

THE UNIVERSITY OF TEXAS AT TYLER
PURCHASING POLICY AND PROCEDURE MANUAL

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THE UNIVERSITY OF TEXAS AT TYLER PURCHASING POLICY AND PROCEDURE MANUAL

Overview

The purpose of this manual is to provide the guidelines for all purchases made by the University as required by The Regent's Rules, Rule: 20901. Purchases are to be made in compliance with the appropriate laws, rules and regulations and follow sound business practices.

Compliance with Laws, Rules and Regulations

All University of Texas at Tyler (University) personnel involved in purchasing are expected to follow proper purchasing procedures including but not limited to laws, rules and regulations of the State of Texas, Texas Procurement and Support Services (TPASS), the Department of Information Resources (DIR), and The University of Texas System.

The basic sources of these laws, rules and regulations are found in the Government Code, Chapters 2151 through 2158; the Education Code, Chapter 51 and Chapter 54; the General Appropriations Act; the Texas Administrative Code, Title I, Part 5; The State of Texas Procurement Manual; The University of Texas System Regent's Rules, Rule 20901, and The University of Texas System Policy 159.

Ethics Standards

1. Conflicts of Interests: Officers, faculty, and employees (collectively "employees") of the U.T. System may not have a direct or indirect interest, financial or otherwise, that is in conflict with the proper discharge of their duties. Potential conflicts of interest must be disclosed.
2. Adherence to Law: Employees shall adhere to applicable laws, rules, regulations, and policies of governmental and institutional authorities. The failure to do so will be grounds for disciplinary action, up to and including termination of employment.
3. Gifts: No employee shall accept or solicit any gift, favor, service, or loan that might reasonably appear to influence the employee in the discharge of duties.
Note: Making or receiving gifts, including honoraria, may constitute a criminal offense under certain circumstances.
4. Confidential Information: No employee shall disclose confidential information or use such information for his or her personal benefit.
5. Self-Dealing: No employee shall transact any business in an official capacity with any business entity of which the employee is an officer, agent, or member, or in which the employee owns a substantial interest.
6. Personal Investments: No employee shall make personal investments that could reasonably be expected to create a conflict between the employee's private interest and the public interest.

*(UT System Office of General Council)

Purchasing Department Organization and Objectives

1. Organization – Purchasing at the University is semi-decentralized. The Central Purchasing Department at the University is organized to serve all departments of the University.
2. Objectives - Its primary objective is to procure goods and services required by the University at the specified quality and quantity levels consistent with best value principles, to enable the University to achieve its scheduled goals. The Purchasing Department is under the supervision of the Purchasing Manager, who is accountable to the Director of Financial Services and Vice President for Business Affairs.

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3. Authority to Obligate Funds - Authority to obligate institutional funds for purchases of supplies, materials, services, and equipment is granted to the Purchasing Manager and Buyers by the President pursuant to authority granted in accordance with Series 10501, Number 2, Section 6 of the Regents' *Rules*. *UTS 159* of The University of Texas System *Administrative Rules* authorizes the Purchasing Manager to promulgate procedures to facilitate and expedite the purchasing function. To expedite purchasing functions, certain Department Budget Authorities are authorized to perform small purchase order functions. With this authorization comes the responsibility for Department Budget Authorities to comply with Regents' *Rules*, all established University of Texas at Tyler purchasing policies, University of Texas System employee ethics and standards of conduct, established program procedures, and any other requirements as determined by the Purchasing Manager. Procedural and policy violations may result in removal of privileges at the discretion of the Vice President for Business Affairs.

