

**Administrative Council
Midwestern State University**

November 7, 2022

Meeting No. 23-02

The Administrative Council met Monday, November 7, 2022, at 4:00 p.m., in the Bridwell Board Room in the Hardin Building. Present were Dr. JuliAnn Mazachek, Ms. Debbie Barrow, Mr. Fred Dietz, Ms. Dawn Fisher, Ms. Julie Gaynor, Dr. Kristen Garrison, Dr. James Johnston, Ms. Leigh Kidwell, Mr. Barry Macha, Ms. Rhonda McClung, Dr. Karen Moriarty, Mr. Kyle Owen, Mr. Matt Park, Ms. Gabbie Pettijohn, Dr. Beth Reissenweber, and Ms. Betsy Tucker. Unable to attend were Dr. Keith Lamb, Dr. Michael Mills, and Mr. Kyle Williams.

I. Welcome

Dr. Mazachek welcomed members to the meeting and expressed appreciation for their participation.


II. MSU OP 54.01- Purchase of Goods and Services

Approved to be sent to campus for review.

III. Adjourn

The meeting adjourned at 4:30 pm. Members will be notified of the date of the next meeting once it is determined.

JuliAnn Mazachek, Ph.D., Chair



Betsy Tucker, Secretary



MIDWESTERN STATE UNIVERSITY

Operating Policies & Procedures Manual

University Operating Policy/Procedure (OP) OP 54.01: Purchase of Goods and Services

Approval Authority: President

Policy Type: University Operating Policy and Procedure

Policy Owner: Vice President for Administration and Finance

Responsible Offices: Director of Purchasing and Contract Management

Next Scheduled Review: 03/01/2025

I. Purpose

The purpose of this Operating Policy/Procedure (OP) is to establish the procedures to be followed when purchasing goods and/or services.

II. Review

This OP will be reviewed in March of odd-numbered years, or as needed, 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 of the same year.

III. Policy/Procedures

A. General Policy

This policy will apply when using all sources of funds for the procurement of goods and/or services.

All procurement of goods and services must have a clear business purpose that supports the mission of Midwestern State University (“MSU” or “University”) and must follow all state and federal laws, [Texas Tech University \(TTU\) Regents’ Rules](#), [Texas Tech University System Regulations](#), [Texas Tech University \(TTU\) System Contract Management Handbook](#), and MSU Operating Policies.

Only the Director of Purchasing and Contract Management and other MSU personnel designated by the President, may commit MSU to the procurement of goods and services.

Departments are required to verify appropriate use of funding for all procurement of

goods and/or services.

State and federal laws and MSU Operating policies and procedures strictly prohibit splitting procurement limits to circumvent the requirements outlined in this OP.

All procurements must comply with [OP 54.03: Historically Underutilized Businesses \(HUB\)](#) and with [Human Resources Code, Chapter 122](#), relating to purchases from people with disabilities.

The Director of Purchasing and Contract Management or their designee has the authority to make any exception to this policy, which in their determination, are essential for the continued operations of MSU and do not violate any state & federal laws, [TTU Regents' Rules](#) and [TTU System Regulations](#).

In the event of any conflict between this OP and any state or federal procurement regulations, state and/or federal procurement regulations shall prevail.

All information technology procurements of goods and/or services must be reviewed by the Information Technology Department.

B. Definitions

Best Value: Factors to be considered in determining best overall value for the system or the component institution in accordance with [Texas Education Code § 51.9335 \(b\)](#).

Bid: An offer to contract submitted in response to an invitation for bid. The term bid may also be referred to as a response.

Conflict of Interest: A conflict of interest refers to a situation in which an employee's financial, professional, or other personal considerations may directly or indirectly affect, or have the appearance of affecting, the employee's judgement in exercising any duty or responsibility, including the conduct or reporting of research, owed to the University.

Contract: A legally binding written agreement executed between the University and a third party in which the parties agree to perform in accordance with the obligations therein. Contracts include, but are not limited to:

1. Letter Agreement
2. Co-operative Agreements
3. Memorandums of Understanding (MOU)
4. Interagency Contracts
5. Interlocal Contracts
6. Easements
7. Licenses
8. Leases
9. Purchase Orders

Contractor: An entity or individual that has a contract to provide goods or services to the University. The term contractor may be used interchangeably with the term "vendor."

