PURCHASE OF PROFESSIONAL SERVICES

A. **Purpose**

The purpose of this policy is to define and provide guidelines for the procurement of professional services.

B. **Persons Affected**

This policy impacts all employees who participate to any extent in the procurement of professional services as defined by Chapter 2254 of the Texas Government Code.

C. **Definitions**

*Department Head* - A UTRGV department head, director, college dean, division vice president, or the President as applicable.

*Professional Services definition by Texas Government Code 2254.02* - As per the code “professional services is defined as 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; or  
   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; or  
   i. a registered nurse.
**Request for Qualifications** – Solicitation documents used to procurement of professional services.

### D. Policy

1. For the purposes of this policy, any services performed by a person or entity that are not included in the definition of “professional services” as set forth in Section 2254.002 (2) of the *Texas Government Code* are not professional services, even if such services are performed by a person or entity that additionally performs professional services. For example, the fact that an accounting firm also performs management consulting services does not mean that such management consulting services are “professional services” as defined in Section 2254.002 (2) of the Texas Government Code. The University of Texas System Board of Regents’ Rules and Regulations Series 80403 provides additional guidelines on professional services contracts related to minor construction and rehabilitation projects of $4,000,000 or less.

An agreement for professional services may not be awarded on the basis of competitive bidding but must be awarded on the basis of demonstrated competence and qualifications for the type of professional services to be performed and at a fair and reasonable price consistent with, and not higher than, the published recommended practices and fees of the applicable professional association and the maximum provided by any state law.

The Purchasing Department may issue a Request for Qualifications to solicit responses from qualified professionals to aide in the qualification/selection process. Upon selection of the most qualified professional that charges a fair and reasonable fee, the Purchasing Department will execute a Professional Services Agreement with such professional.

2. **Purchase of Architectural, Engineering, or Land Surveying Services**

   The purchase of architectural, engineering, or land surveying services must be made through a two-step negotiation process.

   a. The first step is the initial selection of the person or firm to provide the services based on demonstrated competence and qualifications. Depending on the size of the project and the anticipated value of the contract, the selection may be made on a formal or informal basis.

   b. The second step is negotiating a contract at a fair and reasonable price. If UTRGV is unable to negotiate a satisfactory contract with the most highly qualified person or firm, then the Purchasing Department will formally end negotiations with that person or firm and begin negotiations with the next most qualified person or firm. This sequence must continue until a satisfactory contract is negotiated or the procurement process is otherwise terminated.

3. **Effect of Noncompliance**
A professional services agreement is void unless it complies with Subchapter A, Chapter 2254, Texas Government Code.

4. UT System Employees

If the individual recommended is an employee of another UT institution, prior written approvals of the other institution's President and of the President are required. It is the responsibility of the dean, department head, and/or program director to disclose this fact to the Purchasing Department.

All travel expenses to employees of another UT institution must be in accordance with UTRGV’s travel policies and procedures. If UTRGV is paying for travel expenses, a copy of the other institution's travel authorization for the employee must be provided to the Purchasing Department. The authorization must show all required institutional administrative approvals and that no travel expenses will be requested by the employee.

5. Former Employees

None of the funds appropriated by the General Appropriations Act may be used to enter into a contract for professional services with any individual who has been previously employed by UTRGV within the past twelve months.

6. Payment

The Purchasing Department will create a purchase order for encumbrance and payment purposes. The Purchase Order must specifically state that (1) the Purchase Order is subject to the terms of the professional services agreement and (2) if there are any conflicts between the purchase order and the professional services agreement, the professional services agreement will control. The professional services agreement number will be the same as the purchase order number. Insufficiency of funds will cause the request for professional services to be rejected and returned to the requesting department.

The project coordinator identified by the requisitioning department will be responsible for communicating with the Accounts Payable Office when payment is due in accordance with the terms of the agreement. The project coordinator must obtain all original invoices for fees and receipts for travel and lodging expenses and submit them to the Accounts Payable Office immediately upon receipt.

E. Responsibilities

Department heads requiring professional services must submit though the electronic procurement system a Professional Services Request Form with supporting documentation as follows:

1) Type of professional services requested as defined in Subsection B above.
2) How/why a particular person or firm is recommended.
3) Scope of work to be completed in detail.
4) Justification of the need for professional services.
5) Dates service is required.
6) The name and telephone number of the project coordinator who will approve work completed and authorize payment.
7) Cost of service (if known) including travel expenses if applicable; if not known, provide estimate of expected cost.
8) Any other pertinent information requested by the Purchasing Department

F. Procedures

Procedures are available in the Procurement Management Procedures Manual.

G. Relevant Federal and/or State Statute(s), Board of Regents’ Rule(s), and/or Coordinating Board Rule(s).

Texas Government Code Subchapter A Sec. 2254

University of Texas System Board of Regents’ Rules and Regulations Rule 80403, Minor Construction and Repair and Rehabilitation Projects

University of Texas System Board of Regents’ Rules and Regulations Rule 10501, Delegation to Act on Behalf of the Board