supplies, materials, equipment, or contractual services to the particular use required;
- The number and scope of conditions attached to the respondent's proposal;
- The ability, capacity, and skill of the respondent to perform the contract or provide the service required;
- Whether the respondent can perform the contract or provide the service promptly, or within the time required, without delay or interference;
- The character, responsibility, integrity, reputation, and experience of the respondent;
- The quality of performance of previous contracts or services;
- any previous or existing noncompliance by the respondent with specification requirements relating to time of submission of specified data such as samples, models, drawings, certificates, or other information;
- The sufficiency of the financial resources and ability of the respondent to perform the contract or provide the service
- The ability of the respondent to provide future maintenance, repair parts, and service for the use of the contract.

Additional general best value evaluation factors found in Texas Government Code § 2155.074(b)

1. Installation costs;
2. Life cycle costs;
3. Quality and reliability of the goods and services;
4. Delivery terms;
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 or demonstrated capability and responsibility, and the vendor's ability to provide reliable maintenance agreements and support;
6. Cost of any employee training associated with a purchase;
7. Effect of a purchase on agency productivity;
8. Vendor's anticipated economic impact to the state or a subdivision of the state, including potential tax revenue and employment;
9. Factors relevant to determining the best value for the state in the context of a particular purchase

#### **4. Advertising**

All type of advertising (including, but not limited to, display ads, classified ads, online ads) requires a requisition routed through the proper approval process.

The approved ad copy, which will be submitted to the vendor, must be attached to the requisition.

Some requests require additional approvals:

Personnel Ads: Faculty positions require approval by the Provost and Vice President for Academic Affairs, and the Director of Human Resource or their designee.

#### **5. Approval of Requisitions**

Purchases exceeding the delegated department spending limits are processed through a requisition. The following approval routing is required.

Approval routing for requisitions signatures required:

1. Department head or their designee
2. Any other required departmental signature for specialized funding

The requisition is then forwarded to the Purchasing Department for processing.

#### **6. Centralized Master Bidders List**

The Centralized Master Bidders List (CMBL) is a database of registered vendors who have provided contact information and information on goods or services they offer. Texas Government Code § 2155.263 requires TPASS to maintain the CMBL. Vendors pay a nominal annual fee to receive notification of opportunities for solicited commodities and/or services through an Invitation for Bid, Request for Proposal, Request for Offer or Request for Qualifications

The University may use the CMBL to select bidders for bid solicitations but may also supplement the CMBL with vendors having the known ability to supply the products(s) requested.

## **7. Consultant and Professional Services**

### **Professional Services**

Professional services must be within the scope of practice as defined by Texas Government Code § 2254.002 or provided in connection with the professional employment or practice of a person who is licensed or registered as:

- Accounting - a certified public accountant (CPA);
- Architecture - an architect;
- Landscape Architect;
- 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.

For information on purchasing services provided by private legal counsel, contact the Office of the Attorney General. The procurement of private legal counsel requires the approval of the Office of the Attorney General.

The procedures apply to State-Appropriated, Federal and Non-Appropriated funds, which include local.

### **Consultant Services**

Texas Government Code defines a consultant service as the human service of studying or advising an agency under a contract that does not involve the traditional relationship of employer and employee. An agency may contract with a private consultant only if:

- There is a substantial need for the service; and
- The agency cannot adequately perform the service with its own personnel or through another agency.

If the consulting service is reasonably foreseen to exceed \$15,000 during the term of the contract, the agency shall submit a notice of intent to the LBB and the Governor's Budget and Planning Office to obtain a finding from the Governor's office that the services are necessary. Thirty days before entering into such a contract, an invitation for offers from consultants must be published in the Texas Register. These requirements do not apply to the acquisition of services such as those provided by private legal counsel, investment counselors, actuaries, medical or dental services, and professional services listed under the Professional Services Procurement Act. Not later than the 20th day after entering into a consulting services contract with a value expected to exceed \$15,000, or \$25,000 for



an institution of higher education, a description of the services, the name, and value of the contract must be published in the Texas Register.

### **8. Competitive Sealed Proposals**

The University may use the process established in the Texas Government Code, Chapter 2156 for the acquisition of goods and services by the competitive sealed proposals process.

