

**In Accordance with University Purchasing Authority  
25.99.02**

**TEXAS A&M INTERNATIONAL UNIVERSITY**  
System Administrative Procedures for Purchasing Authority

**January 2002**  
Revised 09/2009

**TEXAS A&M INTERNATIONAL UNIVERSITY**  
**Standard Administrative Procedures for Purchasing Authority**

<b><u>Section</u></b>	<b><u>Page</u></b>
Component Purchasing Authority.....	3
University Purchasing Authority .....	5
Definitions .....	5
Advertising .....	10
Approval of Requisitions.....	10
Dollar Guideline for all Funding Accounts Thresholds .....	11
Bid Submission, Bid Opening, and Tabulation .....	11
Bid Evaluation and Award .....	13
Centralized Master Bidders List .....	15
Consultant and Professional Services .....	15
Competitive Sealed Proposals .....	16
Conference Registration Fees .....	16
Customized Products.....	16
Delegated Purchases.....	17
Exempt Purchases .....	19
Flowers, Floral Arrangements, and Plants .....	21
Group Purchasing Programs.....	21
Inspection and Order Cancellation.....	21
Institutional Memberships .....	21
“L” Limited Documents .....	22
Leases or Lease-Purchase Contracts.....	23
Nepotism Disclosure .....	24
Preferences.....	25

Procurement Cards.....	27
Proprietary Purchases.....	29
Requisitions .....	30
Review of Purchase Documents and Payment Vouchers.....	30
Specifications.....	30
Term Contracts .....	31
Trade-Ins.....	32
Qualification of Information Systems Vendors.....	32

**25.99.02 Component Purchasing Authority  
September 14, 2001**

**1. General**

The Texas A&M University System (System) was granted additional purchasing authority by the 77<sup>th</sup> Legislature. The System Procurement Code (Code) was developed to guide the purchasing activities of the System. The Code is hereby adopted and replaces the GSC Procurement Manual. The Code is located at <http://tamus.edu/offices/policy/Code.htm>.

**2. Requirements**

System components will follow the Code in all purchasing activities. Components will develop additional rules, processes and standard of authority, time lines, dollar amounts, etc.

**3. Good and Services**

System components may acquire goods and services by the method that provides the best value to the institution through:

- (a) competitive bidding;
- (b) competitive sealed proposals;
- (c) catalogue purchase;
- (d) group purchase; or
- (e) other methods relevant to specific types of purchases.

**4. Determining Value**

In determining what the best value is, the component shall consider:

- (a) the purchase price;
- (b) the reputation of the vendor and of the vendor's goods or services;
- (c) the quality of the vendor's goods or services;
- (d) the extent to which the goods or services meet the component's needs;
- (e) the vendor's past relationship with the component;
- (f) the impact on the ability of the component to comply with laws and rules relating historically underutilized businesses and to the procurement of goods and services from persons with disabilities;
- (g) the total long-term cost to the component of acquiring the vendor's goods or services;
- (h) the use of material in construction or repair to real property that is not proprietary to a single vendor unless the component provides a written justification in the request for bids for the use of the unique material specified; and
- (i) any relevant factor(s) that a private business entity would consider in selecting a vendor.

**5. Additional State Requirements**

Purchases shall comply with state statues relating to contracting with historically underutilized businesses and procurement of goods and services from persons with disabilities.

**6. Implementation**

The Chief Executive Officer (CEO) of the component is responsible for implementing the System Procurement Code. The CEO may delegate authority for the purchasing function in accordance with System Policy 25.07 Contract Administration.

\*\*\*\*\*

Contact Office: Vice Chancellor for Business Services

History: New Regulation

**TEXAS A&M INTERNATIONAL UNIVERSITY (TAMIU)  
STANDARD ADMINISTRATIVE PROCEDURE  
FOR PURCHASING AUTHORITY**

---

In accordance with

**25.99.02 University Purchasing Authority**

September 25, 2001

---

**General**

- A. Each component of The Texas A&M University System (TAMUS) shall establish or contract with a Central Procurement Office (CPO) that is responsible for purchases of supplies, materials, services, and equipment.
- B. Whenever possible, purchases shall be based on competitive bids and in accordance with the best value decision process. Negotiation of contracts is allowed in the following circumstances:
  - (1) emergency purchases when there is insufficient time to solicit bids;
  - (2) proprietary purchases or purchases of items for which there is only one source of supply;
  - (3) purchases by means of competitive sealed proposals;
  - (4) proposed purchases in circumstances where competitive specifications have been advertised but the Central Procurement Office has received only one acceptable bid or no acceptable bids; provided, however, such negotiation may not result in a material change to the advertised specifications; and
  - (5) catalogue purchase procedures.
- C. The Central Procurement Office shall keep records of all purchases processed through the office.
- D. Purchase contracts shall be governed by and interpreted under the laws of the State of Texas.

**1. Definitions**

The following words and terms, when used in the TAMUS Procurement Code, shall have the following meanings, unless the context indicates otherwise.

- (1) Uniform standards and specifications - Specifications and standards developed by nationally recognized standards-making associations.

- (2) Approved products list - This list is also referred to as the “approved brands list” or “qualified products list.” It is a specification developed by the evaluation of brands and models of various manufacturers and listing those determined to meet the minimum level of quality. Testing is completed in advance of procurement to determine which products comply with the specifications and standards requirements.
- (3) Award - The act of accepting a bid, thereby forming a contract between the component and a bidder.
- (4) Best Value - 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 TAMUS.
- (5) Bid - An offer to contract with the component, submitted in response to a bid invitation issued by the Central Procurement Office.
- (6) Bid deposit - A deposit required of bidders to protect the component in the event a low bidder attempts to withdraw its bid or otherwise fails to enter into a contract with the component. Acceptable forms of bid deposits are limited to: cashier’s check, certified check, or irrevocable letter of credit issued by a financial institution subject to the laws of Texas and entered on the United States Department of the Treasury’s listing of approved sureties; a surety or blanket bond from a company chartered or authorized to do business in Texas.
- (7) Bid sample - A sample required to be furnished as part of a bid, for evaluating the quality of the product offered.
- (8) Bidder - An individual or entity that submits a bid. The term includes anyone acting on behalf of the individual or other entity that submits a bid, such as agent, employees, and representatives.
- (9) Blanket bond - A surety bond which provides assurance of a bidder’s performance on two or more contracts in lieu of separate bonds for each contract. The amount for a blanket bond shall be established by the component based on the bidder’s annual level of participation with the component.
- (10) Brand name - A trade name or product name which identifies a product as having been made by a particular manufacturer.
- (11) Centralized master bidders list (CMBL) - A list maintained by the Commission containing the names and addresses of prospective bidders and qualified information systems vendors.
- (12) Commission - The Texas Building and Procurement Commission (Commission).
- (13) Component - An agency, university or health science center within the Texas A&M University System.