Emergency Procurement: Emergencies occur as the result of unforeseeable circumstances and may require an immediate response to avert an actual or potential public threat. If a situation arises, in which compliance with normal procurement practices is impracticable or contrary to the public interest, an emergency purchase may be warranted to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the institution.

Exempt Purchase: Certain goods or services that are exempt from the competitive procurement rules, either by statute or if the exemption is in the best interest of the public.

Goods: Supplies, materials, or equipment as defined in [Texas Government Code § 2155.001](#). Goods do not include services or real property.

Procurement (Procure): Purchasing, renting, leasing, or otherwise acquiring any goods and services, including all functions that pertain to the acquisition through contract closeout.

Proposal: A response to a request for proposals (RFP) and intended to be used as a basis to negotiate a contract award.

Proprietary Purchase: A good or service produced or marketed by a contractor having the exclusive right to manufacture or sell it.

Purchase Order: A legal document issued to a contractor that formalizes the terms and conditions of any purchase of goods and/or services.

Quote: A document setting forth an offer to sell goods or services at a certain price under specified conditions.

Response: A submission to the system or an institution from a potential contractor in response to a solicitation.

Scope of Work (SOW): A detailed written description of the conceptual requirements contained within the specifications.

Service(s): Service as defined in [Texas Government Code § 2155.001](#). The furnishing of labor, time, and effort by a contractor or auxiliary enterprise, including for a construction project, which may involve, to a lesser degree, the delivery, or supply of goods.

Solicitation: A method or process used to obtain responses for the purpose of gathering information or entering into a contract.

Specification(s): Description of the requirements for goods or service, including the scope of work, to be fulfilled by a contractor.

Vendor: An individual, business, or governmental entity that has a contract to provide goods or services to the state of Texas – used interchangeably with the term “contractor.”

C. Procurement Conflict of Interest and Code of Ethics

All employees must be in compliance with [Texas Government Code § 572](#), [TTU Regents' Rules Chapter 03](#) and MSU OP 54.05: Conflict of Interest Relating to Purchasing, Payments and Contracts and Texas.

D. Policy for Purchasing and Contracting Office Staff

With regards to contracting, all employees must comply with [TTU Regents' Rules Chapter 07](#), [TTU System Regulations 07.03](#), [OP: 30:03 Consultants](#) and [OP 30.04 : Professional Services](#)

E. Policy for Vendors

Pursuant to [Texas Education Code § 51.9335](#), an institution of higher education may acquire goods or services by the method that provides the best value to the institution, including:

- Competitive Bidding
- Competitive Sealed Proposals
- Catalog Purchase (CISV)
- Group Purchasing Programs
- Open Market Contract

In compliance with [Texas Education Code § 51.9335 \(b\)](#) determining best value to an institution of higher education, the institution shall consider:

- Purchase Price
- Reputation of the vendor and the vendor's goods or services
- Quality of the vendor's goods or services
- Extent to which the goods or services meet the institution's needs
- Vendor's past relationship with the institution
- Impact on the ability of the institution to comply with the laws and rules relating to historically underutilized businesses (HUBs) and to the procurement of goods and services from persons with disabilities (TIBH)
- Total long-term cost to the institution of acquiring the vendor's goods or services
- Any other relevant factor that a private business entity would consider in selecting a vendor, and
- 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.

All procurement of goods and services that require a contract or contract amendment will be reviewed in accordance with [OP 30.01 : Approval and Execution of University Contracts](#).

Purchase orders are not intended to be used strictly as a payment tool; therefore, the *Purchase of Goods and Services*

purchase order must be created prior to the commitment or obligation. Purchase orders submitted after the commitment has been made and /or after the goods or service are received will constitute non-compliance.

F. Purchasing Methods

Procurement Card: Orders for small dollar amount commodities may be purchased with a University credit card, known as a procurement card (PCard). These purchases may not exceed the established credit limits of the PCard. See [MSU Procurement Card Guide](#) for guidelines and applications.

