

**Procurement Office Procedures**  
for  
**The University of Texas Rio Grande Valley**



## Table of Contents

I.	Mission.....	7
II.	Purchaser Training and Certification Program.....	7
a.	Plan Development.....	7
b.	Core Training Curriculum.....	7
c.	Certification Programs.....	8
d.	University Support of Program.....	8
e.	Deadlines and Submittal Requirements for Plan.....	8
f.	Personnel Requirements.....	8
III.	Definitions.....	9
IV.	Acronyms.....	14
V.	Goals.....	16
VI.	Authority.....	16
a.	Authority to Sign Contracts.....	17
VII.	Organization.....	17
VIII.	Ethics Policy.....	17
a.	Code of Ethics.....	18
b.	UTRGV Ethics Policy.....	19
c.	Standards of Conduct.....	20
d.	Prohibition of Economic Benefit.....	20
e.	Conflict of Interest.....	20
f.	New Ethics Requirements from Senate Bill 20.....	21
IX.	Disclosure of Interested Parties.....	23
X.	Debarment.....	24
XI.	Purchasing Department Responsibilities.....	25
XII.	Best Value Procurement Procedures.....	26
a.	Guidelines.....	26
b.	Group Purchasing.....	28
c.	Exclusive Acquisition Justification (EAJ).....	28
d.	Emergency Purchases.....	29
e.	Small Purchase Order.....	30
XIII.	Independent Contractors.....	30

XIV.	Products and Services not requiring a Purchase Order or Contract/Agreement.....	30
XV.	Preferences .....	31
XVI.	Recycled/Remanufactured Products .....	31
XVII.	Purchases from Persons with Disabilities .....	31
XVIII.	Historically Underutilized Businesses .....	31
	a. Good Faith Effort Responsibilities.....	31
	b. Bid Solicitation .....	32
	c. Orders Over \$100,000.....	32
XIX.	Determining Competitive Procurement Method.....	32
	a. Calculating Contract Value.....	33
	b. Dollar Thresholds for Direct and Competitive Procurement .....	33
	c. Competitive Procurement Exemptions.....	34
	1. Emergency Purchases.....	34
	2. Exclusive Acquisitions (also known as Sole Source or Proprietary Purchases).....	34
	3. Group Purchasing .....	35
	4. Direct Purchases.....	36
	5. Informal Competitive Offers .....	37
XX.	Formal Competitive Procurements.....	37
	a. Best Value Invitation for Bids (IFB).....	37
	b. Request for Qualifications (RFQ) .....	38
	c. Request for Proposal (RFP) .....	39
	d. Request for Information (RFI).....	40
	e. Formal Procurement Methods .....	42
XXI.	Preparing the Solicitation.....	43
	a. Background Information .....	43
	b. Proposal Submission Requirements.....	43
	c. Evaluation of Proposals.....	43
	d. Scoring Weight.....	44
	e. Solicitation Requirements.....	45
	f. Statement of Work .....	46
	g. Characteristics of Effective Specifications.....	48
	h. Bid List.....	52

i.	Record Retention .....	52
XXII.	Publication of the Solicitation .....	53
a.	Advertising .....	53
b.	Solicitation Announcement .....	53
c.	Written Questions.....	53
d.	Communication with Respondents.....	53
XXIII.	Pre-Proposal Conferences.....	54
XXIV.	Written Addenda .....	55
XXV.	Sample Agenda .....	55
XXVI.	Solicitation Submission and Opening.....	55
XXVII.	Evaluation and Award .....	56
a.	Evaluation Guide.....	56
b.	Evaluation Team .....	56
c.	Scoring Matrix.....	56
d.	Responsive Proposal .....	57
e.	Evaluation Team(s) Training.....	57
f.	Single Responses.....	58
g.	Proposal Evaluation .....	58
h.	References .....	59
i.	Oral Presentations .....	59
j.	Best and Final Offers.....	60
k.	Negotiations.....	60
l.	Award.....	61
XXVIII.	Release Authority.....	61
XXIX.	Exceptions .....	62
XXX.	Special Purchase Order Problems.....	62
XXXI.	Professional Services.....	64
a.	Categories of Professional Services .....	64
b.	Selection of Vendor (Except for Architects, Engineers, or Surveyors) .....	64
c.	Selection of Architects, Engineers or Surveyors .....	65
d.	Contracts for Professional Services Request Form .....	65
e.	Professional Services Agreement.....	65

XXXII. Service Agreements .....	66
XXXIII. Establishment of Committed Contracts.....	66
XXXIV. Trial, Sample & Evaluation Products.....	67
XXXV. Federal Contracts and Grants over \$100,000.....	70
XXXVI. Purchase of Used Equipment.....	70
XXXVII. General Requisition Process.....	70
XXXVIII. Special Procurements.....	71
a. Hazardous Material.....	71
b. Drugs, Pharmaceuticals, and Controlled Substances.....	71
c. Grants and Contracts Accounts .....	71
d. Printing.....	71
e. Classified Advertisements .....	72
f. Motor Vehicle Purchases .....	72
g. Equipment Maintenance and Rentals.....	73
h. Equipment Internal Repair Services.....	73
i. Registration Fees.....	73
j. Lease of Space.....	73
k. Remodeling and Construction Services Purchases .....	73
l. Relocation/Moving Services .....	74
m. Guest Lecturer Services .....	75
n. Purchases from Employees.....	75
o. Purchases from Former Employees .....	75
p. Warranties .....	75
q. Reimbursements for Purchases .....	75
r. Reimbursements for Business Entertainment Expenses .....	76
s. Purchases of Information Technology Equipment or Services .....	77
XXXIX. ProCard Procedure.....	79
XL. Central Receiving .....	80
APPENDIX 1 SUMMARY OF UT PROCUREMENT GUIDELINES.....	82
APPENDIX 2 NON-DISCLOSURE, CONFLICT OF INTEREST & BID REVIEW NOTIC .....	83
APPENDIX 3 SOLICITATION ANNOUNCEMENT & ADDENDUM NOTICE.....	85
APPENDIX 4 PRE-PROPOSAL CONFERENCE GUIDELINES .....	86

APPENDIX 5 PROPOSAL SCORE SHEET ..... 88

APPENDIX 6 ADMINISTRATIVE REVIEW CHECKLIST ..... 89

APPENDIX 7 EVALUATION TEAM GUIDELINES AND PURCHASING OFFICE  
RESPONSIBILITIES ..... 90

APPENDIX 8 EVALUATION TEAM WRITTEN INSTRUCTIONS ..... 92

APPENDIX 9 REFERENCE CHECK FORM ..... 94

APPENDIX 10 SAMPLE MOTOR VEHICLE ACQUISITION MEMO ..... 95

APPENDIX 11 BEST VALUE AWARD JUSTIFICATION ..... 96

APPENDIX 12 EXCLUSIVE ACQUISITION JUSTIFICATION (EAJ) ..... 97

**I. Mission**

The Procurement Office strives to provide efficient and responsive procurement and related services to University of Texas Rio Grande Valley departments with exceptional customer service and with the highest standards of ethics.

**II. Purchaser Training and Certification Program**

In accordance with University of Texas System Systemwide Policy UTS 156, this Purchaser Training and Certification Plan is established to ensure that:

- All personnel who procure goods or services on behalf of The University of Texas Rio Grande Valley (UTRGV or University) obtain appropriate training;
- All personnel who procure goods and services through competitive methods attain nationally recognized and/or State of Texas Buyer certification; and
- The University's Training and Certification Plan conforms to the guidelines established in UT System Systemwide Policy UTS 156.

a. Plan Development

The Purchasing Agent shall be responsible for the establishment, implementation, modification, or change of a training and certification plan. The plan may be implemented, modified, or changed only after review and approval of the Executive Vice President for Finance or Vice President for Finance and Public Policy or designee and Administration and the Office of General Counsel. At a minimum, the plan must contain the following:

1. Identification of personnel who are required to obtain training and/or certification; personnel training and certification levels shall be classified by the type of purchase (e.g., formal bids, informal quotes, small dollar procurements) and level of commitment authority;
2. Training requirements for the identified personnel classifications; the training requirements shall identify the subject matter and the minimum hours of training required; and
3. Certification requirements for the identified personnel classifications.

b. Core Training Curriculum

At a minimum, purchaser training must include the following areas:

- a. Ethics
- b. Supplier relations
- c. The University of Texas System HUB program
- d. Applicable laws, rules, and regulations
- e. The role of the Buyer and the Buyer's fiduciary responsibility
- f. Documentation and records management
- g. Applicable policies and procedures
- h. Contract administration
- i. Principles of "best value" procurement

c. Certification Programs

Only the certifications listed below are approved for inclusion in the training and certification plan.

Institute for Supply Management:

- Certified Purchasing Manager (C.P.M.)
- Accredited Purchasing Practitioner (A.P.P.)
- Certified in Supply Management (C.S.M.)
- Certified Professional in Supply Management (C.P.S.M.)

National Institute of Government Purchasing:

- Certified Public Purchasing Officer (C.P.P.O.)
- Certified Public Purchasing Buyer (C.P.P.B.)

State of Texas (administered by Texas Procurement and Support Services, a division of the Texas Comptroller of Public Accounts):

- Certified Texas Purchaser (CTP)
- Certified Texas Purchasing Manager (CTPM)

d. University Support of Program

The University supports this Purchaser Training and Certification Plan. Financial support will be provided as necessary for training and testing of individual purchasers as required in the plan. Financial support for testing will be limited to a one-time basis as required in order to attain the specific designation for that personnel classification. The University will also provide financial support for the continuing education credits required in order to maintain individual University purchaser certifications.

e. Deadlines and Submittal Requirements for Plan

The Purchasing Agent is responsible for maintaining a current purchaser training and certification plan which has been approved by the Vice President for Finance and Administration and the Office of General Counsel.

The Purchasing Agent shall submit proposed substantive modifications or changes to an UTRGV's plan to the Executive Vice Chancellor of Business Affairs and the Office of General Counsel after the approval of the modification or change by the Executive Vice President for Finance and Administration.

f. Personnel Requirements

Any individual who is hired after September 1, 2002, and who is required to be certified under UTRGV's plan must be certified within eighteen months of his or her date of hire.

Job descriptions for each personnel classification shall incorporate the training and certification requirements applicable to that classification in the job description.



By January 15 of each fiscal year, the Purchasing Agent at UTRGV and System Administration must submit to the respective UTRGV's chief business officer a list of all personnel who are certified. The list must include each employee's name, job title, and certification type.

If an individual fails to obtain training and/or certification for a particular personnel classification in accordance with the requirements set forth in his or her UTRGV's training and certification plan, the individual may not make purchases on behalf of UTRGV that are permitted for that personnel classification. At the sole discretion of UTRGV, however, the individual may continue to make purchases on behalf of UTRGV at those levels for which the individual has attained the required training and/or certification.

### III. Definitions

**Addendum:** An addition, change, or supplement to a solicitation issued prior to the opening date.

**Advertise:** A public announcement of the intention to purchase goods/services.

**Amend or Amended:** Status change to an RFP, IFB, RFI, RFQ or contract that indicates a modification to that document.

**Amendment:** Written addition or change to a contract, including modifications, renewals and extensions.

**Applicable Laws:** All applicable federal, state or local, laws, statutes, regulations, ordinances and orders.

**Assignment:** Transfer of contractual rights from one party to another party.

**Best Value:** Factors to be considered in determining best value in making certain purchases of goods/services (ref. Texas Education Code, [§§51.9335](#) ) the optimum combination of economy and quality that is the result of fair, efficient and practical procurement decision-making and which achieves the procurement objectives of The University of Texas Rio Grande Valley.

**Best Value Invitation for Bids (IFB):** Best value procurement process used when the requirements are clearly defined, negotiations may not be necessary and price is the primary determining factor for selection (also known as best value Invitation to Bid or ITB). The mandatory evaluation criteria that must be used to evaluate bids are specified by the Best Value Statutes.

**Best Value Statutes:** The laws that authorize UTRGVs to use the specified best value procurement procedures for goods/services, but not professional services.

**Bid:** An offer to contract with the state, submitted in response to an invitation for bids (IFB). Bids are usually non-negotiable.

**Bidder:** An individual or entity that submits a bid. The term includes anyone acting on behalf of the individual or other entity that submits a bid, such as agents, employees and representatives

(see Proposer and Respondent).

**Biennium:** The two (2) year period in which the Texas Legislature appropriates funds. The biennium begins on September 1st of odd numbered years.

**Board of Regents:** The Board of Regents of The University of Texas System.

**Bond:** Note or other form of evidence of obligation issued in temporary or definitive form, including a note issued in anticipation of the issuance of a bond and renewal note.

**Business Entity:** An entity (other than a governmental entity or state agency) through which business is conducted with UTRGV, regardless of whether the entity is a for-profit or nonprofit entity.

**Buyer:** Individual authorized to solicit and award purchase orders under the authority of the Chief Procurement Officer and who is a member of the Purchasing Staff of the Procurement Office.

**Certificate of Filing:** The disclosure acknowledgement issued by the Texas Ethics Commission to the filing Business Entity.

**Competitive Sealed Proposals:** Process of advertising a request for proposal (RFP), the evaluation of submitted proposals and awarding of the contract.

**Consultant:** A person that provides or proposes to provide a consulting service.

**Consulting Service:** Practice of studying or advising a state agency under a contract that does not involve the traditional employer/employee relationship (ref. *Texas Government Code*, [§2254.021](#) Definitions).

**Contract:** An agreement (including a purchase order) where a contractor provides goods/services to UTRGV and UTRGV pays for such goods/services in accordance with the established price, terms and conditions, as well as an agreement under which a contractor is given an opportunity to conduct a business enterprise on an UTRGV's premises in exchange for compensation to UTRGV (i.e., auxiliary enterprise contracts).

**Contract Administration:** This generally refers to the processes that occur after a contract is signed and is explained in detail in Contracts Management Handbook.

**Contract Management:** The entire contracting process from planning through contract administration, including contract closeout.

**Contract Manager:** A person who is employed by UTRGV and has significant contract management duties for UTRGV.

**Contractor (or Vendor or supplier):** A business entity or individual that has a contract to provide goods/services to an UTRGV.

**Controlling Interest:** (1) an ownership interest or participating interest in a Business Entity by

virtue of units, percentage, shares, stock or otherwise that exceeds 10 percent; (2) membership on the board of directors or other governing body of a Business Entity of which the board or other governing body is composed of not more than 10 members; or (3) service as an officer of a business entity that has 4 or fewer officers, or service as one of the 4 officers most highly compensated by a Business Entity that has more than 4 officers.

**Department Head:** A UTRGV director, college dean, division vice president or the President as applicable based on the next level of approval.

**Deliverable:** A unit or increment of work required by a contract, including such items as goods, services, reports, or documents.

**Electronic State Business Daily (ESBD):** The electronic marketplace where State of Texas bid opportunities are posted (ref. Texas Government Code, [§2155.083](#) State Business Daily; Notice Regarding Procurements). Pursuant to Texas Government Code, [§2155.083\(n\)](#), IHEs to which Texas Education Code, §§ [51.9335](#) are not subject to [§2155.083](#).

**Emergency:** A purchase made when an unforeseen and/or a sudden unexpected occurrence creates a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

**Exclusive Acquisition:** Purchase of goods/services that exceed the authorized direct procurement dollar threshold from a single vendor, without soliciting competitive offers or proposals. The term includes proprietary/sole source purchases.

**Executive Sponsor:** A high-level individual with primary responsibility for implementation and operation of the project. In some instances, the executive sponsor may be the President of UTRGV. In other instances, the executive sponsor may be the Vice president or division head with overall project responsibility.

**Expenditure Type (E-Type):** Expense codes set forth by the Texas Comptroller of Public Accounts that cover the wide variety of goods and services purchased by the State of Texas while serving the needs of financial reporting.

**Goods:** Supplies, material, or equipment, including a transportable article of trade or commerce that can be bartered or sold. Goods do not include construction services or real property.

**Group Purchasing Organization (GPO):** A purchasing program established by (1) a state agency that is authorized by law to procure goods/services for other state agencies, such as the Texas Procurement and Support Services Division of the Texas Comptroller of Public Accounts and the Texas Department of Information Resources, or any successor agencies, respectively; or (2) the UT System Supply Chain Alliance; or (3) any of the organization approved as part of the Group Purchasing Organization (GPO) Accreditation Program listed at <https://www.utsystem.edu/offices/business-affairs/group-purchasing-organization-gpo-accreditation-program>

**Handbook:** The University of Texas Rio Grande Valley Contract Management Handbook.

**Historically Underutilized Business (HUB):** A minority-owned, woman-owned or certain disabled veteran-owned businesses as defined by [Texas Government Code, Title 10, Subtitle D, Chapter 2161](#). (<https://comptroller.texas.gov/purchasing/vendor/hub/>)

**Institutions of Higher Education:** Institutions of higher education as defined by [Texas Education Code, §61.003\(8\)](#).

**Institution:** UT System and the institutions comprising UT System as listed in [Regents' Rule 40601](#).

**Interested Party:** (1) a person who has a Controlling Interest in a Business Entity with whom UTRGV contracts; or (2) a person who actively participates in facilitating the contract or negotiating the terms of the contract with UTRGV, including a broker, intermediary, adviser, or attorney for the Business Entity.

**Intermediary:** A person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the Business Entity who:

- (1) Receives compensation from the Business Entity for the person's participation;
- (2) Communicates directly with UTRGV on behalf of the Business Entity regarding the contract; and
- (3) Is not an employee of the Business Entity.

**Negotiations:** A consensual bargaining process in which the parties attempt to reach agreement on a disputed or potentially disputed matter. In a contractual sense, negotiation means the "dealings conducted between two or more parties for the purpose of reaching an understanding."

**Payment Bond:** A bond executed in connection with a contract which secures the payment requirements of contractor

**Performance Bond:** A surety bond that provides assurance of a contractor's performance of a certain contract. The amount for the performance bond is based on the value of the contract.

**Pre-proposal Conference:** A meeting chaired by UTRGV personnel that is designed to help potential bidders/proposers/respondents understand the requirements of a solicitation. Also known as a pre-bid conference.

**Professional Services:** Services directly related to professional practices as defined by the Professional Services Procurement Act ([Texas Government Code, §2254.002](#)). These include services within the scope of the practice of: accounting; architecture; optometry; medicine; land surveying; and professional engineering. *Services provided by professionals outside the scope of their profession (for example, management consulting services provided by accounting firms) are not considered professional services. Contracted services provided by professionals that fall outside their scope of practice are governed by the Best Value Statutes applicable to the purchase of goods/services.*

**Project Manager:** A UTRGV employee who acts as an approver and is responsible for verifying the legitimacy, appropriateness, and necessity of transactions recorded against their assigned project.

**Proposal:** An executed offer submitted by a respondent in response to a Request for Proposals (RFP) and intended to be used as a basis to start the negotiation on a possible contract award.

**Proposer:** An entity submitting a proposal in response to a solicitation. The term includes anyone acting on behalf of the individual or other entity that submits a proposal, such as agents, employees and representatives (see Respondent).

**Proprietary Purchase:** (see Exclusive Acquisition)

**Purchasing Office:** The office designated to purchase goods/services above the direct procurement dollar threshold for UTRGV.

**Regents' Rules:** The *Rules and Regulations* of the Board of Regents of The University of Texas System.

**Renewal:** Extension of the term of an existing contract for an additional time period in accordance with the terms and conditions of the original or amended contract.

**Request for Information (RFI):** A general invitation to contractors requesting information for a potential future competitive solicitation. The RFI is not a competitive solicitation and a contract may not be awarded as the result of an RFI. An RFI is typically used as a research and information gathering tool for preparation of a competitive solicitation.

**Request for Proposal (RFP):** A solicitation requesting submittal of a proposal in response to the required specifications and SOW and usually includes some form of a cost proposal. The RFP process allows for negotiations between a respondent and UTRGV. The mandatory evaluation criteria that must be used to evaluate proposals are specified by the Best Value Statutes.

**Request for Qualifications (RFQ):** A solicitation requesting submittal of qualifications or specialized expertise in response to the scope of services required. No pricing is solicited with an RFQ.

**Responsive:** A respondent or proposal that complies with all material aspects of the solicitation, including submission of all required documents.

**Respondent:** An entity submitting a proposal in response to a solicitation. The term includes anyone acting on behalf of the individual or other entity that submits a proposal, such as agents, employees and representatives (see Proposer).

**Responsible:** A respondent that is capable of fully performing and delivering goods/services in accordance with the contract requirements. UTRGV may include past performance, financial capabilities and business management as criteria for determining if a respondent is capable of satisfying the contract requirements.

**Scope of Work (SOW):** An accurate, complete, detailed, and concise description of the work to be performed by the contractor.

**Service:** The furnishing of skilled or unskilled labor by a contractor which may not include the delivery of a tangible end product. In some cases, services and goods may be combined (such as film processing). In these instances, UTRGV should determine whether labor or goods is the primary factor. In the case of film processing, the labor to process the film is the primary factor, therefore film processing is considered a service.

**Sole Source:** (see Exclusive Acquisition)

**Solicitation:** A document requesting submittal of bids, proposals, quotes or qualifications for goods/services in accordance with the advertised specifications.

**Specification:** Any description of the physical or functional characteristics or of the nature of goods/services to be purchased. It may include a description of any requirements for inspecting, testing, or preparing goods/services for delivery.

**State:** The State of Texas.

**State Agency:** An agency of the State of Texas as defined in [Texas Government Code, §2056.001](#) (excluding Institutions).

**Statute:** A law enacted by a legislature.

**Sub-recipient:** A non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. A sub-recipient may also be a recipient of other federal awards directly from a federal awarding agency.

**Supplier (or Contractor or Supplier):** A business entity or individual that has a contract to provide goods/services to UTRGV.

**Surety:** A person or entity providing a bond to a contractor to indemnify UTRGV against all direct and consequential damages suffered by failure of contractor to perform the contract and to pay all lawful claims of subcontractors, materials vendors and laborers as applicable.

**University Rules:** The Regents' Rules at <http://www.utsystem.edu/board-of-regents/rules>; the policies of UT System at <http://www.utsystem.edu/board-of-regents/policy-library>; and rules, regulations and policies of the University of Texas Rio Grande Valley available at: <http://www.utrgv.edu/hop/handbook/index.htm>.

