

**POLICY AND PROCEDURES**

**Procurement Department**

Effective 6/10/14

I. PURPOSE AND SCOPE

This policies and procedures guideline outlines the general powers and responsibilities of the University of Houston-Clear Lake (UHCL) Procurement Department and the general procedures and limits for procurement actions from outside vendors applicable to all University of Houston-Clear Lake (UHCL) funds.

University of Houston-Clear Lake procurement policies and practices are subject to the restrictions of (i) University of Houston System Board of Regents Policy Section VI. 55 Finance, which can be accessed at <http://www.uhsa.uh.edu/board-of-regents/policies/index.php> (ii) University of Houston System Administrative Memoranda 03.A.01, 03.B.01, and 03.B.02, which can be accessed at <http://www.uh.edu/af/universityservices/policies/sam/index.html> and (iii) State of Texas regulations; and all state and federal purchasing laws and regulations.

II. POLICY STATEMENT

The Texas Procurement and Support Services (TPASS) has delegated to the chief executive officers of all state agencies the procurement authority for that agency, within certain limits. The University of Houston System chancellor has delegated this authority to the university presidents, who in turn have delegated the authority to the university departments.

The University of Houston-Clear Lake Procurement Department has been delegated the authority and the responsibility for purchasing supplies, materials, services, and equipment subject to limitations set by the Texas Procurement and Support Services (TPASS). The Procurement Department is required to adhere to TPASS policies regarding competitive bidding but may consider other factors including quality, reliability, expected life span, and compatibility with existing equipment.

It is the responsibility of the Procurement Department to organize and administer procurement services in a manner that will result in the greatest good for the university and will conform to established institutional policies and procedures and to standards of ethics and good business practices.

Public accountability and sound business practice demand that each unit, division, and component use prudent judgment on each procurement decision to ensure that all purchases are reasonable and necessary and to avoid the purchase of unnecessary items.

II. DEFINITIONS

1. Appropriated Funds: Funds allocated to a state agency by the Texas Legislature. Each Regular Session of the Texas Legislature funds the operating expenses of state agencies by enacting an appropriations bill. The current appropriations bill can be accessed on the Legislative Budget Board website, at <http://www.lbb.state.tx.us/> Procurements obtained with state funds are subject to requirements set forth in the Texas Government Code, the appropriations bill in effect at the time the procurement is obtained, and TPASS regulations.
2. Bid: An offer to provide goods, services, or space that is submitted by a vendor, contractor, or lessor in response to a Procurement Department solicitation, including an invitation to/for bid (IB), a request for offer (RFO), a request for proposal (RFP), request for qualifications (RFQ) or a request for quote (RFQ).
3. Bidder: An individual or entity submitting a bid in response to a solicitation. The term includes anyone acting on behalf of the individual or entity that submits a bid, such as agents, employees, and representatives.
4. Bidder Affirmation Clauses: Requirements for which a bidder certifies compliance (refer to <http://www.window.state.tx.us/procurement/pub/manual/2-25.pdf)>.
5. Blanket Order/Standing Order: A purchase order with a vendor for a specified time period, a specific commodity, and an estimated quantity, to be delivered as requested by the university.
6. Cash Discounts: A discount offered by a vendor to the University, in exchange for cash payment at the time of purchase.
7. Centralized Master Bidders List (CMBL): A list maintained by the TPASS that contains the names and addresses of prospective bidders. (refer to <https://mycpa.cpa.state.tx.us/tpasscmblsearch/index.jsp> )
8. Competitive Solicitation: The process of inviting and obtaining bids from competing sources in response to advertised competitive specifications, by which an award is made to the bidder that provides the best value to the University.
9. Contract: An agreement by two or more individuals and/or entities (“the Parties”) specifying obligations for which each individual and/or entity agrees to be held accountable.
10. Contracting Office: The appropriate university department for processing a contract. The university maintains three contracting offices: Office of Contracts Administration, Office of Sponsored Programs, and the Office of Facilities Management and Construction.
11. Contractual Instrument: Any written agreement, including but not limited to a contractual document, terms and conditions, a lease, a letter of agreement, a letter of intent, a memorandum of understanding, and an interagency or intercampus agreement, that is intended to and/or does obligate the university to perform obligations, as specified in the agreement that is executed by an individual on behalf of the university or to which the university is a party or signatory in any capacity, regardless of funding source, amount of funds expended or generated, and whether or not remuneration, monetary or in-kind, is involved.
12. Delegated Purchase: A purchase made by an agency under the authority of the TPASS and subject to TPASS rules and procedures.
13. Design Specifications: A description of the essential physical characteristics that an item bid must possess to be considered for award.
14. Early Payment Discount: A discount from the purchase price allowed to the purchaser, if payment is made within a specified time.
15. Education Code: Goods and services are procured as defined in Education Code Section 51.9335.
16. Electronic State Business Daily (ESBD): In accordance with Texas Government Code, Section 2155.083, the requirement to advertise solicitations using the ESBD applies to all purchases exceeding $25,000 regardless of source of funds used for the procurement, (including delegated purchases), emergency, construction projects, professional or consulting services, proprietary or purchases exempt from TPASS’s purchasing authority.