Purchase Requisition: If other delegated purchasing methods are not applicable to the purchase, a Purchase Requisition must be used. Depending on the spend level, competitive bidding may be required in order to obtain possible cost savings.

Standing Orders (Annual Purchase Orders): Standing orders are established for departments with a need for repetitive procurements of the same goods or services during a fiscal year. Individual orders are placed by the ordering department, referencing the purchase order. Invoices for the individual orders are forwarded to the Purchasing Office for processing against the standing order. Standing orders must be renewed yearly. Standing order limits are subject to bid requirements noted in this OP.

Unauthorized Procurement: An employee shall not make any unauthorized/non-compliant purchase, commitment, or promises of any kind purporting to bind MSU for any goods or services without an authorized purchase order, PCard purchase, and/or contract.

The Purchasing Office is under no obligation to authorize payment for expenditures not made in compliance with this operating policy. The financial responsibility for any such payment may become the personal liability of the employee who made the improper procurement or transaction.

G. Procurement Methods

10. Preferred Procurement Contracts

Texas Industries for the Blind and Handicapped (TIBH): Commodities and/or services that are available through the Texas Council for Purchasing from People with Disabilities (currently TIBH) must be purchased through this entity when state-appropriated funds are being used unless non-utilization of TIBH can be adequately justified. Purchases from TIBH are considered part of the set-aside program and are not subject to bidding or price comparisons. Contact the Purchasing Department for assistance when purchasing via [Texas Smartbuy](#).

Texas Correctional Industries (TCI): Purchases from TCI are considered part of the set-aside program and are not subject to bidding or price comparison.

State of Texas Contracts: The Texas Comptroller of Public Accounts establishes

contracts, including managed term contracts, Texas Multiple Scheduled Award System (TXMAS) and Department of Information Resources (DIR) contracts for goods and services. MSU may utilize State of Texas Contracts without additional bidding.

Purchasing Cooperatives (Group Purchasing): MSU is a member of numerous purchasing cooperatives, which allow purchases to be made directly with the vendor as the bidding and/or negotiation process has already occurred. The cooperative contract number must be listed on the quote. These cooperatives are accessible on the [Purchasing/Contract Management \(Resources\)](#) webpage.

General Services Administration (GSA): The GSA Advantage is the federal government's online catalog and ordering system. Vendors can extend pricing and contract terms to governmental agencies. Bids or proposals are not required when utilizing GSA contracts. The GSA contract number must be listed on the quote.

MSU Negotiated Contracts: The Purchasing Office has awarded competitive contracts to several vendors based upon a competitive solicitation process. These contracts must comply with the [OP 30.01 : MSU Contract Management Handbook](#), [Texas Tech University System Regulations](#), [Texas Tech Regents' Rules](#), and [Texas Tech University System Contract Management Handbook](#). Bids or proposals are not required for procurement utilizing an MSU-negotiated contract.

Other State Agency Contracts: MSU may purchase from contracts that have been through a solicitation process by another state agency and authorized per the agency's solicitation document.

Interagency and Interlocal Agreements: The purchase of goods or services from another state agency is handled as an ***Interagency Agreement** and is allowed so long as neither agency exceeds its duties and responsibilities or the limitation of its appropriated funds.

The purchase of goods or services from a political subdivision such as a city or county government, school district, or junior or community college is handled as an ***Interlocal Agreement** and is allowed so long as neither agency exceeds its duties and responsibilities or the limitation of its appropriated funds.

11. Proprietary Procurement

Proprietary Procurement: A proprietary procurement represents the purchase of a specific item that is available from only one vendor who is the sole manufacturer and/or distributor. When the specification requirement limits consideration to one manufacturer, one product, or one service provider, and the amount of the purchase exceeds \$10,000 (either in a one-time procurement or repetitive procurements of the same goods or services during a fiscal year), a written justification must be provided, as required by state and federal law and university policy. Price and personal preferences are not acceptable as determining factors.

The Proprietary Purchase form must be included as an additional form with the requisition, to assist in the justification process. The department representative must state why the unique scope of work for the goods or services are required, detail the unique features of the goods or services, note the reason competing goods or services are not satisfactory, and any other relevant information to support the sole source documentation.

