

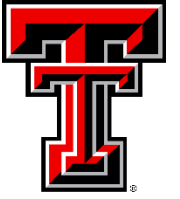
Contract & Procurement Training

Texas Tech University System



Fundamental Responsibilities





Texas Tech University (“TTU”) and Texas Tech University System (“TTUS”) officers and employees authorized to execute contracts on behalf of TTU or TTUS or to exercise discretion in awarding contracts, are required to receive training, including training in ethics, selection of appropriate procurement methods, and information resources procurement technologies.

Texas Education Code §51.9337(b)(5) and Texas Government Code § 2155.078 (a), (a-1) and (b).



Accountability is the principle that employees who accept an assignment and the authority to carry it out are answerable to a superior or higher authority for the outcome. In public higher education procurement, employees are not only answerable to a higher authority, but also to grantees, taxpayers, and donors. Accountability has been central to discussions related to problems in the public sector, nonprofit, and private worlds.



Training is now required for:

1. Staff with contract signature authority, which is delegated by the TTUS Regent Rules.
2. Faculty and staff assigned the role of Financial Manager.
3. Faculty and staff with authority to approve a requisition in TechBuy.
4. Faculty and staff authorized to make a PCard purchase either by an individual PCard or a departmental PCard.



- Per OP 62.03, **financial managers** have a fiduciary responsibility for the management of the funds and the organizations to which they are assigned. This means that faith and confidence have been placed in the financial manager to establish internal controls at the department level and to review transactions. The financial manager owes a duty to loyalty and reasonable care while managing the funds in his or her care.
- The financial manager may delegate transaction approval authority to another for operating in TechBuy and other financial applications. The organization financial manager is responsible for the activities of the assigned delegates. This includes the responsibility to remove or change terminated employees' approval authority.



Risk analysis is a process wherein one identifies and manages factors that create the possibility for loss or injury in the performance of a contract; and it includes all activities necessary to analyze, plan, track, or control risk.

- During negotiation of a contract, and prior to execution, a preliminary risk assessment should be conducted to make a determination about the level, type, and amount of management, oversight, and resources required to plan and implement the contract from beginning to end.
- As the risk associated with a contract increases, the level and degree of TTU/TTUS oversight should be increased.

A grayscale photograph of a cowboy riding a horse, with the word "Procurement" overlaid in large black text. The cowboy is wearing a hat and a jacket, and the horse is in a dynamic, rearing or galloping pose. The background is a cloudy sky.

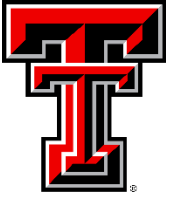
Procurement



Procurement: the process of acquiring goods and services, including the requesting, processing, approving, and payment.

Goods: Supplies, materials, or equipment as defined in Texas Government Code § 2155.001. Goods do not include services or real property.

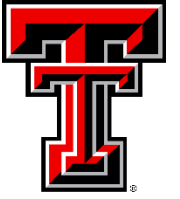
Services: The furnishing of labor, time, and effort by a contractor or auxiliary enterprise, including for a construction project, which may involve to a lesser degree, the delivery or supply of goods.



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 bids;
- (2) Competitive sealed proposals;
- (3) Catalogue purchase (State of Texas program);
- (4) A group purchasing program (cooperative); or
- (5) An open market contract.

Best Value



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

- (1) Purchase price;
- (2) Reputation of the contractor and of the contractor's goods or services;
- (3) Quality of the vendor's goods or services;
- (4) Extent to which the goods or services meets 'TTU/TTUS' needs;
- (5) The contractor's past relationship with TTU/TTUS;
- (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 or services from persons with disabilities (TIBH);
- (7) The total long-term cost of acquiring the contractor's goods or services;
- (8) Any other relevant factor that a private business entity would consider in selecting a contractor; and
- (9) The use of material in construction or repair to real property that is not proprietary to a single contractor, unless TTU/TTUS provides written justification in the procurement for use of the unique material specified.

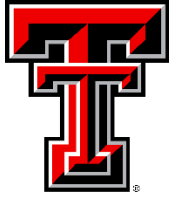


- Purchase orders are not only a payment tool but also set the terms and conditions for the purchase. A purchase order must be created prior to a commitment of funds. Purchase orders submitted after the commitment is made or after the goods or services are received will constitute a non-compliant order.
- Note, the only other allowable payment method at TTU/TTUS is the procurement card (“PCard”).
- Procurement Services has no obligation to authorize payment for expenditures not made in compliance with TTU/TTUS operating policies, and financial responsibility for any such payment may become the personal liability of the employee who effected the improper procurement or transaction.

Procurement method



Procurement Methods



Non-Competitive Methods

- Exempt
- Emergency
- Proprietary/ “sole source”

Competitive methods that do not require an additional solicitation process

- Cooperative Contracts (ex. E&I, Buyboard, UT Alliance, TIPS, etc.)
- State of Texas /Department of Information Resources (“DIR”)/General Services Administration (“GSA”) Contracts
- Existing competitively procured TTU/TTUS Contracts

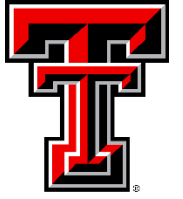
Competitive Methods

- Low-Dollar (less than \$15,000) Quotations
- Competitive Informal Bids (\$15,000.01-\$50,000.00)
- Competitive Formal Solicitation (RFP, RFQ – above \$50,000)

Non-Competitive Methods



Exempt Purchases



Certain types of goods or services are considered exempt from procurement and are not subject to the competitive bid thresholds. Bids or proposals are not required when purchasing goods or services that are exempt.

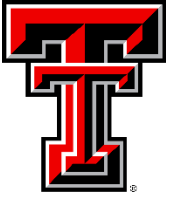
| | | | |
|---|--|---|---|
| Advertisements | Original Artwork, Collection of Works, & Artifacts | Catering, Meals, and Food Services (not for resale) | Hotels & Conference Rooms |
| Conference Expenses (excluding promotional items for attendees) | Direct Publications (subscriptions, newspapers, videos, software from publisher) | Exhibit Spaces | Lecturers, Entertainers, and Guest Speakers |
| Travel (compliance with travel OPs is required) | Freight | Legislative Information Services | Registration Fees & Related Expenses |
| Membership Fees & Dues | Personnel Moving Expenses for Employees | Training Services | Postal Services |
| Student Travel | Purchases from Other Govt. Agencies or institutions of higher education | Internal Purchases (TTU System) | Utilities |



Emergency procurements 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 procurement may be warranted to prevent a **hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the state (ex. fire, flood, tornado, terrorist attack).**

The Procurement Services Office reserves the right to require additional quotes or bids on emergency procurements. All attempts should be made to utilize contracted vendors during these situations.

Proprietary Purchases



- A proprietary procurement is justified only when an equivalent good or service is not available.
- A written justification must be provided when the specification requirement limits consideration to one manufacturer, one good, or one service provider and the amount of the procurement exceeds \$15,000 (either in a one-time purchase or repeated purchases of the same goods or services during a fiscal year).
- Price and personal preferences are not acceptable justification. The Procurement Services Office reserves the right to require additional quotes or bids on proprietary purchases.
- The written justification must include:
 - Explanation of why the supplier of the goods or services is so distinct;
 - Details on the unique features of the goods or services;
 - Reason that competing goods or services are unlike those that are requested; and
 - Any other relevant information to support the sole source documentation.

Competitive Methods





- Purchasing contracts include State of Texas contracts, Department of Information Resources (“DIR”) contracts, General Services Administration (“GSA”) or federal contracts, purchasing cooperative contracts, and TTU/TTUS procured contracts.

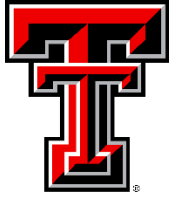
Departments should purchase under these existing contracts to the greatest extent possible. Purchasing contracts have already been competitively procured and provide substantial cost savings and other best value benefits (extended warranties, free shipping, compliance, etc.) to TTU/TTUS. No additional competitive procurement procedures are required making the timing of purchases quicker.

- For large volume purchases, departments should always inquire about additional discounts and benefits beyond contracted pricing and value provisions.



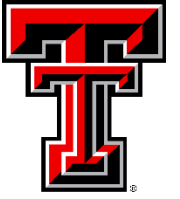
- Purchasing cooperatives (“co-op”) are consortiums or groups of which TTU/TTUS is a member. Co-ops competitively procure contracts under which members can make purchases without having to issue bids or request proposals.
- Departments should always inquire if a vendor’s good and/or services are available under a purchasing co-op contract. Procurement Services can also assist in identifying cooperative vendors. Email strategic.acquisitions@ttu.edu for assistance.
- For large volume purchases, departments should always request additional discounts and benefits beyond the contracted pricing and value provisions.

Purchasing Cooperatives

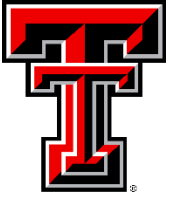


The following is a listing of the purchasing co-ops of which TTU/TTUS is a member. Many of these co-ops have hundreds of good and services available on their contracts:

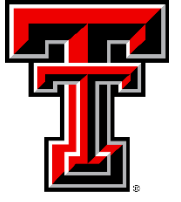
- **Buyboard**
- **E&I**
- **First Choice**
- **Choice Partners (formerly Harris County)**
- **HGACBuy**
- **Sourcewell**
- **National Cooperative Purchasing Alliance (NCPA)**
- **Purchasing Association of Cooperative Entities (PACE)**
- **Omnia Partners**
- **Region 5**
- **Region 16 – TexBuy**
- **Region 19 – Allied States**
- **Region 20 - PACE**
- **The Interlocal Purchasing System (TIPS)**
- **UT Alliance**
- **Western States Contracting Alliance (WSCA)**



- The Texas Comptroller of Public Accounts (“CPA”) establishes term contracts for goods or services. These contracts are accessible on the CPA’s website. As with co-ops, competitive bids or proposals are not required when purchasing a good or service under a CPA contract.
- The Department of Information Resources (“DIR”) also maintains state of Texas contracts under which TTU/TTUS may purchase Information Technology and telecommunication goods or services.



- The *GSA Advantage* is the federal government's online catalog and ordering system. GSA contracts are available to state agencies and institutions of higher education when expending federal funds or in cases where the vendor is permitted to extend that contract to TTU/TTUUS. In that catalog, the co-op purchasing symbol appears next to those contracts available for TTU/TTUS use.
- Competitive bids or proposals are not required when utilizing GSA contracts. Note, the GSA contract number must be listed on the quote.



Existing TTU/TTUS Contracts

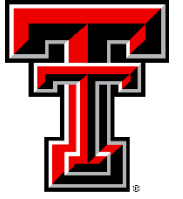
TTU Procurement Services Office has awarded contracts to contractors based upon a competitive solicitation process. Competitive bids or proposals are not required when utilizing a TTU/TTUS negotiated contract. Please contact strategic.acquisitions@ttu.edu for assistance.

| Armored Car | Floral Arrangements | Portable Toilets |
|----------------------------|-----------------------|------------------------|
| Bottled Water | Golf Cart Maintenance | Printing |
| Bus Charters | Grocery Supplies | Promotional Items |
| Carpet Cleaning and Repair | Ice Machine Rentals | Temporary Services |
| Coffee Services | Laundry Services | Trash Hauling Services |
| Concrete Repair | Mailing Services | Vent Hood Cleaning |
| Door Hardware | Maintenance of Pumps | Welding |
| Drug Testing | Office Supplies | Well Drilling |
| Electrical Services | Photography | Window Cleaning |



Competitive solicitations must be obtained for procurements of goods or services costing in excess of \$15,000 unless the purchase can be properly justified as proprietary, emergency, or exempt, or made under a state, federal, institutional, or cooperative contract, as stated previously.

The \$15,000 threshold applies to both a one-time purchase and repetitive purchases of the same goods or services from the same vendor during a fiscal year (e.g., procuring toner cartridges throughout the fiscal year).



Current thresholds for competitive solicitations, regardless of the source of funds are:

- \$0 - \$15,000 At least one competitive solicitation response (bid or quote) is required; however, requisitioning departments are encouraged to obtain more than one competitive solicitation.
Procurements from a historically underutilized business (HUB) are required to the fullest extent possible.
- \$15,000.01 - \$50,000 Three informal solicitation responses (bids or quotes) are required; at least two must be from a certified Texas HUB. The solicitation response shall be documented on the *Informal Bid Form* in TechBuy. If the department receives one or more non-responsive solicitation responses from the HUB contractors, then the department shall solicit, at a minimum, three HUB contractors.
- Greater than \$50,000 Formal solicitation responses will be obtained by the Procurement Services Office on procurements in excess of \$50,000 that do not conform with one of the other competitive or non-competitive procurement types.



A Historically Underutilized Business (**HUB**) is defined by statute as a corporation, sole proprietorship, partnership, joint venture, or a supplier contract between a HUB and a prime contractor that has not exceeded size standards, with its principal place of business in the state of Texas, that is formed for the purpose of making a profit, in which at least 51% of all classes of the shares of stock or other equitable securities are owned by one or more persons who have been historically underutilized (economically disadvantaged) because of their identification as members of certain groups:

Black American, Hispanic American, Asian Pacific American, Native American, American women, and disabled veterans. Contact techbuy.purchasing@ttu.edu for assistance in identifying HUB vendors.

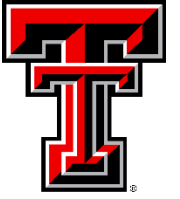


TTU/TTUS must make a good faith effort to utilize HUBs in contracts and procurements awarded in accordance with the following percentages:

- 2.26 % for heavy construction other than building contracts;
- 14.14 % for all building construction, including general contractors and operative builders' contracts;
- 21.54 % for all special trade construction contracts;
- 18.63 % for professional services contracts;
- 15.04 % for all other services contracts; and
- 28.06 % for commodities contracts



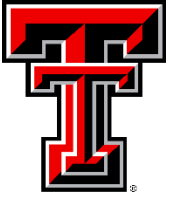
Information Resources Technologies



In accordance with Texas Government Code §2054.003(7) and §2054.001(a)(1) TTU/TTUS information resources are strategic assets of the state of Texas that must be managed as valuable state resources.

As such, use of TTU/TTUS information resources is subject to TTU/TTUS Operating Policies and other applicable laws.

Unauthorized use is prohibited, usage may be subject to security testing and monitoring, misuse is subject to criminal prosecution, and users have no expectation of privacy except as otherwise provided by applicable privacy laws.



All procurement of information resources, including, but not limited to, equipment, hardware, software, and professional services equal to or exceeding \$10,000 is subject to review and approval by the TTU Chief Information Officer (“CIO”). Additional reviews may be conducted, as needed. To expedite the procurement process, departments should contact the TTU Office of the CIO and the Procurement Services Office early in the decision-making process, prior to submitting procurement documents in TechBuy.

The CIO has final authority on all TTU IT-related issues, including exceptions to existing IT policies.

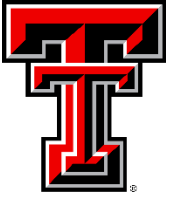
All procurements are subject to TTU Operating Policies and Procedures, including [OP 72.09](#), Procurement of Goods and Services.



The procurement of **Internet/computing services and networking equipment/supplies** is subject to review and approval by the CIO. To expedite the procurement process, departments should contact the TTU Office of the CIO and the Procurement Services Office early in the decision-making process, prior to submitting procurement documents.

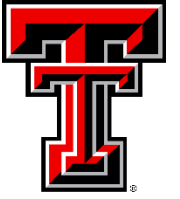
The procurement of telecommunications equipment and services will be in accordance with Operating Policy 52.03, Obtaining Telecommunications Services.

All procurements are subject to TTU Operating Policies and Procedures, including OP 72.09, Procurement of Goods and Services.



All **e-Commerce** solutions are required to use institutional payment gateways and are subject to review and approval by the TTU CIO, per Operating Policy 62.06, Payment Card Processing by TTU/TTUS departments.

Any exceptions must be approved by the TTU Office of the CIO.



- All electronic and information resources must comply with the accessibility requirements outlined in Operating Policy 52.05, Electronic and Information Resources Accessibility.
- Electronic and information resources include information technology and any equipment or interconnected systems or subsystem of equipment that are used in the creation, conversion, duplication, or delivery of data or information.



TTU and TTU System departments, employees, and contractors must take reasonable and necessary steps to ensure privacy of student education records, personally identifiable information (PII), and other confidential or sensitive information.

For information regarding information privacy and confidentiality, see [Operating Policy 70.40](#), Information Privacy and Confidentiality Statements.



Anyone who has access to private or personally identifiable information concerning university faculty, staff, students, affiliates, or others, including donors or vendors, or who has access to any information made confidential by TTU/TTU System policies or law (including, but not limited to the Family Educational Rights and Privacy Act of 1974 and the Gramm-Leach Bliley Act of 1999) will take reasonable and necessary steps to ensure privacy of such information.

“Private and personally identifiable information” includes, but is not limited to, social security numbers, birth dates, driver license numbers, unpublished home addresses or phone numbers, personal account numbers, computer passwords and accounts, protected health information (e.g., patient records and information), and financial information.

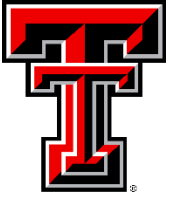
Contracts





A contract is a legally binding written agreement executed between TTU or TTU System and a third party in which the parties agree to perform in accordance with the obligations therein.

Contract formats include, but are not limited to: letters of agreement, cooperative agreements, memorandum(a) of understanding (MOU), interagency contracts, interlocal contracts, easements, licenses, leases, and purchase orders. *Regents' Rules Chapter 07.*



A **contractor** is an individual or legal entity that has a contract to provide goods or services to TTU or TTUS.

A contractor includes, but is not limited to federal, state, and local agencies, nonprofit organizations, private businesses, corporations, partnerships, and individuals.

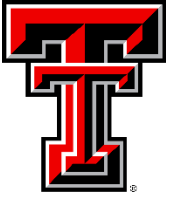
The term contractor may be used interchangeably with the term vendor.



No person has the authority to commit TTU or TTUS for any purpose (i.e., enter into contracts) except as authorized in Section 07.12, *Regents' Rules*. Authority is granted by *Regents' Rules* to the Chancellor and President.

Departments, in general, **do not have authority to execute a contract**. Signature authority applies to execution of all contracts for the initial periods, and for amendments, or extensions of those contracts.

A contract may also require Board of Regents approval. For the purpose of determining whether a contract requires approval of the board, any option(s) to extend or renew a contract shall be counted in the overall term of the contract.



The responsibilities of the Contract Administration Office within Procurement Services include:

- verifying all contracts are compliant with Texas state and federal laws;
- ensuring that all contracts are reviewed and signed by the appropriate personnel;
- performing a risk analysis on contracts;
- serving as the repository for TTU and TTUS contracts processed by Procurement Services;
- verifying the contractor is eligible to contract with TTU and TTUS;
- verifying that bonds and insurance are provided by the contractor; and
- ensuring departments have sufficient funding to meet the obligations of the contract.



End of Training

Contract Procurement Services for questions or comments relating to this training.

contracting@ttu.edu