* If posting entire bid or proposal solicitation package, the posting is a minimum of 14 calendar days.
* If entire bid or proposal solicitation package is not posted, the posting is a minimum of 21 calendar days.

The Electronic State Business Daily can be accessed at <http://esbd.cpa.state.tx.us/>

1. Emergency Purchase: Goods or services that must be obtained immediately, in order to avoid financial or operational damage to the agency.
2. Formal Proposal: A written response submitted in a sealed envelope in accordance with a prescribed format.
3. Higher Education Assistance Fund (HEAF): Funds appropriated by the State of Texas legislature to support certain capital expenditures by institutions of higher education. HEAF funds also include proceeds from the sale of bonds collateralized with HEAF funds.
4. Historically Underutilized Business (HUB): a business that:

• is at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American and/or American woman,

• is a for-profit entity that has not exceeded the size standards prescribed by 34 TAC §20.23, and has its principal place of business in Texas, and

• has an owner residing in Texas with a proportionate interest that actively participates in the control, operations and management of the entity's affairs.

1. HUB-Subcontracting Plan: In accordance with the Texas Government Code, Chapter2161.252, each state agency that considers entering into a contract with an expected value of $100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interests, determine whether subcontracting opportunities are probable under the contract.
2. Informal Solicitation: An unsealed, competitive solicitation used for purchases less than $25,000 submitted by letter, telephone, telegram, or other means.
3. Invitation to Bid (IB): A written request for submission of a proposal response
4. Letter of Award: Letter of notification announcing an award to a bidder.
5. Local Funds: Funds generated by or on behalf of a state agency that are not appropriated by the Texas Legislature for use by the agency. Sponsored Project funds are included in the category of local funds, but only to the extent permitted by university policy and by the terms of the grant for which the funds were obtained.

AA. Office of General Counsel: The University of Houston System office charged with rendering legal advice and assistance to the University of Houston System and its components..

AB. Procurement Card: State term contract credit card program designed as a payment method to streamline small-dollar purchases.

AC. Procurement Department: The university department with sole and/or primary responsibility for obtaining procurements for or on behalf of the university.

AD. Prompt Payment Law: State law that requires state agencies to pay for goods or services by a specified deadline. (refer to section 2251.026 of the Texas Government Code).

AE. 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.

AF. Purchasing Department: See Procurement Department

AG. Purchase Order: A document generated by the Procurement Department upon receipt of a requisition from an originating unit for the purchase, lease, or rental of supplies, materials, or equipment. Purchase Orders can also be used to obtain standard equipment service contracts.

AH. Request for Information (RFI): A document to determine what products and services are potentially available in the marketplace to meet the agency’s needs and to know the capability of a vendor in terms of offerings and strengths. RFIs are commonly used on major procurements, where a requirement could potentially be met through several alternate means. An RFI, however, is not a request for pricing, is not binding on either the agency or vendors, and may or may not lead to an RFP or RFO..

AH. Request for Offer (RFO): Used for computer-related purchases by contacting at least three (3) vendors for offers or quotations of prices.

AI. Request for Proposal (RFP): The written solicitation document concerning goods or services the university intends to acquire by means of the competitive sealed proposal procedure. The procedure allows changes to be made after other proposals are opened and contemplates that the nature of the proposals and/or prices offered will be negotiated prior to award.

AJ. Request for Qualification (RFQ): A solicitation document often distributed before initiation of the RFP process. It is used to gather vendor information from multiple companies fications to generate a pool of prospects. This eases the RFP review process by preemptively short-listing candidates which meet the desired qualifications.

AK. Request for Quotation (RFQ): A soliciting document developed jointly by an originating unit and the Procurement Department that is sent by the Procurement Department to qualified and interested vendors detailing precise specifications for a commodity, or a service that the originating unit requires.

AL. Requisition: An internal document by which an originating department requests the Procurement Department to initiate procurement.

AM. Sealed Bid and Proposals: A response which is kept secure and unopened until after the due date and time specified.

