OP 72.09: Purchase of Goods and Services

DATE: May 9, 2014

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to establish the procedures to be followed when purchasing goods and services.

REVIEW: This OP will be reviewed in November of even-numbered years by the managing director of Procurement Services (MDPS) with substantive revisions forwarded to the vice president for administration and finance and chief financial officer.

POLICY/PROCEDURE

1. Policy

   a. This policy will apply to the procurement of all goods and services using any funds of Texas Tech University with the exception of subcontracts and other agreements required in fulfilling the university’s obligations under federal, state, local, and private grants.

   b. Only the MDPS, his/her designees, and other university personnel designated by the president may commit the university to the purchase of either goods or services or both.

   c. Departments are required to verify that any purchase of goods or services is allowable on the funding type they will be utilizing.

   d. All purchases of goods or services must have a clear business purpose that supports the mission of the university.

   e. Purchases that result in a personal benefit for any employee or student are a violation and may result in additional action.

   f. The MDPS has the authority to make any exceptions to this policy, which in his/her determination, are essential for the continued operations of the university and do not violate any federal or state laws.

   g. All purchases must be in compliance with OP 72.12, Historically Underutilized Businesses.

   h. All purchases must comply with the Human Resources Code, Chapter 122, relating to purchases from people with disabilities.

   i. In the event of any conflict between this OP and any state or federal purchasing regulations, those regulations shall prevail.
j. Starting December 2014, purchases on federal funds must comply with the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards including the micro-purchase threshold of $3,000. See OMB circular A-110 (www.whitehouse.gov/omb/circulars_a110).

2. Acquisition of Goods and Services

a. Pursuant to Texas Education Code § 51.9335, an institution of higher education may acquire goods or services by the method that provides the best value to the institution, including:

   (1) Competitive bidding;
   (2) Competitive sealed proposals;
   (3) Catalogue purchase;
   (4) A group purchasing program; or
   (5) An open market contract.

b. In determining best value to an institution of higher education, the institution shall consider:

   (1) Purchase price;
   (2) Reputation of the vendor and of the vendor's goods or services;
   (3) Quality of the vendor's goods or services;
   (4) Extent to which the goods or services meet the institution’s needs;
   (5) The vendor’s past relationship with the institution;
   (6) The impact on the ability of the institution to comply with laws and rules relating to historically underutilized businesses (HUBs) and to the procurement of goods and services from persons with disabilities (TIBH);
   (7) The total long-term cost to the institution of acquiring the vendor’s goods or services;
   (8) Any other relevant factor that a private business entity would consider in selecting a vendor; and
   (9) The use of material in construction or repair to real property that is not proprietary to a single vendor, unless the institution provides written justification in the request for bids for use of the unique material specified.

c. Procurement of goods and services must comply with state and federal laws, institutional policies and procedures, and the Regents’ Rules.

d. Purchase orders are not intended to be used strictly as a payment tool; therefore, a purchase order must be created prior to the commitment or obligation. The only other allowable purchasing method is the procurement card (see http://www.depts.ttu.edu/procurement/pcard/index.asp for p-card guidelines). Purchase orders submitted after the commitment has been made and/or after the goods and services are received will constitute a non-compliant order.

e. Procurement Services is under no obligation to authorize payment for expenditures not made in compliance with this operating policy, and financial responsibility for any such payment may become the personal liability of the employee who effected the improper purchase or transaction.
3. **Procurement Methods**

   a. **TechBuy Hosted and Punchout Vendors**

   The university has established best value contracts for many vendors that are accessible to departments through the TechBuy system. Because these vendors are on contract, the dollar limit thresholds referenced in section 6 of this OP do not apply.

   b. **TechBuy Non-catalog Purchase**

   For any vendor not enabled with a punch-out or hosted catalog in TechBuy, the department may establish a non-catalog order to encumber funds. The bid/proposal rules in section 6 must be followed.