Professional and Consultant Services: Procurement of professional and/or consulting services must comply with [Texas Government Code 2254](#) and, [OP: 30:03 Consultants, OP 30.04 : Professional Services](#) .

Request for Qualifications (RFQ): A RFQ is generally used for professional services wherein the respondents are evaluated based solely on their qualifications and skills. A fair and reasonable price is negotiated after a selection based on qualifications is made.

Competitive Solicitations: Competitive solicitation is defined as the process of inviting and obtaining bids from competitive sources. Competitive bidding is considered a level of competition at which (2) or more vendor's products/services will meet the specifications and terms and conditions of the bid. Competitive bidding requires all requirements be included in the specifications and the best value is typically, but not always the low bid meeting the specifications. Any consideration other than price must be specifically stated in the bid and must be measured and documented during the evaluation process.

Competitive Sealed Proposals: Competitive Sealed Proposals are typically large purchases and are utilized when several options may meet the University's needs or when other considerations may be more important than price. Specifications are typically limited and a Statement of Work details required specification and results desired. Vendors may submit a variety of possibilities to achieve the desired results. Factors to be used in evaluating the proposals are often included in the Request for Proposal (RFP).

Purchase of Surplus Property: MSU surplus property is available from the University Warehouse/Central Receiving at no charge to University Departments (for University Use Only). Disposal of surplus property will comply with. [OP: 54.04 Disposition of Surplus or Salvage Property](#).

State & Federal Surplus Equipment is available for a nominal fee. Purchases for state or federal surplus property should be initiated through the purchase requisition process.

Purchase of Used Equipment: As a rule, a department should purchase new equipment, but sometimes it is necessary or advantageous to purchase used or demonstrator equipment. The most common reasons are as follows:

- the inability to secure new equipment

- the lack of adequate funds for new equipment
- used equipment will satisfy the university's need at a substantial savings.

Purchases of used and demonstrator equipment are to be processed as follows:

- Bids must be obtained following the appropriate procedures applicable to the total purchase amount.
- If only one bid is received, submit a proprietary justification statement.
- Provide a letter or signed statement from the bidder(s) guaranteeing quality and condition of the merchandise offered.
- Provide a letter from an authorized person connected with the ordering department that:
 - States that the equipment has been personally examined, and
 - Describes the condition and value of the equipment.
- Forward the purchase/requisition form and all of the above applicable documents to the Purchasing and Contract Management Department (“Purchasing Department”).

H. Procurement Requirements (Bidding Limits)

Current solicitation limits per fiscal year, regardless of the source of funds are:

\$0-\$10,000.00

Purchases within this range do not require competitive bids; however, requisitioning departments are encouraged to obtain more than one bid. Purchases from historically underutilized businesses (HUB) are encouraged to the fullest extent possible. The Purchasing Department has the discretion to seek competitive bids if warranted. Purchase Requisitions should be forwarded to the Purchasing Department. Departments ***DO NOT HAVE** the authority to place orders with vendors on items requested on a purchase requisition. A purchase order will be forwarded to the vendor from the Purchasing Department.

\$10,000.01 - \$24,999.99

Departments ***DO NOT HAVE** authority to purchase goods or services within the stated dollar limit. Departments are to forward purchase requisitions to the Purchasing Department for processing. In accordance with [34 TAC § 20.82](#), the University, as a state agency, must solicit at least three informal bids, including at least two from HUBS. State agencies must, to the extent possible, solicit bids from vendors on the CMBL and vendors in the HUB Directory. If a state agency is unable to locate two HUBS, it must make a note in the contract file.

The department shall not enter into an agreement with the vendor, i.e. purchase the item without a purchase order issued by the Purchasing Department.

When submitting a requisition, ordering departments are asked that clear specifications accompany the requisition when routed to the Purchasing Department.

The department can recommend vendors to the Purchasing Department. The recommendations should accompany the requisition. The Purchasing Department will then solicit vendors through a bidding process. The Purchasing Department will notify the department of the bid results.

The Purchasing Department will evaluate the bid responses and notify the department of their selection, pending departmental approval.

Upon departmental approval, the best valued vendor will be notified.