- (14) Debarment - An exclusion from contracting or subcontracting with state agencies and TAMUS on the basis of any cause set forth in Texas Administrative Code 113.102 (relating to Vendor Performance and Debarment), commensurate with the seriousness of the offense, performance failure, or inadequacy to perform.
- (15) Director - the director of a Central Procurement Office for a component.
- (16) Distributor purchase - A purchase of repair parts for a unit of major equipment that are needed immediately or for maintenance contracts on laboratory/medical equipment.
- (17) Emergency purchase - A purchase of goods or services so badly needed that the component will suffer financial or operational damage unless the items are secured immediately.
- (18) Environmentally sensitive products - Products that protect or enhance the environment, or that damage the environment less than traditionally available products.
- (19) Equivalent product - A product that is comparable in performance and quality to the specified product.
- (20) Escalation clause - A clause in a bid providing for a price increase under certain specified circumstances.
- (21) Formal bid - A written bid submitted in a sealed envelope in accordance with a prescribed format, or an electronic data interchange transmitted to the component in accordance with procedures established by the component.
- (22) Group purchasing program - A purchasing program that offers discount prices to two or more state agencies, institutions of higher education or other public entities.
- (23) Informal bid - An unsealed, competitive bid submitted by letter, telephone or other means.
- (24) Invitation for bids (or IFB) - A written request for submission of a bid also, referred to as a bid invitation.
- (25) Late bid - A bid that is received at the place designated in the bid invitation after the time set for bid opening.
- (26) Level of quality - The ranking of an item, article, or product in regard to its properties, performance, and purity.
- (27) Manufacturers' price list - A price list published in some form by the manufacturer and available to and recognized by the trade. The term does not include a price list prepared especially for a given bid.



- (28) Multiple award contract procedure – A purchasing procedure by which the Central Procurement Office established one or more levels of quality and performance and makes more than one award at each level.
- (29) Noncompetitive purchase - A purchase of goods or services that does not exceed the amount stated in the component rule or delegation of authority (relating to Delegated Purchases).
- (30) Notice of award - A letter signed by the director or his designee, which awards and creates a contract.
- (31) Performance bond - A surety bond which provides assurance of a bidder's performance of a certain contract. The amount for the performance bond shall be based on the bidder's annual level of potential monetary volume with the component. Acceptable forms of bonds are those described in the definition for "bid deposit."
- (32) Post-consumer materials - Finished products, packages, or materials generated by a business entity or consumer that have served their intended end uses, and that have been recovered or otherwise diverted from the waste stream for the purpose of recycling.
- (33) Pre-consumer materials - Materials or byproducts that have not reached a business entity or consumer for an intended end use, including industrial scrap materials, and overstock or obsolete inventories from distributors, wholesaler, and other companies. The term does not include materials and byproducts generated from, and commonly used within, an original manufacturing process or separate operation within the same or a parent company.
- (34) Proprietary Products - or services manufactured or offered under exclusive rights of ownership, including rights under patent, copyright, or trade secret law. A product or service is proprietary if it has a distinctive feature or characteristic which is not shared or provided by competing or similar products or services.
- (35) Public bid opening - The opening of bids at the time and place advertised in the bid invitation, in the presence of anyone who wished to attend. On request of any bidder or department in attendance, bids will be read to the assembled group.
- (36) Purchase orders - A document detailing the specifications, terms and conditions of goods or services offered to purchase to a supplier.
- (37) Purchasing functions - The development of specifications, receipt and processing of requisitions, review of specifications, advertising for bids, bid evaluation, award of contracts, and inspection of merchandise received. The term does not include invoice, audit, or contract administration functions.
- (38) Qualified information systems vendor catalogue proposal - A request for offers or quotations of prices from catalogue vendors (QISV).

- (39) Recycled material content - The portion of a product made with recycled materials consisting of pre-consumer materials (waste), postconsumer materials (waste), or both.
- (40) Recycled materials - Materials, goods, or products that contain recyclable materials, industrial waste, or hazardous waste that may be used in place of raw or virgin materials in manufacturing a new product.
- (41) Recycled product - A product that meets the requirements for recycled material content as prescribed by the rules established by the Texas Natural Resource Conservation Commission in consultation with the Commission.
- (42) Remanufactured product - A product that has been repaired, rebuilt, or otherwise restored to meet or exceed the original equipment manufacturer's (OEM) performance specifications; provided, however, the warranty period for a remanufactured product may differ from the OEM warranty period.
- (43) Request for proposal - A written request for offers concerning goods or services the component intends to acquire by means of the competitive sealed proposal procedure.
- (44) Purchase requisition - An initiating request from a department describing needs and requesting the Central Procurement Office to purchase goods or services to satisfy those needs.
- (45) Responsible vendor - A vendor who has the capability to perform all contract requirements in full compliance with applicable state law, ethical standards, and applicable component rules.
- (46) Reverse auction - A bidding process that allows bidders to view previously submitted bid prices and allows for the re-submittal of bid pricing for a specified period of time.
- (47) Sealed bid - A formal written bid which is opened in accordance with the bid/proposal instructions.
- (48) Solicitation - An invitation for bids or a request for proposals.
- (49) Specification - A concise statement of a set of requirements to be satisfied by a product, material or service, indicating whenever appropriate the procedures to determine whether the requirements are satisfied.
- (50) Standard specification - A description of what the purchaser requires and what a bidder or proposer must offer.
- (51) Successor-in-interest - Any business entity that has ownership similar to a business entity. For purposes of the Procurement Code (relating to Vendor Performance and Debarment), it shall be presumed that a business entity that employees, or is associated with, any partner, member, officer, director, responsible managing officer, or responsible managing employee, of a business entity that was previously debarred is a successor-in-interest.

- (52) Tabulation of bids - The recording of bids and bidding data for purposes of bid evaluation and record keeping.
- (53) Testing - An element of inspection involving the determination, by technical means, of the properties or elements of item(s) or component(s), including function operation.
- (54) Texas uniform standards and specification - Standards and specifications prepared and published by the standards and specifications program of the Commission.
- (55) Total expenditures on products with recycled material content, remanufactured products, and environmentally sensitive products - The total direct acquisition costs (vendor selling price plus delivery costs) of all such products.
- (56) Unit price - The price of a selected unit of a good or service, e.g., price per ton, per labor hour, or per foot.
- (57) Vendor - A supplier of goods or service to the state.

## **2. Advertising**

All type of advertising (including, but not limited to, display ads, classified ads, online ads) requires a requisition routed through the proper approval process.

The approved ad copy, which will be submitted to the vendor, must be attached to the requisition.

Some requests require additional approvals:

Personnel Ads: Faculty positions require approval by the Provost and Vice President for Academic Affairs, and the Director of Human Resource or their designee.

## **3. Approval of Requisitions**

Purchases exceeding the delegated department spending limits are processed through a requisition. The following approval routing is required.