**UTRGV or University:** The University of Texas Rio Grande Valley.

**UT System:** The University of Texas System.

**Vendor (or Contractor or Supplier):** A business entity or individual that has a contract to provide goods/services to UTRGV.

#### IV. Acronyms

<b>BAFO:</b>	Best and Final Offer
<b>CPA:</b>	State of Texas Comptroller of Public Accounts
<b>DIR:</b>	State of Texas Department of Information Resources
<b>EIR:</b>	Electronic and Information Resources
<b>ESBD:</b>	Electronic State Business Daily
<b>GPO:</b>	Group-Purchasing Organization
<b>HSP:</b>	HUB Subcontracting Plan
<b>HUB:</b>	Historically Underutilized Business
<b>IFB:</b>	Best Value Invitation for Bid (also known as Invitation to Bid or ITB)
<b>IHE:</b>	UTRGV of Higher Education
<b>IPA:</b>	UTRGV Participation Agreement
<b>IR:</b>	Information Resources
<b>ITRAVEL:</b>	Electronic Travel Booking tool used at UTRGV
<b>LBB:</b>	Texas Legislative Budget Board
<b>OGC:</b>	The University of Texas System Office of General Counsel
<b>RFI:</b>	Request for Information
<b>RFP:</b>	Request for Proposal
<b>RFQ:</b>	Request for Qualifications
<b>SAO:</b>	State of Texas Auditor's Office
<b>SOW:</b>	Scope of Work
<b>TAC:</b>	Texas Administrative Code
<b>TPSS:</b>	Texas Procurement and Support Services Division of CPA
<b>SPO:</b>	Small Purchase Order Program at UTRGV

## **V. Goals**

In order to accomplish its mission, the Procurement Office pursues the following goals through:

1. Ethical procurement practices;
2. Providing cost-effective and efficient purchasing services for University departments while ensuring compliance with relevant University, UT System, state, and federal purchasing regulations;
3. Development of skilled procurement expertise and implementation of “best practice” processes;
4. Continuously providing UTRGV community with current procurement policies and procedures with consistent application to ensure appropriate stewardship of public funds;
5. Effective value-added partnerships with our internal customers, as well as our valued external suppliers;
6. Providing efficient and cost-effective travel services for University departments while ensuring compliance with relevant University, UT System, and State of Texas travel regulations;
7. Promoting economic prosperity for Historically Underutilized Businesses (HUBs) through the State-mandated HUB Program, including the provision of expertise to potential HUB vendors to assist them in participating in the program;
8. Reliably managing all transactions effectively and consistently from purchasing through payment

## **VI. Authority**

Authority to obligate UTRGV funds for purchases of supplies, goods, services, and equipment is delegated to the Chief Procurement Officer by the President pursuant to authority granted by Rule 10501, Section 1 of the Regents’ Rules, Delegation to Act on Behalf of the Board.

The Procurement Office is delegated their authority to purchase for the organization from the President of UTRGV. All procurements regardless of the dollar amount should be made utilizing the best value for each dollar of expenditure and whenever possible the procurement should be made from review and evaluation of more than one source. Inherent in this authorization is the requirement that the departments enter Purchase Requisitions into the electronic procurement system and issue purchase orders or contracts (signed by authorized officials) to suppliers prior to receipt of goods or services.

The entry of the requisition and the ultimate creation of a purchase order “encumbers” the funds in the financial system assuring that funds are available to pay for the goods or services.

For faculty or staff to obligate UTRGV without the issuance of a purchase order is a violation of established procedures and authority granted by the University President and increases risk with the suppliers that provide goods and services in good faith. Only participants in the Small Purchase Order (SPO) program may obligate through the issuance of purchase orders and in accordance with SPO program rules.

Suppliers should not provide goods and services to UTRGV unless they have received an approved purchase order, via electronic procurement system, a fully executed contract, signed by an authorized official, or valid procurement card payment.



a. Authority to Sign Contracts

The authority to sign any contract for the purchase of goods and services is delegated to the Procurement Office and select additional individuals by the President of UTRGV. Individuals within departments do not have the authority to sign contracts on behalf of UTRGV for the acquisition of goods and services. If you have a question regarding a contract that a supplier has sent for signature, contact the Procurement Office.

Reference – [UTRGV Handbook of Operating Procedures](#), ADM 10-403 Centralized Purchasing

## VII. Organization

Procurement Office is organized into three operating areas:

- I. Purchasing
  1. HUB & Small Business Program
  2. Vendor File Maintenance
  
- II. Procurement Contracts
  1. Business Contracts
  2. Software Contracts
  
- III. Travel and Credit Card Services Office
  1. Domestic and international Travel
  2. Credit Card Program

The organizational chart can be viewed on the UTRGV Procurement Office website:

<https://www.utrgv.edu/financial-services-comptroller/departments/procurement-office/purchasing/index.htm>

<https://www.utrgv.edu/procurement/index.htm>

## VIII. Ethics Policy

As the recipient and custodian of public and private funds, UTRGV is especially concerned with the ethical procurement of goods and services, and requires that its faculty and staff request and acquire goods and services in the most ethical manner possible. This procedure is issued to establish effective guidelines for ethical practices for procurement processes consistent with UTRGV and UT System policies and applicable laws and regulations.

All Procurement staff shall follow and adhere to the Regents' Rules relating to Rule 30103 (Standards of Conduct) and Rule 30104 (Conflict of Interest, Conflict of Commitment and Outside Activities) (<http://www.utsystem.edu/board-of-regents/rules>). UTRGV purchasing personnel

must adhere to the highest level of professionalism in discharging their official duties. The nature of the procurement function makes it critical that everyone in the purchasing and contracting process remain independent and free from the perception of impropriety. Any erosion of public trust or any shadow of impropriety is detrimental to the integrity of the purchasing process. Clear, established guidelines and rules provide credibility for a purchasing program. Such guidelines are designed to prevent current and potential vendors from influencing UTRGV officers or employees in discharging their official duties. In addition, these guidelines will help prevent UTRGV officers' and employees' independent judgment from being compromised.

With these principles in mind and in accordance with state law, UTRGV officers and employees will adhere to the following policies and procedures, as well as Applicable Laws and University Rules.

All official purchasing agents are required to sign and maintain on file a Conflict of Interest, Conflict of Commitment and Outside Activities form. This form should be signed on an annual basis.

a. Code of Ethics

All officers, faculty, staff, and employees shall adhere to the laws, rules, regulations and policies of applicable governmental and UTRGV authorities and the following standards of conduct. Failure to do so may be grounds for disciplinary action up to and including termination of employment.

- First consideration shall be given to the objectives and policies of UTRGV and the UT System.
- Every effort shall be made to obtain the best value for each dollar of expenditure.
- Honesty in sales representation shall be demanded, whether offered through the medium of oral or written statement, an advertisement, or a sample of the product.
- Purchase agents, their staffs and others authorized by or under these regulations to make purchases shall not accept or solicit personal gifts, favors or gratuities that might in any way result in an obligation to individuals or firms seeking business.
- No employee shall intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or performed his or her official duties in favor of another.
- No employee shall accept employment or engage in any business or professional activity which the employee might reasonably expect would require or induce the employee to disclose confidential information acquired by reason of his or her official position.
- All purchases, regardless of the source of funds, shall be made using the method that provides the best value to UTRGV and in accordance with (a) the requirements of

Texas Education Code Sections 51.9335, as applicable, unless otherwise authorized by law, UT System policy, or approved University policy; and (b) UTRGV's Handbook of Operating Procedures.

- No employee shall disclose confidential information gained by reason of his or her official position or otherwise use such information for his or her personal gain or benefit.
- No employee shall transact any business in his or her official capacity with any business entity of which the employee is an officer, agent, or member, or in which the employee owns a substantial interest.
- No bidder or proposer shall receive special consideration.
- No employee shall make personal investments which could reasonably be expected to create a substantial conflict between the employee's private interest and the public interest.
- No employee shall accept other employment or compensation which could reasonably be expected to impair the employee's independence of judgment in the performance of the employee's public duties.
- Sexual Harassment and Misconduct: The educational and working environments of UTRGV should be free from inappropriate conduct of a sexual nature. Sexual misconduct and sexual harassment are unprofessional and unacceptable. UTRGV has adopted policies prohibiting sexual harassment and sexual misconduct and procedures for review of complaints. These policies and procedures will be reviewed by the Executive Vice Chancellor for Health Affairs or the Executive Vice Chancellor for Academic Affairs, as appropriate, and are published in UTRGV's Handbook of Operating Procedures.
- Any violations of these purchasing ethics shall be reported promptly by the Executive Vice President for Finance and Administration or designee and to the UT System Executive Vice Chancellor for Business Affairs.

b. UTRGV Ethics Policy

UTRGV officers and employees may not have a direct or indirect interest, including financial and other interests, engage in a business transaction or professional activity, or incur any obligation of any nature, that is in substantial conflict with the proper discharge of the officer's or employee's duties in the public interest.

c. Standards of Conduct:

A UTRGV officer or employee will not:

- Accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows, or should know, is being offered with the intent to influence the officer's or employee's official conduct;
- Accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position;
- Accept other employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of their official duties;
- Make personal investments that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest; or
- Intentionally or knowingly solicit, accept or agree to accept any benefit for having exercised the officer's or employee's official powers or performed their official duties in favor of another.

UTRGV may not use appropriated money to compensate a state employee who violates a standard of conduct.

d. Prohibition of Economic Benefit

In accordance with the Texas Constitution, an officer or employee of the state may not, directly or indirectly, profit by or have a pecuniary interest in the preparation, printing, duplication, or sale of a publication or other printed material issued by a department or agency of the executive branch. A person who violates this Section may be dismissed from UTRGV employment.

e. Conflict of Interest

To avoid conflicts of interest, UTRGV requires all potential contractors bidding or proposing to provide goods or services in response to a competitive procurement to disclose, in their responses to solicitations, any actual or potential conflicts of interest in their proposed provision of goods/services or other performance under any contracts. Specifically, solicitation documents should require that debarred vendors and principals of debarred vendors (i.e. owner, proprietor, sole or majority shareholder, director, president, managing partner, etc.) be identified to ensure such vendors/principals are not awarded, extended or renewed any contract. Vendors should also be required to update that information throughout the term of the contract resulting from the solicitations.

The University also requires respondents to:

- Represent and warrant that their provision of services or other performance under the contract will not constitute an actual or potential conflict of interest.
- Disclose any proposed personnel who are related to any current or former employees of UTRGV.
- Warrant that they have not given, nor intend to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to an officer or employee of UTRGV in connection with the solicitation.

Contractors should not be allowed to assign any portion of the contract or their performance, to others, for example, subcontractors, without the prior written consent of UTRGV. Contractors should remain responsible for the performance of the contract notwithstanding any such assignment or subcontract. This ensures that the evaluated and selected entity will actually be responsible for performance and that proposed transactions may be reviewed for compliance with the conflict of interest and related party provisions.

f. New Ethics Requirements from Senate Bill 20

The passage of Senate Bill 20 in the 84th Legislature (SB 20) has established a number of new provisions related to ethics and purchasing. SB 20 creates a new *Texas Government Code*, Chapter 2261, Subchapter F. In connections with ethics, Chapter 2261 requires that:

- Each UTRGV officer or employee who is involved in procurement or in contract management for UTRGV will disclose to UTRGV any potential conflict of interest specified by state law or UTRGV policy that is known by the employee or official with respect to any contract with a private vendor or bid for the purchase of goods/services from a private vendor by UTRGV.
- UTRGV may not enter into a contract for the purchase of goods/services with a private vendor with whom any of the following employees or officials have a financial interest:
  - the governing official, executive director, general counsel, chief procurement officer, or procurement director of the agency; or
  - a family member related to an employee or official described above within the second degree of affinity or consanguinity.
- A UTRGV employee or official has a financial interest in a private vendor if the employee or official:
  - owns or controls, directly or indirectly, an ownership interest of at least one percent in the person, including the right to share in profits, proceeds, or

capital gains; or

- Could reasonably foresee that a contract with the person could result in a financial benefit to the employee or official.
- A financial interest prohibited by this Section does not include a retirement plan, a blind trust, insurance coverage, or an ownership interest of less than one percent in a corporation.

Best value purchasing authority held by institutions of higher education in *Texas Education Code*, §§51.9335, is conditional on satisfying the requirements of new §51.9337. Of these new requirements, some relate to ethics. The ethics-related requirements the Board of Regents must adopt are:

- A code of ethics for UTRGV's officers and employees, including provisions governing officers and employees authorized to execute contracts for UTRGV or to exercise discretion in awarding contracts, including:
  - general standards of conduct and a statement that each officer or employee is expected to obey all federal, state, and local laws and is subject to disciplinary action for a violation of those laws;
  - policies governing conflicts of interest, conflicts of commitment, and outside activities, ensuring that the primary responsibility of officers and employees is to accomplish the duties and responsibilities assigned to that position;
  - a conflict of interest policy that prohibits employees from having a direct or indirect financial or other interest, engaging in a business transaction or professional activity, or incurring any obligation that is in substantial conflict with the proper discharge of the employee's duties related to the public interest;
  - a conflict of commitment policy that prohibits an employee's activities outside UTRGV from interfering with the employee's duties and responsibilities to UTRGV;
  - a policy governing an officer's or employee's outside activities, including compensated employment and board service, that clearly delineates the nature and amount of permissible outside activities and that includes processes for disclosing the outside activities and for obtaining and documenting UTRGV approval to perform the activities;
  - a policy that prohibits an officer or employee from acting as an agent for another person in the negotiation of the terms of an agreement relating to the provision of money, services, or property to UTRGV;
  - a policy governing the use of UTRGV resources; and

- a policy providing for the regular training of officers and employees on the code of ethics and policies discussed therein.
- policies for the internal investigation of suspected defalcation, misappropriation, and other fiscal irregularities and UTRGV or system-wide compliance program designed to promote ethical behavior and ensure compliance with all applicable policies, laws, and rules governing higher education, including research and health care to the extent applicable.
- training for officers and employees authorized to execute contracts for UTRGV or to exercise discretion in awarding contracts, including training in ethics, selection of appropriate procurement methods, and information resources purchasing technologies.

Finally, *Texas Government Code*, Chapter 572, includes a revolving door provision for UTRGV officers and employees involved in procurement. Under *Texas Government Code*, Section 572.069, a former state officer or employee of a state agency who, during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation, may not accept employment from that vendor or service provider before the second (2<sup>nd</sup>) anniversary of the date the officer's or employee's service or employment with the state agency ceased.

## **IX. Disclosure of Interested Parties**

UTRGV must comply with the “Disclosure of Interested Parties” requirements mandated by Section 2252.908, Government Code, as implemented by the Texas Ethics Commission. Briefly stated, UTRGVs may not execute a contract for goods or services exceeding \$1 million unless the Business Entity presents UTRGV with a signed form disclosing interested parties to the contract. Business Entities may be unaware of these requirements and successful implementation may require some outreach and education by UTRGV so that the contracting process can be successfully navigated and large contracts executed timely.

Specific Disclosure requirements include:

- Before UTRGV may execute certain contracts exceeding \$1 million, the Business Entity, as defined above, with which UTRGV is contracting must submit FORM 1295 to UTRGV at the same time the Business Entity submits the signed contract to UTRGV.
- This requirement applies to contracts [including contract amendments, renewals and extensions] that:
  - ✓ Require action or vote by the Board of Regents before the contract may be signed, or
  - ✓ Have a value of at least \$1 million, not including (1) sponsored research contracts; (2) interagency contracts; (3) real estate contracts or (4) contracts related to health and human services if the value cannot be determined at the time the contract is executed and any qualified vendor is eligible for the contract.

### **1. Automated Disclosure Process**

The Texas Ethics Commission provides an automated electronic disclosure process that both the Business Entity and UTRGV must use to comply with the Disclosure requirements. Access to the electronic disclosure process is posted at <https://www.ethics.state.tx.us/filinginfo/1295/> which currently contains a link to FORM 1295 and other related information.

2. Current Disclosure Process

Step #1 – Business Entity completes FORM 1295 in electronic format on the Texas Ethics Commission website.

Step #2 – Upon receipt of a completed Disclosure, Texas Ethics Commission issues a Certification of Filing to Business Entity and Business Entity downloads, signs and notarizes FORM 1295.

Step #3 – When Business Entity submits the signed and notarized FORM 1295 to UTRGV with the signed contract, Business Entity also submits the Certificate of Filing.

Step #4 – Not later than the 30th day after the date the contract has been signed by all parties, UTRGV must notify the Texas Ethics Commission (in electronic format) of the receipt of (1) FORM 1295, and (2) the Certification of Filing.

Step #5 – No later than the 7th business day after receipt of notice from UTRGV, Texas Ethics Commission makes the Disclosure available to the public by posting the Disclosure on its web site.

3. Contents of Disclosure

FORM 1295 requires Business Entity to provide the following information:

1. Name of Business Entity;
2. Address of Business Entity place of business;
3. Name of UTRGV;
4. Identification number used by UTRGV to identify the contract;
5. Description of goods or services provided under the contract;
6. Name, address and nature of interested parties (Controlling Interest and/or Intermediary);
7. If none, a representation that there are no Interested Parties;
8. Signature of authorized representative of Business Entity; and
9. Acknowledgement by a Notary Public.

**X. Debarment**

The University cannot conduct business with suppliers who have been “debarred” by certain State and Federal agencies. There are multiple reasons for why a supplier may be debarred.

Procurement Office verifies a supplier’s debarment status upon setting up a new supplier and upon issuing a purchase order greater than \$50,000. A process is in place to randomly re-verify a sample of suppliers periodically.

Suppliers are required to certify that they are not debarred from any of the following federal and/or state agencies:



- (1) Debarment, exclusion, or other ineligibility for participation in federally funded health care programs or receipt of federal funds by querying the List of Excluded Individuals/Entities maintained by the Department of Health and Human Services, Office of the Inspector General <https://oig.hhs.gov/exclusions/index.asp>
- (2) The System for Award Management (SAM) is a Federal Government owned and operated free web site that consolidates the capabilities in CCR/FedReg, ORCA, and EPLS. <https://www.sam.gov/portal/public/SAM/>
- (3) Designation as a Specially Designated National by querying the Specially Designated Nationals List maintained by the United States Department of the Treasury, Office of Foreign Assets Control <http://sdnsearch.ofac.treas.gov>
- (4) Suspension and/or exclusion by the State of Texas Comptroller of Public Accounts by querying the Suspended Vendor List and the Debarred Vendor List maintained by the Window on State Government <https://comptroller.texas.gov/purchasing>
- (5) Verification of good standing by querying the Franchise Tax Certificate of Account Status information maintained by the Texas Comptroller of Public Accounts <https://mycpa.cpa.state.tx.us/coa/>

A supplier who is known to be debarred at time of entry into the vendor database will not be entered. A supplier who is subsequently found to be debarred will be inactivated in the system. The supplier will not be reactivated until assurance has been received from the debarring agency that the supplier is now in good standing.

It is the responsibility of the supplier to resolve any issue that has led to debarment.

UTRGV employees may not directly contact state or federal agencies on behalf of a debarred supplier. Direct inquiries with these agencies for debarment status verification may only be made by designated managers within Finance and Public Policy.

## **XI. Purchasing Department Responsibilities**

The Purchasing Department has the following general responsibilities:

- Procure all goods and services required by the University
- Determine the most appropriate and effective method of acquisition for each request for purchase
- Assure that best value in all procurements is obtained as authorized under UTRGV's Handbook of Operating Procedures
- Abide by all UT System and University ethics policies
- Verify sufficiency of departmental funds for purchases
- Conform to applicable laws and regulations on all purchases
- Encourage truly competitive procurements while still satisfying the needs of the University
- Conduct all formal communications with vendors regarding purchases
- Develop and maintain current information on sources of supply
- Maintain an accurate file of all purchases and related documents
- Approve all Exclusive Acquisition Justifications (EAJ'S) that limit competition
- Comply with the University's Historically Underutilized Business policy

- Provide assistance on procurement matters to all departments
- Provide vendors with tax exemption certificates

## **XII. Best Value Procurement Procedures**

This procedure is issued to establish effective guidelines for the procurement of supplies, equipment, and services consistent with best value principles, applicable laws and regulations, and best industry practice.

### **a. Guidelines**

**General:** Personnel authorized to make procurements on behalf of the University shall determine in their best judgment the most appropriate and effective method of acquisition for each assigned requisition or request for purchase. In making this determination, authorized personnel will have a variety of procurement options, including, but not limited to: Texas Procurement and Support Services (TPASS) Contracts, Group Purchasing Contracts, Open Market Procurements, Texas Department of Information Resources (DIR) Contracts, UT System Contracts and UT Supply Chain Alliance Contracts. The Buyer's objective is to acquire the product or service meeting the needs of the end user while ensuring that the procurement achieves: (1) "best value" as defined above and authorized in Section 51.9335, Education Code; (2) compliance with the Regents' Rules and Regulations; (3) compliance with the University's Historically Underutilized Business (HUB) policies; (4) conformance to standards of ethical conduct; and (5) compliance with all applicable laws, rules and regulations. Personnel authorized to procure goods and services on behalf of the University must prepare an electronic Purchase Requisition (PR) through the electronic procurement system. The PR routes electronically and its budget is checked by the system and then approved by the project manager. If the request is greater than \$15,000, the PR routes to the Purchasing office for final review and approval. All purchases must be accompanied by a fully approved Purchase Order, fully executed contract (signed by the authorized official) or allowable purchases through Procurement Card transaction.

In determining best value, UTRGV 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 meets the University's needs; (5) vendor's past relationship with the University; (6) impact on the ability of the University to comply with the laws and rules relating to historically underutilized businesses; (7) impact on the ability of the University to comply with the laws and rules relating to the procurement of goods and services from persons with disabilities; (8) long-term cost to the University of acquiring the vendor's goods or services; and (9) any relevant factor that a private business entity would consider in selecting a vendor. If the procurement relates to the repair of real property, in determining best value the University shall consider the use of material to repair real property that is not proprietary to a single vendor unless UTRGV provides written justification in the procurement solicitation for use of the unique material specified.

1. **Federal Funds:** All procurements of supplies, equipment and services utilizing

Federal Funds (e.g., Federal Grant or Contract) shall be made in accordance with all applicable federal rules and regulations such as the Federal Acquisition Regulations (FAR), Federal Office of Management and Budget (OMB) Circular A-102, and OMB Circular A110.