### **9. Conference Registration Fees**

Payment for registration fees cannot be made more than six weeks in advance, except when registration is required further in advance to reserve space or to obtain a substantially reduced rate.

Conference registration fees may also be paid directly by the employee and then reimbursed by the University. However, the employee will not be reimbursed prior to attending the conference.

### **10. Customized Products**

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

Types of customized products include but are not limited to:

1. Specialty imprinted products
2. Printing
3. Screened products, including clothing
4. Custom printed forms

Art work shall be approved by the Office of Public Relations prior to the creation of the purchase order.

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, 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 non-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.

### **11. Delegated Purchases**

A. General delegation. The University has delegated the following purchasing functions to departments:

- (1) commodity purchases of goods that do not exceed \$5,000;

- (2) emergency purchases that do not exceed \$5,000;
  - (3) purchases of service the estimated cost of which does not exceed \$5,000 per contract;
- B. Adherence to ethical standards. Employees of departments who perform purchasing functions under delegated authority shall adhere to the same ethical standards required of the Purchasing Department employees, and shall avoid all conflict of interest in their purchasing activities. Code of Ethics are found on the Texas A&M University System website at [policies.tamug.edu/07-01.pdf](http://policies.tamug.edu/07-01.pdf)
- C. Withdrawal of delegated purchase authority. The Purchasing Department will verify compliance with established procedures for delegated purchases and may withdraw delegated purchase authority in whole or in part from a department for continued violations. When a purchase is made outside of normal purchasing procedures, the person placing the order will submit a memo, accompanied by the invoice to the Director of Purchasing indicating why the purchase did not comply with purchasing procedures. The director will then approve or decline the processing for payment.
- D. Provisions applicable to particular delegated purchases.
- (1) Commodity purchases. Commodity purchases may be made in accordance with the following provisions:

Departments are encouraged to solicit participation by Historically Underutilized Businesses (HUB) for delegated purchases. Departments may refer to the Commission's HUB Directory, which is maintained and accessible electronically to locate HUB vendors or they may also follow the "HUB Vendors" link on the University's Purchasing website.
  - (2) Emergency Purchases: Thee Purchasing Department will approve emergency purchases in accordance with the following provisions.
    - (a) At least three informal bids must be obtained whenever possible on all purchases in excess of \$5,000.00.
    - (b) For an emergency purchase of goods or services exceeding \$5,000.00, a department must send a full written explanation of the emergency along with other documentation listed below:
      - (i) State the reason for the emergency purchase by explaining what the emergency is and/or what caused the emergency situation;
      - (ii) State the financial or operational damage that will occur if needs are not satisfied immediately (do not just say there will be a loss or some damage);
      - (iii) State why the needs were not or could not be anticipated so that items could have been requisitioned through the Purchasing Department or purchased following regular delegated procurement procedures.

- (c) The departments shall contact the Purchasing Department for advice and assistance in the handling of emergency purchases. The Purchasing Department may not approve an emergency purchase unless the department has complied with either of the above requirements.
- E. Specific delegations. The authority to grant specific delegation resides with the department. As a minimum, departments granted specific delegations shall meet the following criteria:
  - (1) All delegated departmental purchases are subject to an audit by the internal and State Auditors. The department must maintain all necessary documentation in a file to support the delegated purchase.
  - (2) Minimum training standards established;
  - (3) Processes and procedures for the specific type of delegation being requested. All processes and procedures are subject to the prior review, revision and approval of the director.
- F. Protest Procedures. Each University shall adopt and maintain protest procedures.
- G. Debarred Vendors. Departments shall make an effort to ensure that debarred vendors do not participate in state or the University's contracting and shall establish procedures to ensure awards are not made to debarred vendors. (Texas Government Code, Chapter 2155, Section 2155.077)
- H. Purchases may not be broken down into smaller purchases in order to stay under the delegated purchase amount.

## **12. Technology Purchases**

All purchases of I/T good or services have to utilize the following procedures:

1. Contact the Office of Information and Technology (OIT) in advance regarding specific need and compatibility with current hardware and operating systems.
2. Obtain specifications and a quote from OIT for the goods or services needed.
3. Send a purchase requisition and all supporting documentation to the Purchasing Department for processing.

Any IT related purchase that exceeds \$250,000 has to be approved by TAMU System CIO prior to the processing of the purchase order.