Approval routing for requisitions signatures required:

- (1) Department head or their designee
- (2) Any other required departmental signature for specialized funding

The requisition is then forwarded to the Purchasing Department for processing.

## **4. Dollar Guideline for all Funding Accounts**

### **Dollar Thresholds**

#### **\$0 to \$4,999.00**

Purchases up to and including \$5,000.00 do not require bids.

#### **\$5,000.00 - \$24,999.00**

These purchases require a minimum of three written quotes. State law requires that at least two bids be solicited from Historically Underutilized Businesses (HUBs), including at least one minority-owned and one woman-owned business. If a quote is submitted without a signature, it is considered a non-responsive bid, even if all other information is provided. Informal quotes must include company name, phone number, full name of sales person and HUB designation.

#### **\$24,999.00 or more**

Require formal bids. Purchasing will send out bid requests to vendors, receive the bids, review the bids, and make a recommendation on award.

#### **\$25,000.00 and over**

Are advertised on the Electronic State Business Daily without regard to the source of funds.

\*Note: Freight cost must be included in all dollar limits listed above.

Large purchases may not be divided into small lot purchases in order to meet the specified dollar limits (V.T.C.S., Article 601b, Section 3.08e, State Purchasing and General Services Act, Texas Government Code, Chapter 2155, Subchapter C, Section 2155.132, g)

Departments are encouraged to purchase equipment and supplies that are available from Central Stores, as well as equipment, supplies and services from Historically Underutilized Businesses. The Purchasing Department will assist departments in identifying vendors from whom to make their delegated purchases.

## **5. Bid Submission, Bid Opening, and Tabulation**

### **A. Bid Submission**

- (1) Prospective bidders may request specific bid invitations from the Purchasing Department at any time prior to the bid opening.
- (2) A bidder may withdraw its bid by written request at any time prior to the bid opening date and hour.
- (3) A bid received after the time and date established by the bid invitation is a late bid and will not be considered.
- (4) A bid received which does not contain adequate bid identification information on the outside of the envelope will be opened to obtain such information and will then be

processed as any other bid. If the correct information on the envelope causes the bid not to be considered in making an award, the bid will be considered invalid and rejected.

- (5) Bids may be submitted by facsimile (fax). The telephone number for fax bid submission will be identified in the solicitation; no other number may be used for bid submission. Bids submitted by fax need not be confirmed in writing, but must comply with all legal requirements applicable to formal bids. If all or any portion of a bid submitted by fax is received late, is illegible, or is otherwise rendered non-responsive due to equipment failure or operator error, the bid or the applicable portion of the bid will not be considered. The University shall not be liable for equipment failure or operator error, nor will such failure or error require other bids to be rejected or the bid invitation to be re-advertised. A bid that is received in the memory of a fax machine, prior to the bid opening time, will be considered valid. The official time of receipt of bids will be determined by the time printed by the fax machine.
- (6) Bids by telegram are not allowed.
- (7) An unsigned bid (all pages of the bid must be signed) is not valid and will be disqualified.
- (8) A bidder or a department may request, in person at the bid opening, that bids be read aloud. No bid shall be required to be read aloud at any time other than during regular working hours and days. Request for proposals shall be opened and their contents secured to prevent disclosure during the process of negotiating with competing offerors. The proposals shall be opened, but only the names of the offerors shall be revealed. Prices and other information concerning the proposals shall not be disclosed.
- (9) When formal bids are required, bids may not be taken or accepted by telephone, email, etc. unless specified within the bid document or instructions.
- (10) If an error is discovered in a bid invitation, or departmental requirement's change prior to the opening of a bid, the Purchasing Department will transmit an addendum correcting or changing the specifications to all bidders originally listed on the transmission list for that bid invitation. Bids will not be rejected for failure to return the addendum with the bid, if the change is noted on the bid or the product or service specifications would not be changed by the addendum.
- (11) By signing and submitting a bid to the Purchasing Department or to a department acting under delegated purchasing authority, a bidder affirms that it has not given or offered any economic opportunity, employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the bid, and that is not intended to give or offer any of the foregoing in the future. Signing a bid with a false statement shall void the bid and any resulting contract, and the bidder shall be removed from all future solicitations.

#### B. Bid Opening and Tabulation

- (1) All bid openings conducted by the Purchasing Department shall be open to the public.

- (2) Bid opening dates may be changed and bid openings rescheduled if bidders are notified in advance of the new opening date.
- (3) If a bid opening is canceled, all bids will be returned to the bidder.
- (4) All bid information files are available for public inspection. Bid tabulations may be reviewed by an interested person during regular working hours at the Purchasing Department. Employees of the Purchasing Department are not required to give bid tabulation information by telephone.

## **6. Bid Evaluation and Award**

### **A. Bid Evaluation**

- (1) The University may accept or reject any bid or any part of a bid or waive minor technicalities in a bid, if doing so would be in the University's best interest.
- (2) A bid price may not be altered or amended after bids are opened except to correct mathematical errors in calculation of units x unit price.
- (3) No increase in price will be considered after a bid is opened. A bidder may reduce its price provided it is the lowest and best bidder and is otherwise entitled to the award.
- (4) Bid prices are considered firm for acceptance for 30 days for the bid opening date for bid solicitations and 60 days for proposals solicitations, unless otherwise specified in the invitation for bids.
- (5) A bid containing a self-evident error may be withdrawn by the bidders prior to an award.
- (6) Bid prices which are subject to unlimited escalation will not be considered. A bidder may offer a predetermined limit of escalation in his bid and the bid will be evaluated on the basis of the full amount of the escalation.
- (7) A bid containing a material failure to comply with the advertised specifications shall be rejected.
- (8) All bids must be based on "F.O.B. destination" delivery terms unless otherwise specified.
- (9) If requested in the invitation for bids, samples must be submitted or the bid will be rejected. The University will require samples only when essential to the assessment of product quality during bid evaluation. Samples for non-winning bids shall be returned to the bidder, whenever practicable, at the bidder's expense. Otherwise, samples will be disposed of in the same manner as surplus or salvage property.

- (10) When brand names are specified, bids on alternate brands will be considered if they otherwise meet specification's requirements.
- (11) Cash discounts are acceptable but are not considered in making an award. All cash discounts offered will be taken if they are earned by the University.
- (12) No electrical item may be purchased unless the item meets applicable safety standards of the Federal Occupational Safety and Health Administration (OSHA).