2. **Open Market Procurements:** The following procedures outline minimum solicitation requirements for those orders processed on the open market (e.g., via Invitation for Bid (IFB), Request for Proposal (RFP), etc.); however, such minimum requirements do not negate the Buyer’s obligation to ensure that a competitive procurement occurs and best value is attained. Thus, it shall be the Buyer’s responsibility to determine the appropriate number of competitive suppliers from whom to solicit offers with consideration given to maximizing HUB participation and contract awards (Ref. HOP Section ADM 10-412)

Dollar Range	Type of Request	Solicitation Process
\$0 to \$15,000	Spot Market	Competitive quotes are encouraged but not required; award to best source.
\$15,000.01 to \$50,000	Informal	A department is encouraged to obtain a minimum of three quotes by mail, email, or fax and attach them to the requisition in the electronic procurement system for submission to the Purchasing Office. A good-faith effort should be made to include at least one quote from a minority-owned or woman-owned business. A Exclusive Acquisition Justification Form may be used if appropriate. For more information about exclusive acquisition justifications, see section XIX Determining Procurement Method subsection e. Exclusive Acquisitions.
\$50,000.01 or greater	Formal	Formal bidding by the Purchasing Office may be required. Consult with a buyer in the Purchasing Office to determine the appropriate procurement method. A Exclusive Acquisition Justification Form may be used if appropriate. For more information about exclusive acquisition justifications, see section XIX Determining Procurement Method subsection e. Exclusive Acquisitions.

b. Group Purchasing

Group Purchases are purchases made under a group purchasing program that follow ALL applicable statutory and regulatory standards for the procurement.

c. Exclusive Acquisition Justification (EAJ)

Exclusive Acquisition Justification or Sole Source purchases are purchases made without competitive procurement because circumstances exist that preclude competition. Generally, sole source purchases occur when the procurement of a good or service can be made only from one source of supply or when the procurement of a particular brand name or product is required. Since sole source purchases eliminate competition, UTRGV carefully regulates them and requires that they be clearly identified within the purchasing process.

UTRGV makes sole source purchases only when detailed justification exists. The requestor is responsible for providing a written detailed, reasonable, and defensible justification of sole source purchases. The Chief Procurement Officer, or his or her designee, is responsible for approving the justification.

The following are justification reasons for Exclusive Acquisition Justifications or Sole Source purchases:

- Proprietary (i.e. Pharmaceuticals, Chemical Reagents)
- Original Equipment Manufacturer (OEM) Maintenance/Renewal
- Compatibility with Existing Equipment
- Continuity of Service/Research
- Meets Unique Specifications
- Contractor/Grantor Requirement
- Direct Publication/Software Renewal/Maintenance

**Procedure**

The requesting department is responsible for submission of the Exclusive Acquisition Justification Form through the electronic procurement system to provide explanations to the following three issues:

**Required Features:** An explanation of the need for the specification, e.g. which part or parts of the stated specification restricts the competition to one manufacturer or provider. Describe how the selected supplier meets requirements.

**Evaluation of Other Sources:** Identify other sources that were evaluated and reason why competing products are not satisfactory, e.g. a justification for the proprietary purchase. Attach copies of any quotes collected from other

suppliers, if applicable.)

**Risk Elements:** Describe any substantial risks that could not be overcome if the product or service was procured from another source.

The specific impact on the Department/Research/Patients.

In addition, the individual requesting the consideration of Exclusive Acquisition Justification or Sole Source must sign the Conflict of Interest Statement Section providing assurance that their recommendation has not been inappropriately influenced. The department head senior to the primary user also needs to certify that the information submitted on the form has been reviewed and has departmental approval. The Purchasing Office shall make the final determination of approval.

The Procurement Office Buyer who is processing the request will research the request to validate that justification is appropriate and correct. The Buyer will document the due diligence that was performed to support his or her approval by approving the requisition.

The Buyer will discuss the recommendation with a manager in the Procurement Office with delegated authority, for the amount of the purchase, and have the manager provide approval. All approvals are required to be completed prior to issuance of a purchase order or Business Contract

Requests for EAJ or Sole Source justification that cannot be supported will be denied and returned to the initiating department.

d. **Emergency Purchases**

When the purchase of a product or service needs to be processed on an emergency basis, a written justification must be provided and include information on the reason of the imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. The following information may also be required in the submittal:

- The reason for the emergency purchase by explaining what the emergency is and/or what caused the emergency situation.
- The financial or operational damage/risk that will occur if needs are not satisfied immediately.
- Why the needs were not or could not be anticipated so that products/services could not have been purchased following standard procedures.
- The reason and process used for selecting the vendor.

**Procedure**

Prior to committing a Purchase Order for the product or service, the justification must be reviewed and approved by the Chief Procurement Officer or designee.

e. Small Purchase Order

Authorized Project Managers approve and issue small purchase orders directly to vendors under established program rules detailed in the program for requests under \$15,000. Project Managers must ensure proper asset tagging compliance for their purchases. Intentionally splitting purchase request to circumvent the small purchase order dollar threshold is a violation of program guidelines.

**XIII. Independent Contractors**

When acquiring services from a Sole-Proprietorship or an Individual, an “Employee/Independent Contractor Verification Form”, available on the [Purchasing Department Sharepoint](#) using UTRGV credentials, must be reviewed for compliance and approved by the Buyer prior to committing a Purchase Order/Contract. The Requesting Department shall complete and submit the Employee/Independent Contractor Verification Form, or the Buyer may assist the Department in completing the form.

**XIV. Products and Services not requiring a Purchase Order or Contract/Agreement**

Some purchases of products or services may not require a Purchase Order or Contract/Agreement issued by Purchasing Staff as these are covered by agreements issued outside the authority of the Purchasing Department or best value is obtained by procuring such products or services by other means. These include:

- Registration Fees
- Accreditation Fees
- Memberships
- Postage
- Reimbursements
- Affiliation Agreements
- Collaboration Agreements
- Sponsored Research Agreements
- Regulated Utilities
- Real Estate Transactions
- Student tuition, scholarships, stipends, etc.
- Cash awards to employees, students, etc.
- Game guarantees
- Prizes
- Travel Requests
- Property lease agreements
- Services provided by other University departments

**Prepayment Requests**

The following information is for the issuance of Prepayments in the event that a vendor will not accept a purchase order or procurement card, the end-user will process a prepayment request via electronic procurement system. The requesting department will notify Accounts Payable on

all pre-payment requests with the following:

1. Purchase Order Number
2. Pre-payment dollar amount (for partial payments, state the vendor terms for the remaining balance)
3. Supporting documentation (registration form, entertainment expense form etc.)

**PREPAYMENTS ARE NOT ALLOWED WITH THE USE OF STATE FUNDED ACCOUNTS.**

*Sources: TEX. GOV'T CODE ANN. §2113.001(2) State Purchasing and General Services Act, TEX. GOV'T CODE ANN. §§ 2155.383, 2155.386, 2175.368(2).*

**XV. Preferences**

As an agency of the State of Texas and a public institution of higher education, UTRGV has a responsibility to support matters of public policy. Accordingly, when possible, buyers should give consideration in their award decisions to products that are: (1) produced in Texas and/or the United States; (2) produced by persons with mental disabilities or physical disabilities; (3) energy efficient; (4) made from recycled materials (e.g., rubberized asphalt paving); (5) recycled motor oil/lubricants; (6) products produced at facilities located on formerly contaminated property; and (7) products or services from economically depressed or blighted areas. These preferences are used to determine awarded vendor in the event of a tie bid.

**XVI. Recycled/Remanufactured Products**

Whenever possible, Purchasing Staff shall specify recycled/remanufactured products, for their use.

**XVII. Purchases from Persons with Disabilities**

UTRGV is required to support the State's efforts to gainfully employ persons with disabilities. UTRGV must give first consideration to goods and services provided by persons with disabilities. Products and services offered by the Texas Industries for the Blind and Handicapped (TIBH) are listed on the <https://workquest.com/> catalog.

TIBH offers these products and services through State of Texas contracts. UTRGV must check their pricing and availability. However, if these goods do not meet best value criteria, that failure is justification to buy the products from the commercial marketplace

**XVIII. Historically Underutilized Businesses**

This procedure establishes guidelines to increase the utilization of Historically Underutilized Business (HUB) firms in the award of contracts and procurements for goods and services consistent with rules, regulations and goals established by UT System, Texas Procurement and Support Services (TPASS) and UTRGV.

a. Good Faith Effort Responsibilities

Each Buyer shall encourage the participation and utilization of HUB firms in advertising, competing and awarding of contracts and procurements. In addition, HUB Coordinator shall make outreach efforts to recruit, establish and disseminate information to HUB firms; to include, but not limited to:

1. Attend HUB related Trade Shows
2. Meet with HUB firms
3. Assist HUB firms in completing HUB Subcontracting Plans (HSP)
4. Letting HUB firms know what the competitive pricing range is for goods and services

b. Bid Solicitation

Consistent with the Best Value Procurement section of this manual, each Buyer shall solicit bids/quotes from qualified HUB firms per the requirements prescribed below:

<u>Purchase Order Category</u>	<u>Requirements</u>
Spot Market (under \$15K)	Place Order with a qualified HUB whenever a HUB is available and can supply the goods or services at a competitive market price within the required delivery schedule.
Informal Bid	At least two (2) quotes must be from certified HUB firms.
Formal Bid	Solicit as many qualified responses as necessary.

c. Orders over \$100,000

In accordance with Government Code, Section 2161, and Texas Administrative Code, Section 111.14, all orders with an estimated purchase price exceeding \$100,000, shall comply with HUB Subcontracting Purchasing Procedures.

**XIX. Determining Competitive Procurement Method**

The Best Value Statutes authorizes UTRGV to acquire goods/services (not professional services) by the method that provides the best value to UTRGV. Section 51.9337, *Texas Education Code*, provides that Institutions (including UTRGV) may not exercise the best value procurement authority for goods and services granted by the Best Value Statutes, unless the Board of Regents promulgates policies covering:



- Code of Ethics for officers and employees related to executing contracts or awarding contracts (ref. Section 51.9337(b)(1) and (c));
- Policies for internal investigation of suspected fiscal irregularities (ref. Section 51.9337(b)(2) and (c));
- Compliance program to promote ethical behavior and compliance with applicable laws, rules and policies (ref. Section 51.9337(b)(2));
- Contract management handbook covering contracting policies, contract review and risk analysis (ref. Section 51.9337(b)(3) and (d));
- Contracting delegation guidelines (ref. Section 51.9337(b)(4), (e) and (f));
- Training for officers and employees authorized to execute contracts or exercise discretion in awarding contracts (ref. Section 51.9337(b)(5)); and
- Internal audit protocols (ref. Section 51.9337(b)(6), (g), (h), (i) and (j)).

Always, keep best value considerations in mind when selecting the procurement method. The lowest cost is not necessarily the best value for all procurements. For example, a commodity or service of higher quality, such as a longer life span, may be a better value and investment for UTRGV, even if the initial cost is more. UTRGV should think strategically when considering their procurement needs. Do not make the mistake of purchasing for the immediate needs without considering these questions:

- “What is the desired outcome of the procurement?”
- “What is the best way to achieve this outcome?”

For example, in connection with the purchase of a heating and air conditioning unit, consider the total cost of ownership. Average life span, electricity consumption, maintenance record and parts availability are just a few considerations when analyzing total cost of ownership. Additional considerations include qualifications and availability of the service technicians and the vendor’s performance history.

In addition to the requirements of Applicable Laws, note that University Rules require UTRGV to follow certain procedures in connection with certain procurements. A *Summary of UT Procurement Guidelines* is attached as APPENDIX 1.

a. Calculating Contract Value

Pursuant to Regents’ Rule 10501, Section 3.1.1, contract value means the total cost or monetary value of the contract, including all potential contract extensions or renewals whether automatic or by operation of additional documentation. In addition, Rule 10501 specifies that *any contract with unspecified cost or monetary value and a term of greater than four (4) years, is presumed to have a total value of greater than \$1 million.*

b. Dollar Thresholds for Direct and Competitive Procurement

Purchasing personnel and program staff will first refer to any Applicable Laws or University Rules that may direct the use of a specific procurement method. If Applicable Laws or University Rules do not direct a specific method, purchasing personnel and program staff will use the following contract value thresholds to determine whether direct/spot market, informal or formal procurement methods should be used:

Estimated Spend	Procurement Activities
<\$15,000	No competitive procurement required. Best value Procurement shall still be exercised.
\$15,001 to \$50,000	Informal quotes from three or more potential vendors are required. End users may secure these quotes directly). Two (2) HUB quotes are strongly encouraged within this range.
>\$50,000	Formal procurement by UTRGV directly or via another state agency or a GPO. UTRGV's purchasing office, not departmental staff, must take lead responsibility for conducting or overseeing the procurement, unless the procurement is led by the UT System Supply Chain Alliance.

**NOTE:** A large purchase may not be divided into small lot purchases to meet the contract value thresholds prescribed by this Section.

c. **Competitive Procurement Exemptions**

In limited circumstances, some purchases may not require competitive procurement processes and exclusive acquisition may be authorized. An exemption from competitive procurement processes does not exempt the purchase from HUB requirements if the value of the purchase exceeds \$100,000.

1. **Emergency Purchases**

Emergencies occur as the result of unforeseeable circumstances that suddenly and unexpectedly cause an UTRGV to need goods/services (for example, the issuance of a court order, new legislation or a natural disaster). Delay or negligence on the part of UTRGV does not qualify as an emergency.

If an unforeseen situation arises in which compliance with normal procurement practice (including, normally Applicable Laws and University Rules) is impracticable or contrary to the public interest, an emergency purchase may be warranted to prevent a hazard to life, health, safety, welfare, property or to avoid undue additional cost to UTRGV.

*Notwithstanding the immediate nature of an emergency purchase, all procurements conducted as emergencies should be made as competitively as possible under the circumstances. In addition, emergency purchases should not exceed the scope or duration of the emergency.*

UTRGV must comply with University Rules regarding determination, authorization and documentation of emergency purchases, including a written exclusive acquisition justification and a written best value justification.

2. **Exclusive Acquisitions (also known as Sole Source or Proprietary Purchases)**

University Rules establish requirements applicable to purchases of goods/services that exceed the authorized direct (sometimes called spot market or open market) procurement dollar threshold from a single vendor, without

soliciting offers or proposals from other vendors. These purchases are sometimes called exclusive acquisitions or sole source or proprietary purchases.

University Rules establish policies and procedures applicable to exclusive acquisitions. As always, UTRGV must acquire all goods/services in a manner designed to achieve and document best value to UTRGV. If exclusive acquisitions are made in excess of the competitive threshold, UTRGV must be careful to demonstrate the achievement of best value, despite the exclusive acquisition approach.

With this in mind, a written exclusive acquisition justification (for internal use only) for an exclusive acquisition should clearly:

- Describe how the purchased goods/services would be used;
  - Explain why the distinctive characteristics of the goods/services or distinctive conditions of purchase are necessary to accomplish the objectives of UTRGV;
  - Explain why these characteristics or conditions require that the goods/services be obtained only from the exclusive source;
  - Name other sources and alternative goods/services that have been considered and evaluated, and explain individually why the other identified sources and products/services would not meet the requirements of UTRGV; and
- NOTE in doing this; be careful to focus on the unique or specialized nature of the goods/services to be procured. If there is, in fact, an alternative that would meet UTRGV's requirements, exclusive acquisition may not be justified, even if the alternative source received lower evaluation scores.*
- Confirm that UTRGV signatories do not have a conflict of interest in connection with the procurement.

After all appropriate approvals and signatures, the written exclusive acquisition justification should be retained in the procurement file. All exclusive acquisitions must comply with Applicable Laws and University Rules.

A sample *Exclusive Acquisition Justification Form* is attached as APPENDIX 12.

### 3. Group Purchasing

UTRGV will comply with the following clarifications/modifications related to the procurement of goods/services through GPOs (including state agency GPOs), bearing in mind that these clarifications and modifications are subject to change resulting from implementation of the new UT System GPO accreditation program and further directions from the Board of Regents:

- **Use of GPOs.** When total spend under a contract is anticipated to exceed \$50,000, UTRGV may use the contracts offered by the UT System Supply Chain Alliance or Group Purchasing Organization (GPO)

Accreditation Program. Use of any other GPO requires a case-by-case approval by the UT System Executive Vice Chancellor for Business Affairs. UT System may authorize use of additional GPOs after implementation of the GPO accreditation program.

▪ **Comparison of Multiple Contract Awards**

- If UTRGV proposes to use a contract procured by a state agency or GPO other than the UT System Supply Chain Alliance or Group Purchasing Organization (GPO) Accreditation Program, UTRGV will obtain a minimum of three valid proposals (or two, if there are only two vendors in the category) from contracted vendors in order to identify “best value.”
- If UTRGV proposes to use a contract procured by Group Purchasing Organization (GPO) Accreditation Program, UTRGV will obtain a minimum of three valid proposals (or two, if there are only two vendors in the category) from contracted vendors, in order to identify “best value,” *but only if the spend is anticipated to exceed the applicable spend threshold shown below.*
  - \$1.0 million for UTRGV

If UTRGV proposes to use a contract procured by the UT System Supply Chain Alliance, UTRGV does not need to obtain and compare proposals from multiple contracted vendors, in order to identify “best value” because in most cases the UT System Supply Chain Alliance makes a contract award to only a single vendor for particular goods/services.

When the UT System Supply Chain Alliance or an approved Group Purchasing Organization is used for a procurement, and an award has been made to only a single vendor in a given category, it is not necessary to justify the purchase as an exclusive acquisition, because it is presumed that the agency / GPO conducted a competitive procurement.

▪ **Use of DIR-Procured Contracts.**

DIR adopted regulations (1 Texas Administrative Code 212) clarifying that the restrictions in Texas Government Code Chapter 2157 do not apply to institutions of higher education. Under those regulations, UTRGV does not need to comply with restrictions governing other state agencies in connection with Chapter 2157 commodity item purchases and statements of work.

4. Direct Purchases

Unless Applicable Laws or University Rules direct the use of a specific procurement method, University Rules authorize direct purchases (sometimes called SPO transactions, spot market or open market purchases) for goods/services with a contract value of less than or equal to \$15,000. The direct

purchase method does not require an informal or formal competitive process. Direct purchases may be directed to a single vendor without the need for competition.

5. Informal Competitive Offers

The informal competitive offers method requires a minimum of three (3) informal written quotes. Of the three (3) or more written quotes, at least two (2) quotes must be from HUBs, when available. If UTRGV is unable to locate two HUB vendors, UTRGV should make a written notation in the procurement file of all HUB listings and resources UTRGV used in an attempt to located two HUBs.

In addition to the three (3) informal quotes, UTRGV should also attempt to obtain an offer from the last vendor who held the contract, as may be applicable and appropriate.

The Best Value Statutes specify the mandatory criteria that UTRGV must use to evaluate the offers and determine best value to UTRGV. When using the informal competitive offers method, UTRGV must prepare a best value justification and retain the justification in the procurement file.

**XX. Formal Competitive Procurements**

If the Procurement Office determines that best value for University purchases will be achieved through a formal procurement process, the type of formal procurement method used will be a significant factor in the contract planning process. Each formal procurement process has unique features. For example, some methods permit negotiation with respondents and some do not. In addition, the procurement lead time for some methods is longer than for others.

Before UTRGV employees involved in the procurement begin work, the buyer will obtain signed non-disclosure statements and conflict of interest statements from those employees. A Sample Non-Disclosure Statement is attached as APPENDIX 2.

a. Best Value Invitation for Bids (IFB)

The best value competitive sealed bid method uses the IFB solicitation document. The IFB is generally used when the requirements for the goods/services are clearly defined, negotiations may not be necessary, and price is the primary evaluation criterion (for example > 50 percent) for selection.

The Best Value Statutes specify the mandatory criteria that UTRGV must use to evaluate responses to IFBs and determine best value to UTRGV. Competitive bidding is a standard method for acquisition of goods and services by public agencies and UTRGV for purchases over a dollar amount specified either by statute, rule, or policy. Depending on the dollar amount, technical specifications, delivery requirements, etc. of the request, the Procurement Office will either solicit bids formally or informally. In either case, a minimum of three (3) bids must be solicited.\* When formal bids are requested (also known as competitive sealed bidding), an Invitation for Bid (IFB) form will be prepared by the Procurement Office. It will contain a description or specifications of the item(s) needed, the terms and conditions of the proposed purchase, the manner in which bids

are to be submitted, the criteria for evaluating the bids and awarding of a purchase order or contract, the place and time for opening of bids, and any other information to assist the bidder in understanding the request. A reasonable period of time will be allowed for bid responses. Late or unsigned bids will not be accepted.

The Procurement Office is responsible for the receipt and control of bid responses. All bids received will be time-stamped and secured appropriately. Opening of bids shall not be permitted until the specified time for bid opening. If a bid is inadvertently opened due to failure of the bidder to properly identify the bid response, it will be opened, resealed, and marked accordingly. No buyer will be allowed to examine the contents of the bid. Normally, all bid openings are public and bid information such as prices may be announced at the opening. No recommendations for award, however, will be announced in a public bid opening.

After the opening and tabulating of all bids received, each bid will be evaluated for compliance with terms, conditions, and all requirements of the IFB. The Procurement Office will determine which compliant bid provides the best value to UTRGV and make an award. The requisitioning department may be asked to review bid responses and to make a written award recommendation to the Procurement Office. If the apparent best value bid is not recommended, the requisitioning department must submit a written justification explaining the reasons for their recommendation for consideration. In the event of a conflict between the requisitioning department and the Procurement Office, the matter will be referred to the Chief Procurement Officer for review and final decision. \*At least two of the bidders must be Historically Underutilized Businesses (one woman-owned and one minority-owned).

b. Request for Qualifications (RFQ)

An RFQ is generally used to procure professional services. UTRGV may not select a provider of professional services or a group or association of providers or award a contract for the professional services on the basis of competitive bids, but must generally make the selection and award on the basis of demonstrated competence and qualifications to perform the services for a fair and reasonable price.

However, the procurement of architectural, engineering, or land surveying services is an exception to the general rule. For architectural, engineering and land surveying services, an UTRGV shall:

- first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications (*no consideration of price at this point*); and
- then attempt to negotiate with that provider a contract at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, UTRGV shall:

- formally end negotiations with that provider;

- select the next most highly qualified provider; and
- attempt to negotiate a contract with that provider at a fair and reasonable price.