Purchasing Responsibilities

The Purchasing Department is charged with the following general responsibilities:

1. Reviewing departmental requisitions for accuracy and completeness of specifications and determining the proper procurement procedure in view of the funds to be distributed.
2. Processing of Term Contract, TXMAS, and DIR purchase orders.
3. Process official solicitations and issue resulting purchase orders.
4. Maintaining an accurate file of all procurement transactions and related correspondence.
5. Developing and maintaining accurate and up-to-date information on sources of materials, services and equipment in the form of catalogs, price lists, etc.
6. Maintaining liaison with TPASS to ensure the most expeditious handling of University orders placed by TPASS and informing all University departments of deadlines set by TPASS.
7. Interviewing suppliers' representatives who call at the University and conducting correspondence with suppliers on all matters related to procurement.
8. Assisting University departments which have been delegated small purchase order authority up to \$15,000 to make independent purchases.

Release Authority

No staff member of the Purchasing Department may release a purchase order to a vendor either verbally or in writing which exceeds his/her release authority until such order is reviewed and approved by personnel who have authority at that level of commitment. Each order submitted for review must be accompanied by the following documentation:

- ▶ Copy of Purchase Order
- ▶ Change Order(s), if applicable
- ▶ Electronic Requisition or request/authorization memorandum
- ▶ Confirming quotation or written Bid/RFP (including clarifications and revised bids/proposals)
- ▶ Award Recommendation, if applicable
- ▶ Bid Tabulation and Justification for Method of Purchase
- ▶ Appropriate Justification (e.g., best value, sole-source), if applicable
- ▶ Department (User) Review/Approval Letter or Evaluation Forms, if applicable
- ▶ Other Than Low Bid Justification – Approval Memo, if applicable
- ▶ Bidders list, if applicable
- ▶ Copy of all Submitted Quotations, Written Bids, or Proposals if applicable
- ▶ HUB Subcontracting Plan if applicable (Orders of \$100,000 or more)
- ▶ TIBH Justification, if applicable
- ▶ Miscellaneous Correspondence
- ▶ Contract Administration Documentation, if applicable

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Transactions with Employees

As set forth in UT System Policy 159, "Purchase from, or sale to, any employee of System Administration or an institution of any supplies, materials, services, equipment, or property must have the prior approval of the chief administrative officer. Any such purchases shall be made only if the cost is less than from any other known source. This Section does not apply to sales or purchases made at public auction."

Best Value Procurement Procedures

General

- a. This procedure is issued to establish effective guidelines for the procurement of supplies, equipment and services consistent with best value principles, applicable laws and regulations, and best industry practices. This procedure is to be used by all personnel involved in the procurement process.
- b. "Best Value" means 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 UT Tyler.

Procedures

Personnel authorized to make procurements on behalf of UT Tyler shall determine in his/her best judgment the most appropriate and effective method of acquisition for each assigned requisition or request for purchase. In making this determination, authorized personnel will have a variety of procurement options, including, but not limited to: state contracts, group purchasing contracts, open market procurements, DIR contracts, and UT System contracts. The buyer's objective is to acquire the good or service meeting the needs of the end user while ensuring that the procurement achieves: (1) "best value" as defined above and authorized in Section 51.9335, *Education Code*; (2) compliance with the Regents' *Rules and Regulations*; (3) compliance with UT System Administrative Policies; (4) compliance with UT Tyler's HUB policies; (5) conformance to standards of ethical conduct; and (6) compliance with all applicable laws, rules and regulations.

In determining what is the best value to an institution of higher education, UT Tyler shall consider:

- (1) the purchase price;
- (2) the reputation of the vendor and of the vendor's goods or services;
- (3) the quality of the vendor's goods or services;
- (4) the 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 and to the procurement of goods and services from persons with disabilities;
- (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.

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Small Purchase Orders

The following procedures are for the purchase of goods and/or services costing \$15,000 or less, including freight. This procedure excludes purchases utilizing the State of Texas Purchasing Card (the “ProCard”), reimbursements, and non-purchase order payments.