B. Award

- (1) All awards shall be made to the bidder complying with the best value criteria used in the bid and conforming to the advertised product or service specifications. In determining which bidder is offering the best value, the University shall consider price and may consider and evaluate the factors comprising the best value criteria as may be set forth in the bid.
- (2) In case of tie bids which cannot be resolved by application of one or more preferences described in Section 8 of the TAMUS Procurement Code (relating to Preferences), an award shall be made by drawing lots.
- (3) Best Value Factors (Texas Government Code, Chapter 2155, Section 2155.074)

The University may consider the following factor(s) in determining best value:

- (a) Any installation costs;
- (b) The delivery terms;
- (c) The quality and reliability of the vendor's goods or services;
- (d) The extent to which the goods or services meet the agency's needs;
- (e) Indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience and responsibility, and vendors' ability to provide reliable maintenance agreements;
- (f) The impact on the ability of the University to comply with laws and rules relating to Historically Underutilized Businesses (HUB) or relating to the procurement of goods and services from persons with disabilities;
- (g) The total long-term cost to the University of acquiring the vendor's goods or services;
- (h) The cost of any employee training associated with the acquisition;
- (i) The effect of an acquisition on the University's productivity;
- (j) The acquisition price; and
- (k) Any other factor relevant to determining the best value for the University in the context of a particular acquisition that is sufficiently described in a solicitation instrument.

(4) Selection and Publication of Best Value Criteria

- (a) In any procurement conducted under the requirement of Section 5, the University must identify the specific factors to be analyzed in determining best value. The selection of best value criteria must be tailored to the specific needs of the University and must not unnecessarily limit competition or discourage the achievement of University procurement objectives.
- (b) Every purchase of goods or services conducted in accordance with the requirements of Section 5 must include consideration of price as a factor.
- (c) The University must publish notice of the specific criteria to be employed by the University in determining best value. The notice may be published in the solicitation instrument, public notice, or public announcement of a proposed procurement of goods and services.

### **7. Centralized Master Bidders List**

The Commission (Texas Building and Procurement Commission) maintains the Centralized Master Bidders List (CMBL) of the names and addresses of vendors that have applied and been accepted for inclusion on the CMBL. The CMBL is maintained for the State's use in obtaining competitive bids for purchases and for registering vendors who wish to be designated as qualified information systems vendors. No vendor will be placed on the CMBL to receive bid invitations for information purposes only. Bid invitations and request for proposals may be transmitted to vendors on the CMBL for solicited commodities and/or services. (Texas Government Code, Chapter 2155, Section 2155.261)

An error in addressing a bid invitation or request for proposal or a failure of the post office to deliver the solicitation will not be sufficient reason to require the component to reject all other bids or proposals.

The University may use the CMBL to select bidders for bid solicitations but may also supplement the CMBL with vendors having the known ability to supply the products(s) requested.

### **8. Consultant and Professional Services**

The procedures for contracting with external consultants and providers of professional services are established by the Texas Government Code, Chapter 2254, Subchapter B. The procedures apply to State-Appropriated, Federal and Non-Appropriated funds, which include local.

Consulting services is defined as the service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee. The term does not include services connected with the routine work necessary to the functioning of a University's programs. The key words are "studying" and "advising" rather than "performing."

A private consultant may be employed only if:

- (1) There is a substantial need for the services; and
- (2) The University cannot adequately perform the service with its own personnel or through another agency.



If the consulting service is reasonably foreseen to exceed \$25,000 during the term of the contract, the University shall submit a notice of intent to the Legislative Budget Board (LBB) and the Governor's Budget and Planning Office and obtain a finding from the Governor's office that the services are necessary. Thirty days before entering into such a contract, an invitation for offers from consultants must be published in the Texas Register. These requirements do not apply to the acquisition of certain services such as those provide by private legal counsel, investment counselors, actuaries, medical or dental services, and professionals' services listed under the Professional Services Procurement Act. Not later than the 20<sup>th</sup> day after entering into a consulting contract with a value expected to exceed \$25,000, a description of the services, the name, and value of the contract must be published in the Texas Register.

Professional Services is defined as a service within the scope of the practice of accounting, architecture, landscape architecture, optometry, medicine, real estate appraising, land surveying or professional engineering, and professional nursing.

**NOTE:** If the professional or consulting service contract is anticipated to exceed \$25,000, a notice of the entire solicitation must be posted on the Electronic State Business Daily.

Consult the Purchasing Department for guidance before entering into a contract.

### **9. Competitive Sealed Proposals**

The University may use the process established in the Texas Government Code, Chapter 2156 for the acquisition of goods and services by the competitive sealed proposals process.

### **10. Conference Registration Fees**

Payment for registration fees cannot be made more than six weeks in advance, except when registration is required further in advance to reserve space or to obtain a substantially reduced rate.

Conference registration fees may also be paid directly by the employee and then reimbursed by the University. However, the employee will not be reimbursed prior to attending the conference.

### **11. Customized Products**

A customized product is defined as any product that is especially prepared for Texas A&M International University.

Types of customized products include but are not limited to:

- (1) Specialty imprinted products
- (2) Printing
- (3) Screened products, including clothing
- (4) Custom printed forms

Because of production methods common to the industry, customized products are subject to quantity variations either above or below the quantity ordered.

Limitations to such under/overruns are limited to 10% of the quantity ordered.

If under/overruns are not acceptable, the bid or the purchase order must state “Exact Quantity –No Under/Overruns will be accepted.”

Overruns in excess of the 10% percent will be considered a non-charge donation to the University.

The invoice will be adjusted to the allowable overage based upon the original net quantity indicated on the purchase order.

## **12. Delegated Purchases**

A. General delegation. The University has delegated the following purchasing functions to departments:

- (1) commodity purchases of goods that do not exceed \$4,999.00;
- (2) emergency purchases that do not exceed \$4,999;
- (3) purchases of service the estimated cost of which does not exceed \$4,999 per contract;

B. Adherence to ethical standards. Employees of departments who perform purchasing functions under delegated authority shall adhere to the same ethical standards required of the Purchasing Department employees, and shall avoid all conflict of interest in their purchasing activities. Code of Ethics are found on the University website at <http://www.tamtu.edu/adminis//purchasing/>.

C. Withdrawal of delegated purchase authority. The Purchasing Department will verify compliance with established procedures for delegated purchases and may withdraw delegated purchase authority in whole or in part from a department for continued violations. When a purchase is made outside of normal purchasing procedures, the person placing the order will submit a memo, accompanied by the invoice to the Director of Purchasing indicating why the purchase did not comply with purchasing procedures. The director will then approve or decline the processing for payment.

D. Provisions applicable to particular delegated purchases.

- (1) Commodity purchases. Commodity purchases may be made in accordance with the following provisions:

Departments are encouraged to solicit participation by Historically Underutilized Businesses (HUB) for delegated purchases. Departments may refer to the Commission’s HUB Directory, which is maintained and accessible electronically to locate HUB vendors or they may also follow the “HUB Vendors” link on the University’s Purchasing website.