## **12. Export Controls**

**As** a commitment to Export Control compliance the Office of Purchasing has established the following procedures.

Vendors will be screened through Visual Compliance prior to the completion of the procurement process if the being purchased is listed below. In addition all foreign vendors will be screened prior to the completion of the procurement process.

1. Purchase of Software

2. Purchase of guns, ammunitions, or related items (gun-scope, night vision goggles, etc.)
3. Purchase of chemicals
4. Purchase of laboratory or engineering equipment.

## **12. Exempt Purchases**

The following services are exempt from competitive bidding requirements and may be purchased by departments regardless of dollar amount:

Artists – painters, sculptors, compositions, performers

Classified Advertising – expenses such as newspaper and magazine, radio, television, billboards, classifieds, yellow page ads, and all other printed advertisements (does not include fees paid to public relations or advertising firms for their services in developing or executing coordinated campaigns or programs)

Automobile State Safety Inspection Fees - Only certain items are exempt

Conference Expense - expenses related to conference room services such as audio/visual/network and foodservices (does not include goods purchased for attendees or transportation services)

Demurrage/Gas - Cylinder use/rental

Direct Publications - Publications, Trade Periodicals, Magazines, Downloads of data, Reports, Subscriptions from the publisher only (not from bookstores or another reseller).

Educational/Training Services

Exhibit Space - Display booth rental

Freight/Delivery Services

Goods and services provided by the Texas Department of Criminal Justice (TDCJ)

Goods and services provided by the Texas Industries for the Blind and Handicapped (TIBH)

Group Purchasing Programs (Co-Op)

Internal repairs

Grant Payments

Hotels and Conference Rooms – does not include hotel rooms for programs and conferences that are regularly scheduled throughout the year. For example, a department hosts seminars/workshops throughout the year and is responsible for making lodging accommodations for the attendees.

Institutional Memberships/Professional - Approved by President

Inter/Intra Agency Agreements - Services provided by other State of Texas agencies or by other local governments.

Items for Resale

Lecturers/Guest Speakers/Entertainers - fees for speakers/lecturers/entertainers hired on a one-time basis (does not include fees for speakers/lecturers on a continuous basis)

Legal Services

Legislative information services - bill analysis services

Library materials - specific for Texas A&M International University Library

Membership fees and dues

Moving Expenses - (employee) institutional funds only

Newspaper and magazine subscriptions direct from the publisher

Other

\*Other Purchases Exempt include:

Participants Costs

Periodicals, Magazines subscriptions - directly from the source, not from subscription services, library material (AMIGOS).

Postage

Purchases from Department of Information Resources

Purchases from Federal agencies

Purchases from GSA Contracts

Reference Material - from publisher only for Library

Registration fees and associated books and materials

Rental of Aircraft - University Planes

Rental of Computer Equipment (Conference)

Rental of exhibit space (booths for display purposes)

Rental of Video Equipment (Conference)

Sub Awards - Contracts & Grants Only

Student Travel - expenses related to student travel with the exception of air and bus charter.

Telecommunications

## Utilities

### **13. Group Purchasing Programs**

Texas A&M International University may purchase material, supplies, or equipment through group purchasing programs (Cooperatives, Alliances, etc.) These types of purchase have already been bid and awarded and do not require any additional bidding process.

### **14. Flowers, Floral Arrangements, and Plants**

The University may not use state funds to purchase flowers, floral arrangements, or decorative plants for a state officer or employee or for the friends or family of a state office or employee. Local accounts may purchase flowers and plants, upon advanced approval from the Purchasing Department.

Purchases from state funds are limited to vegetation, dirt, potting soil, fertilizers, seeds, and plants needed for erosion prevention, research, teaching, or agriculture.

### **15. 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 the procurement office issues a purchase order, even though the department has submitted a purchase requisition.

All ATFs, regardless of the dollar amount, present problems for the procurement office, Accounts Payable, vendors, and end-users. In many cases, these transactions:

- Place the university at financial and credit risk and result in higher than necessary cost paid for products and services
- Create unnecessary administrative effort.
- Bypass State of Texas encumbrance requirement.
- Violate procurement rules and procedures.
- Result in contracts with unfavorable terms and conditions signed by unauthorized university personnel.

