

## **Bids**

### **Competitive Bidding**

Competitive bidding is the statutory foundation for purchases made for the State of Texas, Texas State agencies, and institutions of higher education. It is the process of inviting and obtaining bids from competing sources in response to advertised competitive specifications, by which an award is made. The process contemplates giving potential bidders a reasonable opportunity to bid, and requires that all bidders be placed on the same plane of equality. Each bidder must bid on the same advertised specifications, terms, and conditions in all items and parts of a contract.

The purpose of competitive bidding is to stimulate competition, prevent favoritism, and secure the best goods and services at the lowest practicable price, for the benefit of the institution and the state. Competitive bidding cannot occur where contract specifications, terms or conditions prevent or unduly restrict competition, favor a particular vendor, or increase the cost of goods or services without providing a corresponding benefit to the state.

When possible, vendors contacted for bids should be selected from the State of Texas' "Centralized Master Bidders List (CMBL)" maintained by the Texas CPA.

All purchases must be in accordance with established procedures, with procedural flexibility based on the funding source as deemed by the Senior Director of Procurement Services or the Director of Purchasing.

The formal written bid process must be conducted under the direction of a designated purchaser of the UNT System **Procurement Services**. Certain formal solicitations involving large construction projects are facilitated and managed by the UNT System Office of Facilities Planning and Construction with oversight by UNT System Business Support Services.

### **Identifying Vendors**

The use of the CMBL is a method for locating vendors. Services and goods are assigned commodity code numbers. These commodity codes can be used as search criteria in the CMBL to find vendors who sell those commodities. The CMBL provides addresses, phone numbers, fax numbers, email addresses, and HUB ethnicity, gender, and contact names.

A link from each vendor's page can also provide the vendor's status with the state. See **Finding HUB Vendors** located on the UNT System Business Support Services webpage for further instructions.

When contacting vendors, departments should always confirm the vendors' ordering information and document special requirements on a requisition.

### **Bid Evaluation and Award**

An award of a bid solicitation is made to the vendor offering the best value for the state while conforming to the specifications required. Complying with the specified time limit for submission of written data, sample, or models, on or before bid opening time, is essential to the acceptability of a bid. Preferences and Reciprocity are also considered before awarding a bid.

Evaluation criteria may be considered as long as provisions are outlined in the solicitation when it is posted, and should specifically outline what will be considered in determining an award. Any criteria must have objective definitions and identified measures. For more complex solicitations, an evaluation team should be utilized including individuals with working and industry knowledge regarding the procurement. Contact **Procurement Services** for additional information.

## **Best Value**

As state institutions of higher education, UNT System components may acquire products and services by the method that provides the best value to the institution including competitive bidding, competitive sealed proposals, a group Procurement Services program, or a strategically sourced and negotiated contract.

In determining the best value to the institution, Procurement Services and the Requesting Department will consider

- the purchase price;
- the level of trust the vendor has earned through past performance or through qualifying information available at the time the award will be made;
- the quality of the vendor's goods or services;
- the extent to which the goods or services meet the institution's needs;
- the vendor's status with the State of Texas;
- the impact on the ability of the institution to comply with laws and rules relating to Historically Underutilized Businesses (HUB), and to the procurement of goods and services from persons with disabilities;
- the total long-term cost to the institution of acquiring the vendor's goods or services;
- any relevant factor that a private business entity could consider in vendor selection; and
- whether the product or service is proprietary and would restrict the institution to a single vendor or manufacturer.

All UNT System components must also follow the laws or rules relating to contracting with HUBs or relating to the procurement of goods and services from persons with disabilities.

## **Preferences**

The state has provided two sets of preferences to aide in awarding bids to vendors. They include source and specification preferences.

### **Source Preferences**

The state uses the following source preferences when applicable goods or services can be supplied by these entities:

- Products by Persons with Disabilities;
- Texas Department of Criminal Justice (TDCJ), Institutional Division;
- Texas and United States Products and Texas Services;
- Products and Services from Economically Depressed and Blighted Areas; and
- Products of Facilities on Formerly Contaminated Property.

