**Texas State Purchasing Policy UPPS No. 05.02.02**

 **Issue No. 8**

 **Effective Date: 11/01/2021**

 **Next Review Date: 10/01/2023 (E2Y)**

 **Sr. Reviewer: Director, Procurement and Strategic Sourcing**

**POLICY STATEMENT**

*Texas State University is committed to supporting the need to procure goods and services for the university in a timely and cost-effective manner, while ensuring compliance with applicable regulations and requirements which the university must follow.*

**01. BACKGROUND INFORMATION**

01.01 The purpose of this policy is to identify the requirements when purchasing goods and services for Texas State University.

01.02 In accordance with [The Texas State University System (TSUS) Rules and Regulations, Chapter III, Section 10, Subsection 10.2, Authority, Paragraph 10.23](https://www.tsus.edu/about-tsus/policies.html), the president has [delegated authority](http://www.fss.txstate.edu/contracts.html) to obligate funds for the purchase of goods or services.

01.03 In accordance with federal law, state law ([Texas Government Code 2155.132 (g)),](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2155.htm) and [TSUS Rules and Regulations](https://www.tsus.edu/about-tsus/policies.html), Texas State is strictly prohibited from splitting orders to circumvent the competitive solicitation requirements and processes, or other applicable purchasing requirements.

01.04 The director of Procurement and Strategic Sourcing has the authority, and is responsible, for promulgating and communicating Texas State purchasing policies and procedures.

01.05 University purchasing procedures can be found in the [Procurement Procedures Handbook](https://docs.gato.txst.edu/238891/Procurement%20Procedures%20Handbook%202022.pdf).

01.06 Texas State shall assume no liability for payment of obligations incurred by unauthorized means.

a. The Office of Procurement and Strategic Sourcing will follow the [TSUS Contract Management Handbook](http://www.tsus.edu/offices/finance/procurement.html) for all procurements.

b. Persons making unauthorized purchases may be held personally liable for any damages resulting from the repudiation of the contract or purchase order. This personal liability includes paying for the unauthorized purchase with personal funds or personally reimbursing the university for any expenses incurred.

c. Persons making unauthorized purchases may also be subject to further disciplinary actions consistent with university policies.

d. Texas State shall make payments to individuals or businesses solely on the merit of an approved invoice. All policies and procedures for procuring and paying goods and services shall adhere to university policy.

01.07 This policy will apply when using all sources of funds.

**02. PROCUREMENT METHODS**

02.01 The following procurement methods are authorized by Texas State:

 a. [TSUS Marketplace](https://www.txstate.edu/procurement/howtopurchase/TSUS-Marketplace.html);

 b. purchase orders;

 c. procurement cards (P-cards);

 d. inter-agency;

 e. cooperative contracts and group purchasing organizations; and

 f. competitive solicitations.

**03.** **PROPRIETARY JUSTIFICATION**

03.01 When a specification limits consideration to one manufacturer, one product, or one service provider, and the amount of the purchase exceeds $15,000, a written sole source or proprietary justification must be provided to support the purchase.

03.02 The account manager shall review and approve the [Proprietary Justification form](https://www.txstate.edu/procurement/forms.html). The Office of Procurement and Strategic Sourcing shall review for final approval.

**04. PROCEDURE FOR ADDRESSING COMPETITIVE SOLICITATION REQUIREMENTS**

04.01 [Section 51.9335(a)-(e) of the Texas Education Code](https://statutes.capitol.texas.gov/Docs/ED/htm/ED.51.htm#51.9335) authorizes institutions of higher education to use “best value” procurement process which provide greater autonomy and flexibility in the procurement of goods and services. The Office of Procurement and Strategic Sourcing will follow the [TSUS Contract Management Handbook](http://www.tsus.edu/offices/finance/procurement.html) for all competitive solicitation requirements.

**05.** **EXEMPT PURCHASES**

05.01 The following purchases are exempt from the competitive solicitation process per applicable statute:

a. all library materials and services, as defined by [Texas Government Code, Section 2155.139(a)](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2155.htm#2155.139);

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

c. inter-agency purchases (purchases from other state agencies), as defined by [Texas Government Code, Section 2155.079](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2155.htm);

d. purchases from federal agencies, as defined by [Texas Government Code, Section 2155.084](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2155.htm);

e. purchases from the Texas Department of Criminal Justice, as defined by [Texas Government Code, Section 2155.065](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2155.htm);

f. purchases from Texas Industries for the Blind and Handicapped (TIBH), as defined by [Texas Government Code, Section 2155.138](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2155.htm);

g. utilities (e.g., electricity, water, cable, hard-wired telephones);

h. student travel (except for chartering services), as defined by [Texas Government Code, Section 660.004;](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.660.htm)

i. advertisements (e.g., newspapers, magazines, and billboards);

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

k. exhibit space (e.g., booths for display purpose);

l. hotels and conference rooms;

m. membership fees and dues; and

n. registration fees and associated books and materials.

