

# Lamar Institute of Technology Contracted Services Policy

## 01. POLICY STATEMENTS

- 01.01 This policy describes the procedures to follow when using a contractor to provide contracted services, including consultants, speakers and other services to Lamar Institute of Technology (LIT).
- 01.02 Due to changes in state law implemented by SB 20 in the 84<sup>th</sup> Legislative Session, all requests, contracts, and bids should be submitted to the Director Purchasing and Contracts for compliance review prior to services beginning. All contracts should follow federal and State laws, the [Texas State University \(TSUS\) System Policies](#), the [TSUS Contract Management Handbook](#) and LIT policy and procedures.
- 01.03 The Texas State University System Associate General Counsel may approve in advance contracts prepared by outside entities. These contracts should not commit LIT to undesirable obligations and should conform to Texas law.
- 01.04 The Director Purchasing and Contracts reports contracts using all funds with a “cumulative fee” that is equal to, or greater than, \$50,000 to the Legislative Budget Board according to the Board’s requirements.
- 01.05 It is in violation of State and federal laws to hire someone as an independent contractor who would otherwise be hired as an employee of LIT. Before hiring the services of a contractor, the Payroll Coordinator and the account manager must determine whether the contractor will be an independent contractor or LIT employee.
- 01.06 LIT is committed to executing contracts in compliance with applicable law and TSUS Rules and Regulations. The Director Purchasing and Contracts provides contract development and award support; assisting departments with the solicitation, response evaluation, drafting, review, execution, and reporting of major non-construction contracts or services by Lamar Institute of Technology. The Director Purchasing and Contracts is also responsible for the review and approval of contracts prior to a contract being signed by the appropriate delegated authority.
- 01.07 The Director Purchasing and Contracts serves as the central contract repository for all LIT contracts and retains the original document. The originating department or office retains a copy of the document, the contract package and performs contract administration duties per the LIT Contract Management Procedure.

## 02. DEFINITIONS

- 02.01 Personal Academic Services – entertainment, performing arts services, speakers, and guest lecturers.

- 02.02 Independent Contractors – sole proprietors, partnerships, or corporations that perform services for LIT and provide services to the general public. Subcontractors under a sponsored program are included in this category.
- 02.03 Professional Services – as defined by [Texas Government Code, Chapter 2254, Subchapter A](#), are within the scope of the practice, as defined by state law, of accounting; architecture; landscape architecture; land surveying; medicine; optometry; professional engineering; real estate appraising; or professional nursing; or are provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant; an architect; a landscape architect; a land surveyor; a physician, including a surgeon; an optometrist; a professional engineer; a state certified or state licensed real estate appraiser; or a registered nurse.
- 02.04 Consulting Services – as defined by [Texas Government Code 2254, Subchapter B](#), include the service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee. A consultant is generally one who provides services to a LIT department to develop or review curriculum or policy, or provides a similar service to the entire campus. Only a primary contracting official (as defined in Section 02. of the LIT Contract Authority and Processing Policy) may sign a contract for consulting services, regardless of the amount involved.
- 02.05 Cumulative Fee – the amount expected to be paid in total by LIT to the contractor for performance of the contracted work during the fiscal year. Contracts shall not be subdivided or broken down into a series of smaller value contracts to avoid the increased scrutiny, required approvals, or notification, posting, solicitation, or reporting requirements needed to process and execute larger value contracts.
- 02.06 Request to Pay Vendor Form – a document that is prepared to request payment from a LIT account. Request to Pay Forms must either contain sufficient information to support the business purpose and required approvals or sufficient information must be attached to the form.

### **03. PROCEDURE FOR PAYMENT OF LIT EMPLOYEES OR FORMER LIT EMPLOYEES**

- 03.01 Any payment to a LIT employee performing contracted services must be evaluated to determine if the payment will be processed by a Personnel Action Form (F3.2) or if the payment will be paid as contracted services via Accounts Payable. When services are within the scope of the employee's job duties, payment will be made via a F3.2. When services are beyond the scope of the employee's job duties, payment may be made through Accounts Payable. Account managers and supervisors should consult with the Payroll Coordinator for assistance with that determination.
- 03.02 Payments made via a F3.2 should follow all relevant guidelines.