- a. Department Budget Authorities may be authorized for small purchase order privileges in an amount not to exceed \$15,000 as established by the Purchasing Manager with UT System Regents’ *Rules*.
- b. Originating department shall contact the vendor to determine if the purchase may be made with the Procurement Card. If not, then proceed as follows.
- c. Originating department shall obtain source of detailed pricing (i.e. fax or e-mail from vendor, copy of Web site, catalog page, etc) to support audit requirements. For repairs, parts must be itemized separately from labor. Firm pricing must be secured from the source of purchase before placing a small purchase order.
- d. Originating department shall create an electronic purchase requisition (PBO) in POINT Plus (web-based program) based upon above pricing confirmation.
- e. Prior to placing the order for goods or services, each small purchase order (PBO) shall be electronically approved by a Department Budget Authority for his or her account. Department Budget Authorities must verify that sufficient funds are available to obligate the University for the small purchase. Department Budget Authorities may be subject to disciplinary action when funds are not available for the purchase. A Department Budget Authority’s designee/backup may electronically approve a small purchase order in his or her absence.
- f. When the electronic purchase order has been final approved, the Purchase Order number shall be given to the vendor to place the order. If the vendor requires a written order, click “Print Vendor Copy”, print the purchase order and fax or email the vendor. NOTE: A PURCHASE ORDER NUMBER *MUST* BE OBTAINED BEFORE A PURCHASE IS MADE.
- g. The Purchasing Manager’s signature will be electronically affixed to each printed small purchase order.
- h. Intentionally dividing large purchases into two or more small purchase orders in order to circumvent the program limit, established in accordance with Regents’ *Rules*, Series 10501 is prohibited. Such action will constitute a violation of this policy.

PROCUREMENT REQUIREMENT MATRIX

All Accounts	Bid Requirement
\$0 - \$15,000	Bids Not Required
\$15,001 or greater	UT Tyler Purchasing Solicits Written Quotes, Bids or Proposals
Goods and Services on State Contract or GPO (Group Purchasing Organization) No Dollar Limit	Contact Purchasing purchasing@uttyler.edu

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Exceptions to Requirement for a Purchase Orders:

Except for credit card purchases and those purchases listed below, a **PURCHASE ORDER OR A PURCHASE ORDER NUMBER MUST BE OBTAINED BEFORE A PURCHASE IS MADE.**

- i. Items or services required to be provided by other University departments. (Processed on IDT or VP2)
- ii. Membership dues (Processed on VP2)
- iii. Conference registration fees. (Processed on VP2 or VP5)
- iv. Reimbursements to employees. (Processed on VP2, VP5, or VPE)
- v. Purchases from University employees. (Processed on VP2)
- vi. Department Petty Cash funds. (Processed on VP2)
- vii. Business/Entertainment expense items. (Processed on VPE)
- viii. Dry cleaning services. (Processed on VP2)
- ix. Miscellaneous fees, i.e. assessments, accreditations, royalties, copyrights, immigration services and others as approved by the Purchasing Department. (Processed on VP2)
- x. Grant Pass-Through payments (Processed on VP2 or VP3)
- xi. Grant research participants payments - no service performed (Processed on VP2 or VP3).
- xii. Direct Billed Hotels (Processed on VP6)
- xiii. Direct Billed Vehicle Rentals (Processed on VP6)
- ix. Mail Room Only - U.S. Mail and various freight services (Processed on VP2)
- x. Direct Billed telephone land-lines or facsimile lines (VP2)
- xi. Physical Plant Only – Utilities (VP2)
- xii. Financial Aid Scholarships (VP2)

Federal Funds:

All procurements of supplies, equipment and services utilizing Federal Funds (e.g., Federal Grant or Contract) shall be made in accordance with all applicable federal rules and regulations such as the Federal Acquisition Regulations (FAR), Federal Office of Management and Budget (OMB) Circular A-102, and OMB Circular A110.