UTRGV must continue this process to select and negotiate with providers until a contract is awarded.

Reference - UTRGV Handbook of Operating Procedures, ADM 10-407 Purchase of Professional Services at <http://www.utrgv.edu/hop/policies/adm-10-407.pdf> .

*When preparing an RFQ, please use the OGC RFQ templates posted at <https://www.utsystem.edu/offices/general-counsel/office-general-counsel> (UT Authentication Required).*

c. Request for Proposal (RFP)

An RFP is generally used when best value competitive sealed bidding is not practicable or advantageous. For example, an RFP may be used when price is not the primary evaluation criterion and factors other than price receive significant weight (for example >50%). An RFP may also be used when subjective (rather than objective) criteria for the goods/services are used. One of the key differences between the IFB and the RFP formal solicitation methods is that negotiations are allowed under the RFP method, but not under the IFB. The RFP method permits UTRGV to enter into discussions with respondents and solicit best and final offers. The Procurement Office will work with the requesting department in development and review of the Request for Proposal (RFP). The RFP document, when finalized, will be sent to potential proposers. A reasonable period of time for acceptance of proposals will be allowed. This process is very similar to the competitive sealed bidding process. An RFP is opened publicly; however, only the names of the proposers are revealed. Proposal prices and other information in proposals submitted are not made public until after an award is made. Typically, an RFP allows for evaluation of factors other than price such as experience and approach to a project. The RFP will include a statement or scope of work, intent of proposal, technical requirements, key events schedule, criteria for selection, and other relevant information. Depending on the scope and technical requirements of an RFP, a pre-proposal conference for potential proposers may be scheduled. A pre-proposal conference provides an opportunity to review proposal requirements, facilitate a clear understanding, and promote competition. If the Procurement Office determines that certain elements of the RFP require modification as a result of issues raised during the pre-proposal conference, an addendum will be issued and mailed to all proposers on the RFP mailing list. The RFP process also differs in that this method permits discussions after proposals have been opened to allow for clarification to assure full understanding of and responsiveness to the requirements. All proposers whose submittals are found to be acceptable or reasonably susceptible to being made acceptable are given an opportunity to negotiate and revise their proposals. If necessary, the Procurement Office may issue amendments to proposal requirements. Modifications and negotiations may continue until the Procurement Office calls for Best and Final Offers (BAFOs). No changes are allowed after BAFOs are received unless the Director of Procurement Management makes a determination that resubmission is in UTRGV's best interest. After BAFOs have been evaluated, the

evaluation committee will prepare a recommendation for award and submit it to the Chief Procurement Officer or designee for review and approval. The recommendation will identify the successful proposer and the basis for the award. Once approved, the Procurement Office will prepare a purchase order or contract.

In the evaluation phase of RFPs, an evaluation committee may be assigned the task of evaluating all proposals received. Typically, evaluation committees are comprised of a minimum of three to a maximum of seven members. The number will be limited to the minimum number required to properly evaluate proposals and approved by the Procurement Office. Under the guidance of the Procurement Office, the evaluation committee will be briefed on their responsibilities before the RFP is issued. Normally, the committee is comprised of representative(s) from the Procurement Office, requesting department, and other departments with the technical knowledge of the acquisition. Each member will be required to sign a Non-disclosure Statement prepared by the Procurement Office.

Contact with potential proposers will be made only by the designated Procurement Office employee. Requesting departments and evaluation committee members should not contact proposers directly and should refer all inquiries to the above designated official.

NOTE: When making procurements under the Best Value Statutes, UTRGV is not subject to the Texas Government Code, Chapter 2254, Subchapter B, requirements related to the procurement of consulting services and UTRGV will follow the Best Value Statutes applicable to goods/services.

When preparing an RFP, please use the OGC RFP templates posted at <https://www.utsystem.edu/offices/general-counsel/office-general-counsel> (UT Authentication Required).

d. Request for Information (RFI)

If UTRGV does not have sufficient information with which to develop the solicitation, UTRGV may issue an RFI to gather the necessary data.

An RFI is *not* a competitive procurement solicitation and a contract may *not* be awarded based on an RFI.

An RFI is used primarily as a planning tool to gather information to be used to prepare a complete and accurate competitive procurement solicitation (including the specifications, the SOW and other sections of the solicitation) when UTRGV does not have the necessary data. RFI's are used to identify industry standards, best practices, potential performance measures, and cost or price structures. RFI's may also be used to gage the level of interest of prospective vendors. An RFI usually includes a description of the program objectives and a general description of the proposed SOW.

UTRGV may not use an RFI to award a contract, but may use the information developed from RFI responses to develop a formal competitive procurement solicitation. UTRGV is



not required to incorporate any of the information provided by RFI respondents; however, the hope is that RFI respondents will provide information useful in the solicitation development process.

*An RFI sample is posted at <https://www.utsystem.edu/offices/general-counsel/office-general-counsel> (UT Authentication Required).*

If Applicable Laws and University Rules do not direct a specific formal procurement method, the following chart may provide assistance in selecting the most appropriate method.

e. Formal Procurement Methods

Procurement Method	Use When	Advantages	Disadvantages
<b>Best Value IFB</b>	<p>Requirements for goods/services must be clearly defined.</p> <p>Goods/services are available from more than one source.</p> <p>Strong competition for the goods/services exists.</p>	<p>Award is made to the bidder offering the best value to UTRGV.</p> <p>Evaluation and award process are simpler.</p>	<p>Price is the primary evaluation criterion (&gt; 50%); <u>however</u>, all criteria mandated by the Best Value Statutes must be considered.</p> <p>Does not encourage innovation.</p>
<p><b>RFQ</b></p> <p>[Required by Applicable Laws for professional services.]</p>	<p>Selection is made based on qualifications of the professional in accordance with Subchapter A, Chapter 2254, Texas Government Code</p>	<p>Emphasizes the competency of the proposed contractors.</p>	<p>Contractor is selected before price is negotiated.</p>
<b>RFP</b>	<p>When factors other than price are valued.</p> <p>Ability to negotiate is desirable.</p> <p>Vendor is expected to provide innovative ideas.</p>	<p>Permits consideration of factors other than price.</p> <p>Encourages innovations and allows customized proposals suggesting different approaches to the same business need.</p> <p>Permits negotiation with respondents to obtain the best value for UTRGV.</p>	<p>Lead times for procurement are greater than for an IFB.</p> <p>Evaluations are more complex and subjective than for an IFB.</p>

## **XXI. Preparing the Solicitation**

### **a. Background Information**

Subject to Applicable Laws and University Rules, the solicitation will provide potential respondents with all appropriate background information to assist respondents' understanding of the procurement.

The solicitation will detail any relevant background data and work previously performed on which the anticipated SOW will build. Previously performed work will be made available to respondents during the solicitation phase of the procurement. The solicitation will also specify whether respondents may rely on the accuracy of any background data or work previously performed or whether the data or work is provided for information purposes only. If provided for informational purposes only, notify respondents if they are responsible for verifying the accuracy of the information to the extent necessary to respond to the solicitation and perform the SOW.

In some solicitations, it may be important to describe existing business processes. If the existing process will change as a result of the contract, then it may be important to also describe that modified process.

### **b. Proposal Submission Requirements**

The solicitation should include one section listing all of the required information that respondents must submit with their proposal. This will assist respondents to confirm that all required documentation is submitted. Additionally, any recommended or required proposal formats should be specified in this section, such as page number limitations, size of paper, and number of copies.

### **c. Evaluation of Proposals**

#### **Criteria**

The solicitation will advise respondents how proposals will be evaluated.

The Best Value Statutes require UTRGV to use the following mandatory evaluation criteria to evaluate proposals for goods/services:

- **Threshold Criteria Not Scored:**
  - Ability of University to comply with laws regarding HUBs; and
  - Ability of University to comply with laws regarding purchases from persons with disabilities.
- **Scored Criteria:**
  - Cost of goods/services;
  - Reputation of respondent and of respondent's goods/services ("Reputation Criterion");
  - Quality of respondent's goods/services;
  - Extent to which the goods/services meet the University's needs;

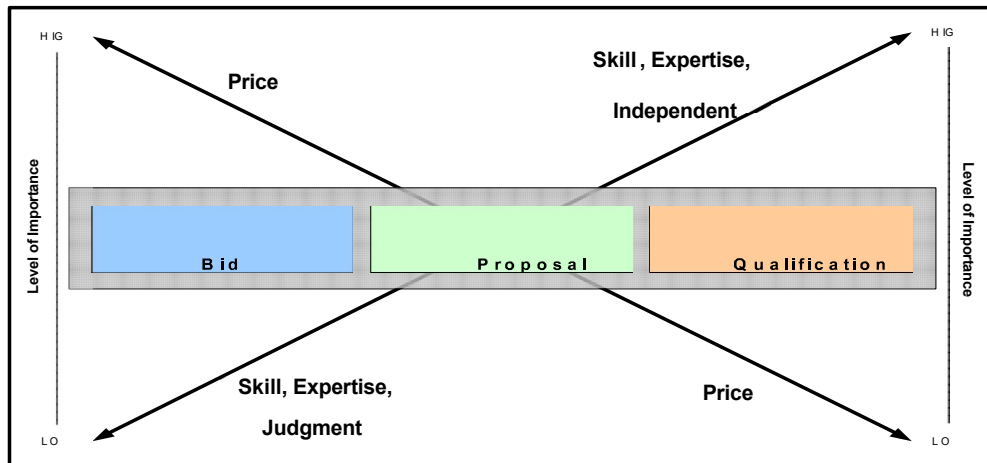
- Respondent's past relationship with the University;
- Total long-term cost to the University of acquiring respondent's goods/services;
- Use of material in construction or repair to real property that is not proprietary to a single vendor *unless* UTRGV provides written justification in the solicitation for use of the unique material specified [*applies only when UTRGV specifies in the solicitation material to be used in construction or repair of real property in the solicitation*]; and
- *Any other relevant factors that a private business entity would consider in selecting a contractor* (“Other Relevant Factors Criterion”).

The language within the solicitation will determine the evaluation criteria and the determinations the evaluation team will make when evaluating proposals, so the evaluation criteria should not be unduly restrictive. Criteria not included in the solicitation may not be used in evaluation of proposals, ranking of proposals or selection of a contractor.

The criteria should allow the evaluation team to fairly evaluate the proposals. The criteria may take a variety of sources of information into consideration such as respondent’s written response, oral presentation, past performance and references relevant to the contract. To ensure fairness in evaluation, the evaluation criteria should reflect only those requirements specified in the solicitation.

d. Scoring Weight

At a minimum, the solicitation will identify the criteria for selection. When establishing the scoring weight of each criterion, cost may be the most significant criterion. However, there are solicitations in which the skills and experience of contractor or other factors may be more important than cost. For example, if a trainer needs a specific set of skills, UTRGV may be willing to pay more for those skills. When establishing the scoring weight, consider the importance of each criterion to the overall project. The criteria deemed most important by UTRGV should be weighted higher than the other criteria. The following diagram demonstrates the relationship of the evaluation criteria and the level of importance.



Consider the information and other submissions that UTRGV requests in connection with each evaluation criterion. Request that the proposals contain all information necessary to effectively evaluate each criterion. Specific sections of the requested proposal may be designed to directly relate to each criterion.

Ensure that the solicitation requests information with which to evaluate each criterion. For example:

<b>Evaluation Criteria</b>	<b>Solicitation Requirement</b>	<b>Submission Requirement</b>
Contractor Qualifications	Licensed Accountant.	Copy of License.
Contractor Experience	Minimum of five (5) projects of similar size and scope.	Detailed information regarding size, dollar amount and scope of project for each individual project and any additional information necessary to evaluate contractor experience.
Financial Capability	Financially capable of handling a project of this size and scope.	Copy of latest financial statements, including balance sheets, Dunn and Bradstreet report, etc.
Proposed Services	Service delivery strategy for how proposed services will be performed.	Plan should include the number of staff resources and experience level, implementation strategy, reporting requirements, response times, etc.

Conversely, all information requested by the solicitation should relate to one of the criteria to be evaluated. Information that does not relate to at least one of the evaluation criteria may not be considered.

e. **Solicitation Requirements**

The solicitation will notify respondents of all requirements and clearly state the consequence of failing to meet these requirements (for example, reduction in evaluation score or disqualification).

Consider carefully any requirements that may disqualify a proposal. For example, the HSP is required by Applicable Laws and University Rules; UTRGV has no choice but to disqualify respondent if respondent does not submit the HSP or if the respondent's HSP does not demonstrate that respondent used a good faith effort to prepare the plan. However, if respondent fails to submit a copy of a license, for example, that failure may or may not be a valid business reason for disqualification and respondents can be given the opportunity to cure technical deficiencies in some proposal requirements.

1. **Contractor Qualifications**

The solicitation should specify the minimum qualifications required for

contractor. Typically, in an RFP, contractor qualifications are less stringent than in an IFB where price is the primary criterion. At a minimum, the solicitation should require that contractor have a specified level of experience in providing the type of goods/services solicited.

## 2. Posting Security

UTRGV must advise respondents in the solicitation if respondents will be required to post security and, if so, what forms of security are acceptable (e.g., third party bond, irrevocable letter of credit or cashier's check). When considering whether or not to require security, remember that the cost of the security is typically passed on to UTRGV by respondents.

Bonds are one form of security. The three most common forms of bonding are solicitation response bonds or deposits, performance bonds and payment bonds. Some bonds are required by statute for specific types of contracts. For example, some contracts with auxiliary enterprises require bonds.

## 3. Monitoring and Oversight

It is important to develop effective contract monitoring strategies appropriate for each contract to be procured. The methods used to monitor contractor performance should be outlined in the solicitation because those methods will become important contract terms. The SOW should set specific deadlines for completion of tasks and a schedule for submittal of deliverables, required meetings, presentations or other activities. Monitoring strategies ensure contractor performs as specified in the SOW.

Monitoring is usually the responsibility of program staff and should be balanced and adequate to meet UTRGV's needs, but limited in type, scope and frequency sufficient to achieve the desired result, without unnecessarily increasing costs. Overly restrictive monitoring may interfere with contractor's ability to perform the work and may unnecessarily and inadvertently increase costs for UTRGV.

## f. Statement of Work

The Statement of Work is very important as it forms the basic framework for the resulting contract. The needs assessment is the foundation for the SOW. The SOW is a detailed description of what is required for contractor to satisfactorily perform the work. The SOW should provide a clear and thorough description of the goods/services to be procured. If appropriate, describe the relevant environment where the goods/services will be used.

The success or failure of a contract can often be linked to the adequacy or inadequacy of the planning, analysis and thoroughness of the SOW. Time spent planning, analyzing, and drafting the SOW will ultimately save time, resources, and money and improve the quality of the goods/services procured.

It is important that the SOW:

- Be clearly defined;
- Be unbiased and non-discriminatory so that all potential respondents have a level playing field;
- Encourage innovative solutions to the requirements described, if appropriate;
- Allow for free and open competition to the maximum extent reasonably possible; and
- Secure the best value goods/services for UTRGV
  - (a) Organization – One way to organize the SOW is to divide each of the procurement objectives into logical parts, such as phases. Phases may include (1) planning, development, implementation, operation, and management or (2) planning, equipment installation, testing, operation and maintenance. The specific phases should support the subject matter and purpose of the contract. Phases may be further divided into smaller segments of work.
  - (b) Define UTRGV’s Role – The contract, not the SOW, should clearly define the role UTRGV will play in the work to be performed and any specific contributions or resources UTRGV will provide. The contract (not the SOW) should also define the roles of UTRGV staff that will administer the contract and monitor contractor’s progress.
  - (c) Specification Types – Specifications are the primary means of communication between an UTRGV and a vendor. A specification is a description of the goods/services an UTRGV seeks to procure. A specification also describes goods/services that must be proposed to be considered for an award. Specifications should include deliverables. Each deliverable should include the following elements:
    - Description of the work
    - Standard for performance
    - Test condition, method or procedure to verify that the deliverable meets with the standard
    - Method or process to monitor and/or ensure quality of the deliverable
    - Acceptance process for each deliverable
    - Compensation structure that is consistent with the type and value of work performed.
    - Contractual remedy, if appropriate.
    - Specifications control quality of the goods/services, the suitability of the goods/services for the business purpose, and the method of evaluation used in determining best value and in making a contract award.

g. Characteristics of Effective Specifications

**SIMPLE:** Avoid unnecessary detail and complexity, but be complete enough to ensure that goods/services procured will satisfy the intended purpose.

**CLEAR:** Use terminology that is understandable to UTRGV and potential respondents. Use correct spelling and appropriate sentence structure to eliminate confusion. Avoid legalese and jargon when possible.

**ACCURATE:** Use measuring units that are compatible with industry standards. All quantities and packing requirements should be clearly identified.

**COMPETITIVE:** Identify at least three (3) commercially available brands, makes, or models (whenever possible) that will satisfy the intended purpose. Avoid unneeded “extra” features that could reduce or eliminate competition and increase cost.

**FLEXIBLE:** Avoid inflexible or narrow specifications which prevent the acceptance of a response that could offer greater performance for fewer dollars. Whenever possible, use approximate values for dimensions, weight, speed, etc., if the approximations will satisfy the intended purpose.

( i ) **Performance-Based, Design and Mixed Specifications**

Performance-based specifications focus on outcomes or results of the required goods/services rather than how the goods/services are produced. Conversely, design specifications outline exactly how contractor must make the goods or perform the services. Performance-based specifications allow respondents to bring their own expertise, creativity and resources to the procurement process without restricting respondents to predetermined methods or detailed processes. This may allow respondents to provide the goods/services at lower cost. Performance-based specifications also shift some risk to contractor. For example, if an UTRGV utilizes a design specification for a unit of laboratory equipment and the equipment ultimately does not satisfy the business need for which it was procured, then the results may be the fault of UTRGV’s specifications. However, if UTRGV used performance-based specifications, the unit must perform in accordance with the specifications. If the equipment does not perform, then contractor may be at fault.

Performance-based specifications may permit respondents maximum flexibility when satisfying the requirements of a solicitation. Design specifications may limit respondent’s flexibility.

Mixed specifications include both performance-based



specifications and design specifications. Consider the purchase of media and advertising services:

- **Performance-Based Specification:** Contractor shall provide UTRGV media services which shall increase applicants by a minimum of 3 percent in the next fiscal year. Out-of-state applicants shall increase a minimum of 10 percent. These figures will be measured based on UTRGV's prior year applications data-base.
- **Design Specifications:** Contractor shall conduct at least seven (7) media campaigns during the fiscal year. Three of these campaigns must be directed to out-of-state applicants.
- **Mixed Specifications:** Contractor shall provide UTRGV media services which shall include a minimum of seven media campaigns during the fiscal year. Media services shall result in a minimum increase in applicants of 3 percent in the next fiscal year based on UTRGV's prior year applications data-base.

Performance-based specifications focus on results. Design specifications focus on resources. If UTRGV uses design specifications only, contractor may provide all seven campaigns, but the desired result of increased applicants may or may not occur.

Note that performance-based specifications clearly outline how the results will be measured. While performance-based specifications are sometimes preferable, the expertise required to conduct the contract planning, procurement and management may be different than the expertise needed for design specifications.

Design specifications are appropriate for simple purchases of goods such as paper, pens, furniture, and services such as temporary staff. Usually these purchases are accomplished by defining specific quantities and specifications for the goods/services, such as price per unit as well as requirements for the time, place and manner for delivery and acceptance.

It is not always beneficial to use performance-based specifications. The following are examples of when to use performance and design specifications:

New installation, entire system provided by one vendor: Consider using performance-based specifications to allow the contractor

to provide the system that provides best value to UTRGV.

New installation of multiple system components provided by various vendors: Consider using design specifications to ensure that all of the components (for example, HVAC controls, chillers and boilers) that must work together will work together.

Expansion of an existing installation: Consider using design specifications because the new equipment must connect and integrate with the existing system.

- **Quantify Goods/Services**

Quantify the volume, amount, and frequency required for goods/services to meet specifications.

- (i) **Standards for Goods/Services** – The SOW should identify the quality of goods/services required for acceptable performance. For example, All dusting must be performed so as to ensure cleanliness of surfaces, as determined through inspection by the contract administrator.

- **Established Industry Standards** – If established industry standards (international, national, state, local) are available, those standards may be used to define the contract performance requirements. Examples of national and international standards include American National Standards Institute (ANSI), American Society for Testing and Materials (ASTM) and International Organization for Standardization (ISO). Using established standards provides consistency in measuring acceptability, quality or accuracy of contractor’s performance.

Contracts will often incorporate by reference “standards” maintained by entities representing particular industries such as Generally Accepted Accounting Principles (GAAP), Institute of Electrical and Electronic Engineers (IEEE) or ISO. If a standard is incorporated by reference, consider specifically identifying by number the standards of performance that relate to each activity, task, work product or deliverable. Simply referring to “industry standards” is usually inadequate.

Warranty Standards – An express warranty is a standard that is expressly included in the contract language to establish a performance standard for the work. The contract does not generally need to use the words “warrant” or “guarantee” to create an express warranty. Neither does contractor need to have the specific intention to make a warranty. A simple affirmation of the value of the goods/services or a statement merely purporting to be contractor’s opinion or commendation of the goods/services does not create a warranty.

Unless disclaimed, excluded or modified by the language of the contract, warranties or standards may be implied in a contract by a statute or by case law. For example, in the sale or lease of some types of goods there may be implied statutory warranties, such as a warranty of title, a warranty that the goods will be merchantable, or a warranty that the goods are fit for a particular purpose. If an implied warranty is important to the quality of the goods/services, the best practice is to make the implied warranty an express warranty by including the warranty in the language of the contract.

Include clear standards for contractual performance or an express warranty describing the standard of performance in the SOW or contract.

- **Reporting** – Status reporting, performance and activity reporting are terms used to describe information that a contractor must provide to show the status of a contract. These terms must be defined in the SOW or the contract, and the definition of each should include content, frequency and audience for each report.

A status report describes the level of completion of the work and/or the cost of the contract. Percent complete is often used to describe status. For the report to be useful, a baseline should be established for timelines and budgeting.