### **16. Inspection and Order Cancellation**

#### **A. Inspection of merchandise**

1. A careful comparison of the numbers of pieces received with the number listed on the freight bill.
2. Examination of the cartons for any evidence of damage.
3. Examination of the contents for obvious damage if cartons show any evidence of possible damage.
4. Notation of any damage will be made on the freight bill before it is signed and the carrier is released from Central Receiving

5. If concealed damages are detected after the shipment has been delivered, departments should notify the Purchasing and Central Receiving immediately. Concealed damage claims must be filed with the carrier within 15 days of receipt of the freight in Central Receiving.
6. If unlisted shortages are discovered, the vendor and the Purchasing Department shall be notified immediately.
7. A contractor may be required to pick up any merchandise not conforming to specifications and replace the merchandise immediately.

**B. Substitutions**

Substitution of items called for in a contract is not permitted without the Purchasing Departments 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**

1. Cancellations on orders issued by a department are not permitted without the Purchasing Departments prior written approval.
2. Orders may be canceled without the contractors consent due to unsatisfactory performance or nonperformance by the contractor.
3. Orders may be canceled, without first obtaining the consent of the contractor, if the reason for cancellation is not the fault of the contractor.
4. 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, the Purchasing Department will consider such requests when presented in writing with proper documentation.

**D. Damages for failure to perform**

1. A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the University.
2. If any merchandise delivered under a contract has been used or consumed by a department and on testing is found not to comply with specifications, no payment may be approved by the component for such merchandise until the amount of actual damages incurred has been determined.

**17. Institutional Memberships**

Institutional Memberships and dues for professional organizations require approval by the President of the University or an approved designee.

The following approvals will be followed:

Vice President → President Approval  
 Provost → President Approval  
 Director Vice President → Provost Approval  
 Dean → Provost Approval

## 18. "L" Limited Documents

L documents are created solely to process a payment for under \$5,000. They eliminate the issuance of a purchase order, resulting in a more timely payment.

HUB vendors must be sought out and used whenever possible.

Please note that it will only be possible to continue using L documents if our HUB purchasing remains at or above our goal.

Supporting documentation must be submitted to the business office with the L document number written in the upper right hand corner before any payments will be processed.

Examples of *appropriate* uses for an L document include:

- (1) Payment of a subscription under \$5,000 for which a renewal invoice has been received.
- (2) Payment of FedEx or postage invoices under \$5,000
- (3) Payment of services under \$5,000 for which an invoice has been received or for which independent contractor paperwork has been completed.
- (4) Payment for car or bus rentals under \$5,000
- (5) Payment for hotel direct bill charges under \$5,000
- (6) Payment for employee reimbursements under \$5,000

Examples of *inappropriate* uses for an L document include:

- (1) Purchases over \$5,000
- (2) Purchases of dues or memberships, as these require additional approvals
- (3) Purchases of goods which circumvent existing purchasing procedures (i.e. creating verbal purchase orders by calling a vendor directly)
- (4) Multiple purchases under \$5,000 to circumvent securing quotes or bids

## 19. Lease or Lease-Purchase Contracts

- A. A department may acquire capital equipment by lease or lease-purchase if it is cost effective.
- B. 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. The Purchasing Department will determine the cost effectiveness of a lease or lease-purchase. To establish cost effectiveness, the requisitioning department should submit the following information:
  - (1) anticipated interest charges over the life of the contract;



- (2) anticipated cost savings which would result from outright purchase; and
  - (3) any other information the department considered relevant.
- C. All lease, lease-purchase or installment payment purchase in excess of \$1,000,000 or has a term in excess of 5 years must be submitted to the Texas Bond Review Board for approval.

## 20. Preferences

### Source Preferences

The following source preferences are used when applicable goods or services can be supplied by these entities:

#### **Products by Persons with Disabilities**

A preference shall be given to manufactured products of workshops, organizations, or corporations whose primary function is training and employing persons with mental or physical disabilities if the products or services meet state specifications as to quantity, quality, and price. Competitive bids are not required for purchases of goods or services offered through the State Use program managed by TIBH Industries, Inc. on behalf of the Texas Council for Purchasing from People with Disabilities if the goods or services meet state specifications as to quantity, quality, delivery, life cycle costs and testing and inspection requirements. Texas Human Resources Code §122.008, 40 Texas Administrative Code §189.2(9).

- **Texas Department of Criminal Justice (TDCJ)/Institutional Division**

A preference shall be given to items manufactured by the Texas Correctional Industries (TCI) under the Prison Made Goods Act (see Section 2.5 Set-aside Purchases). Reference Texas Government Code Chapter 497.

- **Texas and United States Products and Texas Services**

A preference shall be given to goods, including agricultural products, produced or grown in this state or offered by Texas bidders. If goods, including agricultural products produced or grown in this state or offered by Texas bidders, are not equal in cost and quality to other products, then goods, including agricultural products produced or grown in other states of the United States, shall be given preference over foreign products if the cost to the state and quality are equal. Reference Texas Government Code § 2155.444.

- **Products and Services from Economically Depressed and Blighted Areas**

A preference shall be given to goods and services produced in an economically depressed or blighted area if the goods or services meet state specifications regarding quantity and quality and the cost of the good or service does not exceed the cost of other similar products or services that are not produced in an economically depressed or blighted area. Reference Texas Government Code § 2155.449. An economically depressed or blighted area is defined by Texas Government Code § 2306.004.

- **Products of Facilities on Formerly Contaminated Property**

A preference shall be given for goods produced at a facility located on property for which the owner has received a certificate of completion under Health and Safety Code §361.609, if the goods meet state specifications regarding quantity, quality, delivery, life cycle costs, and price. Reference Texas Government Code § 2155.450.

### **Specification Preferences**

The following items are preferences regarding recycled materials:

- **Recycled, Remanufactured, or Environmentally Sensitive Products**

A preference shall be given to products made of recycled materials if the products meet state specifications as to quantity and quality.

Texas Government Code § 2155.445 and 361.426 requires all state agencies, institutions of higher education, state courts, judicial agencies, counties, municipalities, school districts, junior or community college districts, or special districts to follow certain precepts regarding recycling and the purchase of recycled content products.

Texas Government Code § 2155.445(a) provides that all entities "**give preference to recycled, remanufactured, or environmentally sensitive products**" as determined by CPA rule if the purchases meet applicable specifications as to quantity and quality.

Texas Government Code § 361.426(a) provides that a state agency, state court, or judicial agency not subject to Texas Government Code, Subtitle D, Title 10, a county, municipality, school district, junior or community college district, or special district shall give preference to purchasing products made of recycled materials if the products meet applicable specifications as to quantity and quality.

Texas Government Code § 2155.448(a) states that each fiscal year, TPASS by rule may identify recycled, remanufactured or environmentally sensitive commodities or services. Under 34 Texas Administrative Code § 20.135 TPASS may designate as "First Choice" certain recycled, remanufactured or environmentally sensitive commodities or services. These "First Choice" items include but are not limited to the following:

- Re-refined oils and lubricants;
- Recycled-content toilet paper, toilet seat covers, paper towels;
- Recycled-content printing, computer and copier paper, and business envelopes;
- and
- Recycled/reused computer equipment of other manufacturers.

First Choice products essentially become the default items for purchase by state agencies including institutions of higher education; that is, state agencies shall give these products preference over virgin (non-recycled) counterparts. A state agency may choose to buy the virgin (non-recycled) material counterpart of these designated products if the agency submits a written justification letter, signed by the executive head of the agency. The justification letter must state the reason(s) for the determination that the First Choice product did not meet the requirements of

the agency and should include applicable supporting documentation. The justification letter must be filed with TPASS.

Beginning with fiscal 2001, each state agency, including institutions of higher education, is responsible for compiling a final recycled product report by combining the TPASS non-delegated recycled, remanufactured and environmentally sensitive purchase report with the state agency's delegated recycled, remanufactured and environmentally sensitive purchases. This final combined report must be included in your agency's Annual Financial Report (AFR) submitted to TPASS and a copy must also be sent to TPASS.

TPASS will post on its Web site the state's consolidated final recycled product report for public viewing of state successes in supporting recycled product purchases. For additional information regarding reporting requirements please see Section 1.3.

- **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 that are energy efficient. This preference shall be applied by evaluating the energy use of the product 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 solicitation document. Reference Texas Government Code § 2155.442.