### **Specification Preferences**

The state uses the following specification preferences regarding recycled materials:

- Recycled, Remanufactured, or Environmentally Sensitive Products;
- Energy Efficient Products;
- Rubberized Asphalt Paving material;
- Recycled Motor Oil and Lubricants;
- Vendors that Meet or Exceed Air Quality Standards;
- Recycled or Reused Computer Equipment of Other Manufacturers; and
- Food of Higher Nutritional Value.

In case of tie bids, one or more preferences described in the [Texas Administrative Code \(TAC\) Rule 20.38](#) are used to make an award:

### **Tie Bids**

Two or more bids that are offered at the same price, and are otherwise equal in quality are considered tie bids. In breaking tie bids, the agency must use the preference(s) claimed by the bidder on the Invitation for Bids.

If two bidders bid the same bid price and the preferences checked are different, then the award is based on the priority currently listed in the Texas Administrative Code (TAC) Rule 20.38.

If two bids have the same price and preferences, awards will be determined by drawing lots.

### **Drawing Lots**

A disinterested party draws a name with a witness present. Both persons must initial the order.

### **Proprietary Purchases**

Proprietary purchases normally refer to products manufactured under exclusive rights derived from a trade name, patent, copyright, or other legally protected right. Products will be considered as proprietary if they have a distinguishing feature or characteristic that is not shared or provided by similar or competing products. One of the most common proprietary features is its compatibility with existing equipment. Another is that the product will provide utility not available from other products. Services are considered proprietary if no other company can provide the scope of work required.

**You are not required to justify your needs on the Proprietary/Sole Source Purchase Justification Form, but you are required to justify why a proprietary item is required to meet those needs.** As an example, a department requesting computers does not have to explain why computers are needed. However, they must explain why that particular brand is required.

The department must decide when to use proprietary specifications. In order to justify the use of proprietary specifications, do the following:

1. Analyze the needs of the department to see if alternate specifications would serve the needs and allow competition among other products.
2. Review similar products/services/ to ensure they do not meet the department's need.

After completing this two-step analysis, if it is determined that department requirements limit the bidding to one manufacturer, one product, or one service provider, the department must provide a written justification for these requirements on the [Proprietary/Sole Source Purchase Justification Form](#).

The justification must include the following:

- the proprietary operational features or functions of item(s) or service(s), which must also be listed within the item descriptions or specifications);
- explanation of the need for the specifications outlined in the requisition; and
- the reasons competitive products or services are not satisfactory.

It is the responsibility of Procurement Services to ensure that all justifications meet the legal requirements. The justification must be approved by the Senior Director of Procurement Services, the Director of Purchasing, or an appropriate designee and retained in the file for post payment audit. Please contact [Procurement Services](#) if you have any questions.

## **Sole Source Purchases**

Sole source is considered a bid exception and is subject to approval by the Senior Director of Procurement Services, Director of Purchasing or other senior level employee. See [Bid Requirements](#) and [Proprietary Purchases](#).

Each requisition must include documentation from the department that specifies why a particular service is required and why other vendors cannot be used to meet this requirement. Use the [Proprietary/Sole Source Purchase Justification Form](#) and attach electronically to a requisition along with the vendor's affirmation document. See [Proprietary Purchases](#).

## **Professional Services**

All orders for Professional Services must come through Procurement Services for review and approval prior to any obligations being made for the UNT System. A "Professional Services Contract" may be required to accompany the requisition and will have to be signed by the authorized signatory in order to be a binding contract.

Some Professional Services are exempt from bidding requirements. These must be within the scope of practice as defined by Texas Government Code 2254.002 or provided in connection with the professional employment or practice of a person who is licensed or registered in

- Accounting – a certified public accountant (CPA);
- Architecture – an architect;
- Landscape architecture;
- Land surveying – a land surveyor;
- Medicine – a physician, including a surgeon;
- Optometry – an optometrist;
- Professional engineering – a professional engineer;
- Professional nursing – a registered nurse; or
- Real estate appraising – a state certified/licenses real estate appraiser.

Contracts for professional services are awarded based on demonstrated competence and qualifications for the type of professional services to be performed. Fees must be reasonable.

A contract may be required for the professional service. Submit a requisition to Procurement Services as soon as possible after the need for the contract is identified. The purchase order will be issued after the contract has been signed by all parties.