If deliverables are specified, include the format of the deliverable and the number of copies required. For example, if a deliverable is a final project report, state how many copies of the report are needed and specify the format of the electronic copy. State all items that must be included in the report. These requirements are usually addressed in the SOW within the solicitation.

If vendor-provided information is anticipated to be reported as part of UTRGV's performance measures, ensure that there are requirements that allow for data verification and that the data corresponds with the data required for the performance measures.

If possible, include in the solicitation the desired format or a sample of any required reports.

- **Inspection and Testing** – The SOW should provide for inspection and testing. UTRGV should include inspection and testing of goods/services purchased under the contract to ensure compliance with the specifications of the solicitation and the contract.

Testing should be performed on samples submitted with the proposal and samples taken from regular shipments. All costs of inspection and testing should be borne by contractor. In the event the goods/services tested fail to meet or exceed all conditions and requirements of the solicitation and contract, the goods/services should be rejected in whole or in part at contractor's expense. Latent defects may result in cancellation of a contract at no expense to UTRGV. UTRGVs should contact legal counsel with any questions regarding latent defects.

- **Final Acceptance** – The SOW should clearly define how UTRGV will determine that the contract has been satisfactorily completed. The SOW sets a standard for acceptance of the deliverable and establishes a procedure to receive or reject the deliverable based on specific factors.

Tracking the status of several phases, segments and deliverables, where each deliverable may have multiple tasks, activities, and products, can be challenging. A formal acceptance process for each step in a contract allows the contract manager and the contractor to know the conditions of contract performance.

- **Additional Considerations** – Listed below are additional issues which members of the contract management team should consider when preparing the SOW. These items may affect pricing, so it is important that respondents are aware of these requirements. The SOW answers – who, what, when, where, why and how. If these questions are answered, it is a reasonable assumption that the SOW is complete.
  - Data security and privacy requirements;
  - Accessibility of electronic and information resources requirements;
  - Licenses or permits required;
  - Use of UTRGV equipment;
  - Storage space for contractor materials/supplies, including space license (if appropriate);
  - Intellectual property/use of marks/copyright issues;
  - Access to UTRGVs premises;
  - Subcontractor requirements;
  - Insurance requirements; and
  - Conflicts of interest/organizational restrictions.

h. Bid List

Centralized Master Bidders List - The Texas Comptroller of Public Accounts (TCPA) maintains a Centralized Master Bidders List (CMBL). The CMBL is a comprehensive mailing list of vendors who have registered for bidding with the State of Texas. Information on the CMBL is available on the Internet at the [State Purchasing](#) website. The Procurement Office may utilize the CMBL on any open market procurements or use its own list of bidders.

i. Record Retention

UTRGV must retain in its records each contract entered into by UTRGV and all contract solicitation documents related to the contract. UTRGV may destroy the contract and solicitation documents only after the seventh (7th) anniversary of the date: (a) the contract is completed or expires; or (b) all issues that arise from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the contract or documents are resolved.

## XXII. Publication of the Solicitation

### a. Advertising

When marketing a solicitation, the contract manager and purchasing buyer will consider the types of goods/services being procured. For example, effective advertising for goods/services may be different from effective advertising for professional services. The contract manager should refer to Applicable Laws and University Rules to ensure compliance. Advertising of solicitations at UTRGV will be through posting at <http://utrgv.edu/bidopportunities>.

### b. Solicitation Announcement

Announcements are an efficient way to reduce mailing costs when publishing large solicitations. An announcement is a brief notification sent by UTRGV to potential proposers (including potential HUB proposers) advising of the upcoming procurement opportunity and providing a link to the solicitation. A Sample Solicitation Announcement is attached as APPENDIX 3.

UTRGV's HUB Coordinator should be notified of significant procurements so that announcements can be shared within the HUB community.

### c. Written Questions

The solicitation may invite respondents to submit written questions. This option may be in addition to or in lieu of a pre-proposal conference. The date and time for submission of written questions should be specified in the solicitation. Written questions may be submitted by email or hand delivery.

If the solicitation is posted on the Internet (including ESBID), the questions and answers should be posted with the solicitation as they become available.

### d. Communication with Respondents

All communication with potential respondents should be made only through the purchasing office or the HUB office. The solicitation should provide only purchasing office and HUB office points of contact with acceptable forms of communication such as email and address. Although purchasing staff or HUB staff may not be able to answer technical questions, they will obtain the responses from the appropriate program staff and ensure that the information is communicated to all potential respondents.

Program staff should not have contact with potential respondents outside of the pre-proposal conference. If a potential respondent contacts program staff, program staff should politely decline to discuss the solicitation and forward the inquiry to the purchasing department. A respondent that contacts someone other than designated staff in the purchasing department or the HUB office regarding the solicitation may be disqualified so long as the solicitation notifies respondents of this possible penalty.

### **XXIII. Pre-Proposal Conferences**

UTRGV may conduct either voluntary or mandatory pre-proposal conferences. Carefully consider the use of mandatory conferences. Mandatory conferences may raise concerns because requiring respondents to be at a certain place at a given time may limit competition. Conferences should be mandatory only if there is a reasonable business justification for the requirement. For example, a mandatory pre-proposal conference may be appropriate if (1) an on-site visit is required to have a full understanding of the procurement or (2) the solicitation is so complex that attendance is critical for potential respondents to fully understand the procurement. UTRGV should document the justification for a mandatory conference in writing.

- Pre-proposal conferences provide a forum for UTRGV staff (including purchasing office and HUB office staff) to explain the solicitation (including HUB requirements) and respond to questions regarding the solicitation. Conferences provide a forum for UTRGVs to provide additional information, schematics, plans, reports, or other data that is not easily transferable or distributed through hard copy.
- Conferences allow potential respondents to address specific questions or concerns with the solicitation, including questions about HUB compliance.
- Conferences are especially important when there is a need for an on-site visit prior to submitting proposals. Note that, in lieu of a conference, in some cases site photographs or a slide show may be sufficient. Photographs or a slide show may also be an alternative to taking respondents to multiple physical locations. Copies of photographs and slide shows should be provided to all respondents and posted on the Internet.
- If issues are identified at the conference, UTRGV may need to publish an addendum to the solicitation.
- All potential respondents must receive the same information.
- Subcontracting relationships may develop through the contacts established by potential respondents at the conference.

The solicitation must indicate the date, time and location of the conference. The conference is usually held approximately ten (10) days after the solicitation is published. All conference attendees should be documented through a sign-in sheet. A sign-in sheet is especially important if the conference is mandatory because the sign-in sheet is the document used by UTRGV to verify respondent attendance at the conference.

The purchasing office should facilitate and conduct the conference, in coordination with the contract manager and the program staff. The purchasing office should answer procurement related questions, while the program staff should respond to the technical questions. If it is not possible to answer all questions at the conference, unanswered questions should be answered in writing as soon after the conference as possible. Depending on the significance of the questions asked and answers given, the purchasing office may consider posting the questions and answers for the benefit of potential respondents unable to attend the conference. If clarification of the solicitation is necessary, addenda to the solicitation may be issued.

The purchasing office should take written minutes of the conference for future reference. Conferences should be recorded for future reference.

*Sample Pre-proposal Guidelines* are attached as APPENDIX 4.

#### **XXIV. Written Addenda**

All changes to solicitations must be made through written addenda. Each addendum must be provided to all conference attendees and posted on the Internet where it may be accessed by all other potential respondents. When issuing an addendum, consider the amount of time remaining until the opening date of the solicitation. It may be necessary to extend the proposal deadline – which must also be done through a written addendum.

#### **XXV. Sample Agenda**

A typical agenda for a pre-proposal conference follows:

- Opening. UTRGV representatives introduce themselves and explain their role in the procurement.
- Introductions. Attendees introduce themselves and identify the company they represent.
- Solicitation Review. Solicitation is reviewed section by section. It is not necessary or recommended to read the entire document, but the entire document should be covered. Questions should be answered as each section is discussed.
- HUB Requirements. HSP requirements and resources for answering HUB questions should be discussed.
- Closing. Summarize any solicitation changes to be included in an addendum. List any unanswered questions requiring written response after the conference. Remind attendees that verbal comments or discussions about the solicitation are not binding and that all changes to the solicitation must be in the form of a written addendum.

#### **XXVI. Solicitation Submission and Opening**

The solicitation must indicate the submission deadline (including date and time) and location for submission.

The solicitation should also indicate whether or not UTRGV will hold a public opening of proposals. UTRGV may choose not to hold a public opening. Depending on the solicitation, a public opening may include a public reading of respondent names or pricing tabulations prior to award of the contract.

## **XXVII. Evaluation and Award**

UTRGV must evaluate responses in a fair and impartial manner consistent with the solicitation, Applicable Laws and University Rules. The solicitation should include a general description of the evaluation process, the evaluation criteria and, at UTRGV's discretion, the scoring weight.

### **a. Evaluation Guide**

During the planning stage for the procurement the contract management team should develop an evaluation guide, which identifies the evaluation team, the detailed scoring matrix, the process for evaluation of responses and award of any contracts, and an anticipated evaluation schedule. With a well-developed evaluation guide, the evaluation team simply follows the guide to ensure a smooth process.

### **b. Evaluation Team**

The evaluation team should be comprised of individuals who are stakeholders in the goods/services being procured and/or individuals who have necessary technical or program expertise. The evaluation team will include a representative of the purchasing office who is usually the evaluation team leader and serves as a non-voting member. The evaluation team members are typically selected by program staff, with review and approval by executive management, as appropriate. It is important to select members who understand the needs of the program office and UTRGV, and who understand the desired outcome of the procurement. The evaluation team should bring together as much knowledge as possible to ensure selection of the vendor that provides the best value to UTRGV.

The contract manager or purchasing buyer will coordinate with evaluation team members to assure that they have the opportunity to participate in preparing the solicitation, especially the evaluation criteria and assigned scoring weights. The members should fully understand the requirements of the solicitation and must be able to critically read and evaluate responses and document their judgments clearly, concisely and consistently in accordance with the evaluation guide.

The recommended size of an evaluation team is three to five members. To avoid potential individual bias, the team should not be less than three members. Complex projects may require more than five members or even additional teams. Coordination and management of the evaluation process becomes more difficult as the size and number of the teams' increase.

### **c. Scoring Matrix**

The scoring matrix, which should be a part of a well-developed evaluation guide, is used by the evaluation team members to score the individual responses based on the evaluation criteria defined in the solicitation. The evaluation team-scoring matrix should be completed prior to publishing the solicitation because, when developing the scoring



matrix, it may become apparent that the solicitation needs to be supplemented or revised. If time does not permit the scoring matrix to be completed prior to publication, the scoring matrix must be completed prior to the opening and review of the solicitation responses. Failure to complete the scoring matrix before the opening of responses may subject the procurement to protests. A Sample Proposal Score Sheet is attached as APPENDIX 5.

d. Responsive Proposal

Prior to opening proposals requiring HSPs, the HUB office will review the HSPs for compliance with HUB requirements. If an HPS is not compliant, the proposal should be returned unopened to the respondent. If an HSP is compliant, the HUB office will notify the purchasing office and the proposal may then be opened.

After all HUB compliant proposals are opened and recorded, the purchasing office determines if the proposals submitted are responsive. This is sometimes referred to as an administrative review. At a minimum, this includes review of the signed execution of offer, responses to respondent questions or similar documents, HSP and any other required documents such as bonds and certificates of insurance. In addition, the purchasing office will review the proposals to ensure that minimum qualifications are met. The contract manager or purchasing buyer is responsible for assuring that all appropriate reviews necessary to determine responsiveness are completed. An administrative review checklist is a good tool for ensuring the proposals are responsive. A *Sample Administrative Review Checklist* is attached as APPENDIX 6.

The evaluation team will only be provided with those proposals deemed responsive.

e. Evaluation Team(s) Training

In advance of receiving responses, the evaluation team leader may provide training for the evaluation team to outline the team's duties and responsibilities in accordance with the material contained in a well-developed evaluation guide. This may be a separate meeting or may be held in conjunction with and just prior to the evaluation. *Evaluation Team Guidelines and Purchasing Office Responsibilities* are attached as APPENDIX 7.

Team members should be instructed on their responsibilities including the critical nature of confidentiality to the integrity of the evaluation process.

Each evaluation team member should submit a signed *Non-Disclosure Statement* to the purchasing office prior to engaging in any discussion about, or having access to response documents. A Sample Non-Disclosure Statement is attached as APPENDIX 2.

The team leader will review all evaluation criteria with the team members and explain how the evaluation process will be conducted.

Communication between team members during the evaluation must be limited to asking questions of the team leader and, if authorized, obtaining information from technical

experts (for example, insurance and accounting experts) to better understand the response contents and requirements.

Each response must be evaluated individually against the requirements of the solicitation.

Each solicitation is considered independently of all other solicitations.

***Sample Evaluation Team Written Instructions are attached as APPENDIX 8***

f. Single Responses

To determine why UTRGV received only one response to a competitive solicitation, the purchasing office should do the following:

- Re-review the solicitation for any unduly restrictive requirements; and
- Contact some potential respondents to determine why they did not submit a response.

If it is determined that there were unduly restrictive requirements in the solicitation, UTRGV may decide to re-advertise the solicitation.

Otherwise, UTRGV should consider the reasons that other responses were not received and determine if it is in the best interest of UTRGV to make an award, to re-advertise with a revised solicitation, or to determine if an exclusive acquisition justification is required.

g. Proposal Evaluation

Once responses have been reviewed and found to be responsive by the purchasing office, the evaluation team leader will provide members of the evaluation team copies of the qualified responses. Some evaluations are conducted with the evaluation team in the same room evaluating the responses at the same time. This may facilitate questions by team members to purchasing staff or technical experts.

Alternatively, evaluation team members may work from their respective workspaces. In that case, purchasing staff and technical experts need to be available to answer technical questions regarding responses. For example, if a response recommends the use of a software product one of the team members is not familiar with, the member should discuss the pros/cons of this software with a technical expert if the member is allowed to do so by the evaluation guide; otherwise, if not allowed to conduct independent conversations, all questions must be presented to the team leader, who may seek out the answers to questions. Evaluation team members should only ask questions in the areas related to the evaluation criteria presented in the solicitation in accordance with the evaluation guide.

Once the evaluations are complete, the team leader will collect all of the evaluation score sheets and the responses. The team leader totals the score sheets and verifies the accuracy of calculations for input into the final evaluation formula.

If it is apparent that one or more team members' evaluations differ significantly from

the majority, the team leader should conduct a meeting with all team members to discuss the situation to ensure the criteria was clear to all team members and that information was not overlooked or misunderstood. If after this discussion, a team member feels that he/she did not understand the criteria, the requirement, or missed information that was included in the response, the member, at his own discretion, may revise his evaluation score. Under no circumstances should any team member attempt to pressure other members to change evaluation scores.

It is recommended that the cost or price information be scored by the purchasing office as cost/price is an objective criteria that should be calculated through predetermined formulas outlined in a spreadsheet.

A Sample Proposal Score Sheet is attached as APPENDIX 5.

h. References

The evaluation team may verify references included in the response and conduct any other reference or credit check deemed appropriate. Or, reference verifications may be performed by the purchasing office that would contact all references and attempt to obtain answers to questions developed by the evaluation team.

All reference checks should be documented in writing. The same script or format of questions should be used when conducting reference checks so that the results are consistent and fair to all respondents. A Sample Reference Check Form is attached as APPENDIX 9.

Sometimes it is difficult to obtain information from references, either because references have a policy of not providing information or because they cannot be reached in a timely manner.

Depending on the importance of the procurement, UTRGV may want to consider using the following statement in the solicitation in lieu of checking references for all respondents:

**UTRGV reserves the right to check references prior to award. Any negative responses received may be grounds for disqualification of the proposal.**

By including this statement, UTRGV is not required to check references but may choose to do so. Whether or not to check references as part of the evaluation is at the discretion of UTRGV based on the individual procurement. Note that if references are verified for one respondent, then references should be verified for all respondents.

i. Oral Presentations

Oral presentations or discussions are conducted at the option of UTRGV. If conducted, the solicitation should state approximately when oral presentations or discussions will occur. Oral presentations and discussions provide an opportunity for

respondents to highlight the strengths and unique aspects of their response and to provide answers to questions UTRGV may have regarding the response.

Demonstrations of product functionality are recommended, when appropriate. Demonstrations may be useful for information technology procurements.

Oral presentations and demonstrations should be fair to all parties. The time allowed and the format should be the same for all presenters. A prepared script will ensure consistency. Since some respondents believe there is an advantage to the order in which they present, it is best to draw names for the presentation order. This will ensure impartiality of the process.

j. Best and Final Offers

After oral presentations or demonstrations are completed, discussions between UTRGV and respondent may be held. If discussions are held and UTRGV intends to permit respondents to revise their responses, all respondents within the competitive range and that participated in oral presentations or demonstrations will be given equal opportunity to discuss and submit revisions to their responses. Revisions of proposals are normally accomplished by formally requesting best and final offers. The request sets a deadline for receipt of BAFO responses and provides instructions regarding information and documentation that should be submitted. After consideration of all BAFO responses, UTRGV may choose to reduce the number of respondents with which to negotiate to the competitive range.

k. Negotiations

Before negotiating with respondents, UTRGV should closely review the terms of the solicitation to confirm that negotiation is permitted. The IFB procurement method does not generally allow negotiations. However, the RFP and RFQ methods generally do allow negotiations.

During negotiations, UTRGV may not use “technical leveling” and/or “technical transfusion” techniques. “Technical leveling” means helping a respondent bring their proposal up to the level of other proposals through successive rounds of discussion, usually by pointing out proposal weaknesses. “Technical transfusion” means disclosing technical information or approaches from one respondent’s proposal to other competitors in the course of discussion.

In addition, the following disclosures are prohibited:

- disclosing competing respondents’ cost/prices (even if the disclosure is made without identifying the vendor by name); and
- advising a respondent of its price standing relative to other respondents.

Care must be taken to avoid making substantial changes to UTRGV’s contracting objectives, requirements and specifications set out in the solicitation. If the contracting

objectives, requirements or specifications are substantially changed through the negotiation process, the pool of contractors who may have been interested in submitting a response may change. Additional contractors may have competed, if the changed objectives, requirements and specifications were included in the original solicitation. Whenever it appears that contracting objectives, requirements or specifications may have been changed, legal counsel should be consulted before proceeding further.

UTRGV may continue with negotiations until the best value for UTRGV is achieved and an award to one or more respondents is made.

NOTE: A request for a respondent to clarify its proposal is not the same as negotiation of the terms of respondent's proposal. However, when seeking clarifications, UTRGV should not give one respondent an advantage over another and should extend the same opportunity to each respondent.

#### I. Award

UTRGV will award a contract for the purchase of goods/services that provides the best value for UTRGV pursuant to the mandatory evaluation criteria required by the Best Value Statutes and specified in the solicitation.

UTRGV may complete a best value award justification that addresses each evaluation criteria and retain the justification in the contract file. A *Sample Best Value Award Justification* is attached as APPENDIX 11.

Upon award of a contract, the contract manager is responsible for assuring that any notifications required by Applicable Laws or University Rules are made to announce the award of the contract.

In addition, the HUB office should be informed of the contract award in order to track all subcontracting associated with the contract.

### **XXVIII. Release Authority**

No Purchasing Staff member may release a Purchase Order to a vendor either verbally or in writing which exceeds that staff member's release authority until such order is reviewed and approved by the Chief Procurement Officer or designee. Each order submitted for review must be accompanied by the following documentation:

- Copy of Purchase Order
- Change Order(s), if applicable
- Copy of Requisition or request/authorization memorandum
- Confirming Quotation or Written Bid/RFP (including clarifications & revised bids/proposals)
- Award Recommendation, if applicable
- Bid Tabulation and Justification for Method of Purchase
- Appropriate Justification (e.g., emergency, sole-source), if applicable
- Department (User) Review/Approval Letter or Evaluation Forms, if applicable

- Other Than Low Bid Justification - Approval Memo, if applicable
- Bidders list, if applicable
- Copy of all Submitted Quotations or Written Bids/RFPs, if applicable
- HUB Good Faith Effort Documentation (Orders \$100,000)
- TIBH Justification, if applicable
- Miscellaneous correspondence
- Contract Administration Audits/Documentation, if applicable

## **XXIX. Exceptions**

The following purchase types shall be processed in accordance with applicable policies and procedures:

- Orders Over \$100,000
- Request for Proposal
- Professional Services
- Construction Services
- Procurements from Foreign Suppliers
- Established of GPO Contracts
- Procurements from GPO Contracts

Any other exceptions to this procedure must be in writing by formal addendum to this procedure or by other formal written exception issued by the Chief Procurement Officer.

## **XXX. Special Purchase Order Problems**

### **1. Shortages or Damages**

Requesting departments should inspect items received on purchase orders promptly after receipt. If a shortage in items ordered or damage to items received is discovered, the department should contact Central Receiving immediately. The Procurement Office will be alerted so that payment can be withheld until resolution of the problem.

### **2. Changes to A Purchase Order, Cancellation and Disencumbrance Of Funds From An Order**

This procedure is issued to provide university departments with guidance when revisions are required to a purchase order which has been fully approved.

#### **Change Orders**

1. When revisions are required on a purchase order, a change order is issued by the department.
  - a) Departments may initiate Change Orders in electronic procurement system all, the document will route to the Procurement Office for review and final approval.
  - b) The Procurement Office has sole authority to make changes to existing purchase orders without requesting a change order from the requesting department if the difference is 10% or less than the total purchase order and does not exceed \$200.
  - c) Any change order which exceeds 25% of the original order must be approved by the Purchasing Agent before being processed.
  - d) Complete the electronic Change Order Request Form available in electronic procurement system

1. Change orders should only be used for the following:
  - a. To cancel a purchase order
  - b. To cancel a line item
  - c. To modify a line item
  - d. To close a purchase order to relieve an open encumbrance
  - e. To change funding source of the original purchase order
2. Submit the Electronic Form so that it may route to the appropriate Department Approvers and attach any supporting documentation.

### **3. Unauthorized Purchases**

The acquisition of a good or service that has not been sourced through the appropriate mechanism for the type and dollar value of purchase is considered to be an unauthorized purchase. Purchase of goods and services should be made using a purchase order or, for authorized users only, a Pro-Card transaction. Any purchase outside UTRGV Procurement policies and procedures becomes the sole liability of the individual making the purchase.

