[Minor revisions: May 15, 2014; Link updated April 30, 2015]

Angelo State University
Operating Policy and Procedure

OP 54.04: **Purchase of Goods and Services**

DATE: May 15, 2014

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to establish the procedures to be followed when purchasing goods and services.

REVIEW: This OP will be reviewed in April every 5 years, or as needed, by the director of purchasing/operations with recommendations for revision forwarded through the vice president for finance and administration to the president by May 15 of the same year.

POLICY/PROCEDURE

1. Policy

This policy will apply when using all sources of funds for the procurement of goods and services.

2. Acquisition of Goods and Services

a. 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 bidding;

(2) Competitive sealed proposals;

(3) Catalog purchase (CISV);

(4) Group purchasing programs; or

(5) Open market contract.

b. In determining best value to an institution of higher education, the institution shall consider:

(1) Purchase price;

(2) Reputation of the vendor and of the vendor's goods or services;

(3) Quality of the vendor's goods or services;

(4) Extent to which the goods or services meet the institution's needs;

(5) Vendor's past relationship with the institution;

(6) Impact on the ability of the institution to comply with laws and rules relating to historically underutilized businesses (HUBs) and to the procurement of goods and services from persons with disabilities;

(7) Total long-term cost to the institution of acquiring the vendor's goods or services;

(8) Any other relevant factor that a private business entity would consider in selecting a vendor; and

(9) Use of material in construction or repair to real property that is not proprietary to a single vendor, unless the institution provides written justification in the request for bids for use of the unique material specified.

c. Procurements of goods and services must comply with state and federal laws, institutional policies and procedures, and the *Regents' Rules*.

d. Purchase orders are not intended to be used strictly as a payment tool; therefore, the purchase order must be created prior to the commitment or obligation. Purchase orders submitted after the commitment has been made and/or after the goods and services are received will constitute non-compliance.

e. All electronic and information resources (EIR) products developed, procured, or changed through a procured services contract, and all EIR services provided through hosted or managed services contracts, shall comply with the provisions of Chapter 206 and Chapter 213 of the *Texas Administrative Code*, as applicable, unless such requirement imposes a significant difficulty or expense, as determined and exempted by the president of the university. If the total dollar value being paid for an EIR does not exceed $25,000, the purchase of an EIR does not have to comply with Chapter 213 of the *Texas Administrative Code*.

3. Procurement Methods

a. Procurement Card (Pro-Card) – The procurement card should be utilized for allowable low-dollar procurements. See the Purchasing Office website, for procurement card guidelines and application.

b. Texas Industries for the Blind and Handicapped (TIBH) - Commodities and/or services that are available through the Texas Council for Purchasing from People with Disabilities (currently TIBH) must be purchased through this entity when state-appropriated funds are being used unless non-utilization of TIBH can be adequately justified.

c. State of Texas Contracts – The Texas Comptroller of Public Accounts establishes contracts, including term contracts, TXMAS and DIR contracts for goods and services. These contracts are accessible on the Purchasing Office website.

d. Purchasing Co-ops – Angelo State University is a member of numerous purchasing co-ops, which allow purchases to be made directly with the vendor as the bidding and/or negotiation process has already occurred. Contact the Purchasing Office for further information.

e. Competitive Bidding/Proposals - If the "best value" for the commodity or service is not obtained from one of the above-listed programs, follow the bidding requirements. If competitive sealed bidding is either not practical or is not advantageous to the university, the request for proposal (RFP) process may be used.

4. Development of Specifications

a. The end user should communicate to the Purchasing Office the commodity or services needed via a purchase requisition. The requisition should include the specifications of the commodity or service that the end user needs to procure.

b. A specification is a detailed description of a product or service that a user seeks to procure. The specification must be simple, clear, accurate, competitive, and flexible. If the specifications do not allow for competition, then the specifications are considered proprietary.

5. Proprietary Specifications

a. A proprietary purchase is justified only when an equivalent product or service competition is not available. When the specification requirement limits consideration to one manufacturer, one product, or one service provider, and the amount of the purchase exceeds $5,000, a written justification must be provided, as required by state and federal law and university policy.

b. The attached Proprietary Purchase form must be included as an additional form with the requisition, to assist in the justification process. The project account manager must state:

(1) The proprietary features of the item and why these features are required; and

(2) Why no competing product can meet the needs.

6. Bid Requirements

a. Bids must be obtained on all purchases in excess of $5,000 unless the requirement can be properly justified.

b. Current bid limits, regardless of the source of funds are:

$0 - $5,000	Only one bid is required; however, requisitioning departments are encouraged to obtain more than one bid. Purchases from a historically underutilized business (HUB) are encouraged to the fullest extent possible.
$5,000.01 - $25,000	Three verbal or informal bids are required, with two being from certified HUBs.

