



MIDWESTERN STATE UNIVERSITY

Operating Policies & Procedures Manual

University Operating Policy/Procedure (OP)

OP 54.03: Purchasing – Minority and Female-Owned Businesses

~~Approval Authority: — President~~

~~Policy Type: — University Operating Policy and Procedure~~

~~Policy Owner: — Vice President for Administration and Finance~~

~~Responsible Office: — Purchasing and Contract Management~~

~~Next Scheduled Review: 03/01/2022~~

~~A. General~~

~~Midwestern State University conducts purchasing practices in the public interest seeking to serve no private person or private segment of the public to the disadvantage of another; however, the University is dedicated to the policy of pursuing open market purchases and business contracts with minority and female-owned small businesses at every available opportunity.~~

~~B. Separate Bid List~~

~~A separate bidders list will be maintained by the Purchasing Department for the specific purpose of soliciting bids from minority and female-owned small businesses.~~

~~C. Definition~~

~~A minority-owned business is defined by the Texas Department of Commerce as follows:~~

- ~~1. — A corporation formed for the purpose of making a profit in which at least fifty-one percent (51%) of all classes of the shares of stock or other equitable securities are owned by one (1) or more persons who are socially disadvantaged because of their identification as members of certain groups, including Black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have not control.~~
- ~~2. — A sole proprietorship for the purpose of making a profit that is 100% owned, operated and controlled by a person described above.~~
- ~~3. — A partnership for the purpose of making a profit in which 51% of the assets and interest in the partnership is owned by one or more persons described in above (A). Those persons must have a proportionate interest in the control, operation, and management of the partnerships affairs.~~
- ~~4. — A joint venture in which each entity in the joint venture is a disadvantaged business as noted above.~~

~~5.—A supplier contract between a disadvantaged business under the above definition and a prime contractor under which the disadvantaged business is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouse and ships the supplies.~~

~~D. **Historically Underutilized Business Directory**~~

~~Midwestern State University shall give as much preference as the laws of the State of Texas permit to all businesses listed in the "Historically Underutilized Business Directory," published by the Texas Department of Commerce, as well as those businesses owned and operated by women.~~

Responsible Office

Contact: ~~Director of Purchasing and Contract Management~~
Phone: ~~(940) 397-4277~~
Email: ~~tracy.nichols@msutexas.edu~~

Revision History

~~05/12/1995: MSU Policy 4.174 (Purchasing Minority And Female Owned Businesses is adopted by the MSU Board of Regents as MSU Policy and Procedure. 4.174)~~

~~11/09/1990 Adopted and approved by the MSU Board of Regents.~~

University Operating Policy/Procedure (OP)
OP 54.03: Historically Underutilized Businesses (“HUBs”)

- Approval Authority:** ~~___~~ President
- Policy Type:** ~~___~~ University Operating Policy and Procedure
- Policy Owners:** ~~___~~ ~~Director of Purchasing and Contract Management~~
~~___~~ Vice President for Administration and Finance
- Responsible Offices:** ~~___~~ ~~Director of Purchasing & Contract Management~~
~~___~~ ~~Office of the Vice President of Administration and Finance~~
- Next Scheduled Review:** 03/01/2026. This OP will be reviewed in March of even-numbered years by the Director of Purchasing and Contract Management with recommendations for revision forwarded through the Vice President of Administration and Finance to the President by April 1st of the same year.

I. Purpose:

The purpose of this Operating Policy/Procedure (“OP”) is to establish the policy and outline the procedures for the utilization of Historically Underutilized Business (“HUBs”) for the purchases of goods and services by Midwestern State University (“MSU” or “University”), a component institution of the Texas Tech University (“TTU”) System.. This OP shall apply to all purchases of goods and services regardless of source of funds used for payment.