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Open Market Procurements:

(1) **Solicitation:** The following procedures outline minimum solicitation requirements for those orders processed on the open market (e.g., via RFQ, IFB, RFP, etc.); however, such minimum requirements do not negate the buyer's obligation to ensure that a competitive procurement occurs and best value is attained. Thus, it shall be the buyer's responsibility to determine the appropriate number of competitive suppliers from whom to solicit offers with consideration given to maximizing HUB participation and contract awards. The following dollar threshold and minimum solicitation requirements apply to both local and state funds:

- i. Purchases of **\$15,000 or less**, *including freight*, may be placed without competitive bids. The State of Texas Purchasing Card (the "ProCard") is a payment alternative when placing small orders.
- ii. Purchases **over \$15,000** shall require formal written bids, proposals or offers in response to a written solicitation issued by the Purchasing Office. At least two (2) bids, proposals or offers must be obtained from HUBs (a woman or minority-owned company). The Purchasing Office will approve exceptions to these procedures only when circumstances warrant. Exceptions will be documented.

(2) **Purchase Requisitions for Open Market Procurements:** shall be prepared on electronic documents (PB4). The department head or account Budget Authority must approve the Purchase Requisition document which electronically routes to the Purchasing Office for processing.

(3) **Purchase Orders:** Purchase orders are a result of electronic purchase requisition documents entered into PeopleSoft. Departments who have access to PeopleSoft may track their purchase orders online by requisition number or purchase order number.

Sole-Source or Proprietary Purchases: If the purchase of a good or service **exceeds \$15,000** and an equivalent good or service specified is not available or is limited to one (1) manufacturer good or service provider, then a written justification documenting sole-source or proprietary purchase must be provided to the Purchasing Office and include the following information:

- ▶ An explanation of the need for the specified goods or services (part or parts of the stated specification which restrict the purchase to one good, manufacturer or provider).
- ▶ The reason similar competing goods or services are not satisfactory.
- ▶ Any other relevant information available to document the sole-source or proprietary nature of the purchase.

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, property or to avoid undue additional cost to the state.

Notwithstanding the immediate nature of an emergency all procurements conducted as emergencies should be made as competitive as possible under the circumstances. If an emergency exists a written determination of the basis for the emergency and for the selection of a particular vendor shall be included in the procurement file in accordance with this section. Emergency purchases of goods or services should not exceed the scope or duration of the emergency.

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When the purchase of a good or service has been justified and needs to be processed on an emergency basis a written justification must be provided and include the following information:

- ▶ The reason for the emergency purchase by explaining what the emergency is and/or what caused the emergency situation.
- ▶ The financial or operational damage/risk that will occur if needs are not satisfied immediately.
- ▶ Why the needs were not or could not be anticipated so that goods/services could not have been purchased following standard procedures.
- ▶ The reason and process used for selecting the vendor.

Independent Contractors:

In general, procedures for small orders (\$15,000 or less) and orders in excess of \$15,000 apply when acquiring services from a sole-proprietorship or an individual. The Purchasing Office will approve exceptions to these procedures only when circumstances warrant. Exceptions will be documented.

Recycled/Remanufactured Goods:

Whenever possible, procurement staff shall specify recycled/remanufactured goods, or their use.

Purchases from People with Disabilities (TIBH):

UT Tyler departments purchasing goods or services available from TIBH from a non-TIBH source, must document the reason why TIBH goods or services were unacceptable. Such reasons may be TIBH product or service does not meet reasonable requirements of department, TIBH cannot meet requirements and fill order, quantity, quality, delivery time, and life cycle costs.

TIBH goods and services can be accessed via their website, <http://www.TIBH.org>.

TPASS State Term Contract and Texas Multiple Award Schedule (TXMAS) Purchases:

Departments are encouraged to procure items from State of Texas Term contracts and TXMAS contracts. The Purchasing Department will review all requests to determine if the requested item(s) are listed under a TPASS Term Contract or TXMAS contract. Current Term Contracts and TXMAS contracts are available for viewing on the internet at:

<http://www.window.state.tx.us/procurement/>

under "Statewide Contracts, Term Contracts" and "Programs, Texas Multiple Award Schedule (TXMAS)" respectively.

Automated term contract orders are generated by the TPASS's system when the necessary information is entered via TxSmartBuy. A purchase order will be issued by TPASS and a copy sent to the vendor and the University. The originating department will review the purchase order for completeness and accuracy and notify the Purchasing Department of any errors. If applicable, the Purchasing Department will notify TxSmartBuy. Note: The University is responsible for errors.