05.02 The following purchases are exempt from competitive solicitation when accompanied by a [Proprietary Justification form](https://www.txstate.edu/procurement/forms.html):

1. guest lecturers or speakers (i.e., fees for one time only, not for continuous engagements);

 b. legislative information services; and

c. bill analysis services.

05.03 Emergency Purchases

1. An emergency procurement (purchase) is a situation requiring the state agency to make the procurement quickly to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the state.

b. All emergency purchases shall be accompanied by an [Emergency Purchase Justification](https://www.txstate.edu/procurement/forms.html).

05.04 Internal Repair

a. An internal repair is defined in [Texas Administrative Code Title 34 Part 1 Chapter 20, Subchapter C, Rule 20.213](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=34&pt=1&ch=20&rl=213) as a repair that to the extent the scope of work cannot be determined until the equipment is disassembled. Internal repairs are usually the result of an unexpected basic service outage, such as the failure of a building’s HVAC system or the mechanical breakdown of a vehicle. Internal repairs must contain labor and may also include parts.

**06. PROCEDURES FOR PROFESSIONAL SERVICES**

06.01 Professional services are defined by [Texas Government Code §2254, Professional and Consulting Services](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2254.htm). These services must be provided in connection with a person who is licensed and employed in the profession or practice.

06.02 The Office of Procurement and Strategic Sourcing will follow the [TSUS Contract Management Handbook](http://www.tsus.edu/offices/finance/procurement.html) for all professional service requirements.

06.03 Refer to the [Procurement Procedures Handbook](https://docs.gato.txst.edu/238891/Procurement%20Procedures%20Handbook%202022.pdf) for guidelines on processing requests for the purchase of professional services.

**07. SPECIAL PURCHASING PROCEDURES AND REQUIREMENTS**

07.01 Purchase of Used Equipment – refer to the [Procurement Procedures Handbook](https://docs.gato.txst.edu/238891/Procurement%20Procedures%20Handbook%202022.pdf).

07.02 Contracting with Current or Prior Employees – refer to [UPPS No. 04.04.08](https://policies.txstate.edu/university-policies/04-04-08.html), Determining Contract Labor and Independent Contractor Status.

07.03 Purchase of Awards, Flowers, Food, or Refreshments – refer to [UPPS No. 03.01.03](http://policies.txstate.edu/university-policies/03-01-03.html), Allowable Purchases of Awards and Flowers.

07.04 Purchase of Alcohol – refer to [UPPS No. 03.01.18,](http://policies.txstate.edu/university-policies/03-01-18.html) Purchase of Alcohol.

07.05 Purchase of Motor Vehicles – refer to [UPPS No. 05.05.03](http://policies.txstate.edu/university-policies/05-05-03.html), Fleet Management Plan.

07.06 Purchase of Unmanned Aircraft Systems (Drones) – refer to [UPPS No. 04.05.14](http://policies.txstate.edu/university-policies/04-05-14.html), Unmanned Aircraft Systems (Unmanned Aircraft and Model Aircraft) Operation Policy.

07.07 Leasing Land, Space, and Other Facilities – refer to [UPPS No. 08.01.16](http://policies.txstate.edu/university-policies/08-01-16.html), Facilities Leases.

07.08 Lease or Purchase of Equipment and Other Commodities – refer to the [Procurement Procedures Handbook](https://docs.gato.txst.edu/238891/Procurement%20Procedures%20Handbook%202022.pdf).

07.09 Memberships – refer to [UPPS No. 06.04.01](http://policies.txstate.edu/university-policies/06-04-01.html), Memberships in Professional Organizations.

07.10 Subscriptions – refer to the [Procurement Procedures Handbook](https://docs.gato.txst.edu/238891/Procurement%20Procedures%20Handbook%202022.pdf).

07.11 Moving and Relocation Expenses – refer to [UPPS No. 03.01.22](https://policies.txstate.edu/university-policies/03-01-22.html), Moving Allowance.

07.12 Purchase of Real Estate – refer to [UPPS No. 08.04.01](http://policies.txstate.edu/university-policies/08-04-01.html), Real Property Acquisitions.

07.13 Catering – refer to [UPPS No. 05.03.02](http://policies.txstate.edu/university-policies/05-03-02.html), Catered Events.

07.14 Contracting for Temporary Staff or Outsourcing – refer to [UPPS No. 04.04.22,](http://policies.txstate.edu/university-policies/04-04-22.html) Hiring Temporary Workers through Staffing Service Providers.

07.15 Purchase of Security Systems – refer to [UPPS No. 05.04.04,](http://policies.txstate.edu/university-policies/05-04-04.html) Texas State Security Alarm Systems.

