



TEXAS TECH UNIVERSITY™

Operating Policy and Procedure

OP 72.20 Professional Services

DATE: November 12, 2019

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to establish policies and procedures for using professional services to carry out the business of Texas Tech University (TTU) or the Texas Tech University System (TTUS).

REVIEW: This OP will be reviewed in November of even-numbered years by the Chief Procurement Officer and the Vice Chancellor for Facilities Planning and Construction with substantive revisions forwarded to the Vice President for Administration & Finance and Chief Financial Officer.

POLICY/PROCEDURE

1. Policy

- a. Professional services may be acquired when there is a need for such services that cannot be performed by TTU or TTUS personnel. When these services are used, they will be selected on the basis of demonstrated competence and qualifications at a fair and reasonable cost that does not exceed any maximum allowances authorized by university regulations or state law. These services shall be procured in accordance with Texas Government Code, § 2254.003
- b. "Professional services" means services:
 - (1) Within the scope of the practice, as defined by state law, of:
 - (a) Accounting;
 - (b) Architecture;
 - (c) Landscape architecture;
 - (d) Land surveying;
 - (e) Medicine;
 - (f) Optometry;
 - (g) Professional engineering;

- (h) Real estate appraising; or
 - (i) Professional nursing.
- (2) Provided in connection with the professional employment or practice of a person who is licensed or registered as:
- (a) A certified public accountant;
 - (b) An architect;
 - (c) A landscape architect;
 - (d) A land surveyor;
 - (e) A physician, including a surgeon;
 - (f) An optometrist;
 - (g) A professional engineer;
 - (h) A state certified or state licensed real estate appraiser; or
 - (i) A registered nurse; or
- (3) provided by a person lawfully engaged in interior design, regardless of whether the person is registered as an interior designer under Chapter 1-53, Texas Occupations Code.

This policy is not applicable to the use of private consultants, which is covered in [OP 72.08, Use of Consultant Services](#), or independent contractors, which is covered in [OP 72.17, Procurement of Independent Contractors](#).

It is also not applicable to the services of any person who, during the current calendar year, has been an employee of TTU/TTUS/TTUHSC/TTUHSCEP/ASU. Any payment made to such a person must be made as a supplemental compensation payment through the EOPS system in the Payroll Office. Payments to retirees of the university shall follow the provisions of Texas Government Code, § 824.601.

2. Administrative Procedures

If the service is not required to be competitively procured, the reason should be stated and approval by the Chief Procurement Officer, or his or her delegate, or by Facilities Planning and Construction obtained prior to contracting for that service.

a. Procurement

Contract for Professional Services of an Architect, Landscape Architect, Professional Engineer, Land Surveyor, or Interior Designer

- (1) In procuring architectural, landscape architecture, professional engineering, land surveying, or interior design services estimated to be less than \$100,000, the TTU/TTUS entity shall:
 - (a) First select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications to perform the services; and
 - (b) Then attempt to negotiate with that provider a contract for a fair and reasonable price.
 - (c) The department may use vendors pre-approved on the TTUS Professional Services Pre-Qualification List; however, all services must be coordinated through the office of FP&C or TTU Operations.

- (2) In procuring architectural, landscape architecture, engineering, land surveying, or interior design services estimated to be more than \$100,000, the TTU/TTUS entity shall:
 - (a) Issue a *Request for Qualifications* through either the Operations Division Engineering Services Office or the Office of Facilities Planning and Construction;
 - (b) Select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications provided in the *Request for Qualifications*;
 - (c) Attempt to negotiate a contract with that provider for a fair and reasonable price; and
 - (d) Utilize vendors pre-approved on the TTUS Professional Services Pre-Qualification List.

- (3) Master contracts exist for pre-qualified architectural and engineering firms that satisfy the requirements of Texas Government Code, § 2254. To utilize these contracts, contact Operations Division Engineering Services Office or the Office of Facilities Planning and Construction.

- (4) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, landscape architecture, professional engineering, land surveying, or interior design services, the entity shall:
 - (a) Formally end negotiations with that provider;
 - (b) Select the next most highly qualified provider; and
 - (c) Attempt to negotiate a contract with that provider for a fair and reasonable price.

- (5) The entity shall continue the process described in subsections (1), (2) and (3) above to select and negotiate with providers until a mutual agreement is made.

Contract for other Professional Services (non-construction)

- (6) In procuring other professional services estimated to be less than \$100,000, the TTU/TTUS entity shall:
 - (a) Select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications to perform the services; and
 - (b) Attempt to negotiate with that provider a contract for a fair and reasonable price.
- (7) In procuring other professional services estimated to be more than \$100,000, the TTU/TTUS entity shall:
 - (a) Issue a *Request for Qualifications* through the Procurement Services Office;
 - (b) Select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications defined in the *Request for Qualifications*; and
 - (c) Attempt to negotiate with that provider a contract for a fair and reasonable price.
- (8) If a satisfactory contract cannot be negotiated with the most highly qualified provider, the entity shall:
 - (a) Formally end negotiations with that provider;
 - (b) Select the next most highly qualified provider; and
 - (c) Attempt to negotiate a contract with that provider for a fair and reasonable price.
- (9) The entity shall continue the process described in subsections (1) and (2) above to select and negotiate with providers until a mutual agreement is made.
- (10) Regardless of dollar amount, the potential vendors must be in good standing with the State of Texas and with the U.S. Government.

b. Agreement

- (1) An agreement for the services will be prepared and executed as a condition of payment utilizing contract templates pre-approved by the TTUS Office of General Counsel.
- (2) For professional architectural, landscape architecture, professional engineering, land surveying, or interior design services:

A formal agreement is required when the formality of the agreement arrangement requires it. The Operations Division Engineering Services office or the Office of Facilities Planning and Construction will prepare the standard agreement.

(3) For other professional services:

A formal agreement is required when the formality of the contract arrangement requires it. The Chief Procurement Officer will assist the department in preparing the agreement.

3. Financial Procedures

- a. Payments for services under this OP shall require an encumbrance unless this requirement is waived by the Chief Financial Officer.
- b. When the contract is routed, the department must submit a requisition in TechBuy to encumber the funds. The department must submit all invoices for payment to Payment Services. Payments will not be released until a fully executed contract is received and any required insurance has been provided. Both the fee and any reimbursable expenses may be submitted on one requisition. Original receipts are required for the reimbursement of any expenses. If original receipts cannot be provided, the expenses will be coded as fees and reported to the IRS. The Office of Facilities Planning and Construction will prepare all encumbrances related to Facilities Planning and Construction managed projects
- c. Payments to individuals shall be in compliance with [OP 62.37, Establishing Employee/Independent Contractor Status](#), and [OP 72.11 Payment of Purchase Orders](#).

4. Indemnification

TTU/TTUS shall require a contractor selected under this policy to indemnify or hold harmless TTU/TTUS from claims and liabilities resulting from the negligent acts or omissions of the contractor, the contractor's officers, directors, agents, employees, volunteers, or subcontractors.

5. Contract Notification

The Procurement Services Office or the Office of Facilities Planning and Construction shall provide written notice to the Legislative Budget Board of a contract for professional services if the amount of the contract, including an amendment, modification, renewal, or extension of the contract exceeds \$14,000. The notice must be on a form prescribed by the Legislative Budget Board and filed not later than the 10th day after the date the entity enters into the contract.

6. Restrictions

- a. TTU/TTUS may not enter into a professional services contract with any individual who has been previously employed by TTU/TTUS within the past 12 months.
- b. An individual who offers to perform a professional service for TTU/TTUS and who has been employed by TTU/TTUS or another state agency at any time during the two years preceding the making of the offer shall disclose in the offer the nature of the previous employment with TTU/TTUS or the other state agency, the date of termination of the employment, and the annual rate of compensation for the employment at the time of termination.

- c. A person's offer or proposal to provide professional services to TTU/TTUS may not be accepted if the person received compensation from TTU/TTUS to participate in the preparation of the specifications or request for proposals on which the offer is based.

7. Void Contract

If TTU/TTUS or any TTU/TTUS employee contracts for professional services or renews, amends, or extends a professional services contract without complying with the provisions of this OP, the contract, renewal, amendment, or extension is void.