Non-Automated and TXMAS contract orders

Non-automated term contract and TXMAS contract orders are processed using UT Tyler PeopleSoft purchase requisitions. Originating department and/or Purchasing department will refer to the specific TPASS term contract to determine whether the contract is

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automated or non-automated. The Purchasing department submits non-automated purchase orders directly to the vendor, with UT Tyler's purchase order number. A copy of the purchase order must be forwarded to TPASS Procurement Services Division to update purchase history files.

Trade-in of old equipment cannot be applied when purchasing any new equipment on State of Texas Term Contracts.

Department of Information Resources (DIR)

The University will use a Best Value determination when soliciting for and purchasing automated information system goods and services which includes use of DIR contracts for IT commodity products or services.

Preferences:

As an agency of the State of Texas and as a public institution of higher education the University has a responsibility to support matters of public policy. Accordingly, when possible, buyers should give consideration in their award decisions to goods that are: (i) supplies, materials, equipment, or services produced in Texas/offered by Texas bidders; (ii) agricultural products produced or grown in Texas; (iii) agricultural products and services offered by Texas bidders; (iv) USA produced supplies, material or equipment; (v) products of persons with mental or physical disabilities; (vi) products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel; (vii) energy efficient products; (viii) rubberized asphalt paving material; (ix) recycled motor oil and lubricants; (x) products produced at facilities located on formerly contaminated property; and/or (xi) products and services from economically depressed or blighted areas.

Other Procurement Methods

Interagency Contracts:

When one agency of the State requires the services and/or supplies of another agency, an interagency contract must be initiated. The Contract Administration Office will assist in the preparation of the contract. The originating department must process a purchase order to facilitate the encumbrance of funds and payment for such goods and services.

Leases and Rentals:

Lease agreements for space must be processed in accordance with the UT System Administration Policy Library -- Policy UTS126 "Processing of Space Lease Agreements". Originating department must contact the Contract Administration office for assistance.

Rental agreements must be processed by the Contract Administration office. Purchase order limits and Best Value procedures apply.

Acquisition of Surplus Property:

Federal and State Surplus Property

The Federal and State surplus property programs are administered by the Texas Facilities Commission (TFC) as set forth in Texas Government Code, Title 10, Subtitle D, Chapter 2175. Each program has its own law, rules, and procedures.

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Federal:

State agencies, political subdivisions, and certain nonprofit organizations are eligible to receive federal surplus property through TFC. Participating groups must be approved by TFC as eligible according to federal regulations to receive donated property.

The federal surplus property program operates on a cost recovery basis; it is not funded by the legislature. Participants pay a handling fee, which is a fraction of the original acquisition cost, to obtain property through the program.

Federal surplus property is distributed through two districts in Texas. The North District is located in Fort Worth and the South District is located in San Antonio. Each regional office operates a warehouse where surplus property is collected, sorted, and stored prior to distribution. Participating organizations can send authorized representatives to either warehouse to inspect and obtain property. Opportunities also exist for participating agencies to pick up property at government locations that may be located at a site more closely to them than a district warehouse. TFC publishes a complete inventory of federal property on its website at: <http://portal.tfc.state.tx.us/surplus/federal/>.

State:

State agencies that have surplus property are required to list it on the Comptroller of Public Accounts website for 10 business days. During that time only eligible entities, including other state agencies, political subdivisions, and approved assistance organizations can obtain the property.

A list of available surplus property and state agency contacts is available on the Internet at the following address: <http://www.texasahead.org/lga/surplus/>. The list is updated nightly.

During the 10-day period, the agency that owns the property determines the price, if any, for each item. State agencies have priority over all other eligible entities during the 10-day period. If no state agency requests the property, the first political subdivision or assistance organization that commits to the price is entitled to the property. State agencies and political subdivisions automatically qualify to receive surplus property.

