Sec. 51.9335. ACQUISITION OF GOODS AND SERVICES. (a) An institution of higher education may acquire goods or services by the method that provides the best value to the institution, including:

(1) competitive bidding;
(2) competitive sealed proposals;
(3) a catalogue purchase;
(4) a group purchasing program; or
(5) an open market contract.

(b) In determining what is the best value to an institution of higher education, the institution shall consider:

(1) the purchase price;
(2) the reputation of the vendor and of the vendor's goods or services;
(3) the quality of the vendor's goods or services;
(4) the extent to which the goods or services meet the institution's needs;
(5) the vendor's past relationship with the institution;
(6) the impact on the ability of the institution to comply with laws and rules relating to historically underutilized businesses and to the procurement of goods and services from persons with disabilities;
(7) the total long-term cost to the institution of acquiring the vendor's goods or services;
(8) any other relevant factor that a private business entity would consider in selecting a vendor; and
(9) the use of material in construction or repair to real property that is not proprietary to a single vendor unless
the institution provides written justification in the request for bids for use of the unique material specified.

(c) The state auditor may audit purchases of goods or services by an institution of higher education or by a component of an institution of higher education that purchases goods and services.

(d) Subject to Section 51.9337, Subtitle D, Title 10, Government Code, and Subchapter B, Chapter 2254, Government Code, do not apply to the acquisition of goods and services under this section, except that an institution of higher education must comply with any provision of those laws, or a rule adopted under a provision of those laws, relating to contracting with historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities. An institution of higher education may, but is not required to, acquire goods or services as provided by Subtitle D, Title 10, Government Code.

(e) In this section, "institution of higher education" has the meaning assigned by Section 61.003 and includes a school of veterinary medicine and a health care facility operated by a medical and dental unit, except that the term does not include The University of Texas M. D. Anderson Cancer Center or a public junior college.

(f) This section does not apply to professional services as defined by Section 2254.002, Government Code. Professional services shall be procured in accordance with Subchapter A, Chapter 2254, Government Code.

(g) An institution of higher education may adopt rules and procedures for the acquisition of goods or services.

(h) In any contract for the acquisition of goods and services to which an institution of higher education is a party, a provision required by applicable law to be included in the contract is considered to be a part of the executed contract without regard to:

(1) whether the provision appears on the face of the contract; or
(2) whether the contract includes any provision to the contrary.