## **Other Professional Services**

Services rendered on a fee, contract, or other basis by a person, firm, corporation, or company recognized as possessing a high degree of learning and responsibility are usually considered "other professional services." These services are **not exempt** from bidding requirements. Follow the guidelines per order total. If only one vendor can provide the service you require, submit a [Proprietary/Sole Source Purchase Justification Form](#) with the requisition.

## **Bid Receipt Procedures**

Upon receipt of competitive solicitation by mail, hand carry, or special carrier, the sealed competitive solicitation will be date- and time-stamped, and must remain secured until the bid opening.

## **Bid Opening**

The date, time, and physical location of bid opening will be stated clearly on the bid document. All bid tabulation files are available for public inspection. Bid tabulations may be reviewed by any interested person during business hours. The bids and all documents and information about the evaluation of bids and bidders will be withheld until after the contract award.

## **Late Bids**

Late bids are bids received after the date and time established by the solicitation, and will not be considered.

## **Unsigned Bids**

Bids must be signed prior to bid opening to be considered. Bids without a signature may be disqualified and considered invalid.

## **Bid Requirements**

The method used and steps required to make a purchase, are determined by the dollar amount and purchase type. See the [Procurement Services Process](#) and the summary below.

### **\$0 - \$5,000.00 - One Verbal Bid Required**

Orders should be awarded to the vendor that provides the best value to the institution. Departments are encouraged to seek a quote or bid from a HUB vendor.

### **\$5,000.01 - \$25, 000.00 - Three Informal Bids Required**

Departments must attempt to obtain at least three verbal bids, including a minimum of two bids from HUB certified businesses. Price quotes may be taken by phone, by fax, or in writing, and documentation must be kept on file.

### **\$25, 000.01 and over - Formal Bid Required**

All formal bids must be handled by [Procurement Services](#). The bid is requested by sealed envelope in accordance with a prescribed format and will be opened at a specified date and time. Procurement Services must attempt to obtain at least three formal bids, including a minimum of two bids from HUB certified businesses.

## **Group and Cooperative Purchases**

Group and cooperative purchasing allow those eligible to order under established contracts without additional formal bidding. The UNT System is eligible to participate in many group and cooperative Procurement Services programs. Provided the contracts were competitively advertised and addressed HUB requirements, no additional justification or bidding is required. Refer to [Cooperatives and Contract Pricing](#) on the UNT System Business Support Services webpage.

## **Reciprocity**

State statutes require reciprocation for bids originating from bidders residing in states that grant resident bidder preference for that state's purchases when bidding against a Texas bidder. In other words, the State of Texas will respond in kind or reciprocate to preferences made by other states.

The methodology for bid evaluation of bidders who reside in a state with a resident preference law is to reciprocate by adding a residency penalty to the bid for evaluation purposes only. This penalty is equal to the percentage a Texas bidder would have to underbid a resident bidder in a preference state to receive an award in the preference state.

## **Example**

Another state gives its in-state bidders a 10% advantage on a certain commodity. In effect, this would penalize a Texas bidder 10% when bidding in that state. Consequently, we would add the same 10% penalty to any of those states' bidders when bidding in Texas for the same commodity or service.

The CPA annually publishes, in the Texas Register, a list of states' preferences. The CPA also provides the list on the website and updates it as changes occur. For a list of states with Resident Bidder and Reciprocal Preferences, visit the [Texas CPA website](#).

For Statutory Citation information, see the Texas CPA [List of States with Resident Bidder Preferences](#).

Contact [Procurement Services](#) with questions about the current list of states giving preferences.

## **Texas Industries for the Blind and Handicapped (TIBH)**

State agencies and institutions of higher education are required to support the state's efforts to gainfully employ persons with disabilities. First consideration must be given to products and services provided by persons with disabilities through the Texas Industries for the Blind and Handicapped (TIBH). The products and services offered are listed on TIBH's [Online Product Catalog](#). These products and services are reviewed and approved by the Texas Council on Procurement Services from People with Disabilities.

- If a product is approved, it is set aside from competitive bidding and put on a CPA term contract.
- Purchases of services, approved by the Texas Council on Purchases from People with Disabilities, from the TIBH catalog do not require competitive bidding.

TIBH's pricing and availability must be checked first and items/services purchased as exceptions must be reported to the CPA monthly. For more information regarding TIBH products and services, please contact [Procurement Services](#).