Trade-Ins:

The University may trade-in equipment that it owns for new property 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 under applicable state law or CPA's surplus property program. Furthermore, trade-ins are not allowed on CPA term contracts or scheduled purchase items.

Before making any trade-in an agency should document the age, condition, make, model and serial number (if applicable) of the used equipment and estimate its approximate value. If the state could reasonably realize greater cost savings by declaring the equipment as surplus or salvage, the equipment should be disposed of under applicable state law or CPA's surplus property program.

However, if an agency determines that a trade-in offers the best value to the state, an agency shall in addition to the above requirements include in the solicitation document the following:

- Less trade-in at state's option: to be picked up by the successful bidder where is, "as is" as per agency terms and conditions. Provide a deadline in terms of the number of days for the vendor to remove the used equipment; and
- Each type of trade-in allowance must be shown on the solicitation document as an individual line item;

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- Used equipment will not be released to the vendor on a trade-in until the purchased equipment is received unless the ordering entity receives a bond, letter of credit or similar instrument as collateral.

If not used as a trade-in, the equipment must be disposed of as surplus or salvage property. Since the ordering entity may profit more from the sale of old equipment as surplus property than as a trade-in, the estimate of the equipment's value is extremely important. Surplus rules require competitive bidding in the disposition of surplus property, which cannot be accomplished against contract purchases.

Note: TPASS does not recommend that used equipment be released to the vendor on a trade-in until the purchased equipment is received unless the ordering entity receives a bond, letter of credit, etc. as collateral. If a lease has a trade-in feature, it is highly recommended that the trade-in value be applied to the first six (6) months of the lease.

Used Equipment:

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

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

Purchases of used and demonstrator equipment are to be processed as follows:
The ordering entity must:

1. obtain a minimum of three (3) signed bids which have been properly prepared whenever possible;
2. if only one bid is received, prepare a statement explaining why no competition exists;
3. provide a letter or signed statement from the bidder(s) guaranteeing quality and condition of the merchandise offered;
4. provide a letter from an authorized person connected with the ordering entity that:
 - a. states that the equipment or supplies have been personally examined, and
 - b. describes the condition and value of the equipment or supplies;

Blanket Open Market Orders:

If an ordering entity is going to have a repetitive need for a product or service on an "as-required" basis, a blanket order should be considered. This can avoid the need to carry large inventories of the item or the expense of frequent open market purchasing. When establishing the blanket order include the following information along with a statement noting all deliveries will be ordered on an "as required" basis and none of the quantities are guaranteed:

- The beginning and ending time period for the blanket order; and
- The estimated quantity.

Standing Open Market Orders:

If an ordering entity has repetitive needs for a product and it can determine the quantity and the time the delivery is required, a standing order may be appropriate. Although this is similar to a blanket open market order, the products are not shipped on an as needed basis, but on predetermined schedule. The quantities are guaranteed because you have already committed to the shipments.

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Requests for Proposals

A Request For Proposal (RFP) is a written request for proposals concerning goods or services the University intends to acquire when factors other than price will be considered in determining awarded vendor. This procedure is similar to the open market procurement process; however, instead of sealed competitive bids, a negotiation phase is included and a best and final offer is permitted. The RFP specifications and evaluation criteria must be approved by the Purchasing Department. If you believe that this is the appropriate procedure to follow for your procurement, please contact the Purchasing Department.

Taxes

1. **State Sales Tax** - The University is exempt from State sales tax under Texas Tax Code, Section 151.309(4) for purchase of tangible personal property for the exclusive use of the State of Texas. The Office of Financial Services and the Purchasing Department have Sales Tax Exemption Certificates if such a need arises.
2. **Federal Excise Tax** - The University is also exempt from the Federal Excise Tax.
3. The University will approve payment of taxes when:
 - a. The tax for motor fuel is the **Texas Motor Fuel tax**. The State of Texas is not exempt from payment of this tax.
 - b. A State employee on travel status is required to use personal funds for the purchase of gasoline.
 - c. Dining in a restaurant, and for catering (pick-up and delivery).