- (2) Emergency Purchases: The Purchasing Department will approve emergency purchases in accordance with the following provisions.
  - (a) At least three informal bids must be obtained whenever possible on all purchases in excess of \$5,000.00.
  - (b) For an emergency purchase of goods or services exceeding \$5,000.00, a department must send a full written explanation of the emergency along with other documentation listed below:
    - (i) State the reason for the emergency purchase by explaining what the emergency is and/or what caused the emergency situation;
    - (ii) State the financial or operational damage that will occur if needs are not satisfied immediately (do not just say there will be a loss or some damage); and
    - (iii) State why the needs were not or could not be anticipated so that items could have been requisitioned through the Purchasing Department or purchased following regular delegated procurement procedures.
  - (c) The departments shall contact the Purchasing Department for advice and assistance in the handling of emergency purchases. The Purchasing Department may not approve an emergency purchase unless the department has complied with either of the above requirements.

E. Specific delegations. The authority to grant specific delegation resides with the department. As a minimum, departments granted specific delegations shall meet the following criteria:

- (1) procurement audit standards set forth in Section 13 of the TAMUS Procurement Code (relating to Reviewing of Purchase Documents and payment Vouchers);
- (2) minimum training standards established;
- (3) processes and procedures for the specific type of delegation being requested. All processes and procedures are subject to the prior review, revision and approval of the director.

F. Protest Procedures. Each University shall adopt and maintain protest procedures.

G. Debarred Vendors. Departments shall make an effort to ensure that debarred vendors do not participate in state or the University's contracting and shall establish procedures to ensure awards are not made to debarred vendors. (Texas Government Code, Chapter 2155, Section 2155.077)

H. Purchases may not be broken down into smaller purchases in order to stay under the delegated purchase amount.

### **13. Exempt Purchases**

The following services are exempt from competitive bidding requirements and may be purchased by departments regardless of dollar amount:

Advertising - billboards, newspaper, classified, Radio/TV, trade publications, HUB publications

Automobile State Safety Inspection Fees - Only certain items are exempt

Classified Advertising - expenses such as newspaper and magazine advertisements (does not include public relations/advertising campaign related services)

Communication Services

Conference Expense - expenses related to conference room services such as audio/visual/network and foodservices (does not include goods purchased for attendees or transportation services)

Demurrage/Gas - Cylinder use/rental

Direct Publications - Publications, Trade Periodicals, Magazines, Downloads of data, Reports, Subscriptions from the publisher only (not from bookstores or another reseller).

Educational/Training Services

Exhibit Space - Display booth rental

Freight/Delivery Services

Goods and services provided by the Texas Department of Criminal Justice (TDCJ)

Goods and services provided by the Texas Industries for the Blind and Handicapped (TIBH)

Internal repairs

Grants

Hotels 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 \$2,000) (See [TAMU University Rule 25.07.99.M1: Contract Administration, Section 1.4](#)).

Institutional Memberships/Professional - Approved by President

Inter/Intra Agency Agreements - Services provided by other State of Texas agencies or by other local governments.

Internal Repairs - Parts and labor combined, or just labor. Cannot be parts only using three object codes.

Items for Resale

Lecturers/Guest Speakers/Entertainers - fees for speakers/lecturers/entertainers hired on a onetime basis (does not include fees for speakers/lecturers on a continuous basis) (See [TAMU University Rule 25.07.99.M2: President's Delegation of Authority for Contract Administration, Section 9.3](#)).

Legal Services

Legislative information services - bill analysis services

Library materials - specific for Texas A&M International University Library

Membership fees and dues

Moving Expenses - (employee) institutional funds only

Newspaper and magazine subscriptions direct from the publisher

Other

\*Other Purchases Exempt include:

Participants Costs

Periodicals, Magazines subscriptions - directly from the source, not from subscription services, library material (AMIGOS).

Postage

Postal Services - stamps and box rental only (not meter rental)

Purchases from Federal agencies

Reference Material - from publisher only for Library

Registration fees and associated books and materials

Rental of Aircraft - University Planes

Rental of Computer Equipment (Conference)

Rental of exhibit space (booths for display purposes)

Rental of Video Equipment (Conference)

Services provided by other State of Texas agencies, TAMUS components or by other local governments (Interagency and Inter-local agreements must be reviewed by the Department of Contract Administration).

Sub Awards - Contracts & Grants Only

Student Travel - expenses related to student travel with the exception of air and bus charter.

Telecommunications

Utilities

#### **14. Flowers, Floral Arrangements, and Plants**

A state agency may not use state funds to purchase flowers, floral arrangements, or decorative plants for a state officer or employee or for the friends or family of a state officer or employee.

Purchases from state funds are limited to vegetation dirt, potting soil, fertilizer, and seeds needed for erosion prevention, research, or agriculture. State funds may not be used for the purchase, rental or maintenance of live or artificial indoor plants use purely for aesthetic purposes.

#### **15. Group Purchasing Programs**

A Component may purchase materials, supplies, or equipment through group purchasing programs.

#### **16. Inspection and Order Cancellation**

##### **A. Inspection of merchandise**

- (1) Departments shall inspect all shipments received against orders and report any discrepancies to the Purchasing Department immediately.
- (2) If unlisted shortages are discovered, the vendor and the Purchasing Department shall be notified immediately. Unless shipments are checked by the Receiving Department or the department immediately upon arrival and such shortage reports are made within 15 days, the contractor cannot be held responsible for shortages.
- (3) A contractor may be required to pick up any merchandise not conforming to specifications and replace the merchandise immediately.

##### **B. Substitutions**

Substitution of items called for in a contract is not permitted without the Purchasing Departments prior approval. No such approval will be granted unless substituted items are of equal quality and are offered at the same or lower price.

C. Cancellations

- (1) Cancellations on orders issued by a department are not permitted without the Purchasing Departments prior written approval.
- (2) Orders may be canceled without the contractor=s consent due to unsatisfactory performance or nonperformance by the contractor.
- (3) Orders may be canceled, without first obtaining the consent of the contractor, if the reason for cancellation is not the fault of the contractor.
- (4) A contract or a portion of a contract may be canceled on request of the contractor if the contractor is unable to perform due to circumstances beyond its control. In these instances, the Purchasing Department will consider such requests when presented in writing with proper documentation.

D. Damages for failure to perform

- (1) A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the University.
- (2) If any merchandise delivered under a contract has been used or consumed by a department and on testing is found not to comply with specifications, no payment may be approved by the component for such merchandise until the amount of actual damages incurred has been determined.

**17. Institutional Memberships**

Institutional Memberships and dues for professional organizations require approval by the President of the University or an approved designee.

The following approvals will be followed:

Vice President → President Approval  
Provost → President Approval  
Director Vice President → Provost Approval  
Dean → Provost Approval

**18. “L” Limited Documents**

L documents are created solely to process a payment for under \$5,000. They eliminate the issuance of a purchase order, resulting in a more timely payment.

HUB vendors must be sought out and used whenever possible.

Please note that it will only be possible to continue using L documents if our HUB purchasing remains at or above our goal.

