

[Minor revision–posted 6/16/21 (replaces 8/1/18 edition)]

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TEXAS TECH UNIVERSITY®

## OPERATING POLICY AND PROCEDURE

### OP 72.12: Historically Underutilized Businesses

**DATE:** June 16, 2021

**PURPOSE:** The purpose of this Operating Policy/Procedure (OP) is to establish the policy and outline the procedures for the utilization of Historically Underutilized Businesses (HUBs) for the purchases of goods and services by the Texas Tech University System and its component institutions. This OP shall apply to all purchases of goods and services regardless of source of funds used for payment.

**REVIEW:** This OP will be reviewed in June of every even-numbered year by the Senior Vice President for Administration & Finance and Chief Financial Officer and the Vice Chancellor for Facilities Planning &

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Construction with substantive revisions forwarded to the President.

## **POLICY/PROCEDURE**

### **1. Policy**

a. The state of Texas is committed to providing procurement and contracting opportunities for businesses owned by minorities and women. It is the state's policy to create an environment that will enhance Historically Underutilized Business (HUB) participation in state procurements and contracts. Consequently, Texas Tech will make a good faith effort to increase the award of goods, services, and construction contracts to HUBs and HUB subcontractors in accordance with the Texas Comptroller's adopted rules.

b. Texas Tech will make a good faith effort to utilize HUBs in contracts and purchases awarded in accordance with the percentages adopted and posted on the websites by Texas Tech or the TTU System each fiscal year.

All Texas Tech and TTU System 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.

#### **c. Definition**

(1) HUB is defined by statute as a corporation, sole proprietorship, partnership, joint venture, or a supplier contract between a HUB and a prime contractor that has not exceeded size

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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 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.

(2) A Mentor-Protégé Program is a program designed by the Texas Comptroller to assist agencies in identifying prime contractors and HUBs partners to foster long-term contractual relationships. Mentor-Protégé agreements shall be established by Procurement Services for Texas Tech contracts and by Facilities Planning & Construction for TTU System construction contracts.

## **2. Responsibilities**

a. The President of TTU will designate a HUB coordinator who will be at least equal in position to the institution's procurement director. The Chief Procurement Officer may serve in this capacity, and the Vice Chancellor for Facilities Planning & Construction, as the 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

& Construction, pursuant to Section 07.13, *Regents' Rules*. The HUB coordinators shall coordinate programs to recruit, identify, and certify HUBs; report any required information; and match HUBs with appropriate procurement opportunities.

b. 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 Texas Tech employees participating in the purchase of goods and services will be held accountable for adhering to the requirements of this OP.

c. 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 institution's acquisition of goods and services.

The HUB coordinators will also:

(1) Provide potential bidders/proposers with the CMBL website, HUB Directory, and/or other directories when searching for HUB subcontractors;

(2) Determine whether specific TTU/TTU System goals are appropriate;

(3) 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

- (4) Encourage the utilization of firms that commit to using certified HUB firms to provide a portion of the goods and services.

### **3. Historically Underutilized Business Subcontracting**

- a. 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 contractor's solicitation response. Responses that do not include the HUB subcontracting plan and responses that Texas Tech/TTU System determines were not developed in good faith may be rejected as a material failure to comply with advertised specifications.
- b. 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.
- c. Contractor pay vouchers and supporting documentation shall be reviewed for compliance with any awarded contract, purchase order, or HUB subcontracting plan.
- d. Texas Tech/TTU System will require prime contractors to put forth a good faith effort in establishing contracts with HUB qualified subcontractors. HUB subcontracting performance

will be criteria incorporated in the vendor evaluation. Documentation of good faith efforts by the contractor during the procurement process includes, at a minimum, the following:

- (1) Whether the contractor divided the contract work into reasonable portions in accordance with prudent industry practices;
- (2) Whether the contractor sent notices containing adequate information about bonding, insurance, the plans, the specifications, scope of work, and other requirements of the contract to three or more qualified HUBs, providing no less than seven working days' notice to potential subcontractors;
- (3) Whether the contractor negotiated in good faith with qualified HUBs, not rejecting qualified HUBs who were also the best value respondent;
- (4) Whether the contractor documented reasons for rejection or met with the rejected HUB to discuss the rejection. Documentation should include the dollar amount of each response submitted;
- (5) Whether the contractor advertised in general circulation, trade association, and/or minority/women-focused media sources concerning subcontracting opportunities; and
- (6) Whether the contractor assisted non-certified HUBs to become certified.

e. 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, Texas Tech/TTU System may, in addition to any other remedies, report non-performance to the Texas Comptroller and/or cancel the existing contract.

f. Contractors will:

(1) Make all reasonable efforts to maintain their stated HUB participation goal, regardless of the changed scope of goods or services in the contract; and

(2) Prepare and submit established forms within the time designated on each form.

g. The contractor's past performance in meeting the requirements outlined in the award may be a consideration in determining future awards of Texas Tech/TTU System contracts.

#### **4. 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.

a. A HUB report will be produced monthly to assess agency awards made to HUBs. The report will identify total purchases, type of purchases by category, amount allocated to each HUB category, and percentage of HUB participation.

- b. Monthly reports will be generated and sent to the President, the appropriate vice chancellors, vice presidents, deans, department chairs, etc., to determine current HUB participation by departments in their acquisition programs. Departments will be expected to make a good faith effort to comply with Texas Tech/TTU System HUB goals.
- c. Bi-annual reports will be prepared and submitted to the Texas Comptroller by March 15 and September 15 each year.
- d. Reports to the Board of Regents will be provided as requested.



## Operating Policies & Procedures

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