AN. Sole Source/Proprietary Acquisition: A procurement for which bids would usually be required, but for the documented unique features or capabilities of the vendor or of the equipment.

AO. Specification: A specification (often abbreviated spec) is an explicit set of requirements to be satisfied by a material, product, or service. Should a material, product or service fail to meet one or more of the applicable specifications, it may be referred to as being out of specification. Specs are a type of technical standard.

AP. State Funds: Funds appropriated by the Texas Legislature to fund operations of a state agency or to fund specific projects of the agency (line-item appropriations). The current Appropriations Bill can be accessed on the Legislative Budget Board (LBB) website, at <http://www.lbb.state.tx.us/>.

AQ. Taxes:

Franchise tax: A corporation that is delinquent in franchise tax may not be awarded a contract by the state or any agency of the state, and may not be granted a permit or license by the state or any agency of the state.

Sales tax: A state agency may not accept a bid from or award a contract to an individual not residing in Texas or a business entity not incorporated in Texas or whose principal domicile is not in Texas unless

* The individual or business entity holds a Texas state and local sales tax permit, or
* The individual or business entity certifies to that state agency that it does not sell goods or services subject to local sales and use tax.

III. AUTHORITY, APPROVALS, OVERSIGHT

1. Authority: No entity or individual, including an employee, agent, contractor, subcontractor, or other person who is or appears to be or represents himself/herself/itself as acting on behalf of the university, has authority, express or implied, to incur any procurement obligation on behalf of the university, except as prescribed by policies and procedures.

B. Procurement Requirements: University procurements shall not be obtained by means or in a manner that violates applicable University policies or procedures or federal or state laws or rules and regulations.

C. Regulatory Oversight: Certain State of Texas entities maintain regulatory and/or enforcement oversight for university procurements, including the following: the Texas Procurement and Support Services (TPASS) <http://www.window.state.tx.us/procurement/>, and the Texas Legislative Budget Board (LBB) <http://www.lbb.state.tx.us/>

IV. DELEGATION, RESPONSIBILITIES

1. Contracting Requirements: Regardless of whether the procurement is obtained by way of a contractual instrument or by way of Procurement Department procedures and documents, all university procurements are subject to requirements set forth in the Procurement Manual, including but not limited to those pertaining to bidding, reporting, and utilization of Historically Underutilized Businesses.
2. Delegation: Subject to State law, the authority has been given to the Chancellor of the University of Houston System for University procurements. In accordance with Board of Regents policy and University policies and procedures, the Chancellor delegates authority to the respective campus presidents, who, in turn, delegate procurement authority to the Procurement Department.
3. Originating Unit Responsibilities: Each school, division, and department must use prudent business judgment when initiating a procurement request, in order to ensure that the procurement affords the most reasonable and expedient means by which the unit can accomplish its authorized university business.
4. Procurement Department Responsibilities: The Procurement Department is charged with administration of university procurements in a manner that obtains best value, in accordance with good business practice; conforms to applicable law, rules and regulations, policy, and procedure; and adheres to ethical standards that ensure protection of the university's resources and reputation.
5. University Procurement: Procurement authority for the University of Houston-Clear Lake rests with the Procurement Department, subject to regulatory oversight by TPASS and other governmental entities.

V. GENERAL PROVISIONS

1. Amendments, Renewals, Extensions: Amendments, changes, extensions, or renewals to the original procurement documents must be processed in the same manner as the original procurement documents. A copy of the original documents should be included with the amendments, change, extension, or renewal at the time the documents are submitted to the Procurement Department.
2. Authorized Purpose: The university’s name cannot be used on a procurement document or to obtain a procurement, unless the underlying transaction is for purposes of official university business.
3. Compliance: All university procurements, whether processed by the Procurement Department, by a contracting office, or by the originating unit, must be initiated and accomplished in accordance with the laws and constitution of the State of Texas and its regulatory agencies, as well as with Board of Regents policies and university policies and procedures.

D. General Authority: With the exception of expenditures exempted by TPASS and university policy which are processed directly through the Accounts Payable Department on vouchers, purchases from outside vendors must be processed through the Procurement Department. It is the responsibility of the certifying signator to ensure that all proper guidelines are followed.