Supporting documentation must be submitted to the business office with the L document number written in the upper right hand corner before any payments will be processed.

Examples of *appropriate* uses for an L document include:

- (1) Payment of a subscription under \$5,000 for which a renewal invoice has been received.
- (2) Payment of FedEx or postage invoices under \$5,000
- (3) Payment of services under \$5,000 for which an invoice has been received or for which independent contractor paperwork has been completed.
- (4) Payment for car or bus rentals under \$5,000
- (5) Payment for hotel direct bill charges under \$5,000
- (6) Payment for employee reimbursements under \$5,000

Examples of *inappropriate* uses for an L document include:

- (1) Purchases over \$5,000
- (2) Purchases of dues or memberships, as these require additional approvals
- (3) Purchases of goods which circumvent existing purchasing procedures (i.e. creating verbal purchase orders by calling a vendor directly)
- (4) Multiple purchases under \$5,000 to circumvent securing quotes or bids

### **19. Lease or Lease-Purchase Contracts**

- A. A department may acquire capital equipment by lease or lease-purchase if it is cost effective.
- B. If a proposed lease or lease-purchase is for information technologies, resources, as defined in Texas Government Code, Chapter 2054, the requisition must include written evidence that the Department of Information Resources has approved the University's biennial operating plan. The Purchasing Department will determine the cost effectiveness of a lease or lease-purchase. To establish cost effectiveness, the requisitioning department should submit the following information:
  - (1) anticipated interest charges over the life of the contract;
  - (2) anticipated cost savings which would result from outright purchase; and
  - (3) any other information the department considered relevant.



- C. Any lease, lease-purchase or installment payment purchase utilizing any state-appropriate funds that is either in excess of \$250,000 or has a term in excess of 5 years must be submitted to the Texas Bond Review Board for approval.

## 20. Nepotism Disclosure

HB 2932 from the 79th Legislative Session created Texas Govt. Code 2262.004, Required Nepotism Disclosure, Section B of this statute states the following:

Before a state agency may award a major contract for the purchase of goods or services to a business entity, each of the state agency's purchasing personnel working on the contract must disclose in writing to the administrative head of the state agency any relationship the purchasing personnel is aware about that the employee has with an employee, a partner, a major stockholder, a paid consultant with a contract with the business entity the value of which exceeds \$25,000, or other owner of the business entity that is within a degree described by Section 573.002.

Any person who makes decisions or recommendations at any point throughout the process of major contract development, evaluation, award, monitoring and re-award is required to disclose in writing to the Administrative Head (AH), or AH's designee, any relationship the prescribed person has with the respondent or potential respondent(s) with pecuniary interest value of \$25,000 or higher who directly or indirectly controls more than 10% interest in the respondent's company.

Before awarding or re-awarding any major contract any person as described above must comply with the following:

- Disclosure must be provided by signing the State Auditor's Office (SAO) Nepotism Disclosure Form (ND Form). The ND Form may be located at (include the link).  
<http://www.sao.state.tx.us/Resources/Forms/NepotismDisclosureForm.pdf>
- If no conflicts exist, include the ND Form as the first page of the contract file so that other persons provide requisite signatures on the same form.
- If conflicts of interest exist, the ND Form must be signed by the person making decisions and/or recommendations regarding the major contract. A copy of the signed ND Form must be forwarded to the Agency Head or designee for evaluation.
- This Act took effect on September 1, 2005.
- Act applies only to a contract awarded or extended on or after the effective date of 2262.004.

### DEFINITIONS:

**Major stockholder** means a person who directly or indirectly owns or controls more than a 10 percent interest or a pecuniary interest with a value exceeding \$25,000 in a business entity.

**Purchasing personnel** means an employee of a state agency who makes decisions on behalf of the state agency or recommendations regarding:

- contract terms or conditions on a major contract;
- who is to be awarded a major contract;
- preparation of a solicitation for a major contract; or
- evaluation of a bid or proposal.

## 21. Preferences

### Source Preferences

The following source preferences are used when applicable goods or services can be supplied by these entities:

- **Products By Persons with Disabilities**  
A preference shall be given to manufactured products of workshops, organizations, or corporations whose primary purpose is training and employing persons with mental or physical disabilities, if the products or services meet state specifications as to quantity, quality, and price. Competitive bids are not required for purchases of blind-made goods or services offered as a result of efforts by the Texas Council for Purchasing from People with Disabilities TIBH, (see Section 2.5 Special Purchases) if the goods or services meet state specifications as to quantity, quality, and price. Reference Texas Government Code, Section [2155.441](http://tlo2.tlc.state.tx.us/statutes/gv.toc.htm). <http://tlo2.tlc.state.tx.us/statutes/gv.toc.htm>.
- **Texas Department of Criminal Justice (TDCJ)/Institutional Division**  
A preference shall be given to items manufactured by the Texas Correctional Industries (TCI) under the Prison Made Goods Act (see Section 2.5 Special Purchases). Reference Texas Government Code, Chapter 497. <http://tlo2.tlc.state.tx.us/statutes/gv.toc.htm>.

### Specification Preferences

The following items are preferences regarding recycled materials:

- **Recycled, Remanufactured, or Environmentally Sensitive Products**  
A preference shall be given to products made of recycled materials if the products meet state specifications as to quantity and quality.

Texas Government Code, Title 10, Subtitle D, Section [2155.445](http://tlo2.tlc.state.tx.us/statutes/gv.toc.htm) and Texas government Code, Title 5, Subtitle N, Section 361.426 requires all state agencies, institutions of higher education, state courts, judicial agencies, counties, municipalities, school districts, junior or community college districts, or special districts to follow certain precepts regarding recycling and the purchase of recycled content products.

Texas Government Code, Title 10, Subtitle D, Section [2155.445\(a\)](http://tlo2.tlc.state.tx.us/statutes/gv.toc.htm) provides that all entities **"give preference to recycled, remanufactured, or environmentally sensitive products" as determined by commission rule if the purchases meet applicable specifications as to quantity and quality.**

Texas Government Code, Title 5, Subtitle N, Section 361.426(a) provides a state agency, state court, or judicial agency not subject to Subtitle D, Title 10, Government

Code, a county, municipality, school district, junior or community college district, or special district shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality.

Texas Government Code, Title 10, Subtitle D, Section [2155.448\(a\)](#) each fiscal year, the TBPC and the Recycling Market Development Board (RMDB), by rule may identify recycled, remanufactured or environmentally sensitive commodities or services. The RMDB recommended that the TBPC designate by TBPC rule the following as "1st Choice" products:

- Re-refined oils and lubricants;
- Recycled content toilet paper, toilet seat covers, paper towels; and
- Recycled content printing, computer and copier paper, and business envelopes.

