This procedure is developed to provide structure and form to the procurement process for the university and to comply with Texas Education Code 51.9335 and Texas A&M System Regulation 25.07.03.

The Texas Education Code 51.9335 provides a general description of the requirements for the acquisition of goods and services by institutions of higher education and this procedure provides guidelines to minimize risks associated with the procurement of goods and services and allow the university to carry out its fiduciary responsibilities.

1. GENERAL

1.1 All purchases must comply with university purchasing procedures. Each purchase must be fully documented with all documents retained in accordance with the university's records retention schedule.

There are three types of purchasing authorities:

(1) purchases processed directly through and by the Department of Procurement and Disbursements;
(2) purchases delegated to specific departments, e.g., Library with no dollar limit, and;
(3) purchases delegated to all departments with a stated dollar limit of $5,000 either by using the procurement credit card or limited purchase orders through FAMIS.

Purchases requiring a written contract, other than the university standard purchase order, must be in compliance with the provisions of System Policy 25.07: Contract Administration, and System Regulation 25.07.01: Contract Administration Procedures and Delegation. In this case, the Procurement and Disbursements Department may assist to initiate contract reviews through the Department of Contract Administration, if appropriate.

1.2 Unless specifically exempted (See Section 2.3.8), the following procurement methods must be utilized for purchases over $25,000: competitive bidding; competitive sealed proposals; group purchasing; and alternate methods relevant to specific application of goods or services purchased.
1.3 Purchases over $25,000 made pursuant to a restricted gift, contract or grant shall be procured through a process that is based on best value as described in Section 1.4 below and within the procurement requirements as outlined in sponsor or donor restriction and regulations.

1.4 All purchases shall be based on “best value” and shall encompass the following: purchase price; reputation of the vendor and of the vendor’s goods or services; quality of the vendor’s goods or services; extent to which the goods or services meet the university’s needs; the vendor’s past performance with the university; impact on the ability of the university to comply with laws and rules relating to Historically Underutilized Businesses (HUBs) and to the procurement of goods and services from persons with disabilities; total cost of ownership to the university of acquiring vendor’s goods and services; use of material in construction or repair to real property that is not proprietary to a single vendor unless the university provides a written justification in the request for bids of the unique material specified; and any other relevant factor that a private business entity would consider in selecting a vendor.

1.5 Proprietary purchase requisitions, those that can only be purchased from a single source, must be properly justified, in writing, before the Department of Procurement & Disbursements may process the requisition. All proprietary purchase requisitions are reviewed for appropriate justification by the assigned buyer and then reviewed by Senior Buyer. All Sole Source purchase requisitions over $100,000.00 must be reviewed with the Director of Procurement & Disbursements. At any point in the proprietary purchase review process, the reviewer may forward the request to the next level supervisor for their review and approval regardless of the dollar value.

2. PURCHASE PROCEDURES

2.1 Delegated Departmental Purchases

The Department of Procurement and Disbursements has delegated the authority to departments to make purchases of goods and services for $5,000 or less (including freight and/or postage). All employees making purchases under this delegated purchasing authority shall adhere to the Texas A&M University System Ethics Policy 07.01.

2.1.1 Purchases within these dollar limits require proper documentation on the Limited Purchase Screens in the Purchasing Module or as provided in the University Guidelines for Procurement Card purchases. Purchases may not be broken down into small purchases in order to meet the authorized limit of authority. In the event a purchase or series of purchases (that appropriately should have been combined into a single purchase) are made exceeding the $5,000 delegated authority, the department shall submit a non-compliant memo explaining the circumstances surrounding the separate purchases. Furthermore, all purchases must be encumbered and approved within the FAMIS purchasing module prior to placing order for goods and services, except when using a procurement credit card. An order placed before this process is called an “After the Fact” (AFT), and is considered a purchasing procedure violation. Payment request for AFT must be submitted on a voucher create with a memo justifying the event and steps taken to avoid future purchases.

The department shall return the completed ATF form to the Director of Procurement and Disbursements or the Senior Buyer. Upon receipt of the ATF justification memo, the Department of Procurement and Disbursements will authorize Accounts Payable to process the
non-compliant purchase order or voucher. The Director has the authority to approve non-compliant payments to vendors that do not exceed $100,000. All non-compliant payment requests greater than $100,000 must be reviewed by the Executive Director of Administrative Services or designee.

If the Department of Procurement and Disbursements determines that a department or employee has excessive violations within the fiscal year, they may be required to submit a memorandum to the Executive Director of Administrative Services explaining why the proper procurement procedures were not followed. Based upon the justification provided, the Executive Director of Administrative Services will take action(s) deemed appropriate for the infraction. Possible actions shall include the following: (a) requiring an attendance to Purchasing 101 Policy and Procedure Workshop; (b) requiring employee to be personally responsible for payment of goods/services to vendor; and (c) revoking delegated purchasing authority.

2.1.2 Departments shall provide equal opportunity and access to all vendors for the purchase of goods and commodities. Departments shall identify and utilize HUBs for purchase of goods and services, whenever possible. The Department of Procurement and Disbursements will assist in identifying HUBs for such purchases. Identification of online HUBs listing may be found at http://adminservices.tamucc.edu/contracts_hub_property/assets/hubvendors.pdf.