The University shall not be financially responsible for the shipment of commodities, services or delivery of construction services by a vendor, which are not the result of having received a fully approved purchase order, a fully executed contract by authorized officials or allowable Procurement Card Transaction, or fully executed contract from the University prior to such event occurring and will not reimburse employees or assume responsibility for purchases made without authorization.

Request for payments for unauthorized purchases are made through the electronic procurement system. Departmental personnel requesting processing of unauthorized orders must justify in detail all the relevant information regarding the request. Requestors must affirm reaffirm that they will make comply with procurement policies and procedures. Continued non-compliance of UTRGV's Procurement policies and procedures by an individual or department will be reported to UTRGV Institutional Compliance Office.

Refer to UTRGV's Handbook of Operating Procedures, ADM 10-403 Centralized Purchasing, <http://www.utrgv.edu/hop/policies/adm-10-403.pdf> for information on the University's procurement policies and this handbook.

### **4. Expediting of Purchase Orders**

Departments may contact their assigned Buyer for status on outstanding purchase orders handled by the professional Buyers. The Buyer will contact the vendor and obtain shipping status and inform the requesting department. For Small Purchase Orders, requesting department may contact the vendor for shipping status.

### **5. Purchase Order Encumbrance Validity**

In an effort to maintain the operating balances in university accounts as accurate as possible, operating encumbrances should only be valid for 18 months after PO issuance date. Purchase Orders requiring payments in future Fiscal Years will need to be initiated once the corresponding fiscal year is open for transactions and will be kept valid until fully paid or closed whichever comes first.

### **XXXI. Professional Services**

This procedure is issued to establish effective guidelines for the purchase of Professional Services consistent with applicable laws and regulations.

a. Categories of Professional Services

Professional Services mean services in the following categories:

- Accounting
- Architecture
- Landscape Architecture
- Land Surveying
- Medicine
- Optometry
- Professional Engineering
- Real Estate Appraising
- Professional Nursing

Or persons in connection with professional employment or practice who are licensed as:

- Certified Public Accountant
- Architect
- Landscape Architect
- Land Surveyor
- Physician, including a Surgeon
- Optometrist
- Professional Engineer
- State Certified or State Licensed Real Estate Appraiser
- Registered Nurse

b. Selection of Vendor (Except for Architects, Engineers, or Surveyors)

1. In accordance with Texas Government Code, Section 2254, the selection of a vendor providing professional services cannot be made on a competitive basis.
2. The selection and award of a Vendor of professional services shall be made:
  - On the basis of demonstrated competence and qualifications to perform the services; and
  - Fair and reasonable price.
3. The professional fees under the contract:
  - Must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and
  - May not exceed any maximum provided by law.



c. Selection of Architects, Engineers or Surveyors

1. In accordance with Texas Government Code, Section 2254.004, procuring the services of a vendor providing architectural, engineering, or land surveying services, requires the University to:
  - Select the most highly qualified vendor of those services on the basis of demonstrated competence and qualifications; and
  - Attempt to negotiate with that vendor an agreement at a fair and reasonable price.
2. If a satisfactory agreement cannot be negotiated with the most highly qualified vendor:
  - Formally end negotiations with that vendor;
  - Select the next most highly qualified vendor; and
  - Attempt to negotiate an agreement with that vendor at a fair and reasonable price.
3. The University shall continue the process described above to select and negotiate with the professional until an agreement is entered into.

d. Contracts for Professional Services Request Form

To process a Professional Services form:

- Complete the electronic Contracts Request Form for Professional Services section available in electronic procurement system regardless of the total cost of services.
- Include and attach any of the following for Purchasing to review:
  - Quotes
  - Service agreements
  - Engagement letters
  - Letters of Intent
- Submit the Electronic Form so that it may route to the appropriate Department Approvers.
- Form will then route electronically to the Procurement Office for final approval.

e. Professional Services Agreement

1. All Professional Services shall be procured via a Professional Services Agreement between the University and the vendor.
2. The Professional Services Agreement shall be in the form prescribed by UT System's Office of General Counsel.
3. The Professional Services Agreement shall be reviewed, approved, and executed by the Purchasing Office.

4. All requests for Professional Services, where the anticipated total value exceeds \$100,000, shall be reviewed by the Purchasing Agent and the HUB Program Coordinator prior to selection and award.

### **XXXII. Service Agreements**

Services Agreement templates are to be completed by the requestor and sent to Procurement Office. If the request includes justification of a sole supplier, a completed Exclusive Acquisition Justification Sole Source Purchase Request form must also be completed. Procurement Office will review and finalize the content of the agreement and send to the contractor for signature. No work is to begin until the agreement is signed and dated by both parties. Only a representative of the Procurement Office can sign the contract on behalf of UTRGV. The agreement will be considered effective when the last party signs and dates the Agreement.

UTRGV will not be responsible for any payments for services performed or products delivered by the Contractor prior to the effective date of the agreement.

Things to consider when initiating the services agreements:

1. Will the Contractor have access to patient information or any other information that may be regulated under HIPAA? If yes, has a Business Associate Agreement been completed? (Procurement Office can provide this to you if needed)
2. Scope of Work - Describe the work to be performed and deliverables and their due date from the Contractor.
3. Rate and frequency of payment.
4. Total contract value.
5. Identify who will be approving invoices for this work.

### **XXXIII. Establishment of Committed Contracts**

This procedure is issued to establish a uniform method for entering into Committed Contracts/Agreements, which include UTRGV and Committed Group Purchasing Organization (GPO) Contracts/Agreements.

The terms, conditions and requirements of a GPO Contract/Agreement may be negotiated between all three parties (i.e., UTRGV, GPO and Vendor).

Procurements utilizing existing GPOs or IPA's should be processed as follows:

1. Verify that pricing, delivery and other requirements are in accordance with existing contract.
2. Process the Purchase order and ensure that the appropriate clause is included in the order:

“This Purchase Order is issued pursuant to the Contract/Agreement between UTRGV and (Contract/Agreement No.: \_) dated\_\_\_\_\_. This Purchase Order shall be governed by the terms, conditions, requirements, and pricing thereof.”

The purchase of products and services through Non-Committed Contracts/Agreements is authorized provided such method of acquisition is the best method and “best value” of purchasing available.

To maximize contract opportunities and to ensure compliance, all requisitions shall be processed as follows:

3. Review the requisition to identify if the requested products or equipment is available through a Non-Committed Contract/Agreement, if available:
4. It is the Buyer's responsibility to determine that utilization of a Non-Committed Contract/Agreement is the "Best Value" and to document the file accordingly.
  - A. Factors to be considered in determining cost effectiveness include:
    - i) Delivery
    - ii) Warranties
    - iii) Service
    - iv) Market and/or UTRGV Price History
    - v) Administrative Effort and Cost

All Commitments, where the anticipated total value exceeds \$100,000, shall be reviewed by the Purchasing Agent and the HUB Program Coordinator prior to commitment.

#### **XXXIV. Trial, Sample & Evaluation Products**

This procedure is issued to establish effective guidelines to enable Vendors to bring in products for trials and/or evaluation at no charge.

##### **Guidelines**

1. Departmental personnel are responsible for completing and having the vendor sign the "UTRGV Vendor Release Form" (ref. Attachment A). The form should then be forwarded to the Procurement Office. If the products will be shipped to UTRGV, the Department will also contact Central Receiving to make arrangements for delivery. The vendor should identify all containers as "Trial" or "Loan."

2. Upon receipt of the "UTRGV Vendor Release Form," the Buyer shall maintain a file at the end of the trial period; Buyer will ensure that the trial or evaluation products have been returned to the vendor.

Once trial or evaluation period is completed and the products have been returned to the vendor, the Buyer shall initial the form as completed then file the form in the vendor file.

**ATTACHMENT A  
THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY  
VENDOR RELEASE FORM**

\_\_\_\_\_, located at \_\_\_\_\_  
(Company Name) \_\_\_\_\_ (Company Address) agrees to furnish The University of Texas Rio Grande Valley ("UTRGV") sample products or equipment ("Product(s)"), as described on the attached listing hereto, for UTRGV's evaluation and testing purposes subject to the terms and agreements expressed below.

1. Company agrees to furnish Product(s) at no charge to UTRGV including delivery and all related return freight costs, installation and/or de-installation, and any insurance; and
2. Company agrees that its participation is voluntary, and that UTRGV has made no representation, commitment or guarantee to purchase these or additional product(s) now or in the future; and
3. Company warrants to UTRGV, The University of Texas System, its regents, officers, customer, agents and employees that the furnishing or use of any Product(s) hereunder does not infringe on any existing patent, copyright, trademark, service mark or other third party intellectual property right and Company agrees to indemnify and save harmless UTRGV and The University of Texas System, its regents, officers, customer, agents and employees from and against any and all claims, actions, damages, suits, proceedings, judgments, or liabilities incurred in connection with any claim, suit, or action for actual or alleged infringement based upon UTRGV's use of said Product(s). Company agrees to defend, at its sole expense, any such claim, suit or action brought against UTEP or The University of Texas system, its regents, officers, customers, agents and employees individually or collectively; and
4. Company agrees to indemnify, defend and save harmless UTRGV and The University of Texas System, their regents, officers, customers, agents and employees from and against any claims, actions, damages, proceedings, judgments, or liabilities as a result of bodily injury (including death) and/or property damage arising out of or in connection with the use of Product(s) furnished hereunder; and
5. Company agrees that UTRGV's sole responsibilities hereunder are to evaluate and to test Product(s) in good faith and in such a manner and for such a time period as deemed reasonable, necessary and appropriate by UTRGV

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, by:

Company

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Name – Print or Type)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

ATTACHED LISTING MUST BE COMPLETED (Original to Purchasing: Vendor, Department/Committee)  
(NOTE: A copy of this form must be transmitted to Central Receiving for any items that will not be delivered directly to the user.)

**Product(s)**

Description	S/N (if any)	Purpose/Use	Quantity	Time Frame From To
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Additional Information:

**INSTRUCTIONS:**

Department or Committee accepting such product(s) is responsible for completion of this form, obtaining signatures of responsible individuals, forwarding copies to Purchasing and to Company providing products), and making arrangements with Central Receiving (956) 665-3077, if product(s) are to be received through any of UTRGV – Central Receiving locations. Any receipts made through receiving facility must be identified on the container as “TRIAL” or “LOAN” and identify the using department, employee name, telephone extension, and room number.

### **XXXV. Federal Contracts and Grants over \$100,000**

This procedure is issued to establish effective guidelines for the purchase using Federal Contracts and Grants over \$100,000.

- A. Buyers will include the Federal Suspension and Debarment Certification applicable to the Federal Agency in the bid package. If in doubt, the Buyer will contact Contracts and Grants and/or Office of Research and Sponsored Projects to verify under which agency the Contract or Grant falls.
- B. Prior to award, the Buyer will verify vendor status via the System for Award Management (SAM) from Federal Procurement and Non-procurement Programs website: <https://www.sam.gov/portal/public/SAM/> . Verified copy must be in file.
- C. If the vendor has been suspended and/or debarred from doing business with the Federal Government, the Buyer may award to the next vendor in accordance with Best-Value Procurement.

All requests where the anticipated total value exceeds \$100,000 shall be reviewed by the Purchasing Agent and the HUB Program Coordinator prior to solicitation and award.

### **XXXVI. Purchase of Used Equipment**

On occasion, it may be necessary or advantageous to purchase used or demonstrator equipment and supplies due to the inability to secure new equipment, lack of adequate funds for new equipment, or the used equipment will satisfy the University's need at a substantial savings. If purchasing used or demonstrator equipment, the Buyer must:

1. Obtain a minimum of three quotes (two from certified HUB vendors) if the purchase amount is \$15,000 or greater.
2. Obtain a letter or signed statement from the vendor guaranteeing the quality and condition of the used equipment or supplies.
3. Obtain a letter from an authorized person connected with the vendor that states the equipment or supplies have been personally examined and describes the condition and value or the item(s).

### **XXXVII. General Requisition Process**

A requisition is the beginning of the procurement process and is used to request a good or a service. The requisition does not create an official obligation on the part of UTRGV to an outside supplier. Requisitions require approval from the user's department administration and may require additional approvals based upon the type of good or service being purchased. Prior to requisitioning, project manager must investigate sufficiency of funds for the request. Suggested sources for procurement may be included on the requisition. Any potential interest or relationship with the suggested vendor should be fully disclosed at this time.

## **XXXVIII. Special Procurements**

Certain procurements of goods and services require additional processing and/or approval or handling by another University department. The following sections will provide guidelines for requesting departments when processing these types of procurements.

### **a. Hazardous Material**

To ensure the safe and legal use of hazardous materials, the Environmental Health, Safety, and Risk Management (EH&S) Office has the responsibility for approving the purchase of select hazardous materials. These materials include the following:

- (i) EPA-designated “highly toxic” materials
- (ii) Carcinogens
- (iii) Select agents
- (iv) Radioactive materials
- (v) Bio-safety Level II agents and above

Requesting departments may request such materials but must first obtain the written approval of the EH&S Office prior to processing PR for hazardous materials. If the purchase is handled Procurement Card, written approval must be obtained in advance of issuing the order to the vendor. This documentation must be attached to the purchase transaction file as required by program procedures.

### **b. Drugs, Pharmaceuticals, and Controlled Substances**

The purchase of certain types of drugs, pharmaceuticals, and chemicals are restricted by the Drug Enforcement Agency (DEA) of the U. S. Government. Only authorized, licensed individuals may order these controlled substances. The University does not have a UTRGV DEA license for the purchase of controlled substances; therefore, the end user of the product must have a license to purchase controlled substances and must document that license in the departmental purchase requisition.

### **c. Grants and Contracts Accounts**

Any purchases from Grants and Contracts accounts (e.g., Account 4xxxxx) must have the approval of the Grants and Contracts Office, based on established thresholds set by Grants and Contracts, before the Purchase Order is issued to a vendor. Purchases from federal grants or contracts will be made in accordance with all applicable federal rules and regulations as determined by the Grants and Contracts Office. Account managers should abide by any grant or contract restrictions when making purchases through the electronic procurement system

### **d. Printing**

All printing for University offices, departments, and programs should be handled through the University Print Shop. The Office of University Marketing and Communications and the Print Shop are responsible for ensuring that all printing jobs conform to the University’s graphic standards. Refer to [UTRGV’s Handbook of Operating Procedures](#).

e. Classified Advertisements

Advertisements for recruitment positions should be coordinated through the Office of Human Resources (OHR). The Chief Procurement Officer has authorized the OHR to purchase classified advertisements for staff/faculty positions, respectively, under \$15,000 without the prior approval of the Procurement Office. A request for advertisement must be coordinated with the Human Resources Recruitment Division to obtain firm pricing on advertisements from the publisher of the newspaper or journal in which the advertisement will be published. The OHR will coordinate the content of the advertisement with the requesting department and obtain fund approval from the appropriate account manager. The OHR will submit the required documentation through the electronic procurement system for payment.

Advertisements other than for employee positions as stated above should be processed under procurement procedures as established by the Chief Procurement Officer.

f. Motor Vehicle Purchases

All vehicle purchases at UTRGV require approval by Campus Facilities Operations, Fleet Management before the Purchasing Office can process a requisition for this type of purchase. Examples of vehicles include:

- trucks
- vans
- sedans
- sports utility vehicles
- golf carts
- boats
- carryalls
- trailers

Golf carts, carryalls, and trailers are considered vehicles. In general, if a conveyance has wheels and a Certificate of Origin/Title, the following purchase procedures apply.

**Purchase Procedure**

Departments must follow these steps prior to the purchase of any new vehicle, including golf carts, carryalls, and trailers:

1. Complete Motor Vehicle Acquisition Memo APPENDIX 10.
2. Send the completed form to Campus Facilities Operations, Fleet Management
3. Refer to Determining Competitive Procurement Method, Section XIX to determine which solicitation method to use.
4. Create the appropriate requisition and attached signed Motor Vehicle Acquisition Memo

Prior to final approval of the requisition by the Purchasing Office, the fleet manager reviews the purchase requisition to determine whether the requested vehicle meets University guidelines for specifications, such as color and approved alternative fuel.



Note: The Purchasing Office will not final approve a requisition for a new vehicle purchase until all documentation is approved.

### **Vehicle Delivery and Title Retention**

All new University vehicles are delivered to the Edinburg campus.

501 N Sugar Rd, Edinburg, TX 78539 and this address is listed as the Ship to address on the approved University purchase order.

- g. **Equipment Maintenance and Rentals**  
Maintenance and rental agreements may be requested by departments either through the Procurement Office or by the requesting department through their program-spending limit. Requisitions for maintenance or rental agreements should be submitted at least thirty days prior to the commencement date desired. The beginning date of service will be effective on the date a purchase order is issued to a vendor by the Procurement Office. Renewal service is not automatic. The requesting department must submit a PR for continued coverage. Best value procurement procedures will be applicable to maintenance and rental requests.
- h. **Equipment Internal Repair Services**  
Normally, internal repairs to equipment cannot be reasonably defined prior to the actual repair. An internal repair occurs when the extent of the repairs cannot be determined until the equipment is disassembled. Internal repairs will always contain labor and may include parts. Requests for internal repairs should be estimated on either a PR if processed through the electronic procurement system. Purchase orders for Internal repairs should include a "Not to Exceed" dollar amount language within the authorized PO.
- i. **Registration Fees**  
Meeting and other travel related registration fees must be purchased through the Domestic Travel Form available in the electronic procurement system.
- j. **Lease of Space**  
Refer to Facilities Planning and Operations Department
- k. **Remodeling and Construction Services Purchases**  
**Remodeling and Renovations**  
All repair, remodeling, or renovations to UTRGV property must be reviewed by Facilities Planning & Construction before the Purchasing Office can process a requisition for this type of work. Even minor construction jobs may require project coordination, permitting, bonding, or an increased level of insurance for onsite work. Examples of remodeling and renovation projects include:

- Carpet and Flooring  
Departments must contact Facilities Planning & Construction for all new carpet and flooring purchases, regardless of the funding source.
- Furniture  
Departments must contact Facilities Planning & Construction for review and approval of the proposed purchase of furniture, including furnishings for:
  - student classrooms or workspaces
  - modular office areas
  - laboratories

In addition to review of the furniture items, Facilities Planning & Construction will review the furniture design and confirm compliance with fire and safety codes and ADA requirements. They will also ensure that the furniture layout does not block existing power outlets, thermostats, or air ducts. This initial review helps to minimize problems after the furniture is installed. After Facilities Planning & Construction approves the purchase or the approach, the Purchasing Office can process the procurement.

The following items also require initial review and approval by Facilities Planning & Construction:

- painting
- ceiling, wall, or door repair or replacement
- window installation
- landscaping
- demolition or design services
- signage (interior or exterior)

#### Existing Job Order Contracts (JOCs)

A job order contract is a special contract for remodeling services that uses a predetermined pricing structure, speeds up the quotation process, and provides discount pricing. They are competitively awarded and meet all the insurance and liability requirements imposed by The UT System and UTRGV's EH&S Office. The UT System Office of General Counsel puts restrictions on the use of job order contracts; therefore, the restrictions must be reviewed by the Purchasing Office before the purchase order is issued. To view these restrictions, see UT System Construction Contracting Guidelines, <https://www.utsystem.edu/documents/docs/contracting-review-procedures/construction-contracting-guidelines> additional information concerning the availability of various JOCs, contact Facilities Planning & Construction.

#### I. Relocation/Moving Services

Expenses related to the relocation of a new faculty or staff member committed to by a department as part of the recruitment process may be processed in the following manner: Note that part of the documentation required is a copy of the award letter detailing the approved moving expenses.

- Employee reimbursement to the faculty or staff member for expenses incurred by and associated with the moving of household goods (storage fees are not allowable) should be processed through the Expense Reimbursement process available in expense system.

m. Guest Lecturer Services

Requests for guest lecturer services are not processed through the Procurement Office. Refer to UTRGV's Handbook of Operating Procedures for guidelines on the purchase of guest lecturer services.

n. Purchases from Employees

Purchases of any supplies, materials, services, equipment, or property from University employees are not permitted unless the cost is less than that from any other known source and until approved in advance by the President. Requesting departments should consult with the Procurement Office prior to submitting a PR for a purchase from an employee. Refer to UTRGV's Handbook of Operating Procedures, ADM 10-403 Centralized Purchasing.

o. Purchases from Former Employees

The purchase of goods and services from a former University employee can be made only after the employee has been separated from the University for a period of more than one year. A department entering a requisition for the purchase of goods or services from a former employee must include that information in the supporting documentation to the Purchasing Office, along with the date the individual separated from the University.

Purchases from former employees are reviewed and approved by the Chief Procurement Officer.

p. Warranties

Where warranties are known in advance, warranty terms will be indicated on the purchase order by through the Purchase Order. Many items are delivered with warranty certificates attached to or inside the shipping container. It is the requisitioning department's responsibility to record and safeguard these warranty certificates in the event service is required during the warranty period. The requesting department will arrange for warranty service calls directly with the vendor.

q. Reimbursements for Purchases

Reimbursements may be made to employees for purchases made on behalf of the University. Employees may use personal funds to make purchases of goods or services up to \$1,000.00 with the prior approval of the departmental account manager. Such purchases may be goods or services needed in research or other business purpose when circumstances are such that issuing a University purchase order to a vendor through normal purchasing procedures is not possible and immediate payment is necessary in order to obtain those goods or services.

Any reimbursement request must be made on a reimbursement purchase requisition approved by the account manager and submitted to the Procurement Office. Purchases

must be itemized on the requisition and the business purpose of the expenditure must be stated. All original paid receipt(s) must be attached to the Business Expense Request. Receipts must be legible; show the amount paid, item(s) purchased, vendor's name, and date of purchase; and have a cash register validation, "paid" stamp, or vendor certification indicating paid status. Reimbursement will not be approved for receipts that are lost, stolen, destroyed, or "homemade".

Sales taxes are not reimbursable. A tax exemption certificate must be presented to the vendor at the time of purchase. Certificates may be obtained by accessing the Procurement Office Sharepoint website <https://utrgv.sharepoint.com/sites/dfa/fpp/procurement/SitePages/Procurement%20Office%20Home.aspx> with University credentials.

