
PURCHASE OF PROFESSIONAL SERVICES

A. Purpose

The purpose of this policy is to ensure the procurement of professional services at The University of Texas Rio Grande Valley (UTRGV) complies with Chapter 2254 of the *Texas Government Code* and other applicable law.

B. Persons Affected

This policy applies to all employees who participate to any extent in the procurement of professional services.

C. Policy

1. *Purchase of Professional Services Generally:*

UTRGV may select a provider of professional services and enter into an agreement for the provision of professional services, so long as:

- a. the award of the agreement is based on the provider's demonstrated competence and qualifications for the type of professional services to be performed; and
- b. the price of the services is a fair and reasonable price consistent with, and not higher than, the published recommended practices and fees of the applicable professional association and the maximum provided by any state law.

Professional services are not allowed to be awarded on the basis of competitive bids. To assist in evaluating the competence and qualifications of a provider, the Purchasing Department may issue a Request for Qualifications to solicit responses from qualified professionals. Upon selection of the most qualified professional services provider that charges a fair and reasonable fee, the Purchasing Department will execute a Professional Services Agreement with that provider.

Rule 80403 of The University of Texas System Board of Regents' *Rules and Regulations* provides additional guidelines on professional services contracts related to minor construction and rehabilitation projects less than \$10,000,000, with which UTRGV must comply.

2. *Purchase of Architectural, Engineering, or Land Surveying Services:*

The purchase of architectural, engineering, or land surveying services must be made through the two-step negotiation process described below.

- a. The first step involves the initial selection of the person or firm to provide the services

based on demonstrated competence and qualifications. Depending on the size of the project and the anticipated value of the contract, the selection may be made on a formal or informal basis.

- b. The second step involves negotiating a contract at a fair and reasonable price. If UTRGV is unable to negotiate a satisfactory contract with the most highly qualified person or firm, then the Purchasing Department will formally end negotiations with that person or firm and begin negotiations with the next most qualified person or firm. This sequence must continue until a satisfactory contract is negotiated or the procurement process is otherwise terminated.

3. *Effect of Noncompliance:*

This policy and any related procedures that may developed by the Purchasing Department from time to time are designed to ensure that contracts or agreements for professional services are in compliance with Chapter 2254, *Texas Government Code* and other applicable state law. Contracts or agreements made in violation of Chapter 2254, *Texas Government Code* are prohibited and void. Consequently, failure to adhere to this policy and any related procedures in the procurement of professional services may void that particular contract or agreement.

4. *Professional Services from Employees of other UT Institutions:*

If the individual recommended for providing professional services to UTRGV is an employee of another University of Texas institution, prior written approvals of the other institution's President and of the President of UTRGV are required. It is the responsibility of the department head seeking the professional services to disclose this fact to the Purchasing Department.

All travel expenses provided to an employee of another UT institution must be in accordance with UTRGV's travel policies and procedures. If UTRGV is paying for travel expenses, a copy of the other institution's travel authorization for the employee must be provided to the Purchasing Department. The authorization must document all required institutional administrative approvals and reflect that no travel expenses will be requested by the employee.

5. *Professional Services from Former or Retired UTRGV Employees:*

No funds appropriated by the General Appropriations Act may be used to enter into a contract or agreement for professional services with any individual who has been previously employed by UTRGV within the past twelve months. UTRGV may enter into a professional services contract with a corporation, firm, or other business entity that employs a former or retired UTRGV employee within twelve months of leaving UTRGV, provided that the former or retired employee does not perform services on projects the employee worked on for the corporation, firm, or other business entity while employed by UTRGV.

6. *Payment:*

The Purchasing Department will create a purchase order for encumbrance and payment purposes. The Purchase Order must specifically state that (1) the Purchase Order is subject to the terms of the professional services agreement and (2) if there are any conflicts between the purchase order and the professional services agreement, the professional services agreement will control. Insufficiency of funds will cause the request for professional services to be rejected and returned to the requesting department.

The project coordinator identified by the requisitioning department will be responsible for communicating with the Accounts Payable Office when payment is due in accordance with the terms of the agreement. The project coordinator must obtain all original invoices for fees and receipts for travel and lodging expenses and submit them to the Accounts Payable Office immediately upon receipt.

7. *Documentation Requirements:*

UTRGV will maintain documentation showing the types of professional services performed and how UTRGV's award of a contract for professional services complied with Chapter 2254, *Texas Government Code*.

D. Procedures

Procedures and Responsibilities are available in the Procurement Office Procedures Manual.

E. Definitions

1. Department Head - A UTRGV department head, director, dean, divisional vice president, or the President as applicable.
2. Professional Services – means services:
 - a. Within the scope of the practice, as defined by state law, of:
 - i. accounting;
 - ii. architecture;
 - iii. landscape architecture;
 - iv. land surveying;
 - v. medicine;
 - vi. optometry;
 - vii. professional engineering;
 - viii. real estate appraising; or
 - ix. professional nursing; or
 - b. provided in connection with the professional employment or practice of a person who is licensed or registered as:

- i. a certified public accountant;
- ii. an architect;
- iii. a landscape architect;
- iv. a land surveyor;
- v. a physician, including a surgeon;
- vi. an optometrist;
- vii. a professional engineer;
- viii. a state certified or state licensed real estate appraiser; or
- ix. a registered nurse.

For the purposes of this policy, any services performed by a person or entity that are not included in the definition of “professional services” as set forth in Section 2254.002 (2) of the *Texas Government Code* are not professional services, even if such services are performed by a person or entity that additionally performs professional services. For example, the fact that an accounting firm also performs management consulting services does not mean that such management consulting services are “professional services” as defined in Section 2254.002 (2) of the *Texas Government Code*.

3. Request for Qualifications - Solicitation documents used for procurement of professional services.

F. Related Statutes or Regulations, Rules, Policies, or Standards

[Texas Government Code Chapter 2254, Subchapter A -- Professional Services](#)

[University of Texas System Board of Regents' Rules and Regulations Rule 80403, Minor Construction and Repair and Rehabilitation Projects](#)

[University of Texas System Board of Regents' Rules and Regulations Rule 10501, Delegation to Act on Behalf of the Board](#)

G. Dates Reviewed or Amended

Reviewed and amended – 09/24/2018