The 1st Choice products essentially become the default items for purchase by state agencies including institutions of higher education that is, state agencies shall give these products preference over virgin (non-recycled) counterparts. A state agency may choose to buy the virgin (non-recycled) material counterpart of these designated products; however, a written justification letter signed by the executive head of the agency must be submitted. The justification letter must state the reason(s) for the determination that the 1st Choice product did not meet the requirements of the agency and should include applicable supporting documentation. The justification letter must be filed with the TBPC.

Beginning with FY 2001, each state agency including institutions of higher education is responsible for compiling a final recycled product report by combining the TBPC non-delegated recycled, remanufactured and environmentally sensitive purchase report with the state agency's delegated recycled, remanufactured and environmentally sensitive purchases. This final combined report using the format attached must be included in your agency's Annual Financial Report (AFR) submitted to the Comptroller and a copy must also be sent to TBPC's Central Procurement Services (CPS) Division to the attention of CPS Recycling Coordinator by November 20, 2001. The TBPC will post on its website the state's consolidated final recycled product report by January 15, 2002 for public viewing of state successes in supporting recycled product purchases. For additional information regarding reporting requirements please see Section 1.3.

- **Energy Efficient Products**

A preference shall be given to energy efficient products if they meet state requirements as to quantity and quality, and are equal to or less than the cost of other products that are energy efficient. This preference shall be applied by evaluating the energy use of the product offered and considering the costs of such energy use over the expected life of the equipment. The methodology for evaluating energy use and costs shall be included in the bid invitation. Reference Texas Government Code, Title 10, Subtitle D, Section [2155.442](#).

- **Rubberized Asphalt Paving Material**

A preference shall be given to rubberized asphalt paving material made from scrap tires by a facility in this state if the cost, as determined by lifecycle cost benefit analysis,

does not exceed the bid cost of alternative paving materials by more than 15%. Reference Texas Government Code, Title 10, Subtitle D, Section [2155.443](#).

- **Recycled Motor Oil and Lubricants**  
A preference shall be given to motor oils and lubricants that contain at least 25% recycled oil if the quality is comparable and the cost is equal or less than new oil and lubricants. Reference Texas Government Code, Title 10, Subtitle D, Section [2155.447](#).
- **Tie-Bid Preferences**  
The following five preferences listed below are used in breaking tie bids in accordance with current statutes. Priority is given in the sequence they are listed below (see Section 2.39 Tie Bids). To claim a preference, a bidder must mark the appropriate box on the bidding document Invitation for Bids (IFB). If the appropriate box is not marked, a preference will not be granted unless other documents included in the bid indicate a right to the preference.
- **Texas Agricultural Products**  
Agricultural products grown in Texas shall be given preference over comparable products 105 grown outside Texas when the cost and quality of the goods are equal. Agricultural products are considered "grown in Texas" if they contain any amount grown in Texas. In case of tie bids between agricultural products claiming the preference, the bidder whose product contains the greatest percentage of the product grown in Texas shall prevail. For the purpose of this preference, agricultural products include, among other things, textiles and fiber products, processed and unprocessed foods, feed, lumber, and forestry products, live animals, plants, flowers, and nursery stock. Reference Texas Government Code, Title 10, Subtitle D, Section [2155.444\(a\)](#).
- **Texas Produced Supplies, Materials, or Equipment**  
Supplies, materials, or equipment produced in Texas shall be given preference over comparable goods produced outside Texas when the cost and quality of the goods are equal. Supplies, materials, and equipment are considered to be produced in Texas if they are manufactured in Texas; "manufactured" does not include the work of packaging or repackaging. Reference Texas Government Code, Title D, Subtitle D, Section [2155.444\(a\)](#).
- **Texas Resident Bidder**  
A Texas resident bidder shall be given preference over a nonresident bidder when the cost and quality of the goods or services are equal (see Glossary). Reference Texas Government Code, Title 10, Subtitle D, Section [2155.444\(a\)](#).
- **U.S. Produced Supplies, Materials, or Equipment**  
Supplies, materials, equipment, or agricultural products produced or grown in the United States shall be given preference over foreign products when the cost and quality are equal, if comparable goods of equal cost and quality produced or grown in Texas or offered by Texas bidders are not available. Reference Texas Government Code, Title 10, Subtitle D, Section [2155.444\(b\)](#).

## 22. Procurement Cards

- A. University issued credit card. Department heads designate person(s) within their areas who are to be issued the ProCard. The ProCard program is a fast, flexible purchasing method for processing limited purchases from suppliers that accept credit cards. The purpose of the ProCard is to establish a more efficient, cost-effective method of the delegated purchasing and payment for small dollar transactions. The ProCard enables the designated person to purchase acceptable purchases (page 9 Purchasing Card Program at <http://www.tamtu.edu/adminis//purchasing/>) directly from the vendors without the issuance of a purchase order. The ProCard can be used with any supplier that accepts Master Card as a form of payment.
- (1) Delegated Spending Limits: \$5,000.00 is the amount available on the ProCard for monthly purchases. A cardholder must not have expenditures of more than \$5,000 per month.
  - (2) The departmental delegated authority is for limited purchases. State law mandates that large purchases may not be broken down into small purchases to meet delegated limits. To do so would be a violation of State law and The Texas A&M University System and Texas A&M International University purchasing procedures. These limits help ensure that large-dollar purchases comply with University and State requirements for competitive bids. Cardholders who split purchases or bypass transaction limits will be reported to the appropriate VP for corrective action.
  - (3) An example of acceptable and restricted purchases is located at <http://www.tamtu.edu/adminis//purchasing/> .
  - (4) State Contracts should be checked to insure the Best Value for the University (See section on Term Contracts). You should familiarize yourself with the items offered on State Contract.
  - (5) Food purchases require a statement stating who, what, when and where the food is being purchased for. This statement must be included in with the receipts attached to the Expense Report.
  - (6) The ProCard may not be used to purchase postage stamps. Postage stamps and U.S. Post Office services require an “R” requisition stating the purpose for purchasing the stamps or service.
  - (7) Tax verification - The State Comptroller’s Office requires that for any purchase over \$150.00 the agency must check the vendor’s tax status. **You may not purchase from any vendor that is on hold for either franchise tax or sales tax.**

Vendor tax status may be obtained by either:

- (a) FAMIS screen 103 or 204
- (b) Texas Comptroller of Public Accounts web site

- (8) Expense Report: You must go into the SDOL website (<http://sdol.jpmorganchase.com/Screen/Login>) to check your purchases for the cycle. You will reconcile your statement online and print out the Expense Report. An e-mail is sent by JP Morgan-Chase at the close of the cycle to remind cardholders to reconcile. Cardholders are responsible for asking vendors to include the receipt(s) with the merchandise or ask that it be faxed to you. Please instruct the vendor not to send the invoice to the Accounts Payable Department but directly to you. This will prevent duplicate payments.
- (9) It is the cardholder's responsibility to track their purchases on the SDOL website (<http://sdol.jpmorganchase.com/Screen/Login>) and to reconcile their statement and handle any disputes. After reconciliation, the Expense Report, along with all receipts and paperwork, is submitted to the department head for review and signature. The billing cycle for each month closes on the 5<sup>th</sup> of each month, cardholders have 5 days from the close of the cycle to reconcile and submit all paperwork to the Purchasing Department.
- (10) Delivery: Items purchased with the ProCard can be shipped to Central Receiving. The vendor should be instructed to have the cardholders name on the shipping label.
- (11) Central Receiving will record receipt of merchandise, and prepare a delivery receipt. They will not open or inspect your ProCard orders for shortages, damages, etc.
- (12) Online User's Guide for the ProCard is located at:  
<http://www.tamtu.edu/adminis//purchasing/purchasingcard.shtml>.

