

**In Accordance with University Purchasing Authority
25.99.02**

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

January 2002

revised 04/15/04

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

<u>Section</u>	<u>Page</u>
Component Purchasing Authority	1
University Purchasing Authority	3
Definitions	4
Advertising	9
Approval of Requisitions	9
Dollar Guideline for all Funding Accounts Thresholds	9
Bid Submission, Bid Opening, and Tabulation	10
Bid Evaluation and Award	12
Centralized Master Bidders List	15
Competitive Sealed Proposals	15
Conference Registration Fees	16
Consultants	
Customized Products	16
Delegated Purchases	17
Flowers, Floral Arrangements, and Plants	19
Group Purchasing Programs	19
Inspection and Order Cancellation	19
Institutional Memberships	21
Leases and Lease-Purchases	21
Preferences	21
Procurement Cards	24
Proprietary Purchases	25
Requisitions	26
Review of Purchase Documents and Payment Vouchers	26
Specifications	27
Term Contracts	28
Trade-Ins	28
Qualification of Information Systems Vendors	28

1. General

The Texas A&M University System (System) was granted additional purchasing authority by the 77th 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://sago.tamu.edu/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;
- (e) group purchase; or
- (f) other methods relevant to specific types of purchases.

4. Determining Value

In determining what is the best value, 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 good 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 to 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) Manufacturer's 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) Non-competitive 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 bidders'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 by-products 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 by-products 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), post-consumer 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 types of advertising (including, but not limited to, display ads, classified ads, on-line ads) requires a requisition routed through the proper approval process.

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

Some requests require additional approvals:

A. Personnel Ads:

- (1) 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

- A. 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

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

4. Dollar Guideline for all Funding Accounts

Dollar Thresholds

\$0 to \$2,000.00

Purchases up to and including \$2,000.00 do not require bids.

\$2,000.00 - \$10,000.00

These purchases require a minimum of three bids. They may be written (formal) or oral (informal). 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. All bids must be in the same form, either oral or written. If a bid is submitted without a signature, it is considered a non-responsive bid, even if all other information is provided. Informal bids must include company name, phone number, full name of sales person and HUB designation.

\$10,000.000 and over

Formal bids only. Purchasing will send out bid requests to vendors, receive the bids, review the bids, and make a recommendation on award. (http://sago.tamu.edu/soba/ver1_96.htm)

\$25,000.00 and over

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 telefacsimile (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 receipts 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 requirements 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 it does not intend 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 specifications 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 vendor's 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. (<http://www.capitol.state.tx.us/statutes/gvtoc.html>). 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 \$15,000 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 provided by private legal counsel, investment counselors, actuaries, medical or dental services, and professional services listed under the Professional Services Procurement Act. Not later than the 20th day after entering into a consulting contract with a value expected to exceed \$15,000 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.

8. 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.

9. 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.

10. 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) Speciality 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.

11. Delegated Purchases

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

- (1) commodity purchases of goods that do not exceed \$2,000.00;
- (2) emergency purchases that do not exceed \$2,000.00;
- (3) purchases of service the estimated cost of which does not exceed \$2,000.00 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 www.tamtu.edu/adminis/purchasing/

C. Provision(s) generally applicable to delegated purchases.

- (1) Competitive bidding is not required for purchases under \$2,000.00 or less except for printing services. Section 21 of the Texas Constitution requires all printing to be competitively bid.

D. 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.

E. Provisions applicable to particular delegated purchases.

- (1) Commodity purchases. Commodity purchases may be made in accordance with the following provisions:
 - (a) 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 the University's Purchasing website.

- (2) Emergency Purchases: Thee 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 \$2,000.00.
 - (b) For an emergency purchase of goods or services exceeding \$2,000.00, a department must send a full written explanation of the emergency along with other documentation listed below:
 - (1) State the reason for the emergency purchase by explaining what the emergency is and/or what caused the emergency situation;
 - (2) State the financial or operational damage that will occur if needs are not satisfied immediatly (do no just say there will be a loss or some damage); and
 - (3) 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.
- F. 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.

- G. Protest Procedures. Each University shall adopt and maintain protest procedures.
- H. 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)
- I. Purchases may not be broken down into smaller purchases in order to stay under the delegated purchase amount.

12. 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.

13. Group Purchasing Programs

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

14. 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.

15. Institutional Memberships

Institutional Memberships requires approval by the president of the University or an approved designee.