- **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%. Reference Texas Government Code § 2155.443.

- **Recycled Motor Oil and Lubricants**

A preference shall be given to motor oils and lubricants that contain at least 25% recycled oil if the quality is comparable and the cost is equal or less than new oil and lubricants. Reference Texas Government Code § 2155.447.

- **Vendors that Meet or Exceed Air Quality Standards**

A preference may be given to goods or services of a vendor that meets or exceeds state or federal environmental standards, including voluntary standards, relating to air quality. The preference may be given only if the cost to the state for the goods and services would not exceed 105% of the cost of the goods and services provided by a vendor who does not meet the standards. Reference Texas Government Code § 2155.451.

- **Recycled or Reused Computer Equipment of Other Manufacturers**

A preference shall be given to a manufacturer that has a program to recycle or reuse the computer equipment of other manufacturers, including collection events, recycling grants, and manufacturer initiatives to accept computer equipment labeled with another manufacturer's brand. Reference Health and Safety Code § 361.965(d).

- **Foods of Higher Nutritional Value**

A preference may be given to a contractor who provides foods of higher nutritional value and who does not provide foods containing trans fatty acids for consumption in a cafeteria. The Department of Agriculture's nutrition standards shall be reviewed in complying with this preference. Reference Texas Government Code § 2155.452.

- **Texas Department of Criminal Justice (TDCJ)/Institutional Division**

A preference shall be given to items manufactured by the Texas Correctional Industries (TCI) under the Prison Made Goods Act (see Section 2.5 Special Purchases). Reference Texas Government Code, Chapter 497. <http://tlo2.tlc.state.tx.us/statutes/gv.toc.htm> .

### **Specification Preferences**

The following items are preferences regarding recycled materials:

- **Recycled, Remanufactured, or Environmentally Sensitive Products**

A preference shall be given to products made of recycled materials if the products meet state specifications as to quantity and quality.

Texas Government Code, Title 10, Subtitle D, Section [2155.445](#) and Texas government Code, Title 5, Subtitle N, Section 361.426 requires all state agencies, institutions of higher education, state courts, judicial agencies, counties, municipalities, school districts, junior or community college districts, or special districts to follow certain precepts regarding recycling and the purchase of recycled content products.

Texas Government Code, Title 10, Subtitle D, Section [2155.445\(a\)](#) provides that all entities **"give preference to recycled, remanufactured, or environmentally sensitive products" as determined by commission rule if the purchases meet applicable specifications as to quantity and quality.**

Texas Government Code, Title 5, Subtitle N, Section 361.426(a) provides a state agency, state court, or judicial agency not subject to Subtitle D, Title 10, Government Code, a county, municipality, school district, junior or community college district, or special district shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality.

Texas Government Code, Title 10, Subtitle D, Section [2155.448\(a\)](#) each fiscal year, the TBPC and the Recycling Market Development Board (RMDB), by rule may identify recycled, remanufactured or environmentally sensitive commodities or services. The RMDB recommended that the TBPC designate by TBPC rule the following as "1st Choice" products:

- Re-refined oils and lubricants;
- Recycled content toilet paper, toilet seat covers, paper towels; and
- Recycled content printing, computer and copier paper, and business envelopes.

The 1st Choice products essentially become the default items for purchase by state agencies including institutions of higher education; that is, state agencies shall give these products preference over virgin (non-recycled) counterparts. A state agency may choose to buy the virgin (non-recycled) material counterpart of these designated products; however, a written justification letter signed by the executive head of the agency must be submitted. The justification letter must state the reason(s) for the

determination that the 1st Choice product did not meet the requirements of the agency and should include applicable supporting documentation. The justification letter must be filed with the TBPC.

Beginning with FY 2001, each state agency including institutions of higher education is responsible for compiling a final recycled product report by combining the TBPC non-delegated recycled, remanufactured and environmentally sensitive purchase report with the state agency's delegated recycled, remanufactured and environmentally sensitive purchases. This final combined report using the format attached must be included in your agency's Annual Financial Report (AFR) submitted to the Comptroller and a copy must also be sent to TBPC's Central Procurement Services (CPS) Division to the attention of CPS Recycling Coordinator by November 20, 2001. The TBPC will post on its website the state's consolidated final recycled product report by January 15, 2002 for public viewing of state successes in supporting recycled product purchases. For additional information regarding reporting requirements please see Section 1.3.

