

UNIVERSITY RULE

25.99.02.M1 **Purchasing Procedures**

Approved August 7, 1997

Revised June 16, 2000

Revised January 7, 2002

Revised October 13, 2003

Revised May 26, 2009

Rule Statement

This rule is developed to provide structure and form to the procurement process for the university and to comply with Texas Education Code 51.9335 and Texas A&M System Regulation 25.99.02.

Reason for Rule

The Texas Education Code 51.9335 provides a general description of the requirements for the acquisition of goods and services by institutions of higher education and this rule provides guidelines to minimize risks associated with the procurement of goods and services and allows the university to carry out its fiduciary responsibilities.

Official Rule

1. OFFICIAL RULE

- 1.1 All purchases made using funds paid through University accounts must comply with these procedures. Purchases must be fully documented with all documents retained in accordance with the University's records retention schedule.

Classification of Purchases Authorities

There are three types of purchasing authorities:

- (1) purchases processed directly through and by Procurement Services;
- (2) purchases delegated to specific departments, e.g., food and construction items; and
- (3) purchases delegated to University departments with a stated dollar amount of \$5,000 or less.

Purchases requiring a written contract, other than the University standard purchase order, must be in compliance with the provisions of [System Policy 25.07: Contract Administration](#), and [System Regulation 25.07.01: Contract Administration Procedures and Delegation](#). In this case, Procurement Services may assist in initiating contract reviews through the Department of Contract Administration, if appropriate.

1.2 Purchases Over \$5,000

Unless specifically exempted (see Section 5), procurement methods for purchases over \$5,000 must include: competitive bidding; competitive sealed proposals; catalogue purchase procedures; group purchasing; and alternate methods relevant to specific application of goods or services purchased.

- 1.3 All purchases shall be based on a “best value” and shall consider: list purchase price; reputation of the vendor and of the vendor’s goods or services; quality of the vendor’s goods or services; extent to which the goods or services meet the University’s needs; the vendor’s past performance with the University; impact on the ability of the University to comply with laws and rules relating to Historically Underutilized Businesses (HUBs) and to the procurement of goods and services from persons with disabilities; total long-term cost to the University of acquiring vendor’s goods and services; use of material in construction or repair to real property that is not proprietary to a single vendor unless the University provides a written justification in the request for bids of the unique material specified; and any other relevant factor that a private business entity would consider in selecting a vendor.

2. PURCHASE OF GOODS OR COMMODITIES

2.1 Purchases of \$5,000 or Less

Departments are encouraged to obtain multiple bids whenever possible. Procurement Services has delegated authority to departments to make purchases of goods and commodities without competitive bid for \$5,000 or less (including freight and/or postage).

- 2.1.1 All employees making purchases under delegated purchasing authority shall adhere to the Texas A&M University System Ethics Policy 07.01.
- 2.1.2 Purchases of \$5,000 or less require proper documentation on the Limited Purchases screens in the Purchasing Module or as provided in the University Guidelines for procurement card purchases.
- 2.1.3 Purchases may not be separated into smaller dollar purchases in order to remain within the authorized dollar limit.
- 2.1.4 In the event a purchase or series of purchases (that appropriately should have been combined into a single purchase) are made exceeding the \$5,000 delegated authority, the department shall submit a non-compliant confirming requisition. In addition, a letter from the department head explaining the

circumstances surrounding the non-compliant purchase and actions to be taken to avoid a reoccurrence shall be addressed to the Executive Director of Procurement Services. The Executive Director has the authority to approve non-compliant payments to vendors that do not exceed \$250,000. All non-compliant payment requests greater than \$250,000 must be reviewed and approved by the Vice President for Finance and Chief Financial Officer or designee.

Any employee responsible for multiple non-compliant purchases will be required to attend purchasing training as presented by Procurement Services. Additional disciplining action may be taken in accordance with [University Rule 32.02.02.M1, Discipline and Dismissal Procedures for Employees Other than Faculty.](#)

2.1.5 Departments shall provide equal opportunity and access to all vendors for the purchase of goods and commodities. The Procurement Services will assist in identifying HUBs for such purchases. Information on HUBs may be found at <http://purchasing.tamu.edu/>.

2.1.6 Departments shall purchase goods, whenever possible, from persons with disabilities (Texas Industries for the Blind and Handicapped (TIBH). The Department of Procurement Services will provide a list of TIBH contracts. TIBH contracts may be viewed at the following website: <http://www.tibh.org/catalog/index.php>

2.1.7 The State of Texas has awarded contracts that are available for use by all state agencies and institutions of higher education. Information, regarding what types of goods or commodities are available on state contracts, may be found at the following website: <http://purchasing.tamu.edu>. Departments are highly encouraged to review and utilize the state contracts whenever possible. Procurement Services administers many University and system-wide blanket-pricing contracts. For a detailed description of the available University contracts, visit the following website: <http://purchasing.tamu.edu/ssps/supmall/index.asp>.

2.2 All purchases in excess of the authorized departmental purchase limit shall be submitted as a requisition to Procurement Services. Upon receipt of the purchase requisition, the Procurement Services will determine the appropriate method of procurement and process accordingly.

3. PURCHASE OF SERVICES

3.1 Purchase of services is defined as the furnishing of skilled or unskilled labor or professional work, but does not include: (1) professional services as defined by Subchapter A, Chapter 2254, Texas Government Code; (2) service of a state agency employee; (3) consulting service as defined by Subchapter B, Chapter 2254, Texas Government Code; or (4) service of a public utility.

- 3.1.1 Requisitions must be submitted for the purchase of services and the award issued before the service begins.
- 3.1.2 If the service can only be provided by a sole source provider, the requisitioner must indicate on the requisition that the desired purchase is a sole source purchase and complete the online justification provided in the FAMIS purchasing module.
- 3.2 If a service will be required and rendered throughout the fiscal year, with an estimated cumulative value that exceeds \$5,000, a requisition must be forwarded to Procurement Services ([University Rule 25.07.99.M2, President's Delegation of Authority](#)).

4. EMERGENCY PURCHASES

- 4.1 An emergency purchase is defined as a purchase of goods or services that if not secured immediately, the University will suffer financial or operational damage. In the case of an emergency, departments must notify Procurement Services immediately. If the emergency happens after normal business hours, the department shall notify Procurement Services on the next business workday.
 - 4.1.1 A written emergency justification is required.
 - 4.1.2 Three informal bids must be obtained except when securing bids would significantly impede the process of completing the purchase.

5. PURCHASE OF SPECIFIC GOODS OR SERVICES

- 5.1 Computer Software
All software with a cost in excess of \$5,000 is classified as capital equipment and must be inventoried. All purchase requisitions over \$5,000 for software shall be sent to Procurement Services for processing. Software with a cost not exceeding \$5,000 and requiring the execution of a third party contractor license must be submitted to the Department of Contract Administration prior to any commitment for the purchase of the software. Department heads are authorized to purchase software costing \$5,000 or less when no contract is required, such as off-the-shelf and shrink-wrapped software.
- 5.2 Rental of Machines and Equipment Rental of machines and equipment that do not include an operator are considered goods and rentals that include an operator provided by the supplier are considered services.

All rentals in excess of \$5,000 must be processed through Procurement Services prior to the date of required use. For rentals with an estimated value less than \$5,000, the department may purchase the services using their delegated authority though all contracts must be routed through the Department of Contract Administration prior to execution.