The item(s) being purchased may be from a single or multiple vendors.

\$25,000.00 and above

Departments ***DO NOT HAVE** authority to purchase within the stated dollar limit. Expenditures within the stated dollar limit require the solicitation of formal bids on the [Electronic State Business Daily \(ESBD\)](#). All requisitions totaling over \$25,000.00 must be sent to the Purchasing Department for processing. The departments can provide a list of recommended vendors but are not allowed to solicit a bid. Formal bid invitations will be sent to vendors by the Purchasing Department. The standard solicitation and vendor response time for formal bid invitations is a maximum of 21 business days. After such time, the Purchasing Department will notify the department of the bid results. A vendor will be selected and a purchase order will be issued. The entire process can take between 4-6 weeks.

Formal solicitation responses will be obtained by the Purchasing Office on procurements in excess of \$25,000 that do not conform to one of the other procurement types listed in this OP.

Purchases that require a signed contract must adhere to [OP 30.01 : MSU Contract Management Handbook](#) and [Texas Tech University \(TTU\) System Contract Management Handbook](#).

I. Exception from Bidding and Price Comparison

12. Bids are not required if printing and binding are done by the MSU Print Shop. Competitive bidding is required in order to procure external printing and binding services.
13. Proprietary Purchases adequately justified (request in excess of \$25,000 may require a formal solicitation if required by the Purchasing Office).
14. Emergency Procurements are a result of unforeseeable circumstances and may require an immediate response to avert an actual or potential public threat. If a situation arises in which compliance with normal procurement practices is impracticable or contrary to the public interest, an Emergency Procurement may be warranted to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the university.

An emergency purchase requires a letter of justification stating:

- The reason for the emergency purchase by explaining what the emergency is and/or what caused the emergency;
- The financial or operational damage that will occur if needs are not satisfied immediately (do not just state there will be a loss or damage); and
- Why the needs were not or could not be anticipated so that items could be procured through regular procurement procedures.

15. Other Exempt Purchases

Purchases are exempt from the competitive bidding process include:

- a. Advertising
- b. Artwork
- c. Conference expense; expenses related to conference room services such as audio/visual/network and food services. (Does not include goods purchased for attendees or transportation services.)
- d. Freight
- e. Goods and services provided by the Texas Correctional Institute (TCI)
- f. Goods and services for an organized activity when such exemption represents the best value to the University
- g. Hotels and conference rooms
- h. Intra-agency payments
- i. Internal repairs
- j. Internal purchases from Texas Tech University System and its component institutions
- k. Lecturers/guest speaker's fees for one time only, not for continuous engagements

- l. Legislative information services; bill analysis services
- m. Library materials for Midwestern State University library, when such exemption represents the best value to the university
- n. Membership fees and dues
- o. Moving expenses (employee)
- p. Newspaper and magazine subscriptions, books, videos, and software direct from the publisher
- q. Postal Services
- r. Purchases from Federal agencies
- s. Purchases from local governments or quasi-governmental agencies
- t. Purchases from other state agencies, including public institutions of higher education
- u. Purchases from Texas Industries for the Blind and Handicapped (TIBH) must be considered when using state appropriated funds (HEF)
- v. Rental of exhibit space; such as booths for display purposes
- w. Software renewals
- x. Student travel (expenses related to student travel)
- y. Training services
- z. Travel (all travel operating polices must be followed)
- aa. Utilities

J. Prohibited Procurements

- 16. Purchases from Employees
- 17. Personal Procurements – A purchase of goods and services, the requirement for which is not for the University or any of its purposes, but personal to the person making/requesting the purchase.
- 18. Vendors on Hold – (per [Texas Government Code § 2107.008](#) & [2252.903](#)) Warrant Hold Status should be verified prior to the contract start date. The Purchasing Office will perform this task when purchasing for a department. The end user is responsible when completing a purchase under delegated purchasing authority.

K. Advance Payments

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

- a. Library purchases for the University libraries
- b. Database and other published materials necessary for the efficient operation of the institution's library
- c. Payments to federal and other state agencies
- d. Lease payments
- e. Subscriptions (up to six weeks in advance)
- f. Rental fees for a meeting room or exhibit booth
- g. Annual maintenance agreements
- h. Registration fees

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 prices savings can be realized, or when it is in the best interest of the university 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 the university, unless there is no alternative and the payments are approved in advance by the University Controller.