Exceptions

All solicitations of goods or services shall be processed in accordance with applicable policies and procedures. Any exception to stated procedures must be requested in writing and approved by the Purchasing Manager.

Exceptions to general procurement requirements:

(The exception must be noted in the electronic purchase or payment document).

- Public Utilities - Texas Government Code Sec. 2155.001.
- Professional Services - Texas Government Code Sec. 2155.
- Consulting Services - Texas Government Code Sec. 2155.
- Library Exemptions - Texas Government Code Sec. 2155.139(a)
- Gift or Grant Purchases - Texas Government Code Sec. 2155.140
- Purchases of goods or services for an auxiliary enterprise - Texas Government Code Sec. 2155.141.
- Construction - Texas Government Code Sec. 2166.04
- Interagency Agreement Contract - Texas Government Code Chapter 771

Consulting and Professional Service Contracts

Policy

It is the policy of The University of Texas at Tyler to comply with UT System Administration Policy UTS128 "Consulting Contracts Policy and Procedures Guide" and Texas Government Code Chapter 2254 for contracting all consulting services and professional service contracts.

Procedures shall be followed as outlined in the 2009 version of the Handbook of Operating procedures, Sections 4.6.205 (professional services) and 4.6.207 (consulting services).

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Procurement Related Vendor Issues

Vendor Protest Procedure

The University of Texas at Tyler shall comply with UT System Administration Policy UTS148 "Protest Procedures Related to Procurements of Goods and Services."

This policy has been implemented to comply with Section 2155.076 of the *Texas Government Code* requiring the development of protest procedures related to the procurement of goods and services.

In general, the Primary Procurement Officer

- Attempts to resolve and settle a protest concerning the solicitation or award of a contract.
- Issues a written determination regarding a protest if that protest is not resolved.
- Informs the protesting party and the using department by letter of the determination, reasons for the determination, and any remedial action.
- Retains all documents related to a protest filed with an institution in accordance with that institution's records retention policy.

The Chief Business Officer shall consider and issue a written decision regarding appeals of the primary procurement officer's written determination of a protest.

Dispute Resolution Procedure

To the extent that Chapter 2260, Texas Government Code, is applicable to a contract and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by The University of Texas at Tyler and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The Chief Business Officer of UT Tyler shall examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims.

Dispute Related to Damages or Shortages

All merchandise should be checked and accounted for as soon after receipt as possible. Many vendors have a 10-day notification deadline for filing a report. Keep all packing, crates, cartons, etc., with the merchandise until a thorough examination has been given the merchandise. Freight carriers require the original packing, carton, etc., if called upon to investigate a damage or loss claim. Contact the Central Receiving Department should a problem arise on a shipment.

Vendor Performance

Both exceptional and poor vendor performance should be documented. UT Tyler will document in writing any problems concerning a vendor's performance. UT Tyler will maintain all invoices, records, and relevant documentation explaining why the goods or services were not satisfactory and what corrective action is expected.

If a vendor fails to meet specifications the department originating the purchase shall promptly notify the vendor. Payment shall not be made until the matter is satisfactorily resolved. Assistance is available from the Purchasing Department staff.

THE UNIVERSITY OF TEXAS AT TYLER PURCHASING POLICY AND PROCEDURE MANUAL

UT Tyler shall notify a vendor of an error in an invoice submitted for payment by the vendor not later than the 21st day after the date the invoice is received. If the dispute is resolved in favor of the vendor, the vendor is entitled to receive interest on the unpaid balance of the invoice submitted by the vendor beginning on the date that the payment for the invoice is overdue. If a dispute is resolved in favor of UT Tyler, the vendor shall submit a corrected invoice that must be paid within 30 days of receipt.

References

Texas Education Code, Section 51.9335
Texas Government Code, various Sections
Regents' Rules and Regulations, various Sections
Institutional Handbook of Operating Procedures
Management Responsibility Handbook
OMB Circular A-102 and A-110