2.1.3 Departments shall purchase goods and services, whenever possible, from persons with disabilities. TIBH (formerly known as Texas Industries for the Blind and Handicapped Industries, Inc.) helps provide employment through the State Use Works Wonders Program for Texans with blindness and other disabilities. Online catalog for TIBH may be found at http://www.tibh.org/shop.php.

2.1.4 The State of Texas has vendor awarded contracts are available for use by all state agencies and institutions of higher education. Information on the types of goods or commodities available on state contracts may be found at http://www.cpa.state.tx.us/procurement/. Departments are highly encouraged to review and utilize the state contracts listed under Term Contracts and Texas Multiple Award Schedules (TXMAS) whenever possible.

2.1.5 TAMU-CC participates in the Texas A&M System Strategic Sourcing Initiative developed by the Department of Strategic Sourcing & Purchasing in College Station. This is a system-wide Master Agreement for university-wide purchases. For a detailed description of the available university contracts, visit http://purchasing.tamu.edu/ssps/suppmall/index.asp.

2.2 Purchases Processed Through Department of Procurement and Disbursements

All purchases in excess of the authorized departmental purchase limit (over $5,000) shall be submitted as a requisition to the Department of Procurement and Disbursements. Departments may recommend a vendor for those procurements from $5,000 to $25,000 as this level of procurement does not require competitive bids. Upon receipt of the purchase requisition, the Department of Procurement and Disbursements will determine the appropriate method of procurement if a recommended vendor is not provided by the department and process accordingly. The Department of Procurement and Disbursements will solicit bids (formal or informal), utilize HUB, TIBH, other state contracts or requests for proposals and make an award
for all requisitions over $25,000.

2.3 Purchase Categories

The following purchase categories determine the process in which goods and services are obtained:

2.3.1 State Contracts

The State of Texas vendor awarded contracts that are available for use by all state agencies and institutions of higher education. These contracts are either non-automated or automated state contracts. Information regarding these types of goods is available at: [http://www.cpa.state.tx.us/procurement/](http://www.cpa.state.tx.us/procurement/).

2.3.2 Emergency Purchases

2.3.2.1 An emergency purchase is defined as a purchase of goods or services that if not secured immediately, the department will suffer financial loss or operational damage. Departments shall contact the Department of Procurement and Disbursements for assistance in handling emergency purchases. If the emergency occurs after normal business hours, department shall notify Department of Procurement and Disbursements the next business workday.

2.3.2.2 A written emergency justification is required for this type of purchase. While bids are not required, departments are encouraged to obtain bids if at all possible.

2.3.3 Services

2.3.3.1 Purchase of services is defined as furnishing of skilled/unskilled labor or professional work, but does not include: (1) professional service subject to Subchapter A, Chapter 2254 of the Texas Government Code; (2) service of a state agency employee; (3) consulting service or (4) service of a public utility.

2.3.3.1.1 Requisitions must be submitted for the purchase of services and the award must be issued before service begins. If the service can only be provided by a sole source provider, a letter of justification explaining why the service is needed and why it cannot be obtained competitively must be submitted with the requisition. For services with an estimated value less than $5,000, the department may purchase services using delegated authority.

2.3.3.1.2 If a service will be required and rendered throughout the fiscal year with an estimated cumulative value that exceeds $25,000, a requisition must be forwarded to Department of Procurement and Disbursements.
2.3.3.2 Rental of Machines and Equipment: Rental of machines and equipment that do not include an operator are considered goods; and rentals that include an operator provided by the supplier are considered services.

All rentals in excess of $5,000 must be processed through the Department of Procurement and Disbursements prior to the date of required use. For rentals with an estimated value less than $5,000, the department may purchase the services using their delegated authority.

2.3.4 Information-Technology Hardware, Software and Services.

2.3.4.1 The University’s Information Technology Department must approve the purchase, lease, or other acquisitions of any information-technology-related hardware, software, or services before the acquisition can be made by Procurement & Disbursements.

2.3.4.2 All software with a cost in excess of $100,000 is classified as capital equipment per the State of Texas GASB 51 and must be inventoried. All purchase requisitions over $5,000 for software shall be sent to the Department of Procurement and Disbursements for processing.

2.3.4.3 Software with a cost not exceeding $5,000 and requires the execution of a third party contractor license must be submitted to the Contract Administration for review prior to any commitment for the purchase of the software. Only the Contract Administration has authority to execute license agreements.

2.3.4.4 Software is allowed on Procurement Card if the cost is $500.00 or less and there are no recurring costs.

2.3.5 Use of Private Consultant

2.3.5.1 Consulting services of $5,000 or less may be by a delegated purchase using limited purchase order through FAMIS.

2.3.5.2 Consulting services in excess of the delegated authority shall be requisitioned through the Department of Procurement and Disbursements.

2.3.5.3 Consulting services will be procured in accordance with the best value standards in Texas Educational code, Section 51.9935.

