



TEXAS TECH UNIVERSITY
HEALTH SCIENCES CENTER

Procurement Services

Contract & Procurement Training

Statutory Requirement

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

- [Texas Education Code §51.9337\(b\)\(5\)](#)

Accountability

Accountability is the principle that employees who accept an assignment and the authority to carry it out are answerable to a superior or higher authority for the outcome². In public higher education procurement, employees are not only answerable to a higher authority, but also to grantees, taxpayers, and donors. **Accountability** has been central to discussions related to problems in the public sector, nonprofit, and private worlds¹.

1. State of Texas Contract Management Guide v. 9-1-15.
2. National Institute of Governmental Purchasing; Public Procurement Dictionary of Terms, April 2012.

Accountability Training

Training is now required for:

01

Staff with contract signature authority, which is delegated by the TTUS Regent Rules.

02

Faculty and staff in the Financial Manager role.

03

Faculty and staff with authority to approve a transaction in TechBuy.

04

Faculty and staff authorized to make a PCard purchase either by an individual PCard or a departmental PCard.

Financial Manager Accountability

- Per [HSC OP 50.03](#), **financial managers** have a fiduciary responsibility for the management of the funds and the organizations to which they are assigned. This means that faith and confidence have been placed in the financial manager to establish internal controls at the department level and to review transactions. The financial manager owes a duty to loyalty and reasonable care while managing the funds in his or her care.
- The **financial manager** may delegate transaction approval authority to another for operating in TechBuy and other financial applications. The financial manager is responsible for the activities of the assigned delegates. This includes the responsibility to remove or change terminated employees' approval authority.

Procurement

Definitions

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

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

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

Acquisition of Goods and Services

Pursuant to [Texas Education Code §51.9335](#), an institution of higher education may acquire goods or services by the method that provides the **best value** to the institution, including:

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

Best Value

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

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

Purchase Order

- **Purchase orders** are used to establish and control the purchase of good and services between TTUHSC and an external supplier.
- A **purchase order** must be created prior to a commitment of funds. Purchase orders submitted after the commitment is made or after the goods or services are received will constitute a non-compliant order.
- Note: another allowable procurement method at TTUHSC is the procurement card (PCard).
- Procurement Services has no obligation to authorize payment for expenditures not made in compliance with TTUHSC operating policies, and financial responsibility for any such payment may become the personal liability of the employee who obligated the institution without authority.

Procurement Method

Procurement Methods

Non-Competitive Methods

- Exempt
- Emergency
- Proprietary/“sole source”

Competitive Methods

- Cooperative Contracts (e.g., Region 19, E&I, Buyboard, UT Alliance, TIPS, etc.)
- State of Texas/Department of Information Resources (DIR)/General Services Administration (GSA) Contracts
- Existing competitively procured TTUHSC Contracts
- Low-Dollar (\$0.00 to \$50,000) Quotations
- Competitive Informal Bids (\$50,000.01 to \$100,000.00)
- Competitive Formal Solicitation (RFP, RFQ – above \$100,000.01)

Non-Competitive Methods

Exempt Purchases

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

- Advertisements
- Catering (food not for resale)
- Conference Expenses (excluding promotional items for attendees)
- Direct Publications (subscriptions, newspapers, videos, software from publisher)
- Exhibit Spaces
- Freight
- Hotels & Conference Rooms
- Internal Purchases (TTU System)
- Lecturers, Entertainers, and Guest Speakers
- Legislative Information Services
- Membership Fees & Dues
- Original Artwork, Collection of Works & Artifacts
- Personnel Moving Expenses
- Postal Services
- Purchases from other Government Agencies or Institutions of Higher Education
- Registration Fees & Related Expenses
- Student Travel
- Training Services
- Travel
- Utilities

Emergency Purchases

Emergency procurements occur as the result of unforeseeable circumstances and may require an immediate response to avert an actual or potential public threat.

If a situation arises in which compliance with normal procurement practice is impracticable or contrary to the public interest, an **emergency procurement** may be warranted to prevent a *hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the state (e.g., fire, flood, tornado, or terrorist attack)*.

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

Proprietary Purchases

- A **proprietary procurement** is justified only when an equivalent good or service is unavailable.
- A written justification must be provided when the specification requirement limits consideration to one manufacturer, one good, or one service provider and the amount of the procurement exceeds \$50,000 (either in a one-time purchase or repeated purchases of the same goods or services during a fiscal year).
- Price and personal preferences are not an acceptable justification. The Procurement Services Office reserves the right to require additional quotes or bids on any purchase.
- **Proprietary purchases** made using Federal Funds require extensive additional time, documentation, and negotiation to complete.
- The written justification **must** include:
 - Explanation of why the supplier of the goods or services is so distinct;
 - Details on the unique features of the goods or services;
 - Reason that competing goods or services are unlike those that are requested; and
 - Any other relevant information to support the sole source documentation.

