

Texas Woman's University University Regulation and Procedure

Regulation and Procedure Name: Historically Underutilized Businesses

**Regulation and Procedure
Number: URP: 04.300**

Policy Owner: Finance and Administration

POLICY STATEMENT

The purpose of this University Regulations and Procedure (“URP”) 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 Texas Woman’s University (TWU). This URP shall apply to all purchases of goods and services regardless of source of funds used for payment.

APPLICABILITY

This policy is applicable to TWU Employees, Faculty, and University Affiliates.

DEFINITIONS

1. “HUB” means:
 - a. A for-profit entity that has not exceeded the size standards prescribed by 34 TAC §20.23;
 - b. Has its principal place of business in Texas; and
 - c. Is at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American, American woman, or service-disabled veteran who reside in Texas and actively participate in the control, operations and management of the entity’s affairs.
2. “A Mentor-Protégé Program” means a program designed by the Texas Comptroller to assist agencies in identifying prime contractors and HUBs.
3. “University Affiliate” means any individual associated with TWU in a capacity other than as a Student or Employee who has access to TWU resources through a contractual arrangement or other association. This includes the following individuals:

- a. Contractors and Vendors: an individual, business, or governmental entity that has a fully executed contract to provide goods or services to TWU. This includes employees of contractors or vendors and independent contractors.
- b. Employee of a Governmental Agency: an individual employed by a federal or Texas state agency.
- c. Employee of a TWU-Affiliated Institution: an individual who works for organizations that are tightly aligned with the University.
- d. Pre-Employment Individual: an individual who will be hired by the University and the hiring department has sponsored their access to TWU resources.
- e. Other University Affiliate: any individual who does not fit into any other category and needs access to TWU resources.

REGULATION AND PROCEDURE

I. 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, TWU will make a good faith effort to increase the award of goods, services, and construction contracts to HUBs in accordance with the Texas Comptroller's adopted rules.
- B. Texas Woman's University will make a good faith effort to utilize HUBs in contracts and purchases awarded in accordance with the percentages adopted by TWU each fiscal year.
- C. All Texas Woman's University offices and departments shall identify and ensure that businesses owned by HUBs are given an equal opportunity to bid/propose on commodities.

II. Responsibilities

- A. The Chancellor and President will designate a HUB coordinator who will be at least equal in position to the institution's procurement assistant vice president. The procurement assistant vice president may serve in this capacity. The HUB Coordinator will designate an Associate HUB Coordinator and an Assistant HUB Coordinator. These three individuals will comprise the HUB team for TWU. The HUB team shall coordinate programs

to recruit, identify and certify HUBs, report any required information and match HUBs with appropriate procurement opportunities.

- B. The HUB team is responsible for obtaining and utilizing the Centralized Master Bidders List (“CMBL”) as the primary reference list for HUB vendors. All TWU employees participating in the purchase of goods and services will be held accountable for adhering to the requirements of this URP.
- C. The HUB team 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 team will also:
 - 1. Provide potential bidders/proposers with the CMBL website, HUB Directory, and/or other directories when searching for HUB subcontractors;
 - 2. 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
 - 3. Encourage utilization of firms that commit to using certified HUB firms to provide a portion of the goods and services.

III. 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, the HUB team 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 TWU determines were not developed in good faith will be rejected as a material failure to comply with advertised specifications.
- B. The HUB team 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. TWU will require prime contractors to put forth a good faith effort in establishing contracts with HUB qualified subcontractors. 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, TWU 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 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 Woman's University contracts.

IV. Data Collection and Reporting

The HUB team will coordinate with each other and comply with all HUB reporting requirements, including bi-annual reports to the Texas Comptroller. Reports to the Board of Regents or any university department will be provided as requested.

REVIEW

This policy will remain in effect and published until it is reviewed, updated, or archived. This policy is to be reviewed once every six years. Interim review may be required as a result of updates to federal and state law or regulations, Board of Regents policies, or internal processes or procedures.

REFERENCES

None

FORMS AND TOOLS

None

Publication Date:

Next Review: