

Lamar Institute of Technology Purchasing Policy

1. POLICY STATEMENTS

- 1.1 The purpose of this policy is to identify procedures to use when purchasing goods and services for Lamar Institute of Technology with LIT funds.
- 1.2 In accordance with [The Texas State University System \(TSUS\) Rules and Regulations, Chapter III, Section 10](#), the president has delegated authority to the Director of Purchasing and Contracts to obligate LIT funds for the purchase of goods or services through the approval and issuance of purchase orders.
- 1.3 The Director of Purchasing and Contracts has the authority, and is responsible, for promulgating and communicating LIT purchasing policies and procedures.
- 1.4 State and federal laws, TSUS rules and regulations, and LIT policies and procedures strictly prohibit the splitting of orders solely to circumvent the competitive solicitation requirements and processes, or other applicable purchasing requirements.
- 1.5 LIT shall assume no liability for payment of obligations incurred by unauthorized persons.

Employees are not authorized to make purchases which obligate LIT without first obtaining a purchase order. Any commitments made for purchases without a purchase order will be considered, by LIT, a personal liability of the employee making the commitment and acceptance of the merchandise by LIT will be at the complete discretion of Lamar Institute of Technology. An exception is granted to those account managers who have received an authorized Procurement Card.

- a. 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 LIT for any expenses incurred.
 - b. The employee may also be subject to further disciplinary actions consistent with LIT policies.
- 1.6 This policy will apply when using all sources of funds. Goods and services procured from foundation funds are excluded from this policy.

2. ETHICS AND PROFESSIONAL STANDARDS

LIT personnel must adhere to the highest level of professionalism in discharging their official duties. The nature of procurement and contracting functions makes it critical that everyone in the 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 process. All LIT employees shall comply with the standards of conduct in the Texas Education Code, TSUS Rules and Regulations and in the LIT Policies and Procedures.

Public employment is a public trust. Any attempt to realize personal gain through conduct inconsistent with the proper discharge on an employee's duties is a breach of the public trust.

LIT employees may not have a direct or indirect interest, including financial or other interest, or 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 employee's duties in the public interest.

LIT officers and employees who have influence over purchasing/contracting decisions should specifically be aware of the information from chapter VIII of the [TSUS Rules and Regulations](#).

3. ACQUISITION OF GOODS AND SERVICES

- 3.1 In accordance with [Texas Education Code §51.9335 \(b\)](#).and Pursuant to [TSUS Rules and Regulations, Chapter III, Section 17](#), Best Value Procurement, LIT may acquire goods or services by the method that provides the best value to the Institution.
- 3.2 In determining best value to an institution of higher education, LIT shall consider the following criteria:
 - a. Purchase price;
 - b. Reputation of the vendor and of the vendor's goods or services;
 - c. Quality of the vendor's goods or services;
 - d. Extent to which the goods or services meet the Institution's needs;
 - e. Vendor's past relationship with the Institution;
 - f. Impact on the ability of the Institution to comply with laws and rules relating to historically underutilized businesses (HUBs) and to the procurement of goods and services from persons with disabilities;
 - g. Total long-term cost to the Institution of acquiring the vendor's goods or services;
 - h. Use of material in construction or repair to real property that is not proprietary to a single vendor, unless LIT provides written justification in the request for bids for use of the unique material specified; and
 - i. Any other relevant factor that a private business entity would consider in selecting a vendor.

- 3.3 Procurement of goods and services must comply with state and federal laws, TSUS Rules and Regulations, and LIT policies and procedures.
- 3.4 Purchase orders are a legal offer to buy products and services and are not intended to be used strictly as a payment tool. It is a purchase contract issued to a vendor, indicating types, quantities, and agreed to prices for products or services the seller will provide to the agency, and referencing the terms and conditions that govern the purchase. Therefore,
 - a. The purchase order must be created prior to the commitment or obligation; and
 - b. Purchase orders submitted after the commitment has been made or after the goods and services are received will constitute non-compliance and require documented justification for the action.

4. PROCUREMENT METHODS

4.1 Local Contracts

- a. Institutional Contracts. Established LIT contracts and price agreements allow requisitioning departments to purchase commodities and services directly from the vendor. The best value procurement solicitation and award process has already occurred; therefore, individual purchases do not require further competitive solicitation or bidding in order to award an order.
- b. Piggyback Contracts. Institution's local contracts that have been competitively bid in accordance with state of Texas statutes, rules, policies, and procedures and extended for the use by other Texas Institutions of Higher Education.

4.2 State of Texas Contracts. For more information, contact the Office of Purchasing and Contracts or refer to the State Comptroller's [website](#).

- a. Texas Multiple Award Schedules (TXMAS) contracts – Certain federal GSA schedule contracts are negotiated with the vendor by the State for providing goods and services to state agencies.
- b. Department of Information Resources (DIR) contracts – The DIR Program allows LIT to purchase technology-related items directly from a DIR-contracted vendor.
- c. Term Contracts – TxSmartBuy, Managed Term, Council on Competitive Government (CCG), and Green Items on TxSmartBuy.

4.3 Group Purchasing Organizations. Contracts created by or through Group Purchasing Organizations (GPO) including other state agencies that act as GPOs. LIT is a member of GPOs which allow purchases to be made directly from the vendor, as the competitive solicitation or negotiation process has already

occurred. Contact the Office of Purchasing and Contracts for further information and the most current list of GPOs.

4.4 Purchases Exempt from Competitive Bidding

- Emergency Purchases
- Sole Source Purchases
- Purchases from Persons with Disabilities
- Direct Purchases

4.5 Other Exempt Purchases. Certain goods or services or considered exempt from competitive procurement rules and processes, either by statute, if an exemption is in the best interest of the public or by LIT policy. Bids or proposals are not required when procuring exempt goods or services but may be requested to confirm best value for LIT.

Exempt purchases for LIT included:

- Direct publications purchased directly from the publisher;
- Library books, periodicals, subscriptions, educational databases, and other related library materials;
- Subscriptions; allowable membership fees; training or conference registration fees; allowable accreditation or professional license fees;
- Advertisements;
- Goods purchased for retail sale by an LIT auxiliary enterprise;
- Interagency and Interlocal agreements
- Purchase of original existing artwork; loaned art; artifacts; museum or art exhibits;
- Commissioned artists or musicians; entertainers; theater groups; performers; or speakers;
- Hotel and conference rooms;
- Catering, meals, and food services (not food for resale);
- Freight and postal services;
- Water, electric, or utility services by a regulated public utility; and
- Games, tournaments, or related sporting events.

4.6 Direct Purchases. Unless applicable laws direct the use of a specific procurement method, LIT is authorized to make direct purchases (sometimes called open market or spot purchases) for goods and services with a contract value of \$15,000 or less. A direct purchase does not require a competitive procurement process or the need for multiple quotes.

4.7 Competitive Bidding – Informal. Informal bidding of competitive procurement method used to procure goods and services when the expected value exceeds \$15,000 but is less than or equal to \$50,000. LIT must obtain a minimum of three written bids. A good faith effort will be made to obtain bids from certified HUB vendors and the last provider of the good or service. The bidding process is not required to be publicly posted.

- 4.8 Competitive Bidding – Formal. Formal bidding of competitive procurement method used to procure goods and services when the value is expected to exceed \$50,000. The Office of Purchasing and Contracts will determine the appropriate procurement method to use. The bidding opportunity is required to be publicly posted and, if the expected value exceeds \$100,000, may require a HUB subcontracting plan.
- 4.9 Professional Services. A provider of professional services may not be selected on the basis of competitive bids, but rather on the basis of (1) demonstrated competence and qualifications to perform the service and (2) for a fair and reasonable price. Professional services are defined by [State of Texas Government Code Chapter 2254 Professional Services](#). These services must be provided in connection with a person who is licensed and employed in the profession or practice.
- 4.10 Consulting Services. LIT may contract with a consultant only if there is a substantial need for the consulting services and LIT cannot adequately perform the services with its own personnel or obtain the consulting services through a contract with a state governmental entity. Consulting services procurements must include a LIT finding that the services are necessary and an explanation of that finding. If a contract involves both consulting and other services (mixed services), the services will be procured as consulting services if the primary objective of the contract is the acquisition of consulting services.
- 4.11 Competitive Solicitations (quotes, bids, proposals, or offers). If the best value for the commodity or service is not obtained from one of the above-listed procurement methods, the end user is to follow the competitive solicitation requirements and processes. If competitive bidding is either not practical or not advantageous to LIT, the Request for Proposal (RFP) process may be used.

5. EMERGENCY PROCUREMENT

- 5.1 An emergency procurement (purchase) is defined in [Texas Administrative Code Title 34, Part 1, Chapter 20](#) as “A situation requiring the state agency to make the procurement more quickly to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the state.”
- a. The office of Director of Purchasing and Contracts has authority to exempt emergency procurements from LIT purchasing policies and procedures.
 - b. Whenever practical, prior to authorizing a vendor to fulfill any emergency procurement request, the originating department shall attempt to develop an estimate of the cost to obtain the goods or services identified as necessary to resolve the emergency situation. If the cost is reasonably expected to exceed the threshold required for competitive solicitations, the originating department shall attempt to solicit quotes, bids, proposals, offers or other expressions of interest.
 - 1) If possible, quotes, bids, proposals, offers or other expressions of interest, either informal or formal, as appropriate to address the emergency

situation, are solicited from the minimum required number of vendors, including certified HUBs, prior to the procurement action.