2.3.5.4 Contracts should be utilized when using consulting services.

2.3.6 Lease of Space

All lease-of-space requests for Texas A&M University-Corpus Christi must be submitted to the Department of Procurement and Disbursements. If a department requests a
contract involving lease of space on/or off-campus, the contract must be submitted to TAMU System Real Estate for review and approval. A purchase requisition and specific lease information must be submitted to the Department of Procurement and Disbursements to initiate the lease process.

2.3.7 Lease/Purchase of Installment Payment Purchase

2.3.7.1 Requests for all lease-purchases or installment payment purchases shall be submitted to the Contract Administration. The Contract Administration will assist departments in developing lease-purchase specifications, determining available lease-purchase options, and obtaining the required approvals.

2.3.7.2 The Director of Contract and Property is authorized to approve lease-purchases of $100,000 or less with a term of five years or less.

2.3.7.3 The Executive Vice President for Finance and Administration is authorized to approve a lease/purchase of more than $100,000, but not to exceed $200,000 with a term of five years or less. The President must sign lease/purchases over $200,000.

2.3.7.4 The Texas Bond Review Board is required to approve any lease purchase or installment payment purchase in excess of $250,000 or having a stated term longer than five years, if state-appropriated funds are utilized.

2.3.8 Exempt Purchases

The following goods or services are exempt from competitive bidding requirements, may be purchased by departments regardless of dollar amount and when applicable must follow TAMUCC “President’s Delegation of Authority for Contract Administration”.

1. Classified Advertising: expenses such as newspaper and magazine, radio, television, billboards, classifieds, yellow page ads, and all other printed advertisements (does not include fees paid to public relations or advertising firms for their services in developing or executing coordinated campaigns or programs).
2. Conference Expense: expenses related to conference room services such as audio/visual/network and food services.
3. Moving Expenses: (employee) Institutional funds only.
4. Lecturers/Guest Speakers: fees for speakers/lecturers hired on a one-time basis (does not include fees for speakers/lecturers on a continuous basis).
5. Student Travel: expenses related to student travel with the exception of air and bus charter.
7. Legislative information services; bill analysis services.
8. Membership fees and dues.
9. Newspaper and magazine subscriptions direct from the publisher.
10. Freight and Express Delivery Services.
(11) Services provided by other State of Texas agencies or by other local governments. (Inter-agency and Inter-local agreements must be reviewed by the Department of Contract Administration.)

(12) Intra-agency payments.

(13) Registration fees and associated books and materials.

(14) Rental of exhibit space (such as booths for display purposes).

(15) Goods and services provided by the Texas Department of Criminal Justice.

(16) Goods and services provided by TIBH

(17) Internal repairs.

(18) Purchases from Federal agencies.

(19) Utilities (including Telecommunications long distance & monthly charges)

(20) Artists (Painters, Sculptors, Compositions, Performers)

(21) Group Purchasing Programs (Co-Op)

(22) Performing Artists (Music, Entertainment)

(23) Purchases from the GSA Contracts

(24) Purchases from Department of Information Resources (DIR)

(25) Works of Art

(26) Hotels and Conference Rooms

(27) Postage

(28) Software

(29) Employee & Prospective Employee Travel

3. PURCHASE OF EQUIPMENT WITH FEDERAL FUNDS

3.1 Where appropriate, an analysis of lease and purchase alternatives shall be made by Department of Procurement and Disbursements to determine the most economical and practical procurement utilizing Federal funds in excess of $5,000.

3.2 The University shall, on request, make available for the Federal awarding agency, pre-award review and procurement documents, such as request for proposals or invitation for bids, independent cost estimates, etc., when any of the following conditions apply:

(1) A recipient’s procurement procedures or operation fails to comply with the procurement standards in the Federal awarding agency’s implementation of OMB’s Circular A-110.

(2) The procurement is expected to exceed the small purchase threshold fixed at 41 U.S.C. 403 (11) (currently $25,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

(3) The procurement, which is expected to exceed the small purchase threshold, specifies a “brand name” product.

(4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under sealed bid procurement.

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

3.3 All purchase order awards shall contain the following provisions as applicable:


3.3.2. **Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c)** – All contracts and sub-grants in excess of $2,000 for construction or repair awarded by recipients and shall include a provision for compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or grants from the United States”). The Act provides that each contractor or sub-recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

3.3.3. **Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)** – When required by Federal program legislation, all construction contracts awarded by the recipients and sub-recipients of more than $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination.

3.3.4. **Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)** – Where applicable, all contracts awarded by recipients in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR Part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

3.3.5. **Rights to Inventions Made Under a Contract or Agreement** – Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR Part 401, “Rights to Inventions
Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

3.3.6. **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended** - Contracts and sub-grants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

3.3.7. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** – Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

3.3.8. **Disbarment and Suspension (E.O.s 12549 and 12689)** – No contract shall be made to parties listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with E.O.s 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

**Contact for Interpretation:** Department of Procurement and Disbursements

**GOVERNING STATUTE**
Texas Education Code, 51.9335(a)-(e)