Competitive Methods

Purchasing Contracts

- **Purchasing contracts** include State of Texas contracts, Department of Information Resources (DIR) contracts, General Services Administration (GSA) or federal contracts, purchasing cooperative contracts, and TTUHSC procured contracts. Departments should purchase under these existing contracts to the greatest extent possible. Purchasing contracts have already been competitively procured and provide substantial cost savings and other best value benefits (e.g., extended warranties, free shipping, compliance, etc.) to TTUHSC. No additional competitive procurement procedures are required making the timing of purchases quicker.
- For large volume purchases, departments should always inquire about additional discounts and benefits beyond contracted pricing and value provisions.

Purchasing COOP/GPO

- **Purchasing cooperatives (COOPs) and Group Purchasing Organization (GPOs)** are consortiums or groups of which TTUHSC is a member. COOPs/GPOs competitively procure contracts under which members can make purchases without having to pursue additional solicitations.
- Departments should always inquire if a vendor's good and/or services are available under a **purchasing COOP/GPO** contract. For assistance, visit the [GPO Contracts Search](#) page that can also be accessed through [TechBuy](#).
- For large volume purchases, departments should always request additional discounts and benefits beyond the contracted pricing and value provisions.

Purchasing COOP/GPO

The following is a list of the purchasing COOPs of which TTUHSC is a member. Many of these COOPs have hundreds of goods/services available on their contracts:

- Buyboard
- E&I
- First Choice
- HGAC Cooperative Purchasing Program
- National IPA
- Sourcewell (Formerly NJPA)
- NCPA
- PACE
- Provista
- Region 5
- Region 16 – TexBuy
- Region 19
- Region 20 - PACE
- TIPS/TAPS
- The Cooperative Purchasing Network (TCPN)
- TIPS
- UT Alliance
- US Communities
- Western States Contracting Alliance (WSCA)

State of Texas DIR Contracts

- The **Texas Comptroller of Public Accounts (CPA)** establishes term contracts for goods or services. These contracts are accessible on the CPA's website. As with COOPs, competitive bids or proposals are not required when purchasing goods or services under a CPA contract.
- The **Department of Information Resources (DIR)** also maintains state of Texas contracts under which TTUHSC may purchase information technology and telecommunication goods or services.

General Service Administration

- The **General Service Administration (GSA)** Advantage is the federal government's online catalog and ordering system. GSA contracts are available to state agencies and institutions of higher education when expending federal funds or in cases where the vendor is permitted to extend that contract to TTUHSC.
- Competitive bids or proposals are not required when utilizing GSA contracts. Note, the GSA contract number must be listed on the quote.

Competitive Solicitation Requirements Bid Thresholds

Competitive solicitations must be obtained for procurements of goods or services costing more than \$50,000 unless the purchase can be properly justified as proprietary, emergency, exempt, or made under a state, federal, institutional, or COOP/GPO contract, as stated previously. The \$50,000 threshold applies to both a one-time purchase and repetitive purchases of the same goods or services from the same vendor during a fiscal year (e.g., procuring toner cartridges throughout the fiscal year).

TTUHSC Bid Thresholds

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

- **\$0 - \$50,000:** Use of vendor of choice, unless otherwise directed by Purchasing. Departments are encouraged to use contract vendors and to practice good faith to award based on best value. Quotes are required for purchase orders.
- **\$50,000.01 - \$100,000:** Three (3) responsive written quotes. Departments are encouraged to practice good faith and award based on best value.
- **\$100,000.01 and higher:** The formal solicitation process is completed by the Procurement Department. Requesting department assistance is required. All formal solicitations are posted on the Electronic State Business Daily (ESBD) by Purchasing. Bids/orders for more than \$1 million for the full term of the contract require Board of Regents approval.

Information Technology

- All **ecommerce solutions** are required to use institutional payment gateways and are subject to review and approval by the TTUHSC CIO, per [HSC OP 50.37](#), Payment Card Processing by TTUHSC Departments.
- Any exceptions must be approved by the TTUHSC Office of the CIO.