L. Late Payments

Payment Deadline -- A state agency's payment is overdue by the 31st day after the later of the following (in accordance with [Texas Government Code § 2251.021](#)):

- the date the agency receives the goods;
- the date the vendor completed performing its services for the agency;
- the date the agency receives a correct invoice for the goods and services.

Liability for Interest -- If MSU does not mail or electronically transmit a payment to a vendor or the vendor's financial institution by the applicable due date, then MSU is liable to the vendor for interest in compliance with the following provisions:

- Beginning on the day after the payment is due, daily interest accrues on the unpaid balance at the rate of 1.0% per month unless otherwise contracted. The interest ceases to accrue on the date MSU mails or electronically transmits the payment to the vendor or the vendor's financial institution;
- Effective September 1, 1999, the State of Texas Comptroller's Office shall compute interest imposed on the state agencies for late payment. The interest will be paid at the time the payment is made on the principal. The Comptroller shall also submit the interest payment with the net amount due for goods and services. The Comptroller or a state agency may not require a vendor to petition, bill, or wait an additional day to receive the interest due.

If a department recognizes any reason for which a payment should not be processed, the department is responsible for immediately notifying the Purchasing Department so that the following dispute procedures may be initiated.

Disputes Between State Agencies and Vendors -- If a department believes that an invoice from a vendor is erroneous (e.g. the invoice does not match the items ordered/received, is not understandable, or does not reference the corresponding order number, the University's full name, number and delivery address), the University must notify the vendor in writing by the 21st day after receipt of the invoice. If a dispute between the University and vendor is resolved in the vendor's favor, the University is liable to the vendor for interest on the invoice. This interest must be calculated from the original due date of the payment, as if no dispute ever existed. If a dispute between the University and a vendor is resolved in the university's favor, the vendor must submit a corrected invoice to the University.

Note: A purchase order must be issued prior to placing an order for commodities or services with a vendor. An invoice received with a purchase order request will be considered non-compliant. An invoice which is received by the Purchasing Department that is dated before the date the purchase order is issued will be considered non-compliant.

If a department has instructed a vendor to bill directly to the department instead of the Purchasing Department, then the ordering department is responsible for documenting on the invoice by date stamp or other method, the date the invoice was received by the ordering department. It is imperative that ordering departments approve and submit invoices to the Purchasing Department as soon as possible to allow sufficient time for payment. Delays in forwarding the invoice for payment by the ordering department may cause late payment fees to be charged to the ordering department.

M. Receipt of Goods and Services

All commodities purchased through the Purchasing Office using a purchase order must be delivered to Central Receiving. The following purchases may be excluded from this delivery requirement:

- Items being delivered under delegated purchase authority to the library, bookstore, or food services
- Delegated purchases made using the procurement card (PCard)
- Items which require installation by the contractor
- Items specifically authorized for delivery directly to the ordering department by the Purchasing Office
- Items marked as Toxic and/or Hazardous Materials. These items will be routed to Central Receiving to count the boxes and compare to the freight bill. Central Receiving will either direct the delivery company to the ordering department to complete the delivery or deliver the package(s) themselves. The ordering department is responsible for opening and inspecting the items. The ordering department will be responsible for notifying Central Receiving of any discrepancies or damaged goods. Timely submittal of receiving information is essential to effectively handle freight claims, shortages, or discrepancies.

Ordering departments meeting the exemptions above are responsible for submitting direct delivery of goods documentation to Central Receiving and invoices (payment documentation) to the Purchasing Office.

Departments failing to forward received invoices to the Purchasing Office (Accounts Payable) in a timely manner may be responsible for late payment penalties/interest.

Requisitioning departments must inspect all shipments delivered by Central Receiving against the purchase orders and report any discrepancies to the Purchasing Office. Any discrepancy, including non-compliance with specifications, shortages, overages, and any damages must be reported immediately, but no later than 15 days after receipt of goods and/or services.

