[Policy number change: March 29, 2013]

**Angelo State University**
**Operating Policy and Procedure**

**OP 30.06:** **Professional Services**

**DATE:** March 29, 2013

**PURPOSE:** The purpose of this Operating Policy and/or Procedure (OP) is to establish policies and procedures for using professional services to carry out the business of Angelo State University (ASU) or the Texas Tech University System (TTUS).

**REVIEW:** This OP will be reviewed in March of odd-numbered years by the director of purchasing/operations and the director of facilities planning and constructions, in conjunction with the vice president for finance and administration at ASU and the vice chancellor for facilities planning and construction at TTUS, with recommended revisions forwarded through the vice president for finance and administration to the president by April 15 of the same year.

## POLICY/PROCEDURES

### 1. Policy

a. Professional services may be acquired when there is a need for such services that cannot be performed by ASU or TTUS personnel. When these services are used, they will be selected on the basis of demonstrated competence and qualifications at a fair and reasonable cost that does not exceed any maximum allowances authorized by university regulations or state law. These services shall be procured in accordance with Texas Government Code, § 2254.

b. "Professional services" means services:

(1) Within the scope of the practice, as defined by state law, of:

(a) Accounting

(b) Architecture

(c) Landscape architecture

(d) Land surveying

(e) Medicine

(f) Optometry

(g) Professional engineering

(h) Real estate appraising

(i) Professional nursing or

(2) Provided in connection with the professional employment or practice of a person who is licensed or registered as:

(a) A certified public accountant

(b) An architect

(c) A landscape architect

(d) A land surveyor

(e) A physician, including a surgeon

(f) An optometrist

(g) A professional engineer

(h) A state certified or state licensed real estate appraiser

(i) A registered nurse

This policy is not applicable to the use of private consultants, which is covered in OP 54.05, or academic services, which is covered in OP 06.17. It is also not applicable to the services of any person who, during the current calendar year, has been an employee of the university; any payment made to such a person must be made as a supplemental compensation payment through the Payroll Office. Payments to retirees of the university shall follow the provisions of Texas Government Code, § 824.601.

**2. Administrative Procedures**

If the service is not procured competitively, the reason should be stated and approval by the director of purchasing/operations obtained prior to contracting for that service.

a. Procurement

Contract for Professional Services of an Architect, Landscape Architect, Professional Engineer, or Land Surveyor

(1) In procuring architectural, landscape architecture, professional engineering, or land surveying services estimated to be less than $100,000, ASU shall:

(a) First select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and

(b) Then attempt to negotiate with that provider a contract at a fair and reasonable price.

(2) In procuring architectural, landscape architecture, engineering, or land surveying services estimated to be more than $100,000, ASU shall:

(a) Issue a *Request for Qualifications* through the Office of Facilities Planning and Construction;

(b) Select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications provided in the *Request for Qualifications*; and

(c) Then attempt to negotiate with that provider a contract at a fair and reasonable price.

(3) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, landscape architecture, professional engineering, or land surveying services, the entity shall:

(a) Formally end negotiations with that provider;

(b) Select the next most highly qualified provider; and

(c) Attempt to negotiate a contract with that provider at a fair and reasonable price.

(4) The entity shall continue the process described in subsections (1) and (2) to select and negotiate with providers until a contract is entered into.

b. Contract for other Professional Services (non-construction)

(1) In procuring other professional services estimated to be less than $100,000, ASU shall:

(a) First select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and

(b) Then attempt to negotiate with that provider a contract at a fair and reasonable price.

(2) In procuring other professional services estimated to be more than $100,000, ASU shall:

(a) Issue a *Request for Qualifications* through the Purchasing Office;

(b) Select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications provided in the *Request for Qualifications*; and

(c) Then attempt to negotiate with that provider a contract at a fair and reasonable price.

(3) If a satisfactory contract cannot be negotiated with the most highly qualified provider, the entity shall:

(a) Formally end negotiations with that provider;

(b) Select the next most highly qualified provider; and

(c) Attempt to negotiate a contract with that provider at a fair and reasonable price.

(4) The entity shall continue the process described in subsections (1) and (2) to select and negotiate with providers until a contract is entered into.

c. Agreement

(1) When the scope of work to be performed is greater than $5,000, a contract for the work will be prepared and executed as a condition of payment for services.

(2) For professional architectural, landscape architecture, professional engineering, or land surveying services:

A formal agreement or contract is required when the formality of the contract arrangement requires it. The Office of Facilities Planning and Construction will prepare the standard agreement.

(3) For other professional services:

A formal agreement or contract is required when the formality of the contract arrangement requires it. The Office of Contract Administration will assist the administrator in preparing the agreement or contract.

**3. Financial Procedures**

a. Payments for services under this OP shall require a formal written agreement unless this requirement is waived by the director of purchasing/operations or the vice chancellor for facilities planning and construction. When the agreement is routed, the department shall submit a requisition to encumber the funds. The department shall submit all invoices for payment to Accounts Payable Office. Payments will not be released until a fully executed agreement is received and any required insurance has been provided. If check pick-up is requested, this and the name of the person who will pick up the check should also be noted. Both the fee and expenses may be paid on one voucher. The Office of Facilities Planning and Construction will prepare all purchase requisitions related to facilities planning and construction managed projects

b. Payments to individuals shall be in compliance with OP 14.05.

**4. Indemnification**

ASU may require a contractor selected under this policy to indemnify or hold harmless ASU from claims and liabilities resulting from the negligent acts or omissions of the contractor, the contractor's officers, directors, agents, employees, volunteers, or subcontractors.

## 5. Contract Notification

The Office of Contract Administration with assistance from the Purchasing Office shall provide written notice to the Legislative Budget Board of a contract for professional services if the amount of the contract, including an amendment, modification, renewal, or extension of the contract exceeds $14,000. The notice must be on a form prescribed by the Legislative Budget Board and filed not later than the 10th day after the date the entity enters into the contract.

## 6. Restrictions

a. ASU may not enter into a professional services contract agreement with any individual who has been previously employed by ASU within the past 12 months.

b. An individual who offers to perform a professional service for ASU and who has been employed by the university or another state agency at any time during the two years preceding the making of the offer shall disclose in the offer the nature of the previous employment with the university or the other state agency, the date of termination of the employment, and the annual rate of compensation for the employment at the time of termination.

c. A person's offer or proposal to provide professional services to ASU may not be accepted if the person received compensation from the agency to participate in the preparation of the specifications or request for proposals on which the offer is based.

## 7. Void Contract

If ASU or any ASU employee contracts for professional services or renews, amends, or extends a professional services contract without complying with the provisions of this OP, the contract, renewal, amendment, or extension is void.