~~I.~~

Review

~~II. —: This OP will be reviewed in March of even numbered years by the Director of Purchasing and Contract Management with recommendations for revision forwarded through the Vice President of Administration and Finance to the President by April 1st of the same year.~~

III.II. Policy/Procedures Procedures and Responsibilities

A. Policy

1. The Sstate of Texas is committed to providing procurement and contracting opportunities for businesses owned by minorities, women, and disabled veterans. It is the state’s policy to create an environment that will enhance Historically Underutilized Business (“HUB”) participation in state procurements and contracts. Consequently, MSU will make a good faith effort to award goods, services, and construction contracts to HUBs and HUB subcontractors in accordance with the Texas Comptroller’s adopted rules.
2. MSU will make a good faith effort to utilize HUBs in contracts and purchases awarded in accordance with the percentages ~~adopted and posted on the website provided in Texas Administrative Code §20.284.~~

All MSU offices and departments shall identify and ensure that businesses owned by HUBs are given an equal opportunity to bid/propose/quote on commodities, services, and construction projects.

3. Definitions

~~3.~~

- a. Historically Underutilized Business (“HUB”) is defined by statute as a corporation, sole proprietorship, joint venture, or a supplier contract between a HUB and prime contractor that has not exceeded size standards, with its principal place of business in the state of Texas, that is formed for the purpose of making a profit, in which at least 51 percent of all classes of the shares of stock or other equitable securities are owned by one or more persons who have been historically underutilized (economically disadvantaged) because of

their identification as a members of certain groups: Black American, Hispanic American, Asian Pacific American, Native American, American women, or service-disabled veterans. These individuals must have a proportionate interest and demonstrate active participation in the control, operation, and management of the business.

- b. A Mentor-Protégé Program is a program designed by the Texas Comptroller to assist agencies in identifying price contractors and HUB partners to foster long-term contractual relationships.—

B. Responsibilities

B.

1. The President of MSU will designate a HUB coordinator who will be at least equal in position to the ~~institution's~~ University's Purchasing Director. -The Purchasing Director may serve in the capacity of the MSU HUB coordinator, and the TTU Vice Chancellor for Facilities Planning & and Construction, as the TTU System Chancellor's designee will serve as the HUB coordinator for the TTU System administration and for all facilities projects that fall under the control of the Office of Facilities Planning & and Construction, pursuant to Texas Tech University Regent's Rules 07.13. -The HUB coordinators shall coordinate programs to recruit, identify, and certify HUBs; report any required information; and match HUBs with appropriate procurement opportunities.
2. The HUB coordinators and their designees are responsible for obtaining and utilizing the Centralized Master Bidders List (CMBL) as the primary reference list for HUB vendors. All MSU employees participating in the purchase of goods and services will be held accountable for adhering to the requirements of this OP.
3. The HUB coordinator(s) or their designees will prepare, publicize, and distribute information on procurement procedures in a manner designed to encourage businesses owned by HUBs to participate in the institutions acquisition of goods and services.

The HUB coordinators will also:

- a. Provide potential bidders/proposers with the CMBL website, HUB Directory, and/or other directories when searching for HUB subcontractors;
- b. Determine whether specific MSU goals are appropriate;
- c. Identify potential subcontracting opportunities in all contracts requiring a HUB subcontracting plan and seek HUB subcontracting on contracts that do not require a HUB subcontracting plan, whenever possible; and
- d. Encourage the utilization of firms that commit to using certified HUB firms to provide a portion of the goods and services.

C. Historically Underutilized Business Subcontracting

1. Before soliciting bids, proposals, offers, or other applicable expressions of interest with an expected value of \$100,000 or more, HUB coordinator(s) or their designees shall determine if subcontracting opportunities are probable under the contract. If so, a HUB subcontracting plan will be required as part of a contract's solicitation response. Responses that do not include the HUB subcontracting plan and responses that MSU determines were not developed in good faith may be rejected as a material failure to comply with the advertised specifications.
2. The HUB coordinator(s) or their designee shall review all supporting documentation submitted by a potential contractor to determine if the proposed HUB subcontracting plan complies with the specifications. No changes will be made to an accepted subcontracting plan prior to its incorporation into the contract.
3. Contractor pay vouchers and supporting documentation shall be reviewed for compliance with an awarded contract, purchase order, or HUB subcontracting plan.
4. Failure of the general/prime contractor to meet the HUB subcontracting plan requirements identified during the procurement process may be considered as a basis for a default in the awarded contract. If a determination is made that the contractor failed to implement the HUB subcontracting plan in good faith, MSU may, in addition to any other remedies, report non-performance to the Texas Comptroller and/or cancel the existing contract.
5. Contractors will:
 - a. Make all reasonable efforts to maintain their stated HUB participation goal, regardless of the changed scope of goods or services in the contract; and
 - b. Prepare and submit established forms within the time designated on each form.