Substitution of items called for in a contract is not permitted without the Purchasing Office's prior approval. No approval will be granted unless substituted items are of equal quality and are offered at the same or lower price.

Items and/or services must comply with the written specifications contained within the purchase order and/or contract. Failure to do so by the vendor will result in non-payment to the vendor.

N. Notification to Purchasing

Notify the Purchasing Department when any of the following situations occur:

- Reporting Vendor Performance - When an ordering department first experiences a relatively minor problem or difficulty with a vendor, the department should contact the Purchasing Department. The Purchasing Department will immediately contact the vendor to attempt an informal resolution to the problem. If the initial attempt is unsuccessful then the Purchasing Department will follow the guidelines established by the Texas Comptroller of Public Accounts Statewide Procurement Division (SPD) for reporting vendor performance.
- Cancellation of Orders - Items or orders may be canceled without the consent of the vendor due to failure to fulfill their contractual obligations. If cancellation is requested by an ordering entity for some other reason through no fault of the vendor, the vendor's permission to cancel is necessary.
- Shipments from Canceled Orders - Ordering departments are not under any obligation to accept shipments from canceled orders. However, if it is in the ordering department's best interest to accept the shipment, the order should be reinstated. If the ordering department does not want the shipment, then they should notify the vendor and handle it in the same manner they would any item not ordered.
- Shortages - Any shortages of shipping containers, cartons, etc. are to be noted on the shipping document and the shipment accepted.
- Inspecting Merchandise - When merchandise is being delivered to a department, under one of the exemptions listed in Section (m), when unpacked, uncrated, etc., it should be checked against a copy of the purchase order for concealed damages, shortages, and compliance with the order's specifications. The carrier cannot be held responsible unless shipments are checked immediately upon arrival, and written reports are made to the carrier within 15 days of receipt.
- Substitutions - Substitutions must be approved by the Texas Comptroller of Public Accounts Statewide Procurement Division (SPD), on term contracts. All other orders, the Purchasing Department must approve the substitution after checking with the ordering department for approval.
- Failure to Meet Specifications - Notify the vendor in writing and request that the problem be corrected. A copy of all correspondence should be sent to the Purchasing Department. If it is a formal bid which was processed by the Purchasing Department, the original notification of failure should be mailed to the vendor by the Purchasing

Department. Payment to the vendor should be withheld until the merchandise meets or exceeds all specifications without exception.

IV. Related Constitutional Provisions, Statues, Rules, Policies, Forms, and Websites

Related Codes:

- [Texas Government Code 572.001](#)
- [Texas Government Code 2107.008](#)
- [Texas Government Code 2251.021](#)
- [Texas Government Code 2155.001](#)
- [Texas Government Code 2252.903](#)
- [Texas Government Code 2254.001](#)
- [Texas Education Code 51.9335](#)
- [Human Resources Code, Chapter 122](#)
- [34 Tex. Admin. Code § 20.82](#)

Related University Policies and Procedures:

- [Texas Tech University System Regulations](#)
- [Texas Tech Regents' Rules](#)
- [Texas Tech University System Contract Management Handbook](#)
- [MSU Procurement Card Guide](#)
- [MSU OP 30.01 : MSU Contract Management Handbook](#)
- [MSU OP: 30:03 Consultants](#)
- [MSU OP 30.04 : Professional Services](#)
- [MSU OP 54.03: Historically Underutilized Businesses \(HUB\)](#)
- [MSU OP 54.04: Disposition of Surplus or Salvage Property](#)
- MSU OP 54.05: Conflict of Interest Relating to Purchasing, Payments and Contracts

Websites

- [Texas Smartbuy](#)
- [Purchasing/Contract Management \(Resources\)](#)
- [Electronic State Business Daily \(ESBD\)](#)

V. Responsible Offices

Contact: Vice President of Administration and Finance
Phone: 940-397-4237

Contact: Director of Purchasing and Contract Management
Phone: 940-397-4277

VI. History

14 Dec. 2022: Adopted and approved by MSU President JuliAnn Mazachek as MSU Operating Policy/Procedure (OP) 54.01: Purchase of Goods and Services. These policies and procedures were previously contained in the University's fiscal regulations and procedures.