- 2) If it is impossible to obtain an estimate or solicit quotes, bids, proposals, offers or other expressions of interest to address the emergency situation in a timely fashion, the procurement file is to reflect this fact through the preparation of written documentation, signed by the appropriate account managers with a copy to the Director of Purchasing and Contracts.
 - 3) A copy of the documentation, noted above, is included as supporting documentation when the procurement request file is routed for the necessary approvals and processing.
- c. If the estimated cost of the procurements identified as necessary to resolve the emergency situation is \$50,000 or greater, or cannot be readily determined, the originating department shall attempt to notify the Director of Purchasing and Contracts and the appropriate Deans or Directors, or their designees, of the necessary procurement actions, in advance and in writing.
- 1) The notification shall include the information required in Sections 08.02 a., b., and c. to document the emergency.
 - 2) In addition, the originating department shall prepare a notice for the posting on the Electronic State Business Daily (ESBD). Formal procurements (>\$50K), are **NOT** exempt from the procurement solicitation process, yet may be posted on the ESBD for less than the statutory minimum posting requirement.
 - 3) The completed notice is forwarded for immediate ESBD posting to the Office of Purchasing and Contracts.
 - 4) The documented emergency situation circumstances shall dictate if a minimum ESBD posting time is required.
- 5.2 An emergency purchase requires that a written justification be submitted to the Director of Purchasing and Contracts. The justification, signed by the responsible account manager, must state the following:
- a. The reason for the emergency purchase (i.e., explanation of what the emergency is and what caused the emergency);
 - b. The specific financial or operational damage (as opposed to a general claim of loss or damage) that will occur if needs are not satisfied immediately; and
 - c. Why the needs were not or could not be anticipated so that items could be procured through regular procurement procedures.

6. SOLE SOURCE JUSTIFICATION

- 6.1 A purchase may be justified when an equivalent good or service is not available or not suitable (a *proprietary* purchase) or when it is in the best interest of LIT to use a particular product or service even if more than one source is available (a *best value* purchase).

When a specification requirement limits consideration to one supplier, and the amount of the purchase exceeds \$15,000, a written justification must be provided by the originating department and approved by the Director of Purchasing and Contracts.

- 6.2 The written justification must include the following:

- Explanation of why a unique scope of work for a good or service is required;
- Details on the unique features of the good or service;
- Reason that competing goods or services are not satisfactory;
- Any other relevant information to support the sole source documentation; and
- Confirmation that the procurement does not violate conflict of interest and conflict of commitment policies.

Price and personal preferences are not acceptable as determining factors. The Office of Purchasing and Contracts may require additional quotes when reviewing sole source request.

7. ADDRESSING COMPETITIVE SOLICITATION REQUIREMENTS

- 7.1 When competitive solicitation is required, quotes, bids, proposals, offers, or other expressions of interest must be solicited and obtained from potential vendors for purchases in excess of \$15,000.

- 7.2 The department is encouraged to solicit and purchase from Texas certified Historically Underutilized Businesses to the fullest extent possible. For assistance in locating qualified HUBs, contact the Office of Purchasing and Contracts. The utilization of HUBs shall include the requirements in Section 13.

- 7.3 Current competitive solicitation limits, regardless of the source of funds, are as follows:

- a. <\$15,000. Only one quote is required; however, requisitioning departments are encouraged to obtain more than one bid. Departments are responsible for evaluating and negotiating for these items to insure LIT obtains the best value possible. Purchases from a HUB are encouraged to the fullest extent possible;
- b. \$15,000.01 – \$50,000. Three quotes or informal bids are solicited, with at least two being from Texas-certified HUBs. Informal bids require best value documentation, use of certified vendors where ever possible, and written back up of vendor quotes;

- c. >\$50,000. Formal bids, proposals, or offers are solicited, with at least two being from Texas-certified HUBs, solicitations are posted on the Electronic State Business Daily (ESBD).

- 7.4 All procurements that exceed \$50,000, without regard to the source of funds, may be posted on the Electronic State Business Daily (ESBD), an electronic bulletin board managed by the Texas Comptroller of Public Accounts, unless there is documented justification explaining why it was not in LIT's best interest to do so.

8. DEVELOPMENT OF SPECIFICATIONS

- 8.1 A specification is a detailed functional description of a product or service. A specification must be simple, clear, accurate, competitive, and flexible. If a specification does not allow for competition, then it is considered proprietary.
- 8.2 A specification should communicate "salient features" of the commodity or service needed by the end user.
- 8.3 A specification should also communicate minimum acceptable features of the commodity or service needed by the end user.