07.16 Lease of Photocopiers – refer to [UPPS No. 05.03.20](http://policies.txstate.edu/university-policies/05-03-20.html), Office Photocopy Equipment Services.

07.17 Live Animal Purchase – refer to [UPPS No. 02.02.05](http://policies.txstate.edu/university-policies/02-02-05.html), Animal Care and Use Policy.

07.18 Purchase of Radioactive Materials – refer to [Environmental, Health, Safety, Risk and Emergency Management](https://www.fss.txstate.edu/ehsrm/).

07.19 Purchase of Hazardous Materials – refer to [Environmental, Health, Safety, Risk and Emergency Management](https://www.fss.txstate.edu/ehsrm/).

07.20 Purchase of New Construction or Remodeling Services – refer to [UPPS No. 01.03.02](http://policies.txstate.edu/university-policies/01-03-02.html), University Construction Policy.

07.21 Purchase of Furniture and Equipment for New or Renovated Buildings – refer to [FSS/PPS No. 08.03](http://policies.txstate.edu/division-policies/finance-and-support-services/08-03.html), Disposition of University Furniture in Scheduled Building Renovations or Demolitions.

07.22 Purchase of University Vehicles and Signs – refer to [UPPS No. 05.05.06](https://policies.txst.edu/university-policies/05-05-06.html), Standard University Colors for Vehicles, Signs, and other Materials.

07.23 Purchase of Electronic and Information Resources – [TSUS Rules and Regulations, Chapter III, Paragraph 19.3](https://www.tsus.edu/about-tsus/policies.html), requires central review and oversight of all university acquisitions of information technology by the vice president for Information Technology (VPIT), or designee, “including, but not limited to, computing hardware or software, and hosting services, regardless of source of funds.” Administrative heads shall consult with the VPIT, or designee, regarding purchases of technology products or services that are not yet centrally supported by the Information Technology division (see [UPPS No. 05.02.06](https://policies.txstate.edu/university-policies/05-02-06.html), Acquisition of Information Technology Products and Services).

To optimize their accessibility, usability, security, and privacy, all electronic and information resources developed or procured for use as a Texas State information resource shall comply with the applicable provisions of [Texas Administrative Code, Title 1, Part 10, Chapter 213, Subchapter C, Rules §213.37 and §213.38](http://texreg.sos.state.tx.us/public/readtac%24ext.ViewTAC?tac_view=5&ti=1&pt=10&ch=213&sch=C&rl=Y), dealing with the procurement of Electronic and Information Resources in Institutions of Higher Education, commonly known as [TAC 213](https://texreg.sos.state.tx.us/public/readtac%24ext.ViewTAC?tac_view=4&ti=1&pt=10&ch=213).

Acquisition of Information Technology Products and Services – refer to [UPPS No. 05.02.06](https://policies.txstate.edu/university-policies/05-02-06.html), Acquisition of Information Technology Products and Services.

07.24 Purchase of Services Performed on Campus – refer to [UPPS No. 04.04.17](http://policies.txstate.edu/university-policies/04-04-17.html), Staff Background Checks.

07.25 Higher Education Funds Purchases – refer to [UPPS No. 03.02.05](http://policies.txstate.edu/university-policies/03-02-05.html), Higher Education Funds (HEF).

07.26 Embargoes and Export Laws and Regulations – Prior to shipping anything outside of the United States, the end user should contact the Office of Research Integrity and Compliance to ensure necessary steps required to comply with the law (see [UPPS No. 02.02.10](http://policies.txstate.edu/university-policies/02-02-10.html), Export Control Laws and Regulations).

07.27 Purchase of Guns, Weapons, and Explosives – refer to the [Procurement Procedures Handbook](https://docs.gato.txst.edu/238891/Procurement%20Procedures%20Handbook%202022.pdf).

07.28 Purchase of Medical Supplies – refer to the [Procurement Procedures Handbook](https://docs.gato.txst.edu/238891/Procurement%20Procedures%20Handbook%202022.pdf).

07.29 Interdepartmental Purchase – refer to the [Procurement Procedures Handbook](https://docs.gato.txst.edu/238891/Procurement%20Procedures%20Handbook%202022.pdf).

**08. REVIEWER OF THIS UPPS**

08.01 Reviewer of this UPPS includes the following:

Position Date

Director, Procurement and October 1 E2Y

Strategic Sourcing

**09. CERTIFICATION STATEMENT**

This UPPS has been approved by the following individuals in their official capacities and represents Texas State policy and procedure from the date of this document until superseded.

Director, Procurement and Strategic Sourcing; senior reviewer of this UPPS

Associate Vice President for Financial Services

Executive Vice President for Operations and Chief Financial Officer

President