

Best Value Procurement

Original Implementation: January, 1988

Last Revision: July 25, 2017

PROCUREMENT PROCESSES

Stephen F. Austin State University makes purchases, not otherwise delegated through Delegated Purchasing Authority (17.5), in accordance with Education Code 51.9335 and university policy.

The university purchases goods or service by the method that provides the best value to the university, including:

- A. programs associated with the purchase of goods or services from persons with disabilities as required under applicable state law;
- B. direct negotiation if the aggregate total is \$10,000 or less; except that the limit for federal funds is \$3,000
- C. group/cooperative purchasing programs;
- D. contracts awarded by the state comptroller's office, Department of Information Resources, Council on Competitive Government, State Office of Risk Management, or other state of Texas agencies or institutions of higher education;
- E. contracting with other state agencies or political subdivisions in accordance with Interagency and Interlocal Contracts (17.8);
- F. purchasing on a proprietary basis in accordance with Proprietary Purchases (17.15);
- G. purchase of professional services in accordance with Professional and Consultant Services (17.12);
- H. purchasing from state or federal surplus warehouses in accordance with Purchase of Surplus Property (17.17);
- I. soliciting bids or proposals as follows:
 - 1. informal solicitation if the aggregate total is \$25,000 or less; this limit may be increased to \$150,000 if using federal grant funds;
 - 2. formal solicitation if the aggregate total is over \$25,000; this limit may be increased to \$150,000 if using federal grant funds
- J. purchasing on an emergency basis as long as the procurement is necessary to prevent a hazard to life, health, safety, welfare or property, or to avoid undue additional cost to the university;
- K. purchasing on a best value basis without using one of the above processes as long as the supporting justification is approved by the director of procurement and is in compliance with best value considerations outlined in Education Code 51.9335.

ADDITIONAL PROCUREMENT CONSIDERATIONS

The university may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the university to participate in preparing the specifications or request for proposals on which the bid or contract is based. This does not prohibit a bidder or contract participant from providing free technical assistance to the university.

In accordance with Gov't Code Ch. 2252, Subchapter A, the university will apply reciprocity when evaluating informal bids and competitive sealed bids. This requirement does not apply to federal funds.

Contracting with a former employee or retiree for services is prohibited on state funds within 12 months of the employee's separation date from the university. The use of local funds is allowed within 12 months of the employee's separation date with prior approval of the director of procurement and property services, director of human resources, and general counsel.

Contracting with the executive head of a state agency, or with a person who at any time during the four years before the date of the contract was the executive head of a state agency, or with a person who employs a current or former executive head of a state agency is prohibited unless the Board of Regents votes in open meeting to approve the contract, and the Legislative Budget Board is notified no later than the fifth day before the date of the vote, of the terms of the proposed contract.

Contracts that generate revenue may be processed through any of the above procurement processes, through direct negotiation, or through any other process that is determined to represent the best value to the university.

All procurements, regardless of the source of funds, shall comply with laws and rules relating to historically underutilized businesses. Reference *Historically Underutilized Businesses (17.7)*.

Some procurements may require Board of Regents approval prior to purchasing. Reference *Items Requiring Board of Regents Approval (1.4)*.

Some procurements have additional restrictions based on the source of funding. Reference the *Funds Guidelines* and *HEF Guidelines* published on the procurement and controller's office websites.

The procurement office shall establish and maintain contract management procedures that provide for consistent contracting policies and practices and contract review procedures, including a risk analysis procedure. The contract review procedures, contract review checklist, and any updates, must be reviewed and approved by the general counsel before implementation.

The procurement office shall establish procedures to identify each contract that requires enhanced contract or performance monitoring. At a minimum new construction projects shall be included in this requirement. Identified contracts shall be reported to the Board of Regents at regularly scheduled meetings, including the following information:

- a. a description of the contract
- b. the vendor awarded the contract
- c. the procurement method by which the vendor was selected
- d. who is managing the contract
- e. any serious issue or risk associated with the contract

The following types of purchases or contracts are excluded from this reporting requirement: a memorandum of understanding, interagency contract, interlocal agreement, or contract for which there is no cost.

All contracts should be fully executed prior to the effective date and prior to work being performed to the extent possible.

EXEMPT PURCHASES

The following purchases are exempt from best value procurement processes outlined herein. Submission of a purchase requisition and other rules may apply.

1. Advertising
2. Hotels and meeting rooms for conferences
3. Conference expenses – expenses related to conference room services such as audio/visual/network and food services. (does not include goods purchased for attendees or transportation services)
4. Moving expenses (employee) – see Moving Expenses (3.23)
5. Student travel – expenses related to student travel
6. Library materials and services for Stephen F. Austin State University libraries when such exemption represents the best value to the university
7. Membership dues and associated fees
8. Direct publications only available from a single source as defined in the procurement procedure manual
9. Freight, including shipping, handling, fuel surcharge, hazardous material fee, postage, and other surcharges
10. Intra-agency payments (IDT)
11. Rental of exhibit space
12. Items for resale
13. Internal repairs – repairs for which the extent and cost of such cannot be determined until the commodity is disassembled and evaluated; an internal repair must contain labor and may also include parts

14. Purchases from federal agencies
15. Utilities, other than deregulated electricity
16. Organized activity purchases – goods and services for the Early Childhood Lab, Cole Audiology Lab, Beef Farm, Poultry Farm, Equestrian Program, Broiler Houses, and Swine Farm when the purchase directly affects operations and such exemption represents the best value to the university
17. Group travel – expenses related to group travel when such group travel includes non-university persons and/or is funded by payment from individual travelers; i.e., Art Tour
18. Gifts, prizes and awards for students, employees and non-university individuals
19. Accreditation fees
20. Tournament fees or game guarantees
21. Licensing fees or permits
22. Employee registration or tuition
23. Sponsorships
24. Non-travel-related meals
25. Fees, not otherwise identified herein
26. Notary bonds
27. Guest lecturers, speakers, artists, entertainers, performers, musicians, etc.
28. Educational/training services for university employees
29. Veterinary services
30. Other professional services as defined by the state comptroller's expenditure codes

Cross References: Items Requiring Board of Regents Approval (1.4); Historically Underutilized Businesses (17.7); Delegated Purchasing Authority (17.5); Interagency and Interlocal Contracts (17.8); Proprietary Purchases (17.15); Professional and Consultant Services (17.12); Purchase of Surplus Property (17.17); Purchases From Employees (17.21); Moving Expenses (3.23); Purchase Requisition (17.19); Tex. Educ. Code §§ 51.9335, .9337; Tex. Gov't Code § 572.069; Tex. Gov't Code § 669.003; Tex. Gov't Code § 2261.253; Tex. Gov't Code §§ 2252.001-.004, .901; 2 CFR §§ 200.317-.326

Responsible for Implementation: Vice President for Finance and Administration

Contact for Revision: Director of Procurement and Property Services/HUB Coordinator

Forms: Purchase Requisition, Purchase Voucher

Board Committee Assignment: Finance and Audit