   c. **Standing/Blanket Orders**

   Standing or blanket orders may be established with vendors for repetitive purchases throughout a fiscal year. For contracted vendors, exempt purchases, or proprietary goods and services, these may be established for any dollar threshold. For non-contracted vendors, these will be set at $30,000, provided that the vendor extends a discount to the university of at least fifteen percent. If a discount letter cannot be provided, then the standing/blanket purchase order will be limited to $10,000 per fiscal year unless quotes are obtained as detailed in section 6 b.

   d. **Procurement Card (P-Card)**

   The procurement card is an acceptable purchasing method for infrequent, low-dollar procurements. All P-Card transactions must comply with this operating policy and the P-card guidelines. [http://www.depts.ttu.edu/afism/AFISMformrepository/ProcurementDept/Pcard/PCARD%20PROGRAM%20GUIDELINES%20revised%2007-2013.pdf](http://www.depts.ttu.edu/afism/AFISMformrepository/ProcurementDept/Pcard/PCARD%20PROGRAM%20GUIDELINES%20revised%2007-2013.pdf)

4. **Preferred Purchasing Contracts**

   a. **TIBH (Texas Industries for the Blind and Handicapped)**

   Commodities and/or services that are available through the Texas Council for Purchasing from People with Disabilities (currently TIBH) must be purchased through this entity unless non-utilization of TIBH can be adequately justified. Bids/proposals are not required when utilizing TIBH contract.

   b. **State of Texas Contracts**

   The Texas Comptroller establishes term contracts for goods and services. These contracts are accessible on the comptroller’s website [http://www.window.state.tx.us/procurement/contracts/](http://www.window.state.tx.us/procurement/contracts/). Bids/proposals are not required when utilizing state of Texas contracts. The Department of Information Resources (DIR) also maintains state contracts for IT and telecommunication products and services ([http://www.dir.state.tx.us/](http://www.dir.state.tx.us/)).
c. General Services Administration

The GSA Advantage is the federal government’s online catalog and ordering system. Vendors can extend pricing and contract terms to all governmental agencies. Bids/proposals are not required when utilizing GSA contracts. http://www.gsaelibrary.gsa.gov/ElibMain/contractorList.do?contractorListFor=A

d. Purchasing Cooperative Programs

Purchasing cooperatives allow purchases to be made directly with the vendor as the bidding and negotiation has been completed by the cooperative. Bids/proposals are not required when utilizing cooperative contracts. The following is a listing of the purchasing cooperatives of which the university is a member:

- Buyboard
- E&I
- First Choice
- Harris County
- HGAC Cooperative Purchasing Program
- National Joint Power Alliance (NJPA)
- Provista
- Region 5
- Region 16 – TexBuy
- Region 19
- Region 20 - PACE
- The Cooperative Purchasing Network (TCPN)
- TIPS/TAPS
- US Communities
- UT Alliance
- Western States Contracting Alliance (WSCA)

A summarized listing of these contracts is available at http://www.depts.ttu.edu/procurement/purchasingContracting/purchasingInfo/documents/List%20of%20Cooperative%20Contracts.xls.

e. University Negotiated Contracts

The Procurement Services Office has awarded competitive contracts to several vendors based upon a request for proposal process. Bids/proposals are not required for purchases when utilizing a university-negotiated contract. http://www.depts.ttu.edu/procurement/purchasingContracting/purchasingInfo/documents/List%20of%20University%20Contracts.xls

5. Other Purchasing Methods

a. Proprietary Goods or Services (Sole Source)

A proprietary purchase is justified only when an equivalent product or service competition is not available. A written justification must be provided when the specification requirement limits consideration to one manufacturer, one product, or one service provider and the amount
of the purchase exceeds $10,000 (either in a one-time purchase or repetitive purchases of the
same goods or services during a fiscal year). Price and personal preferences are not acceptable
as determining factors. The Procurement Services Office reserves the right to require
additional quotes/bids on proprietary purchases.