09. INTERNAL REPAIR

- 9.1 An internal repair is defined as a repair to LIT-owned equipment that cannot be reasonably defined prior to the actual repair, and the extent of which 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.
- 9.2 If it is determined that an internal repair meets the criteria of an emergency procurement, see Section 5 for the appropriate procurement process to follow and the documentation that is required.
- 9.3 If an internal repair is expected to exceed \$15,000, whenever practical, a "not to exceed dollar threshold without written authorization" purchase order is issued to the vendor selected to perform the repairs.
- 9.4 The following is required as supporting documentation when a purchase is determined to meet the definition of a non-emergency internal repair purchase:
 - a. A written statement is prepared and signed by the account manager that the necessary repairs could not be reasonably defined prior to the actual repair and the extent of which could not be determined until the equipment was disassembled; and
 - b. If the estimated cost is identified as \$50,000 or greater or cannot be readily determined, the originating department shall notify the Director of Purchasing and Contracts and the appropriate Deans or Directors, or their designees, of the necessary procurement actions, in advance and in writing.

10. ADVANCE PAYMENTS

10.1 Generally, prepayment is not authorized for the purchase of supplies, materials, equipment, or services. When utilizing state-appropriated funds, the following are exceptions:

- a. Payments to federal and other state agencies;
- b. Lease payments;
- c. Subscriptions;
- d. Rental fees for a meeting room or exhibit booth;
- e. Annual maintenance agreements; and
- f. Registration fees.

10.2 When institutional funds are being used, advance payments will be made to vendors only when no practical alternative exists to satisfy a need, when definite price savings can be realized, or when it is determined that it is in the best interest of LIT to do so.

Advance payments will not be made to vendors who sell to some classes of customers without advance payments, but require such payments from LIT, unless there is no alternative and the payments are approved in advance by the Director of Finance or Director of Purchasing and Contracts.

11. ALCOHOL PURCHASES

For those functions at which it is deemed by a senior officer to be appropriate and desirable to serve alcoholic beverages, said beverages may not be purchased with funds held in the State Treasury. Where not otherwise prohibited, certain gift funds, designated funds, auxiliary funds, or restricted funds may be properly applied for this purpose. The Vice President for Finance and Operations shall be responsible for determining the proper source and use of funds for such purpose before the expenditure is allowed.

12. PURCHASE OF ELECTRONIC AND INFORMATION RESOURCES

12.1 [TSUS Rules and Regulations, Chapter III, Section 19](#), requires central review and oversight of all LIT acquisitions of information technology by the Director of Information Technology, or designee, including, but not limited to, computing hardware/software, and hosting services, regardless of source of funds. Administrative heads shall consult with the Director of Information Technology, or designee, regarding purchases of technology products or services that are not yet centrally supported by the Information Technology Department.

12.2 To optimize their accessibility, usability, security, and privacy, all electronic and information resources developed or procured for use with the LIT.EDU network

domain shall comply with the applicable provisions of [Texas Administrative Code, Title 1, Part 10, Chapter 213, Subchapter C, Rules §213.37 and §213.38](#), dealing with the procurement of Electronic and Information Resources in Institutions of Higher Education, commonly known as TAC 213.

- 12.3 Computer catalog purchases are not exempt from proper documentation of the decision making process. For example, HUB requirements still need to be documented.

13. HISTORICALLY UNDER-UTILIZED BUSINESS PROGRAM

- 13.1 The LIT Historically Underutilized Business program shall be in accordance with [TSUS Rules and Regulations, Chapter III, Section 18 "Historically Underutilized Businesses"](#). The program ensures compliance with state HUB laws, the [TSUS HUB Program](#), and educates LIT and business communities about the benefits of using HUB vendors.

- 13.2 It is the policy of Lamar Institute of Technology to achieve the annual HUB program goals by contracting directly or indirectly, through subcontracting opportunities.

- 13.3 The LIT’s Director of Purchasing and Contracts shall:

- a. Act as LIT’s agency HUB Coordinator;
- b. Have the authority to implement procedures necessary for LIT to comply with State HUB Good Faith Efforts (GFE) requirements;
- c. Submit semiannual and annual HUB reports on expenditures for goods and services specified by object codes reportable under the state HUB program;
- d. The LIT agency HUB Coordinator may appoint additional HUB coordinators as necessary to further LIT’s HUB program efforts.

Version History:

Version	Release Date	Summary of Revisions
Version 1	May 2018	Original Publication Date
Version 2	September 2020	Substantive reorganization and revision of content.