Over $25,000	Requisitions must be sent to the Purchasing Office for processing. Formal bids/proposals will be obtained by the Purchasing Office on procurements in excess of $25,000.

The informal bids should be documented by the requisitioning department on the Bid Tab form located in purchasing forms on the Purchasing Office website.

c. Exception to above bid requirements:

(1) The ASU Print Shop has first right of refusal for all printing and binding jobs. Bids are not required if printing and binding are done by the ASU Print Shop. Competitive bidding is required in order to procure external printing and binding services.

(2) Exempt purchases as stated below.

(3) Proprietary purchase adequately justified (request in excess of $25,000 will require a formal bid).

d. All procurements that exceed $25,000, without regard to the source of funds, may be posted on an electronic bulletin board managed by the TPASS, if there is an advantage to do so.

e. The account manager is encouraged to solicit and purchase from HUBs to the fullest extent possible. For assistance in locating HUBs, contact the Purchasing Office.

f. State and federal laws and university policies strictly prohibit the splitting of orders to circumvent the bidding process.

7. Exempt Purchases

Exempt purchases are purchases that are exempt from the competitive bidding process. Exempt purchases include:

a. Classified advertisements (e.g., newspaper and magazine advertisements)

b. Conference expenses (expenses related to conference room services such as audio/visual/network and food services; however, goods purchased for attendees or transportation services are not exempt)

c. Direct publications (e.g., direct subscriptions, prepared videos, and software packages purchased directly from the developer)

d. Exhibit space (e.g., booths for display purpose)

e. Freight

f. Hotels and conference rooms

g. Internal repairs

h. Inter-agency purchases (purchases from other state agencies)

i. Lecturers/guest speakers (fees for one time only, not for continuous engagements)

j. Legislative information services; bill analysis services

k. Membership fees and dues

l. Moving expenses (employee)

m. Newspaper and magazine subscriptions directly from the publisher

n. Registration fees and associated books and materials

o. Student travel (except for chartering aircraft)

p. Purchases from federal agencies

q. Purchases from the Texas Department of Criminal Justice

r. Purchases from Texas Industries for the Blind and Handicapped

s. Utilities

8. Emergency Purchases

a. An emergency purchase is defined by the *Texas Administrative Code* as "a purchase of goods or services so badly needed that an agency will suffer financial or operational damage unless they are secured immediately."

b. An emergency purchase requires a letter of justification stating:

(1) The reason for the emergency purchase by explaining what the emergency is and/or what caused the emergency;

(2) The financial or operational damage that will occur if needs are not satisfied immediately (do not just state there will be a loss or damage); and

(3) Why the needs were not or could not be anticipated so that items could be procured through regular procurement procedures.

9. Cost Analysis

a. A cost analysis is required when state-appropriated funds are being used to purchase the services of independent contractors, temporary workers supplied by staffing companies, contract workers, consultants, speakers, temporary clerical staffing, and hardware and software maintenance when the cost is $10,000 or more.

b. The department must:

(1) Conduct a cost-benefit analysis of its current contract work force prior to hiring additional contract workers; and

(2) Document why and how this fits into the department's staffing strategies.

10. Advance Payments

a. Generally, prepayment is not authorized for the purchase of supplies, materials, equipment, or services. When utilizing state-appropriated funds, there are only a few exceptions:

(1) Library purchases for the university libraries;

(2) Payments to federal and other state agencies;

(3) Lease payments;

(4) Subscriptions;

(5) Rental fees for a meeting room or exhibit booth;

(6) Annual maintenance agreements; and

(7) Registration fees.

b. When institutional funds are being used, advance payments will be made to vendors only when no practical alternative exists to satisfy a need, when definite price savings can be realized, or when it is in the best interest of Angelo State to do so. Advance payments will not be made to vendors who sell to some classes of customers without advance payments, but require such payments from Angelo State, unless there is no alternative and the payments are approved in advance by the controller.

11. Receipt of Goods and Services

a. Requisitioning departments must inspect all shipments delivered by Central Receiving against the purchase orders and report any discrepancies to the Purchasing Office. Any discrepancy, including non-compliance with specifications, shortages, overages, and any damages must be reported immediately, but no later than 15 days after receipt of goods and/or services.

b. Requisitioning departments are responsible for notifying the Purchasing Office when an order is complete if the department picked up the items directly from the vendor or if services were rendered against a purchase order so that payment can be made to the vendor in a timely manner.

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

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d. Items and/or services must comply with the written specifications contained within the purchase order and/or contract. Failure to do so by the vendor will result in non-payment to the vendor.

Attachment: *Proprietary Purchase*