- **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 that are energy efficient. This preference shall be applied by evaluating the energy use of the product 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. Reference Texas Government Code, Title 10, Subtitle D, Section [2155.442](#).
- **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 lifecycle cost benefit analysis, does not exceed the bid cost of alternative paving materials by more than 15%. Reference Texas Government Code, Title 10, Subtitle D, Section [2155.443](#).
- **Recycled Motor Oil and Lubricants**  
A preference shall be given to motor oils and lubricants that contain at least 25% recycled oil if the quality is comparable and the cost is equal or less than new oil and lubricants. Reference Texas Government Code, Title 10, Subtitle D, Section [2155.447](#).
- **Tie-Bid Preferences**  
The following five preferences listed below are used in breaking tie bids in accordance with current statutes. Priority is given in the sequence they are listed below (see Section 2.39 Tie Bids). To claim a preference, a bidder must mark the appropriate box on the bidding document Invitation for Bids (IFB). If the appropriate box is not marked, a preference will not be granted unless other documents included in the bid indicate a right to the preference.
- **Texas Agricultural Products**  
Agricultural products grown in Texas shall be given preference over comparable products 105 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 shall prevail. For the purpose 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. Reference Texas Government Code, Title 10, Subtitle D, Section [2155.444\(a\)](#).

- **Texas Produced Supplies, Materials, or Equipment**

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. Reference Texas Government Code, Title D, Subtitle D, Section [2155.444\(a\)](#).

- **Texas Resident Bidder**

A Texas resident bidder shall be given preference over a nonresident bidder when the cost and quality of the goods or services are equal (see Glossary). Reference Texas Government Code, Title 10, Subtitle D, Section [2155.444\(a\)](#).

- **U.S. Produced Supplies, Materials, or Equipment**

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, if comparable goods of equal cost and quality produced or grown in Texas or offered by Texas bidders are not available. Reference Texas Government Code, Title 10, Subtitle D, Section [2155.444\(b\)](#).

## **21. Procurement Cards**

**The** University issued Procurement Card Program is a business to business credit cards that allow the purchase of good and services directly from vendors. The program is designed to reduce cost, shorten the buying cycle and empower the employee. All purchases must be made within Texas A&M policies and regulations, Texas A&M International University rules and procedures and the laws of the State of Texas.

The following important points should be reviewed before using the procurement card:

- Your card is issued in your name. You are personally responsible for all transactions on your card. All purchases made on the card must be made by the cardholder. You are responsible for the security of the card and the transactions made with it.
- You can use the card with any vendors that accepts MasterCard **and** is not on the restricted vendor list. It may be used for in-store purchases, online, mail, telephone or fax orders.
- You may use the card to purchase goods or services within your delegated limit.
- Reconciliation of the monthly card statement to ensure all charges are accurate is required. Statement reconciliation needs to be completed and submitted to the procurement office.

- Failure to follow procurement card program guidelines policies will result in temporary suspension or permanent cancellation of your card.

For detailed procurement card policies and procedures please visit our [Procurement Card Manual](#) .

## **22. Proprietary Purchases**

A proprietary product or service has a distinctive characteristics that is not shared by competing products or services when the specification limits consideration to one manufacturer, one product, or one service provider. You must include a written notification with the requisition. A proprietary justification is not needed for a purchase \$5,000 or less.

A written justification for the use of proprietary specifications or conditions must contain:

1. an explanation of the need for the specification, e.g., which part or parts of the stated specification restricts the requisition to one manufacturer or provide other information requested by the University;
2. be signed by the department head or designee;
3. the reason competing products are not satisfactory, e.g., a justification for the proprietary purchase; and
4. other information requested by the University.

## **23. Requisitions**

A purchase is initiated when a department submits a requisition containing desired specifications and conditions of the purchase, either electronically or on a form provided or approved by the Purchasing Department.

Requisitions shall be submitted to the Purchasing Department 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.

The Purchasing Department may require clarification of the specifications in Order to foster open competition. If the department's specifications unreasonably limit competition, the Purchasing Department may require an additional written explanation.