Reimbursements for the following items are not allowed:

- Ammunition
- Animals
- Cash handling items (receipts, boxes, safes, deposit books, etc.)
- Consulting services
- Controlled substances
- Hazardous materials requiring review and approval from the Department of Environmental Health and Safety
- Items for personal use
- Items or services prohibited by UTRGV policy and/or state law
- Items or services required to be provided by University departments
- Membership dues
- Postage
- Professional services
- Purchases from University employees
- Purchases requiring signature of vendor agreements or contracts
- Purchases that can be anticipated and acquired through regular purchasing methods
- Recurring expenses
- Tickets for events required to be delivered to the Office of the Comptroller
- Travel expenditures (must follow University travel policy and procedures)
- For Grants and Contracts Accounts:
  - Refreshments/Food – unless specifically approved by funding agency
  - Entertainment
  - Fines
  - Donations

Regulations and restrictions governing the types of items or services purchased from University accounts are applicable to reimbursements.

r. Reimbursements for Business Entertainment Expenses

Reimbursements for business entertainment expenses shall be made in accordance with UTRGV Expense Guidelines. An Business Expense Reimbursement for the employee is required in order to process a reimbursement for eligible business entertainment expenses.

s. Purchases of Information Technology Equipment or Services

UTRGV's Information Technology department is responsible for assessing all software purchases utilized by University employees and students.

Software purchases require review from Information Technology, regardless of dollar amount. This can include traditional software, apps, equipment that contains software, etc. If purchasing software, you must submit a Software Assessment at the link below:

<https://support.utrgv.edu/TDClient/1849/Portal/Requests/ServiceDet?ID=42650>

- Additionally, for any purchase that involves equipment or furniture, if it contains software, data or performs any type of technical function, please use the following Expense Types (E-Types) in iShop.
  - Computer Software Expensed
  - Maint Repair Software
  - Office/Computer Supplies
  - Computer Equipment Controlled
  - Computer Software Capital

The following E-Types should note be used for any item that contains software, data, or any type of technology.

- Hardware & Materials
- Fee Others
- Athletic Equipment
- Official Occasion
- Furnishings & Equip Expensed

Purchases of Information Technology (IT) equipment (computers, telecommunications equipment, etc.) of over \$5,000 require the approval of the Chief Information Officer (CIO). This approval should be obtained via consultation with the CIO prior to forwarding a PR through the workflow for approval. All purchases of networking or IT security products require the prior approval of the CIO regardless of amount. The exceptions to this policy are purchases by faculty of IT equipment for use in research, provided that the equipment is not to be connected to the campus network. These purchases do not require any procurement review and approval by the CIO. However, a statement regarding this exception must be included as a comment to the PR.

A Computer Acquisition Policy has been established to provide guidance for the purchase of desktop and portable computers, acquisition procedures, implementing configuration standards for procuring computers and for specifying officially supported equipment. Desktop and Portable Computers are an integral part of the IT infrastructure and continue to be added on to the network at a significant rate. This equipment requires maintenance and upgrading on a regular basis. Technical support personnel will be able to resolve problems and provide maintenance more efficiently with the standardization of equipment. In order to control costs and provide technical support for computers, we

have adopted standards for the end-user to realize effectiveness in operations; UTRGV has adopted standard configurations for computer purchases. These configurations have restrictions in order to maximize system performance and to reduce maintenance costs. Different standard configurations exist depending on the end user and final installation location and purpose. Some of the benefits of implementing these standards are:

- Streamlined processes for computer acquisitions;
- Reduction in errors in configuring and ordering;
- Speedier deployment to the end user;
- On-Site hardware warranty and support;
- Automated asset management;
- Faster support resolution for problems;
- Reduced maintenance requirements;
- Reduced support cost associated with ownership and maintenance of equipment;
- Campus network connectivity;
- Cost savings by obtaining the best value for funds expended on the acquisitions of computers; (leverage buying volume discounts, partnership) and
- Suitability for campus-wide use.

Procurement Office and Information Technology Department will maintain established standard configurations for all computers procured at UTRGV. These computer systems will be procured with standardized hardware and software configurations as determined jointly by the Information Technology Department and the Procurement Office. Information Technology will install, connect to the network, support, or repair computers which are procured in accordance with this policy, unless the equipment was either:

- Exempt from this policy (see exemptions below)
- Authorized by the Director of Information Technology prior to the purchase

The current computer standards may be found at the electronic procurement system. The configurations set for herein are agreed upon and shall be managed jointly by UTRGV Procurement Office and UTRGV Information Technology Department. Both departments will mutually review and update the standard configurations and pricing when new hardware and software is released by vendors, or when University requirements change. Computers will be delivered pre-configured with necessary software and settings to UTRGV Central Receiving. Once computers have been received and checked into inventory, they will be delivered to the requesting department. Information Technology maybe contacted to setup and installs any additional software required in the computers. Once computers are delivered to the end user, the computer shall not be reconfigured or rebuilt by any individual that is not employed by the Information Technology Department. The Computer Acquisition Policy includes computers configured with the Microsoft Windows operating system only. The following items are not covered by the standard at this time:

- Server-class machines.
- Computers which will not be running Microsoft Windows® or Mac OS operating systems.
- Computers not intended for desktop applications or usage.
- Computers for special purpose applications.

However, the standards governed by this policy shall be considered when performance characteristics and compatibility are substantially the same.

**Grant Funded Equipment**

Grants which are written on behalf of the University which require the purchase of computers shall adhere to this policy. Grant-funded equipment must be supported, and eventually becomes the property of the University at termination of the grant; therefore, it is essential that this equipment follow the same standard set forth herein.

**XXXIX. ProCard Procedure**

UTRGV Procurement Card (ProCard) provides eligible faculty & staff with an alternate method to pay for purchases of goods and services that are not available through other purchasing methods such as the electronic procurement system. The purpose of the ProCard Program is to establish a more efficient and cost-effective method of purchasing and paying for small dollar transactions. The Procurement Card Program is authorized by the State of Texas Comptroller of Public Accounts through a contract with credit card bank. After approval of the ProCard Application and attendance of training, the card will be issued and the cardholder will receive instructions for its use and the charge limits that are assigned to the account. The ProCard Program is intended to fully comply with all applicable university purchasing procedures while reducing the time between identification of a need and delivery of the goods or services to University departments as well as to improve the payment process. The program is expected to reduce the overall administrative cost for processing of small dollar purchases.

It is the policy of UTRGV to have all orders placed on the ProCard encumbered through the financial system of record. All card transactions must be entered through the electronic procurement system through a purchase requisition to pre-encumber the funds. Once the requisition is approved a purchase order will be created to encumber the funds for the transaction.

**Reconciliation**

The cardholder and reconciler will be notified via email notification of the period statement of charges for reconciliation purposes. Files are loaded from the bank on a daily basis and the bank monthly statements for the billing cycle will be submitted electronically to each cardholder and reconciler during the months that they make charges for reconciliation. If no charges are made during the billing cycle no statement notification will be sent. All statements should be reconciled within three days of receiving this notification. On the 15th day of each month, all outstanding charges that have not been reconciled by the cardholder will be automatically reconciled to the cardholder's default account.

**Use of Proxy**

The procurement system has functionality that allows the cardholder to delegate another individual to "Act as a Proxy" for the purpose of entering requisitions and reconciliation the online statements. After the cardholder makes a purchase, the receipts (and any other supporting documentation) should be given immediately to the delegated individual for requisition entry. This feature is especially useful for cardholders who are physicians, researchers and other non-administrative personnel. However, it remains the cardholder's responsibility to assure that requisition entry and statement reconciliation is taking place properly.

**Compliance Monitoring**

The ProCard Team monitors bank statements on a daily basis and cardholder activity on a routine basis for compliance with program requirements. The compliance reviews monitor for restricted charges, splitting of charges over \$5,000, lack of requisition entry, missing receipts/statements, and improper statement reconciliation. A cardholder who is out of compliance will be notified by the ProCard Team and is subject to probation, suspension or revocation of their cardholder privileges. Accounts that have been placed on probation and are subject to possible suspension or revocation are reviewed periodically to determine that issues with compliance have been resolved. A cardholder who is out of compliance will be notified by the ProCard Team and is subject to probation, suspension or revocation of their cardholder privileges. Accounts that have been placed on probation and are subject to possible suspension or revocation are reviewed periodically to determine that issues with compliance have been resolved. Questions regarding compliance probation, suspension or revocation may be directed to ProCard Program Administrator (956) 665-2161.

### **Record Keeping**

In an effort to ensure proper card usage, certain supporting documentation for each cardholder is required. The following items should be attached to each monthly bank statement.

- Sales receipts with pricing
- Packing slip: and
- Transaction slips

The above documentation should be maintained in the department. The cardholder and another approving official within the department should sign each statement. **Supporting documentation for ProCard transactions must be maintained by the department in accordance with UTRGV Records Retention Schedule.**

### **Card Termination**

Cards that are issued, but not used present a risk of fraud and abuse to UTRGV. If a cardholder has not used the ProCard for six consecutive billing cycles (months), the card may be revoked at the discretion of the Program Administrator. The cardholder will be contacted in an effort to determine the explanation for non-use of this privilege. When a cardholder terminates employment with UTRGV, the department is obligated to reclaim the ProCard and return it to the ProCard Program Administrator prior to the employee's termination date. The complete Procurement Card Program Manual may be found at this link:

[https://www.utrgv.edu/procurement/credit/credit-card-program-manual-05\\_04\\_22.pdf](https://www.utrgv.edu/procurement/credit/credit-card-program-manual-05_04_22.pdf)

## **XL. Central Receiving**

The Central Receiving Department has the following general responsibilities:

- Receive incoming shipments of goods for University departments
- Make deliveries of goods received from vendors to University departments
- Coordinate outgoing shipments of goods for University departments
- Maintain accurate records of incoming and outgoing shipments and deliveries to departments
- Inspect incoming shipments for external damage
- Coordinate freight claims with carriers



- Investigate discrepancies with received goods
- Provide assistance to departments with shipping and receiving matters

**Delivery Services**

All deliveries shall be made during normal working hours (8:00 a.m. – 12:00 p.m., and 1:00 p.m. – 5:00 p.m.) to the following addresses depending on campus ordering:

The University of Texas Rio Grande Valley  
Edinburg Campus  
Reference: Authorized Purchase Order  
1407 E. Freddy Gonzalez  
Edinburg, Texas 78539  
Telephone number 956.665.3077

The University of Texas Rio Grande Valley  
Brownsville Campus  
Reference: Authorized Purchase Order  
1 West University Drive  
Brownsville, Texas 78520  
Telephone number: 956-882-6774

All delivery and service vehicles that require inner campus access should park in designated service/delivery parking areas and access the core of campus through designated access pathways and obtain the appropriate Vendor Parking Permit by contacting Parking and Transportation.

**APPENDIX 1 SUMMARY OF UT PROCUREMENT GUIDELINES  
UT RIO GRANDE VALLEY PROCUREMENT GUIDELINES  
EFFECTIVE JULY 7, 2022**

***(Bid, Quote & Proposal Requirements for Goods & Services)***

Contract Value or PO Amounts	Informal Bid	Formal Bid/Proposal (ITB/RFP)	State Contract (DIR/TXMAS/Other)	GPO (Alliance/Vizient)	GPO (E&I, TCPN, Other)	Exclusive Acquisition Justification (EAJ)	BOR Approval Requirement	Reporting Requirement
<\$15,000	NA	NA	One (1)	One (1)	One (1)	NA	NA	Transparency Report
\$15,000 - \$50,000	Three (3)	NA	One (1)	One (1)	One (1)	One (1)	NA	Transparency Report
\$50,000 - \$1M	NA	ITB/RFP	Three (3) <sup>1</sup>	One (1)	Three (3) <sup>1</sup>	One (1)	NA	Transparency Report LBB Report <sup>3</sup>
>\$1M	NA	ITB/RFP	Three (3) <sup>1</sup>	Alliance – One (1) <sup>1</sup> Vizient - Three(3) <sup>1</sup>	Three (3) <sup>1</sup>	One (1)	Yes <sup>2</sup>	Transparency Report LBB Report <sup>3</sup> BOR Quarterly Report
>\$10M								Notify Dr. Pruitt

**“Best Value” Section 51.9335:** Each state agency shall purchase goods and services that provide the best value for the state. The purchase price and whether the goods or services meet specifications are the most important considerations. Other considerations may include: The total long-term cost to the Institution for acquisition such as training,

- installation, and life cycle cost etc.
- Quality and reliability of the goods and services.
- Quality of the vendor and of the vendor’s goods or services;
- the extent to which the goods or services meet the institution’s needs;
- the vendor’s past relationship with the institution.
- Other factors relevant to best value in context of the purchase.

UTRGV makes a good-faith effort to actively involve Historically Underutilized Businesses (HUBs) in Texas procurement process and ensure they receive a fair share of state business. A formal HUB Plan is required from all bidders for procurements with an estimated value of \$100,000 or greater unless a Buyers Declaration of Non-HUB availability is approved by the HUB Program Office. However, HUBs are to be considered for all purchases regardless of dollar value.

- **Informal Bids:** At least 3 bids of which one must be a certified HUB minority, one must be a certified HUB of any ownership, and one of any ownership or size.
- **Formal Bids:** Sourcing & Contract Management will post the HUB supplier list with the RFP as well as notify HUB suppliers of the posting. <https://mycpa.cpa.state.tx.us/tpasscmlsearch/tpasscmlsearch.do>

**<sup>1</sup>Quote/Proposal Notes**

- If only two suppliers in a category, document & proceed
- If only one supplier in a category:
  - EAJ not required for Alliance, Vizient, E&I, DIR, TXMAS
  - All other GPO Contracts
    - Confirm & documents that valid procurement was completed, or
    - Complete EAJ

**<sup>2</sup>Board of Regent Approval Notes**

- Current exemptions under Regents Rule 10501 apply
- Proposed thresholds for Group Purchase exemption:
  - \$2.5 M UTRGV – Board of Regent Approval
  - \$1.0M UTRGV – Office of General Council Review

<sup>3</sup> Legislative Budget Board Reporting Requirements	Fund Source	Threshold	Timing	Attachments	Attestation
Major Info Systems – UTRGVs and Higher Ed>\$1 million (sec 2054.008, Gov Code)	All	\$1 M	10 days after execution	Not Required	No
Professional Services > \$50K (Sec 2254.006, Gov.Code)	All	\$14,000	10 days after execution	Not Required	No
Purchases or Sales > \$50K (Sec 7.04 (b), Article IX, GAA)	All	\$50,000	Monthly	Not Required	No
Purchases > \$10 million (Sec 7.12, Article IX, GAA)	Appropriated	\$10M	10 days after execution	Not Required	Yes
Non-competitive purchases > \$1 million (Sec 7.12, Article IX, GAA)	Appropriated	\$1M (EAJ)	10 days after execution, but 3 days prior to payment	Not Required	Yes
Emergency purchases > \$1 million (Sec. 7.12, Article IX, GAA)	Appropriated	\$1M (EAJ)	10 days after execution, but 3 days prior to payment	Not Required	Yes

## APPENDIX 2 NON-DISCLOSURE, CONFLICT OF INTEREST & BID REVIEW NOTICE

I, <name>, the undersigned, hereby certify that the following statements are true and correct and that I understand and agree to be bound by the commitments contained herein. I am acting at the request of the University of Texas Rio Grande Valley (UTRGV) as a participant in the procurement process related to UTRGV's <IFB/RFP Number> for the procurement of <description of goods/services>.

### Supplier(s) Under Consideration:

- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.

### **Non-Disclosure**

I am acting of my own accord and am not acting under duress. I am not currently employed by, nor am I receiving any compensation from, nor have I been the recipient of any present or future economic opportunity, employment, gift, loan, gratuity, special discount, trip, favor, or service in connection with any proposal or involved Supplier in return for favorable consideration. I have no preconceived position on the relative merits of any of the proposals nor have I established a personal preference or position on the worth or standing of any Supplier participating in this RFP.

I agree not to disclose or otherwise divulge any information pertaining to the contents, status, or ranking of any proposal to anyone other than UTRGV project leader, other team members or those individuals I report to. I understand the terms "disclose or otherwise divulge" to include, but are not limited to, reproduction of any part of portion of any proposal, or removal of same from UT UTRGV designated areas without prior authorization from UTRGV project leader. I agree to perform any and all evaluations of said proposals in an unbiased manner, to the best of my ability, and with the best interest of the UT System and the State of Texas paramount in all decisions. I understand that failure to do so will not only remove me, but also my UTRGV, from the review and scoring process.

### **Conflict of Interest**

- 1 Do you directly or indirectly own or control more than 10 percent or pecuniary interest with a value exceeding \$25,000 with any Supplier under consideration?  
 No  Yes If yes, please explain in detail the nature of such relationships on an additional page attached hereto.
- 2 Do you have a relationship with an employee, a partner, a major stockholder, a paid consultant with a contract of at least \$25,000 with any Supplier under consideration, or other business entity that is related within a degree described by Government Code 573.002?  
 No  Yes If yes, please explain in detail the nature of such relationships on an additional page attached hereto.
- 3 Do you have a controlling interest with any Supplier(s) Under Consideration including ownership of more than \$5,000 of the fair market value or service as an officer?  
 No  Yes If yes, please explain in detail the nature of such relationships on an additional page attached hereto.

I hereby certify that I have disclosed any outside activities and/or conflicts of interests or confirmed no outside activities and/or conflicts of interests on UTRGV Outside Interests and Activities Online Portal and is up to date.

**Bid Review Notice**

I have received the responses from the Supplier under Consideration listed above. Purchasing has recommended that award be made to the vendor who provides the “best value” to the University. Based upon my review, and evaluation matrix, it is my recommendation that the University award the following vendor:

Vendor Name [Click or tap here to enter text.](#)

Justification [Click or tap here to enter text.](#)

Name [Click or tap here to enter text.](#)

**Signature**

Date [Click or tap to enter a date.](#)

**APPENDIX 3 SOLICITATION ANNOUNCEMENT & ADDENDUM NOTICE**

<p><b>The University of Texas Rio Grande Valley</b></p> <p><b><u>SOLICITATION ANNOUNCEMENT</u></b></p> <p>The University of Texas Rio Grande Valley (“The University”) is soliciting responses for an/a <b>[Invitation for Bids/Request for Proposals]</b> for selection of a vendor to provide <b>&lt;enter goods/services description&gt;</b> at <b>&lt;service location(s)&gt;</b>.</p> <p>Potential Respondents may obtain solicitation documents by downloading the corresponding documents at <a href="http://www.utrgv.edu/bidopportunities">www.utrgv.edu/bidopportunities</a></p> <p><b>Key Events Schedule</b></p> <p style="text-align: right;">&lt;date&gt;</p> <p>ISSUANCE OF IFB/RFP &lt;date&gt;</p> <p>PREPROPOSAL CONFERENCE &lt;date&gt; at &lt;time&gt;</p> <p>QUESTIONS/CONCERNS DUE CST</p> <p>SUBMITTAL DEADLINE &lt; date&gt; at &lt;time&gt;</p> <p style="text-align: right;">CST</p> <p>Submission of electronic bid responses will be accepted only as follows:</p> <p><a href="https://utrgv.bonfirehub.com/portal/?tab=openOpportunities">https://utrgv.bonfirehub.com/portal/?tab=openOpportunities</a></p> <p>For confirmation of receipt of bid please email the referenced buyer on the solicitation.</p> <p>Thank you, University of Texas Rio Grande Valley</p>	<p><b>The University of Texas Rio Grande Valley</b></p> <p><b><u>ADDENDUM NOTICE</u></b></p> <p>The University of Texas Rio Grande Valley (“The University) has posted Addendum No. ____ for an/a <b>[Invitation for Bids/Request for Proposals]</b> for selection of a vendor to provide <b>&lt;enter goods/services description&gt;</b> at <b>&lt;service location(s)&gt;</b>.</p> <p>Potential Respondents may obtain Addendum No. ____ at <a href="http://www.utrgv.edu/bidopportunities">www.utrgv.edu/bidopportunities</a></p> <p><b>Key Events Remaining</b></p> <p style="text-align: right;">&lt;date&gt;</p> <p>PREPROPOSAL CONFERENCE&lt;date&gt; at &lt;time&gt;</p> <p>QUESTIONS/CONCERNS DUE CST</p> <p>SUBMITTAL DEADLINE&lt; date&gt; at &lt;time&gt;</p> <p style="text-align: right;">CST</p> <p>Submission of electronic bid responses will be accepted only as follows:</p> <p><a href="https://utrgv.bonfirehub.com/portal/?tab=openOpportunities">https://utrgv.bonfirehub.com/portal/?tab=openOpportunities</a></p> <p>For confirmation of receipt of bid please email the referenced buyer on the solicitation.</p> <p>Thank you, University of Texas Rio Grande Valley</p>
--	---

## APPENDIX 4 PRE-PROPOSAL CONFERENCE GUIDELINES

**Objective:** A pre-proposal conference is sometimes required to clarify specifications. Typically, program staff, in conjunction with the purchasing office, determines if a pre-proposal conference is necessary. If a pre-proposal conference is necessary, the solicitation must include:

- Exact physical location, including room number.
- Date and time of conference. The date must allow sufficient time for respondents to receive and review the solicitation prior to the conference. Typically, this is approximately 10 days after the solicitation is published.

It may be essential for potential respondents to inspect the site prior to submitting a response to the solicitation; therefore, include in the solicitation:

- UTRGV contact information for scheduling appointments for site inspections.

If the conference is mandatory, the following statement must be included in the solicitation: "*Failure to attend the pre-bid/proposal conference will result in disqualification of the response.*" If a mandatory conference is required, consider adding additional conference dates, especially if the expected attendee count will be large.