The written justification must include:

- Explanation of why the unique specifications for the good or service are required
- Details on the unique features of the good or service
- Reason that competing products or services are not satisfactory
- Any other relevant information to support the sole source documentation

b. Emergency Purchases

Emergencies occur as the result of unforeseeable circumstances and may require an immediate
response to avert an actual or potential public threat. If a situation arises in which compliance
with normal procurement practice is impracticable or contrary to the public interest, an
emergency purchase may be warranted to prevent a hazard to life, health, safety, welfare, or
property or to avoid undue additional cost to the state. The Procurement Services Office
reserves the right to require additional quotes/bids on emergency purchases. All attempts
should be made to utilize contracted vendors during these situations.

c. Exempt Purchases

Certain goods or services are considered exempt from the competitive procurement rules,
either by statute or if the exemption is in the best interest of the public. Bids/proposals are not
required when procuring exempt goods or services. Exempt purchases include:

<table>
<thead>
<tr>
<th>Advertisements</th>
<th>Artwork (Original)</th>
<th>Conference Expenses (promotional items for attendees)</th>
<th>Direct Publications (subscriptions, newspapers, videos, software from manufacturer)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Catering, Meals and Food Services (not food for resale)</td>
<td>Exhibit Spaces</td>
<td>Travel (all travel rules must be followed)</td>
<td>Freight</td>
</tr>
<tr>
<td>Legislative Information Services</td>
<td>Hotels &amp; Conference Rooms</td>
<td>Lecturers/Guest Speakers</td>
<td></td>
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<tr>
<td>Registration Fees and Related Expenses</td>
<td>Membership Fees &amp; Dues</td>
<td>Moving Expenses for Employees</td>
<td></td>
</tr>
<tr>
<td>Training Services</td>
<td>Student Travel (except chartered air)</td>
<td>Purchases from Federal Agencies</td>
<td></td>
</tr>
<tr>
<td>Purchases from Local Governments or Quasi-Governmental Agencies</td>
<td>Internal Purchases from TTU, TTUHSC, or Angelo State.</td>
<td>Postal Services</td>
<td></td>
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<tr>
<td></td>
<td>Purchases from Other State Agencies, Including Public Institutions of Higher Education</td>
<td>Utilities</td>
<td></td>
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d. Competitive Bidding/Proposals

If the “best value” for the commodity or service is not obtained from one of the above-listed procurement types, then the department shall comply with the procurement rules listed in the following section of this OP.

6. Bid/Proposal Requirements

a. Bids/proposals must be obtained on all purchases in excess of $10,000 unless the requirement can be properly justified as a sole source, exempt purchase or the purchase is made from an established contract. The $10,000 limit applies to either a one-time purchase or continuous purchases of the same items/same vendor during a fiscal year (e.g., purchasing toner cartridges throughout the fiscal year).

b. Current bid/proposal limits, regardless of the source of funds are:

   $0 - $10,000 Only one bid/quote is required; however, requisitioning departments are encouraged to obtain more than one bid/quote and to price compare all purchases with the contract pricing. **Purchases from a historically underutilized business (HUB) are required to the fullest extent possible.**

   $10,000.01 - $30,000 Three informal bids/quotes are required, and two of the three must be from certified Texas HUBs. The informal bids should be documented on the Informal Bid Form in TechBuy. If the department receives one or more non-responsive quotes from the HUB vendors, then the department shall solicit, at a minimum, three HUB vendors.

   Over $30,000 Formal bids/proposals will be obtained by the Procurement Services Office on procurements in excess of $30,000 that do not conform with one of the other contract/purchase types listed in this OP.

c. The financial manager and his/her delegates are required to solicit and purchase from HUBs to the fullest extent possible. For assistance in locating HUBs, contact the Procurement Services Office. Refer to OP 72.12, Historically Underutilized Businesses, for additional information.

d. State and federal laws and university policies strictly prohibit splitting orders to circumvent the procurement rules.

7. Prohibited Purchases

a. Personal Purchases

Personal purchases are not allowed under any circumstance.
b. Vendors on Hold

Departments may not make any purchase or payment to a vendor who is on hold with the State of Texas or the federal government. Individuals who obligate the university with a vendor who is on hold will be held personally liable.

c. Funding Types

Certain funding types have restrictions on what may and may not be purchased (e.g., no food on state funds). See the attachment for a basic summary.

Attachment: *Allowable Expenses by Fund Group*