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

The Purchasing Department may review departmental delegated purchases and revoke any delegation as deemed necessary.

- A. Based on the review of the documents, the Purchasing Department may revoke any delegation as deemed necessary.

- B. All delegated departments purchases are subject to an audit by the internal auditor.

## **25. Specifications**

A specification is a description of a product or service a user seeks to procure along with a description of what a proposer must offer to be considered for an award. Specifications are the primary means of communication between an agency and a vendor.

Specifications control:

- the quality level of the product;
- the amount of competition;
- the suitability of the product or service for the job to be done; and
- the method of evaluation used in making an award and determining the best value proposal for the purchase.

### **Characteristics of an Effective Specification:**

- **SIMPLE:** Avoid unnecessary detail, but provide sufficient information to ensure that requirements will satisfy their intended purpose.
- **CLEAR:** Use terminology that is understandable to the agency and proposers. Use correct spelling and appropriate sentence structure to eliminate confusion. Avoid “legalese” language and jargon whenever possible.
- **ACCURATE:** Use units of measure 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 proposal 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, they should be within 10% unless otherwise stated in the solicitation document.

A proposer or contract participant may provide free technical assistance to an agency. A state agency may not accept a proposal or award a contract to a vendor that received compensation from the agency to participate in the preparation of the specifications or request for proposal on which the proposal or contract is based.

- A. A specification is a description of a product or service a user seeks to procure, and is also, a description of what a bidder must offer to be considered for an award. Specifications are the primary means of communication between an agency and a vendor.
- (1) The Purchasing Department will review the specifications and conditions of purchase submitted by a department. The Purchasing Department 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 resubmission.

- (2) The Purchasing Department 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 component's advantage, the Purchasing Department may accept a bid other than the lowest after consulting with the department. If the bid invitation contains no statement regarding early delivery, the Purchasing Department may not consider early delivery in making an award.

B. Characteristics of an effective specification:

- (1) **SIMPLE:** Avoid unnecessary detail, but be complete enough to ensure that requirements will satisfy their intended purpose.
- (2) **CLEAR:** Use terminology that is understandable to the University and bidders/use correct spelling and appropriate sentence structure to eliminate confusion. Avoid legalese type language and jargon whenever possible.
- (3) **ACCURATE:** Use units of measure that are compatible with industry standards or models (whenever possible) that will satisfy the intended purpose. Avoid unneeded "extras" that could reduce or eliminate competition and increase costs.
- (4) **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 they should be within a 10% rule of thumb unless otherwise stated in the invitation to bid.

C. A bidder or contract participant may provide free technical assistance to the University. A state agency may not accept a bid or award a contract to a vendor who received compensation from the agency to participate in the preparation of the specifications or request for proposals on which the bid or contract is based. (Texas Government Code, Chapter 2155, Section 2155.004).

D. In accordance with the Texas Government Code, Title D, Subtitle D, Section 2155.074 and the Texas Administrative code, Title 10, Chapter 199, the requirement to advertise solicitations using the Texas Marketplace applies to all purchases exceeding \$25,000 regardless of source of funds used for the procurement, including, emergency, construction projects, professional or consulting services and proprietary purchases. If the entire bid or proposal is posted, a minimum of 14 calendar days is required. A minimum of 21 calendar days is required for posting only the notice.

## **26. Term Contracts**

The Texas Procurement and Support Services (TPASS) enters into term contracts for the purchase or lease of items used in large quantities by several state agencies and institutions of higher education. The term of a contract is determined by TPASS.

TAMIU may utilize state term contracts when it is determined to be the best interest of the University. Factors such as quality, delivery time, and price will be considered in determining best interest.

## **27. TXMAS Contracts**

Process for buying commercial items and services. They capitalize on prices associated with volume buying. Federal Multiple Award Schedules satisfy requirements for full and open competition. Ordering procedures allow for Best Value purchasing decisions.

## **28. Trade-Ins**

A state agency may trade in agency owned equipment for new equipment of the same or similar type if it is in the best interest of the state. However, a state agency may not trade in property that has been declared either surplus or salvage; such property must be disposed of in accordance with Government Code 2175 through the Texas Facilities Commission (TFC) State Surplus Property program.

Trade-ins are not allowed through orders placed against TPASS term contracts.