03.03 When an individual who has been employed full time with LIT within the last 12 months is to perform a contracted service, the account manager should consult with the Payroll Coordinator for assistance prior to services beginning.

#### **04. PROCEDURE FOR PROCESSING CONTRACTS**

04.01 In selecting the contractor, the account manager will base the choice on “best value” or demonstrated competence and qualifications, and on the amount of the fee. If competitive solicitation is required, the account manager will base the choice on the best value to LIT, as defined in the [TSUS Board of Regents Rules and Regulations, Chapter III, Section 17](#). When all other considerations are equal, preference will be given to an independent contractor whose principal place of business is within the state of Texas.

04.02 Account managers should allow at least 30 days prior to the performance need date for the processing of the contracted services paperwork. They should allow a longer time when contract services require a formal notification or a solicitation process, posting in the Texas Register or the Electronic State Business Daily, or additional LIT or TSUS approvals.

04.03 The account manager must negotiate the fee offered for contracted services. The agreement must include the rate of pay, total fee to be paid or not to exceed amount, and the dates of service to be performed. LIT prefers that the fee include material, travel, and other expenses; however, LIT may pay for travel or incidental expenses in addition to the fee agreed upon in the contract.

If the contract provides for payment of the contractor’s travel separate from the contracted services fee, the agreement should include the maximum reimbursable amount for travel and the planned travel dates. The account manager must also complete and obtain pre-approval for the travel in compliance with LIT’s travel procedures. All reimbursements to the contractor or direct-billed expenses paid on behalf of the contractor must comply with the LIT’s travel procedures.

04.04 The account manager is responsible for obtaining all required approvals. Persons authorized to obligate LIT in accordance with its policies for Contract Authority and Processing must approve the contract. Individuals not authorized to sign contracts for LIT may be held personally liable for any damages resulting from the repudiation of the contract.

04.05 Regardless of the cumulative fee of the contract, the account manager will assure that sufficient funds are available, reserved, committed, or obligated to pay the contract.

#### **05. PROCEDURE FOR CONTRACTED SERVICES**

05.01 The account manager must encumber the funds through the creation of a purchase requisition, and obtain a LIT purchase order in addition to completing a contract. The contract number and purchase order number must be referenced on

the contract and the invoice when submitted for payment. If line items related to the purchase order can be identified on the invoice, they should also be noted.

05.02 At least 30 days prior to the need for performance of the contracted services, the account manager will send the original signed contract to the Director Purchasing and Contracts. The Director Purchasing and Contracts will review the contract for completion and proper approvals, keep a copy on file, and return any additional copies upon request to the account manager.

## **06. PROCEDURES FOR CONTRACTS REQUIRING TSUS CHANCELLOR OR BOARD OF REGENTS APPROVAL**

06.01 Requests for contract approval by The TSUS chancellor or Board of Regents will be submitted by the Vice President for Finance and Operations. Refer to the LIT Contract Authority and Processing Policy regarding which contracts require additional TSUS approvals.

06.02 Normally, requests for contract approval are prepared, reviewed and submitted no later than six to eight weeks prior to a regularly scheduled quarterly TSUS Board of Regents' meeting. Refer to [TSUS Board of Regents Rules and Regulations](#).

## **08. PROCEDURE TO REQUEST PAYMENT FOR CONTRACTED SERVICES**

08.01 LIT payment for contracted services are made in accordance with the [TSUS Contract Management Handbook](#) and LIT policies including the LIT Contract Management Procedure. The departmental Contract Manager is responsible for obtaining payment approval.

08.02 The vendor name and address on the invoice must match the vendor name and address in the LIT financial system. The invoice must contain the performance dates and description of work performed. The invoice must have the required LIT approval signature(s).

08.03 Approved travel expenses may be paid under LIT's travel procedures. The Travel Office must receive any travel expense reimbursement requests for contracted services within 60 days of the date the travel concluded.

08.04 LIT may not reimburse a LIT employee who pays an "out-of-pocket" payment to an independent contractor.

08.05 LIT's standard terms of payment are net 30 days in accordance with the Texas Prompt Payment Act (see [Texas Government Code Chapter 2251, Payment for Goods and Services](#)). Alternate payment terms proposed by a contractor, including pre-payment, installments, or requiring payment in less than 30 days, must be reviewed by the Director Purchasing and Contracts prior to the execution of the contract.