Typically, purchasing office conducts the conference. The purchasing office provides:

- A sign-in sheet for attendees
- Extra copies of the solicitation

The conference begins as follows:

- Purchasing office-opening remarks, including the purpose of the conference, solicitation number and title of the solicitation.
- Advise attendees to turn off or turn to vibrate any cell phones or pagers.
- Remind attendees to sign in, especially for mandatory conferences.
- Inform attendees that, whenever possible, UTRGV will provide answers to questions raised at the conference, but any answer which changes or affects the solicitation requirements will be reviewed and published in an Addendum to the solicitation.
- Advise attendees that potential respondents may not rely on verbal answers to questions that differ from the solicitation requirements.
- Introduce UTRGV representatives and their role in the solicitation.
- Introduce attendee's or allow attendees to introduce themselves.
- Review solicitation by section or page and ask for questions regarding each section or page. – summarize and allow for questions.
- Take notes of any items that need to be addressed through an addendum and other significant discussions.
- Depending on the circumstances, site inspections may be conducted prior to or after the solicitation review, but prior to the end of the conference. After site inspections all attendees should return to conference room to ask any questions as a result of the site inspection. Summarize the conference; confirm the issues to be addressed in an addendum. Confirm that answers to all documented questions will be provided in writing, if any. Remind attendees that verbal changes to the solicitation are not valid or binding until the changes are made by an addendum.
- Collect sign-in sheets. Note: Usually attendees want copies of the sign-in sheets. If possible, make

copies for attendees prior to the end of the conference or post on the website

After the conference:

- Purchasing office and program staff will work together to prepare any addenda, including any written questions with answers.
- Purchasing office will determine if there is sufficient time for potential respondent to prepare proposals before the submittal deadline or if the submittal deadline should be extended.
- Email, post or fax any addenda to attendees.
- Provide any addenda to program staff.
- Post addendum on the ESD, if required by University Rules.

## APPENDIX 5 PROPOSAL SCORE SHEET

### PROPOSAL SCORE SHEET

TEAM EVALUATION			
<b>Project Name:</b>		<b>RFP #</b>	
		<b>FIRM NAME:</b>	
FACTOR	MAXIMUM POINTS PER SECTION	RATE 1-5	TOTAL
1. The cost of proposer's goods and Services.			
2. The reputation of the Proposer and demonstration of its competence, experience and prior successes in environments similar to University campuses.			
3. The quality if the Proposer's goods or services.			
4. The extent to which the goods or services meet the University's needs.			
5. The Proposer's past relationship with the University			
6. The total long-term cost to the University of acquiring the Proposer's goods or services.			
7. Quality of an online user-friendly application system.			
8. Implementation of the Schedule of Events, Phases or Time Periods			
<b>TOTAL SCORE</b>			
Threshold Criteria:			
ABILITY OF UNIVERSITY TO COMPLY WITH LAWS REGARDING HUB			YES / NO
ABILITY OF UNIVERSITY TO COMPLY WITH LAWS REGARDING PERSONS			YES / NO

\_\_\_\_\_

Evaluator Name

\_\_\_\_\_

Evaluator Signature

\_\_\_\_\_

Date



## APPENDIX 6 ADMINISTRATIVE REVIEW CHECKLIST

[Solicitation No.]

[Solicitation Title]

[Respondent Name]

	Yes	No
1. Execution of Proposal – Signed	<input type="checkbox"/>	<input type="checkbox"/>
2. HUB Subcontracting Plan	<input type="checkbox"/>	<input type="checkbox"/>
3. Submitted original and required # of copies	<input type="checkbox"/>	<input type="checkbox"/>
4. Addenda Acknowledged	<input type="checkbox"/>	<input type="checkbox"/>
5. Mandatory Pre-Bid Conference Attendance (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>
6. Proposal Content	<input type="checkbox"/>	<input type="checkbox"/>
7. Company Information	<input type="checkbox"/>	<input type="checkbox"/>
8. Experience and Qualifications	<input type="checkbox"/>	<input type="checkbox"/>
9. Compensation and Fees	<input type="checkbox"/>	<input type="checkbox"/>
10. References	<input type="checkbox"/>	<input type="checkbox"/>
11. Licenses/Certificate	<input type="checkbox"/>	<input type="checkbox"/>
<b>SOLICITATION RESPONSIVE</b>	<input type="checkbox"/>	<input type="checkbox"/>

## **APPENDIX 7 EVALUATION TEAM GUIDELINES AND PURCHASING OFFICE RESPONSIBILITIES**

### **Prior to the Evaluation Team meeting:**

Establish date and time for the team to meet. This should be done within one (1) week of publishing the solicitation. Reserve an adequate size conference room or ensure that the program office has done so. Review responses to ensure all are responsive, meet all minimum requirements and provide all required information to be considered for evaluation.

Prepare sufficient copies of the technical evaluation matrix for each team member (depending on the number of responses received).

Assemble copies of all responses for each team member. Remove pricing information from responses because scores for pricing are calculated by the purchasing office and are not typically provided to the evaluators.

Send Non-Disclosure Statement (2 copies for each member) to each team member.

### **Evaluation Team Meeting:**

Before sharing responses with team members, collect a signed Non-Disclosure Statement from each member. Each team member should also keep a copy of the statement for their records and as a reminder of the team member's responsibilities. For members not in attendance, the signed Non-Disclosure Statement will also be received prior to providing responses for evaluation. Check statement to ensure it is signed and has not been modified.

Hand out evaluation package to each member. Package includes:

- Evaluation Team Written Instructions (see APPENDIX 8).
- The solicitation and any addenda. Prior to this meeting, the members should become familiar with these documents.
- Copy of all responsive proposals received.
- Evaluation Matrix (appropriate number of copies – depending on the number of responses received).
- Pencils

Review the Written Instructions with the team (see [APPENDIX 8](#)).

Review the evaluation matrix to ensure each member understands how the matrix works and how the responses will be evaluated. Explain the scoring process. Team members should be reminded to compare the responses to the requirements set forth in the solicitation and not to each other.

Advise members that evaluations are subject to the Texas Public Information Act and should be aware of information that is written on the matrix. However, it is helpful in the de-briefing process if the members write in the comment section – especially if the score is unusually low or high. This allows respondents to know where their proposal's strengths and weaknesses were so the respondent may improve its responses on future solicitations.

Team members should consult with the purchasing office for any needed clarifications of a response. The purchasing office may need to will contact the respondent, obtain an explanation, and prepare a written response for the team members. All members will be provided a copy of the response to the request for clarification.

Generally, a representative of the purchasing office remains during the evaluation team meeting to answer any questions which may arise and to ensure proper procedures are followed. Sometimes, due to time constraints, remote location of team members or other circumstances, it is not possible for all members to be together for the evaluation. However, gathering all team members in one location for the meeting is the preferred method. If the evaluation team conducts their evaluation remotely, the purchasing office will provide a deadline for return of the evaluation scores to the purchasing office.

Scores will not be divulged between team members. Members may ask questions of the purchasing office if they are unable to find information, do not understand information in a proposal or require the technical assistance.

After evaluations are completed, all evaluation scores will be submitted to the purchasing office.

#### **After the Evaluation Team Meeting**

The purchasing office verifies and calculates technical scores, adds the technical scores to the price score, and calculates the total score.

The purchasing office (with any necessary input from UTRGV's legal office) recommends negotiations, discussions and/or award.

*All team members will continue to refer any questions about the solicitation, the evaluation and award process to the purchasing office.*

**APPENDIX 8 EVALUATION TEAM WRITTEN INSTRUCTIONS**

\_\_\_\_\_, 20\_\_\_\_

**MEMORANDUM**

**TO:** Proposal Evaluation Team: **[List Evaluation Team Members]**

**FROM:**

**SUBJECT:** Request for Proposal (RFP) - Selection of Vendor to \_\_\_\_\_ for The University of Texas Rio Grande Valley, RFP No. \_\_\_\_\_, issued \_\_\_\_\_, 20\_\_\_\_

In response to the RFP, University of Texas Rio Grande Valley received proposals from the following Respondents:

- 1. \_\_\_\_\_;
- 2. \_\_\_\_\_;
- 3. \_\_\_\_\_; and,
- 4. \_\_\_\_\_.

Under cover of this memo, I am forwarding one (1) copy of each proposal received in response to the RFP to each member of the Proposal Evaluation Team for review and evaluation. I have also enclosed one (1) copy of the RFP Evaluation Criteria and the related Score Sheet. Please make copies of the Score Sheet as needed. A copy of the RFP and the related contract may be accessed on the following web site: \_\_\_\_\_.

Please comply with the following instructions in connection with the proposal evaluation process:

**Electronic Information Resources**

If the RFP includes the purchase or development of electronic and information resources (EIR), including software applications and operating systems, web sites, telecommunications products, video and multimedia products, desktop and portable computers and self-contained/closed equipment that includes EIR, the Proposal Evaluation Team must evaluate the proposed EIR for compliance with <https://www.utsystem.edu/board-of-regents/policy-library/policies/uts-150-access-persons-disabilities-electronic-and> (UTS150) before scoring proposals or selecting a successful proposal. The Proposal Evaluation Team will need to work with UTRGV's Accessibility Coordinator and Accessibility Coordinator Team for EIR Remediation (ACTER) to assure compliance with UTS150.

**Proposer References**

References may be contacted by one designated Proposal Evaluation Team member. The designated member may share the information gathered from references with the Proposal Evaluation Team.

The designated member should prepare a Reference Contact Sheet for each reference that includes: name of the proposer, first and last name of reference, name of company, contact telephone number and email address (if available), date and time of call and list of questions. The designated member should ask each reference for each proposer the same questions and record the questions and responses on a separate Reference Contact Sheet for each reference. All questions should relate to the RFP specifications and requirements. If a reference is obtained via email, a copy of the email must be retained. Copies of all Reference Contact Sheets and reference emails must be submitted to [the Purchasing Office.

**Contact with Vendors**

The Proposal Evaluation Team should not contact proposers. All contact with proposers should be handled through [the Purchasing Office]. If a proposer contacts a member of the Proposal Evaluation Team, the contact should be carefully documented and forwarded to [the Purchasing Office].

**Scoring Proposals**

Each member of the Proposal Evaluation Team should (1) review each proposal separately against the Evaluation Criteria and the requirements of the RFP, and (2) complete a Score Sheet in connection with each proposal, **before** \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_.

Proposals should not be scored by comparing one proposal side-by-side with another proposal. Review and score one proposal, then move on to the next proposal.

Initial conclusions regarding the proposals should be reached independently and impartially. Members of the Proposal Evaluation Team should not communicate with other team members regarding the proposals until the Proposal Evaluation Team meets at the offices of \_\_\_\_\_ on \_\_\_\_\_, 20\_\_, to discuss the selection of the successful proposal.

*All Score Sheets must be completed before the meeting of the Proposal Evaluation Team.* The first item of business at the meeting of the Proposal Evaluation Team will be the collection of one (1) copy of a complete set of Score Sheets from each member of the Proposal Evaluation Team. Therefore, please bring at least two (2) copies of your set of Score Sheets to the meeting.

Once collected, the individual scores recorded on the Score Sheets for each proposal must be totaled and averaged. Proposals will then be discussed and a successful proposal selected.

**Texas Public Information Act and RFP Documentation**

Please be aware that Score Sheets and other documentation related to the RFP may be subject to disclosure pursuant to the *Texas Public Information Act*. However, proposals, information contained in proposals, pricing and scoring may not be shared with proposers or parties outside of the University unless proper procedures are followed. If a written or verbal request for any information is received, please forward the request to [the Purchasing Office] *immediately*.

**Score Sheets, Score Totals and Recommendation for Award**

All individual and group Score Sheets and score totals should be submitted to the Purchasing Office, along with a written Recommendation for Award that is based on the Score Sheets. The Recommendation for Award should summarize why the Evaluation Team selected the successful proposal. If competing proposals did not satisfy the RFP requirements, the written recommendation should also identify the deficient proposals and specify which RFP requirements those proposals did not satisfy.

If you have any questions or comments regarding the proposal review and scoring process, please do not hesitate to call me at \_\_\_\_\_. Thank you for your assistance with this very important matter.

**Enclosures:**

- Proposals
- Evaluation Criteria
- Score Sheet

cc: \_\_\_\_\_

## APPENDIX 9 REFERENCE CHECK FORM

Respondent Name:

Reference Name:

Solicitation Number:

Company Name:

Goods/Services:

Telephone Number:

**Introduction:** Hello, my name is **[caller's name]** with UT Rio Grande Valley. We are currently evaluating vendor proposals for **[solicitation title]** and are checking vendor references. **[respondent name] provided us your name and number as a reference for [respondent name].** Do you have a few minutes to answer some questions?

Questions	Rating
1. How long has your company done business with [respondent name]?	
2. How many different projects has [respondent name] worked on for your company?	
3. How many different contractors ... a. Has your company used in the past? b. Is your company currently using?	
4. On a scale of 1 to 10, with 10 being completely satisfied and 1 being completely unsatisfied, how would you rate [respondent name]'s: a. Ability to perform the work? b. Ability to _____? c. Reliability? d. Ability to meet timelines or deadlines? e. Quality of work? f. Personnel experience level? g. Attitude regarding customer service? h. Ability to resolve problems? i. Overall performance?	
5. On a scale of 1 to 10, with 10 being "absolutely would" and 1 being "absolutely would not," would you recommend <b>[respondent name]</b> to another UTRGV or company?	
6. In your opinion, what are <b>[respondent name]'s</b> j. Strengths? k. Weaknesses?	
7. Do you have any additional comments?	

\_\_\_\_\_  
 [Signature of person conducting reference checks]

## APPENDIX 10 SAMPLE MOTOR VEHICLE ACQUISITION MEMO

Date: October 16, 2023

Dear Executive Vice President for Finance and Administration or Designee,

<Department Name> requests the purchase of a <Type of Vehicle> details as follows:

**Suggested Vendor Name:**

Make/Model:

**Total amount:**

**Project Manager:**

**Account Number:**

The acquisition of this vehicle will support the mission of our department. Below is the supporting business justification requirements:

- What is the business purposes for the purchase of this unit? (e.g. Services delivered, core function of the vehicle, etc.)
- Do you currently own any other vehicles/golf carts?
- Where will the vehicle be stored, parked, and charged? (e.g. Building Name, department, room number if applicable)
- Is this a replacement vehicle? If so, what are the plans for the other vehicle/golf cat? (e.g. Surplus, transferred to another department)
- How will the vehicle be maintained?
- Who will provide the maintenance service and funding availability for it, in future fiscal years?
- How will the insurance be funded for this purchase?

With your approval, we will continue with the purchasing process and submit the requisition through the electronic procurement system.

Sincerely,

Project Manager

UTRGV Department Name

Building/Room #

Phone:

Fax:

Email:

## APPENDIX 11 BEST VALUE AWARD JUSTIFICATION

[Section 51.9335, Texas Education Code](#), states that an UTRGV of higher education may acquire goods or services by the method that provides the best value to UTRGV. Section 51.9335 states that, in determining what is the best value to an UTRGV of higher education, UTRGV shall consider specific evaluation criteria.

UT Rio Grande Valley has determined that a purchase of **[Identify goods or services purchased]** from **[Identify vendor name]** will provide the best value to UT Rio Grande Valley based on UTRGV's consideration of such evaluation criteria as documented below:

(1) The purchase price of the goods or services:

---

(2) The reputation of the vendor and of the vendor's goods or services:

---

(3) The quality of the vendor's goods or services:

---

(4) The extent to which the vendor's goods or services meet UT Rio Grande Valley's needs:

---

(5) The vendor's past relationship with UT Rio Grande Valley]

---

(6) The impact on the ability of UT Rio Grande Valley to comply with laws and rules relating to historically underutilized businesses and to the procurement of goods and services from persons with disabilities:

---

(7) the total long-term cost to UT Rio Grande Valley of acquiring the vendor's goods or services:

---

(8) the following other relevant factor(s) that a private business entity would consider in selecting such a vendor:

---

***[Use the following item (9) only if procurement is for construction or repair to real property.]***

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

---

APPROVED:

---

Name:


Title:



## APPENDIX 12 EXCLUSIVE ACQUISITION JUSTIFICATION (EAJ)

- [Exclusive Acquisition Justification Form - Proprietary / Best Value \[DocuSign\]](#)
- [Exclusive Acquisition Justification Form - Professional Services \[DocuSign\]](#)
- [Exclusive Acquisition Justification Form - Emergency Purchases \[DocuSign\]](#)

Sample Below:



**THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY**  
**Exclusive Acquisition Justification Form**  
(For Noncompetitive Purchases Over \$15,000)

The competitive bidding process is the foundation of government purchasing. In rare situations though, due to the unique nature of some goods and services, competition may not be possible. It is the responsibility of the Purchasing Office to verify that competition is not required and that the acquisition will result in "best value" for the institution in compliance with Texas Education Code §51.9335(b).

In order to make this determination, the Purchasing Office buyer must understand the unique characteristic(s) of the good or service. This form is designed to assist faculty and staff in communicating the required information to Purchasing.

Answer the questions below, as applicable, and attach the completed form to the Purchase Requisition.

CONTACT INFORMATION

Requisition Number: \_\_\_\_\_

<b>DEPARTMENT INFORMATION/CONTRACT ADMINISTRATOR</b>	<b>SUPPLIER INFORMATION</b>
Contact Name: _____	Supplier Name: _____
Department: _____	Contact Name: _____
Campus Phone: _____	Phone: _____
Email Address: _____	Email Address: _____

GOODS/SERVICES INFORMATION

**PRODUCT MAKE/MODEL OR SERVICE**

**DESCRIPTION OF REQUEST**  
 Describe the good or service to be procured and how it meets your needs.

TYPE OF JUSTIFICATION

**Proprietary and/or Best Value** Only known supplier that meets your "definition of scope" or the single supplier that meets the best value criteria set out in Texas Education Code §51.9335(b).

SPECIAL USE REQUIREMENTS <small>(equipment only)</small>	Is this request to be compatible with existing equipment?  <input type="checkbox"/> YES <input type="checkbox"/> NO	Is this request for the repair, maintenance, or modification of existing equipment?  <input type="checkbox"/> YES <input type="checkbox"/> NO	Is this request for use as spare or replacement equipment?  <input type="checkbox"/> YES <input type="checkbox"/> NO
<b>REQUIRED FEATURES</b>  List the specific feature(s) or characteristic(s) that are required, which are unique to the good or service provided by this supplier. Describe the importance of the unique feature(s) as it applies to the intended use and project goals. Describe how the selected supplier meets these requirements.			
<b>EVALUATION OF OTHER SOURCES</b>  Identify other sources that were evaluated (including the names, manufacturers, model numbers, etc.) and the reason they were found to be unsatisfactory for the intended use or in meeting project goals. (Attach copies of any quotes collected from other suppliers, if applicable.)			
<b>RISK ELEMENTS</b>  Describe any substantial risks that could not be overcome if the product or service was procured from another supplier.			



**THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY**  
**Exclusive Acquisition Justification Form**  
 (For Noncompetitive Purchases Over \$15,000)

**CONFLICT OF INTEREST STATEMENT**

**Code of Conduct**

All information related to submissions received from Suppliers or Service Providers must be kept confidential by Committee members.

**Declaration of Conflict of Interest**

You have been chosen as a Committee member for this Evaluation. Please read the following information on conflict of interest to see if you have any problem or potential problem in serving on this committee.

**Disclosure**

I am acting of my own accord and am not acting under duress. I am not currently employed by, nor am I receiving any compensation from, nor have I been the recipient of any present or future economic opportunity, employment, gift, loan, gratuity, special discount, trip, favor, or service in connection with the supplier in return for favorable consideration of this request. I have not established a personal preference or position on the worth or standing of any Supplier participating in this Request.

Do you directly or indirectly own or control more than 10 percent or pecuniary interest with a value exceeding \$25,000 with any Supplier under consideration?

NO  YES If yes, please explain in detail the nature of such relationships on an additional page attached hereto.

Do you have a relationship with an employee, a partner, a major stockholder, a paid consultant with a contract of at least \$25,000 with any Supplier under consideration, or other business entity that is related within a degree described by Government Code 573.002?

NO  YES If yes, please explain in detail the nature of such relationships on an additional page attached hereto.

Do you have a controlling interest with any Supplier(s) Under Consideration including ownership of more than \$5,000 of the fair market value or service as an officer?

NO  YES If yes, please explain in detail the nature of such relationships on an additional page attached hereto.

**CONTRACT ADMINISTRATOR**

Departments should ensure that all University and purchasing requirements are followed and that all Procurement processes follow Best Value procedures, as per Texas Higher Education Code Sec. 51.9335, prior to submitting a contract for review and signature. The Contractor should not be authorized to proceed, nor should payment be approved, until the contract is fully executed (signed by all parties).

As the Contract Administrator for this contract, your responsibilities include, but may not be limited to, the following:

- Ensuring no Conflict of Interest with Contractor exists
- Verify that the Contractor complies with all of the terms and conditions of the Agreement.
- Determine acceptable performance levels.
- Develop schedule for Statement of Work.
- Monitor Contractor performance on specified frequency.
- Meet with Contractor on a regular basis to review progress, discuss problems, and consider necessary changes.
- Ensure that all services have been received to your specification.
- Verify Contractor performance for purposes of payment.
- Review invoices for accuracy prior to authorizing payment.
- Review reimbursement of travel expenses as per contract and State Guidelines
- Identify material breaches of contract.
- Ensure the collection, review, and maintenance of any required certificates of insurance, worker's compensation insurance, and performance bond, if required, original documentation to be kept in departmental files.
- Determine whether corrective action is necessary.
- ~~Take action~~ if necessary.

If there is an existing agreement, requests for amendment/addendum and renewals must be forwarded to the Purchasing Contracts Office via [www.utrgv.edu](http://www.utrgv.edu) by submitting the form PO>\$15K/All Procurement Contracts Form for processing in advance of the effective date.

**CERTIFICATION**

I am aware of the State of Texas requirements for competitive bidding and have the established criteria for justification of exclusive acquisition purchases. As an authorized department representative, I have gathered the required technical information and have made a concentrated effort to review comparable products for this purchase. This is documented in this justification. I hereby certify the validity of the information and feel confident this justification for exclusive acquisition meets the State's criteria and would withstand an audit by the State of Texas Comptroller of Public Accounts or a vendor protest.

I hereby certify that I have disclosed any outside activities and/or conflicts of interests or confirmed no outside activities and/or conflicts of interests on UTRGV Outside Interests and Activities Online Portal and is up to date. I have read and understood the provisions related to the conflict of interest. If any such conflict of interest arises during the duration of this purchase request, I will immediately report it to the Chief Procurement Officer.

I have read and understand the attached contract and its supporting documentation and agree with its terms, conditions, as presented, and that as Contract Administrator to be responsible for oversight and administration of this agreement.

Signature: \_\_\_\_\_  
 (Primary User)

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
 (Primary User)

Title: \_\_\_\_\_

(Note: Texas Government Code, Chapter 572, Subchapter C, Sec. 572.009 - CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED: A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the officer's or employee's service or employment with the state agency ceased.)