1. Legal Review: Procurement documents containing terms and conditions with legal import are routed by Contracts Administration through the Office of Contract Administration for legal review.
2. Negotiation: Negotiation of all procurement transactions between the university and non-university vendors must take place by and through the Procurement Department.
3. Originating Unit Responsibilities: The originating unit assumes primary responsibility for ensuring support, review, funding adequacy, and approval for the procurement by the pertinent department, school, and/or division authorities before a procurement request is submitted to the Procurement Department; obtaining and completing all steps necessary for submission of proper documentation to the Procurement Department; providing assistance and information regarding the procurement, if and as requested by Procurement personnel; and evaluating, monitoring, and ensuring satisfactory performance by the vendor or contractor, in accordance with the terms and provisions of the procurement documents.
4. Processing: All procurement documents must be processed through the Procurement Department.
5. Recycled Materials: Preference will be afforded to procurement of products containing recycled materials.

VI. FUNDING SOURCE

A. State Funds: The Texas Procurement and Support Services (TPASS) maintains primary regulatory responsibility for procurements made with state funds by or on behalf of state agencies, including institutions of higher education.

1. Mandatory Procurement Sources: An originating unit should contact the Procurement Department for assistance with obtaining the procurement from a mandatory source, including the following:

1. TIBH: Goods or services available from TIBH, including certain kinds of furniture, janitorial supplies, and office supplies over $15, must be purchased from this source. A list of TIBH products and services is available at <http://www.tibh.org/> or contact the Procurement Department.
2. Recycled: Each fiscal year TPASS will designate purchasing goals for the procurement of recycled products by state agencies. These commodities are as follow:

* Motor oil and lubricants
* Toilet paper, toilet seat covers, and paper towels
* Printing paper, copier paper, and computer paper
* Business envelopes

2. Other Procurement Sources: For state-funded procurements obtained from sources other than those on term contracts, TIBH, Department of Information Resources (DIR) contracts, or cooperative contracts, The University requires strict adherence to the following bidding requirements:

a. Less than $15,000: Competitive bidding, whether formal or informal, is not required. The Procurement Department has the option to bid and will look to see if a Historically Underutilized Business (HUB) can be utilized.

b. $15,001 to $25,000: Informal telephone or fax bidding occurs with a minimum of three vendors being contacted with two HUBs being included in the process.

c. $25,001+: Formal bidding occurs with a minimum of three vendors being contacted with two HUBs being included in the process. The bidding opportunity may be posted on the Electronic State Business Daily.

3. Proprietary/Sole Source Procurement: A procurement for which bids would usually be required, but for the documented unique features or capabilities of the vendor or of the equipment. An originating unit that obtains a procurement for which more than $15,000 is expended without obtaining bids must complete and submit a Proprietary/Sole Source Justification Form with the procurement documents. This form is available from the Procurement Department or from the Procurement Department’s website (<http://prtl.uhcl.edu/portal/page/portal/PROPAY/Procurement_Payables/Contracts/Contract_Forms/Sole%20Source%20Form-2012-03-28-secured.pdf> ). After the completed form is reviewed, it will be determined whether the procurement is compliant with Proprietary/Sole Source requirements.

4. General Restrictions:

a. Prohibited Procurements: Certain items cannot be obtained with state funds, including the following (for a complete list, refer to Title IX of the current appropriations bill, which can be accessed on the Legislative Budget Board website, at <http://www.lbb.state.tx.us/>):

* food or beverages for employees or visitors, other than as allowed under state travel guidelines, refer to <http://www.tbpc.state.tx.us/travel/travel.html>;
* Other entertainment expenses;
* Decorative plants,
* For support of alumni organizations or activities;
* Aircraft;
* Rental or use charges for telephones with unlisted numbers, unless maintained for security purposes,
* Premiums on insurance policies covering claims arising under the Texas Tort Claims Act;
* Honoraria
* Audit fees, except those paid to or expressly authorized by the State Auditor's Office;
* Personal gifts or expenditures, other than expenditures for employee service awards and/or safety awards not exceeding $50 per award;
* For operation of an athletics department;
* For operation of an auxiliary enterprise;
* Salary payments to an employee who consumes alcoholic beverages while on the job;
* Purchase, rental, or cleaning of caps, gowns, and other items related to commencement;
* Personal moving expenses;
* Expenses related to student travel;
* Passenger transportation vehicles, unless used for delivery, equipped with two-way radios, used for public safety or for criminal law enforcement, or for mass transportation;
* Payments to charitable organizations;
* Delinquent child support payments;
* Christmas cards;
* Local government contracts;
* Payment for contracted services of individuals employed by the university within the past 12 months;
* Out-of-state student recruitment;
* Funeral expenses;
* Indigent health care;
* Oversized filing cabinets;
* Major information resources projects, unless approved by the Texas Department of Information Resources <http://www.dir.state.tx.us/index.html/> ;
* Fees, taxes, or professional dues, unless directly related to the job duties of the university employee;
* Penalties, unless required by federal law or regulation;
* Television transmitter stations; or
* Training for newly-appointed regents.