Ecommerce Solutions

Accessibility Requirements

- All electronic and information resources must comply with the **accessibility requirements** outlined in [HSC OP 56.01](#), Acceptable Use of Information Technology Resources.
- Electronic and information resources include information technology and any equipment or interconnected systems or subsystems of equipment used in the creation, conversion, duplication, or delivery of data or information.



- TTUHSC departments, employees, and contractors must take reasonable and necessary steps to ensure the privacy of student education records, personally identifiable information (PII), protected health information (PHI), and other confidential or sensitive information.
- For privacy and confidentiality information, review:
 - [HSC OP 52.06](#), Standards of Conduct and Ethics Guide
 - [HSC OP 52.09](#), Confidential Information.

Information Privacy

Information Privacy

- Anyone who has access to private or personally identifiable information concerning university faculty, staff, students, affiliates, patients, or others, including donors or vendors, or who has access to any information made confidential by TTUHSC policies or law (including, but not limited to the Family Educational Rights and Privacy Act of 1974 and the Gramm-Leach Bliley Act of 1999) will take reasonable and necessary steps to ensure privacy of such information.
- “Private and personally identifiable information” includes, but is not limited to, social security numbers, birth dates, driver's license numbers, unpublished home addresses or phone numbers, personal account numbers, computer passwords and accounts, protected health information (e.g., patient records and information), and financial information.
- Protected Health Information (PHI) has the same meaning as outlined in TTUHSC HIPAA Policies and Procedures, *Privacy and Security of Health Information*, and is information protected under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, 45 C.F.R. Parts 160 *et. seq.*, Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009, 42 U.S.C. § 300jj *et. seq.*; 17901 *et. seq.*, as may be amended.

Contracts

Contracting Office

The responsibilities of the **Contracting Office** include:

- Verifying contracts are processed in compliance with Institutional policies, Texas statutes, and federal laws;
- Ensuring contracts are routed, reviewed, and executed properly;
- Performing a risk analysis on contracts;
- Administering a contracting system and serving as the repository for TTUHSC contracts processed by Procurement Services;
- Verifying the contractor's eligibility to contract with TTUHSC; and
- Providing guidance and assistance in the development, construction, and amendment of contracts/agreements.

Definition of a Contract

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

Contract formats include, but are not limited to letters of agreement, affiliation agreements, Professional service agreements, memorandums of understanding (MOU), Interagency Contracts, Interlocal contracts, consulting agreements, leases, and purchase orders.

[-Regents' Rules Chapter 07](#)

Definition of a Contractor

A **Contractor** is an individual or legal entity that has a contract to provide goods or services to TTUHSC.

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

The term **Contractor** may be used interchangeably with the term vendor.

Signature and Approval Authority

No person has the authority to commit TTUHSC for any purpose (i.e., enter into contracts) except as authorized in [Section 07.12, Regents' Rules](#). Authority is granted by *Regents' Rules* to the Chancellor and President. Departments, in general, do not have the authority to execute a contract.

- Signature authority applies to execution of all contracts for the initial periods and for amendments, or extensions of those contracts.
- List of signature delegations can be found on the contracting website: <https://www.fiscal.ttuhscc.edu/contractsubmission/Contract/Template?TemplateType=1>
- A contract may also require the Board of Regents' approval. To determine whether a contract requires approval of the board, review the option(s) including those to extend or renew a contract.

Definition of a Consultant

A **consultant** means a person that provides or proposes to provide a consulting service of studying or advising an existing or a proposed operation or project of TTUHSC under a contract that does not involve the traditional relationship of employer and employee.

Consultant definition is not applicable to actuaries, investment counselors, private legal counsel, or professional services listed in the [Texas Government Code, 2254.002\(2\)](#) and defined as services provided in connection with the professional employment or practice of a person who is licensed or registered and acting within the scope of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising or professional nursing. It is also not applicable to persons given faculty appointments, guest lecturers, guest performers or other persons performing other than consulting services.

Consulting Contracts

- In accordance with [Regent Rule 07.12.4.e](#), **consulting contracts** in excess of \$100,000 require full Board approval;
- **Consulting contracts** less than \$100,000 will be presented as informational agenda items at the next Board meeting.

Risk Analysis

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

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

This concludes this training. Additional resources, guidance documents, and training materials are available at:

- **Contracting website:**

<http://www.fiscal.ttuhs.edu/contracts/>

- **Purchasing website:**

<http://www.fiscal.ttuhs.edu/purchasing/>

To certify attendance and completion for Contract & Procurement training, you must answer the affirmation question that follows this training video.