- 5.3 **Printing Services**
The purchase of printing services shall be processed by Procurement Services regardless of source of funds or dollar amount of the requisition. (This provision does not apply to TAMU-Galveston or TAMU-Qatar.)
- 5.4 **Use of Private Consultant**
Consulting services of \$5,000 or less may be processed through Financial Management Operations utilizing the Limited Order screens in the Purchasing Module. Consulting services in excess of delegated authority shall be requisitioned through Procurement Services. Consulting services requisitions will be processed in accordance with [System Regulation 25.99.03: Contracting for External Consultants and Professional Services](#).
- 5.5 **Lease of Space**
All lease-of-space requests for the University, regardless of the amount, must be submitted to Procurement Services for processing. Requests must include a purchase requisition and specific lease information (required lease information to be included in the requisition may be found at the following website: <http://purchasing.tamu.edu>).
- 5.6 **Lease/Purchase or Installment Payment Purchase**
Requests for all lease-purchases or installment payment purchases, regardless of the amount, shall be submitted to Procurement Services for processing.
- 5.7 **Exempt Purchases**
The following services are exempt from competitive bidding requirements and may be purchased by departments regardless of dollar amount:
- 5.7.1 **Classified Advertising**: expenses such as newspaper, 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)
- 5.7.2 **Conference Expense**: expenses related to conference room services such as audio/visual/network and food services (does not include goods purchased for attendees or transportation services)
- 5.7.3 **Hotels and Conference Rooms**: expenses related to the rental of hotel rooms and conference rooms (does not include hotel rooms for programs and conferences that are regularly scheduled throughout the year, for example, a department that hosts seminars/workshops throughout the year and is responsible for making lodging accommodations for the participants is not exempt if the projected costs of the rooms exceed \$5,000) (See [University Rule 25.07.99.M1: Contract Administration, Section 1.4](#))
- 5.7.4 **Moving Expenses**: (employee) institutional funds only
- 5.7.5 **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 with an estimated value that exceeds \$5,000) (See [University Rule 25.07.99.M2: President's Delegation of Authority for Contract Administration](#))

- 5.7.6 Student Travel: expenses related to student travel with the exception of air and bus charter
- 5.7.7 Library materials: specific for Texas A&M University Libraries
- 5.7.8 Legislative information services: bill analysis services
- 5.7.9 Membership fees and dues
- 5.7.10 Newspaper and magazine subscriptions direct from the publisher
- 5.7.11 Freight
- 5.7.12 Services provided by other State of Texas agencies, TAMUS components or by other local governments (Inter-agency and Inter-local agreements must be reviewed by the Department of Contract Administration)
- 5.7.13 Registration fees and associated books and materials
- 5.7.14 Rental of exhibit space (booths for display purposes)
- 5.7.15 Goods and services provided by the Texas Department of Criminal Justice
- 5.7.16 Goods and services provided by the Texas Industries for the Blind and Handicapped
- 5.7.17 Internal repairs
- 5.7.18 Purchases from Federal agencies
- 5.7.19 Utilities

6. PURCHASE OF EQUIPMENT WITH FEDERAL FUNDS

- 6.1 Where appropriate, an analysis of lease and purchase alternatives shall be made by Procurement Services to determine the most economical and practical procurement utilizing Federal funds in excess of \$5,000.
- 6.2 The University shall, on request, make available for the Federal awarding agency, pre-award review and procurement documents, such as request for proposals or invitation for bids, independent cost estimates, etc., when any of the following conditions apply:

- (1) A recipient's procurement procedures or operation fails to comply with the procurement standards in the Federal awarding agency's implementation of OMB's Circular A-110.
- (2) The procurement is expected to exceed the small purchase threshold fixed at 41 U.S.C. 403 (11) (currently \$25,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.
- (3) The procurement, which is expected to exceed the small purchase threshold, specifies a "brand name" product.
- (4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.
- (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

6.3 All purchase order awards shall contain the following provisions as applicable:

1. Equal Employment Opportunity - All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c) - All contracts and subgrants in excess of \$2000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

3. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) - When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination.

The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) - Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. Rights to Inventions Made Under a Contract or Agreement - Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

6. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended - Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

8. Debarment and Suspension (E.O.s 12549 and 12689) - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

Related Statutes, Policies, or Requirements

Supplements [System Policy 23.02](#), [25.06](#), and [25.07](#) and [System Regulations 21.99.05](#), [23.02.01](#), [25.99.03](#) and [41.05.02](#)

Also supplements:

- Subchapter A, Chapter 2254, Texas Government Code
 - Subchapter B, Chapter 2254, Texas Government Code
 - OMB Circular A-110
 - 41 CFR part 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor
 - **Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)**
 - **Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)**
 - Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)
 - 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,"
 - **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.)**
 - Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)
 - **Debarment and Suspension (E.O.s 12549 and 12689)**
-

Contact Office

OFFICE OF RESPONSIBILITY: [Procurement Services](#), (979) 845-4570 ext. 246