Advance Payments: State funds cannot be used for advance payments, except for the following:

* Rent for leased space, up to 14 days before due date;
* Newspaper or magazine subscriptions, up to six (6) weeks in advance of renewal date;
* Costs for reserving space for meetings or conferences that will take place in the next fiscal year, if required by the vendor;
* Annual maintenance agreements;
* Payments to state or federal agencies, if delivery of products or services will be expedited;
* Specialized or proprietary goods or services, if advance payment is required by the vendor;
* Tuition paid directly to institutions for higher education, up to six (6) weeks before commencement of classes; however, state employees cannot receive advance reimbursement for tuition;
* Benefits of cost savings resulting from advance payment;
* A state warrant for purchase of real property, up to seven (7) days before closing date, if the University delivers the warrant on or after the closing date;
* Library books and materials, if necessary for efficient library operation; and
* Any other advance payment that can be justified as necessary and in furtherance of a legitimate public purpose.

c. Printing Services: The Procurement Department processes all requisitions for printing services regardless of dollar amount.

5. State Higher Education Assistance Fund (HEAF):

a. Prohibited Procurements: HEAF monies cannot be used for procurements necessitating advance payments or for programs or facilities that are non-Educational and General, such as student housing, intercollegiate athletics, or auxiliary enterprises.

b. Permitted Procurements: The following procurements can be funded with HEAF monies: acquiring land, with or without permanent improvements; constructing and equipping buildings and other permanent improvements to facilities; major projects for repairing or rehabilitating buildings or other permanent improvements; acquiring capital equipment, library books, and library equipment; issuing bonds to finance land, constructing buildings or other permanent improvements to facilities, with certain specified limitations.

6. Sales Tax: University procurements obtained from Texas vendors are exempt from sales taxes. Contact the Procurement Department for guidance.

B. Local Funds: University-controlled, non-state funds can be expended to provide for expedient procurement of goods and services necessary to support the mission, goals, and objectives of the University, as long as the following requirements are fulfilled:

1. General Guidelines: Best value for quality goods and services must be obtained by means of competitive bidding. Greater discretionary latitude is permitted than for procurements made with state funds.

2. Prohibited Procurements: Local funds cannot be used for the following: political aid or retained counsel fees, unless authorized by the Office of the Attorney General of Texas, as indicated in the General Accounting Procedures Manual. In order to expend local funds for moving expenses, an originating department must follow requirements specified in the General Accounting Procedures Manual, Section 3.4(1.3).

3. Sales Tax: University procurements obtained from Texas vendors are exempt from sales taxes. Contact the Procurement Department for guidance.

4. Bidding Requirements: The following bidding requirements are applicable to procurements for which local funds are expended:

a. $15,000 or less: For procurements expending $15,000 or less, bids are not required.

b. $15,001 to $25,000: For procurements expending $,15,001 to $25,000, the Procurement Department must obtain three (3) informal, telephone or fax quotations, including a minimum of two HUB vendors.

c. $25,001 or more: For procurements expending $25,001 or more, the Procurement Department must solicit at least three (3) formal, written bids, including a minimum from two HUB vendors. The solicitation may be posted on the Electronic State Business Daily.

1. Proprietary/Sole Source Procurement: A procurement for which bids would usually be required, but for the documented unique features or capabilities of the vendor or of the equipment. An originating unit that obtains a procurement for which more than $15,000 is expended without obtaining bids must complete and submit a Proprietary/Sole Source Justification Form with the procurement documents. This form is available from the Procurement Department or from the Procurement department’s website, <http://prtl.uhcl.edu/portal/page/portal/PROPAY/Procurement_Payables/Contracts/Contract_Forms/Sole%20Source%20Form-2012-03-28-secured.pdf>
2. Certifying Signatures: With the exception of expenditures exempted by the Procurement Department’s policies, which are processed directly through the Accounts Payable Department on State of Texas Purchase Vouchers, it is the responsibility of the certifying signatory to ensure that all proper guidelines are followed and state contracts are used where applicable.

1. Expenditure Request: The appropriate signature authority for the department, college, or division for which that expenditure is requested must certify every expenditure request. An up-to-date list of authorized signatories is to be maintained by all processing unit/division/component. Requests not meeting the approval standards and other guidelines contained in this document and in other related policies and procedures will be rejected and returned to the department, with the reason noted.

2. Additional Approvals: In addition to the authorized certifying signature, certain additional approvals may be required when Procurement specialized items or using sponsored project funds.