Institutional Memberships must be in the name of the University and not in the name of the individual.

16. 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 out right 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.

17. Preferences

- A. Claiming a preference. To claim a preference, a bidder shall mark the appropriate box on the face of the bid invitation. If the appropriate box is not marked, a preference will not be granted unless other documents included in the bid show a right to the preference. (Texas Government Code, Chapter 2155, Section 2155.441)
- B. Preferences (Check this preferences against the ones listed in the gov code)
 - (1) Texas resident bidders.
 - (a) A Texas resident bidder shall be given preference over a nonresident bidder when the cost, and quality of the goods or services are equal.
 - (b) The University may award a contract to a nonresident bidder only if its bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the same amount that a Texas resident bidder would be required to underbid the nonresident bidder to

obtain a comparable contract in the state where the nonresident's principal place of business is located. In evaluating a bid of a nonresident bidder, an amount will be added equal to the amount a Texas resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state where the nonresident bidder's principal place of business is located, otherwise known as reciprocal preference. After the amount is added, an award may be made to the nonresident bidder if it is determined to have the lowest price best bid. The amount added is for evaluation purposes only; in no event shall an amount be awarded in excess of the amount actually bid.

- (2) Texas and United States products
 - (a) 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.
 - (b) Agricultural products grown in Texas shall be given preference over comparable products 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 will prevail. For purposes 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.
 - (c) 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. Supplies, materials, equipment, or agricultural products produced or grown in Texas shall be given preference over United States products when the cost and quality are equal.
3. Products of persons with mental or physical 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 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 on Purchasing from People with Disabilities, if the goods or services meet state specifications as to quantity, quality, price, delivery, life cycle costs, and cost no more than the fair market price of similar items.

4. Recycled, remanufactured or environmentally sensitive products. A preference shall be given to recycled, remanufactured or environmentally sensitive products if the products meet state specifications as to quantity and quality and defined best value factors.
5. 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 offered. This preference shall be applied by evaluating the energy use of the products 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.
6. 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 life-cycle cost benefit analysis, does not exceed the bid cost of alternative paving materials by more than 15%.
7. 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 to or less than new oil and lubricants.

18. Procurement Cards

- A. A University issued credit card. Department heads designate person(s) within their areas who are to be issued the procurement card. The pro-card program is a fast, flexible purchasing method for processing limited purchases from suppliers that accept credit cards. The purpose of the pro-card is to establish a more efficient, cost-effective method of the delegated purchasing and payment for small dollar transactions. The pro-card enables the designated person to purchase non-restricted commodities directly from the vendors without the issuance of a purchase order. The pro-card can be used with any supplier that accepts Master Card as a form of payment.

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| (1) Delegated Spending Limits: | \$2,000.00 single transaction limit
\$6,000.00 monthly transaction limit |
|--------------------------------|---|

- (2) Order cannot be split between vendors to stay under the delegated limit.
- (3) Computer and telecommunications purchases should be secured from a State approved QISV vendor if possible (<http://www/gsc/stte/tx/us>)
- (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 (http://http://www.tbpc.state.tx.us/cat_page/)
- (5) Food purchases require a statement stating who, what, when and where the food is being purchased for. This statement must be included in the transaction log envelope.
- (6) Pro-card may not be used to purchase postage stamps. Postage stamps and U.S. Post Office services require a "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 vendors 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:

1. FAMIS screens 103 or 204
 2. Texas Comptroller of Public Accounts web site
<Http://ecpa.cpa.state.state.tx.us/vendor/tpsearch1.html>
- (8) Transaction Log: Record each purchase/return made on the transaction log. You will have a new transaction log per month. You must obtain a receipt for each purchase and include it in the transaction log envelope. Ask the vendor to include the receipt 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) Upon receipt of the credit card statement, it is the cardholders responsibility to reconcile their statement and handle any disputes. After reconciliation the transaction log envelopes are submitted to the department head for review and signature. Transaction logs must be received in the Business Office by the 14th of each month.

- (10) Delivery: Items purchased with the Pro-card 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 Pro-card orders for shortages, damages, etc.

19. 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 \$2,000.00.(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.

20. Requisitions

- A. Requisitions

- (1) 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.
- (2) 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.
- (3) 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.

21. Review of Purchase Documents and Payment Vouchers

General. 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.

22. 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 re-submission.
 - (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, it 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.

24. 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.

23. 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 Commissions'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 an 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.

25. 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.