D. Data Collection and Reporting

The HUB coordinators will coordinate with each other and comply with all HUB reporting requirements, including bi-annual reports to the Texas Comptroller.

1. A HUB report will be produced monthly to assess agency awards made to HUBs. The report will identify total purchases and percentages of HUB participation.
2. Monthly reports will be generated and sent to the Vice President Administration and Finance to review current utilization of HUB participation by departments in

their acquisition programs. Departments will be expected to make a good faith effort to comply with MSU HUB goals.

- 3. Bi-annual reports will be prepared and submitted to the Texas Comptroller by March 15th and September 15th each year.
- 4. Not later than the 60th day of its fiscal year, MSU will estimate and post on its website the total value of contract awards.
- 5. Reports to the Board of Regents will be provided as requested.

5. _____

E.III. Related Constitutional Provisions, Statutes, Rules, Policies, Forms, and Websites

Related Statutes/Rules/Codes:

- [Texas Government Code 2155.001](#)
- [Texas Government Code 2161.001](#)
- [Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter D, Division 1](#)

Related University Policies and Procedures:

- [Texas Tech University System Regulations](#)
- [Texas Tech Regents' Rules](#)
- ~~[MSU OP 30.02 MSU Contract Management Handbook](#)~~
- [TTU S Contract Management Handbook 2022 Revisions](#)
- ~~[MSU OP 30.02: -MSU Contract Management Handbook](#)~~

Websites:

- [State of Texas Comptroller of Public Accounts Historically Underutilized Business \(HUB\) Program](#)

F.IV. Responsible Offices:

Contact: _____ Vice President of Administration and Finance
 Phone: _____ 940 397 4237
 E-mail: _____ beth.reissenweber@msutexas.edu

Contact: Director of Purchasing and Contract Management
 Phone: 940-397-4277
 E-mail: tracy.nichols@msutexas.edu

G.V. Revision History

11/09/1990: MSU Policy/Procedure 4.174 (Purchasing - Minority and Female-Owned Businesses is adopted and approved by the MSU Board of Regents. Adopted and approved by the MSU Board of Regents. _____/_____

~~/2024: Adopted and approved by the Board of Regents as MSU OP 54.03 Historically Underutilized Businesses (HUB)~~

05/12/1995: Revised the last paragraph of the policy/procedure as follows: “Midwestern State University shall give as much preference as the laws of the State of Texas permit to all businesses listed in the ‘Texas-Certified Disadvantaged Historically Underutilized Business Directory, published by the Texas Department of Commerce, as well as those businesses owned and operated by women.” MSU Policy 4.174 (Purchasing-Minority And Female-Owned Businesses is adopted by the MSU Board of Regents as MSU Policy and Procedure 4.174)

08/05/2021: Former MSU Policy/Procedure 4.174 (Purchasing - Minority and Female-Owned Businesses) is revised and renumbered /renamed as MSU OP 54.03: Purchasing - Minority and Female Owned Businesses, and adopted and approved by the MSU Board of Regents.

/ /2024: Revised to align with TTU System Regulations and Regents’ Rules and renamed Updated and approved by the Board of Regents as MSU OP 54.03: Historically Underutilized Businesses (HUBs), and adopted and approved by MSU President Stacia Haynie. ~~11/09/1990: Adopted and approved by the MSU Board of Regents~~

Stacia Haynie, President
Midwestern State University

Date: _____