### **23. Proprietary Purchases**

A. A proprietary purchase is justified only when equivalent products or service competition is not available. When the specification requirements limits consideration to one manufacturer, one product, or one service provider, a written justification must be provided and is subject to review by the University. The proprietary specification must be stated in the Invitation to Bid (IFB). A proprietary letter is not needed for purchases under \$5,000.00 (Texas Government Code, Chapter 2155, Section 2155.066).

B. When the Purchasing Department finds that a department has submitted a requisition containing specifications or conditions of purchase which are proprietary to one vendor and do not permit an equivalent product to be supplied, it shall require written justification before processing the requisition.

A written justification for the use of proprietary specifications or conditions must contain:

- (1) an explanation of the need for the specification, e.g., which part or parts of the stated specification restricts the requisition to one manufacturer or provide other information requested by the University;
- (2) be signed by the department head or designee;

- (3) the reason competing products are not satisfactory, e.g., a justification for the proprietary purchase; and
- (4) other information requested by the University.

This justification must be included in the purchasing file. It can be included on a requisition or be an attachment to the requisition and purchase order.

Authorization: The justification must be signed by the department head.

## **24. Requisitions**

A purchase is initiated when a department submits a requisition containing desired specifications and conditions of the purchase, either electronically or on a form provided or approved by the Purchasing Department.

Requisitions shall be submitted to the Purchasing Department far enough in advance to allow sufficient time for preparing and advertising bid invitations, receiving and evaluating bids, awarding contracts, and permitting a normal delivery schedule.

The Purchasing Department may require clarification of the specifications in Order to foster open competition. If the department's specifications unreasonably limit competition, the Purchasing Department may require an additional written explanation.

## **25. Review of Purchase Documents and Payment Vouchers**

The Purchasing Department may review departmental delegated purchases and revoke any delegation as deemed necessary.

- A. Based on the review of the documents, the Purchasing Department may revoke any delegation as deemed necessary.
- B. All delegated departments purchases are subject to an audit by the internal auditor.

## **26. Specifications**

A. A specification is a description of a product or service a user seeks to procure, and is also, a description of what a bidder must offer to be considered for an award. Specifications are the primary means of communication between an agency and a vendor.

- (1) The Purchasing Department will review the specifications and conditions of purchase submitted by a department. The Purchasing Department will not significantly change specifications or conditions of purchase without written approval from the department, but it may correct typographical errors if doing so will not significantly change the specifications. Incorrect, inadequate, or incomplete requisitions may be returned to the department, with a written explanation for the return and the requirements for acceptable resubmission.

- (2) The Purchasing Department will normally specify delivery times that are standard in the industry. If a department requires shorter than standard delivery times, it must state the requirement in its requisition. If the delivery requirement can only be met by one vendor, written justification will be required. If a department does not require early delivery but wishes to take advantage of it if available, the bid invitation will state that the ability to make early delivery may be a factor in making the award. In such cases, when it is to the component's advantage, the Purchasing Department may accept a bid other than the lowest after consulting with the department. If the bid invitation contains no statement regarding early delivery, the Purchasing Department may not consider early delivery in making an award.

B. Characteristics of an effective specification:

- (1) **SIMPLE:** Avoid unnecessary detail, but be complete enough to ensure that requirements will satisfy their intended purpose.
- (2) **CLEAR:** Use terminology that is understandable to the University and bidders/use correct spelling and appropriate sentence structure to eliminate confusion. Avoid legalese type language and jargon whenever possible.
- (3) **ACCURATE:** Use units of measure that are compatible with industry standards or models (whenever possible) that will satisfy the intended purpose. Avoid unneeded "extras" that could reduce or eliminate competition and increase costs.
- (4) **FLEXIBLE:** Avoid totally inflexible specifications which prevent the acceptance of a bid that could offer greater performance for fewer dollars. Use approximate values such as dimensions, weight, speed, etc. whenever possible, if they will satisfy the intended purpose. If approximate dimensions are used they should be within a 10% rule of thumb unless otherwise stated in the invitation to bid.

C. A bidder or contract participant may provide free technical assistance to the University. A state agency may not accept a bid or award a contract to a vendor who received compensation from the agency to participate in the preparation of the specifications or request for proposals on which the bid or contract is based. (Texas Government Code, Chapter 2155, Section 2155.004).

D. In accordance with the Texas Government Code, Title D, Subtitle D, Section 2155.074 and the Texas Administrative code, Title 10, Chapter 199, the requirement to advertise solicitations using the Texas Marketplace applies to all purchases exceeding \$25,000 regardless of source of funds used for the procurement, including, emergency, construction projects, professional or consulting services and proprietary purchases. If the entire bid or proposal is posted, a minimum of 14 calendar days is required. A minimum of 21 calendar days is required for posting only the notice.

## **27. Term Contracts**

The Commission enters into term contracts for the purchase or lease of items used in large quantities by several state agencies and institutions of higher education. The term of a contract is determined by the Commission.



The University may elect to utilize any or all portions of the State term contracts established by the Commission.

## **28. Trade-Ins**

A department 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 department may not trade in property that has been declared either surplus or salvage such property must be disposed of under applicable state law or the Texas Building and Procurement Commission's (TBPC) surplus property program. Trade-ins are not allowed on TPBC term contracts or scheduled purchase items.

Before making any trade-in a department should document the age, condition, make, model and serial number 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 TBPC's surplus property program. If a University determines that a trade-in offers the best value to the state, the University 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 University's 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;
- ◆ Use equipment will not be released to the vendor on a trade-in until the purchased equipment is received unless the University receives a bond, letter of credit or similar instrument as collateral.

## **29. Qualification of Information Systems Vendors**

Upon registration on the Commission's Centralized Master Bidders List (CMBL), a vendor wishing to sell or lease automated information systems to governmental entities in accordance with Texas Administrative Code Rule 113.19 shall apply to the Commission for designation as a qualified information systems vendor (QISV) by completing and submitting an application and catalogue.

The University shall, whenever possible, attempt to contract with QISV suppliers.