

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 Regulation 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” or “University”). 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 and University Affiliates.

DEFINITIONS

1. “Employee” means an individual who is employed part-time, full-time, or in a temporary capacity as faculty, staff, or who is required to be a student as a condition of employment, undergraduate or graduate.
2. “Historically Underutilized Business (“HUB”)” means:
 - a. A for-profit entity that has not exceeded the size standards prescribed by Title 34 Texas Administrative Code §20.294;
 - b. Is formed for the purpose of making a profit;
 - c. Has its principal place of business in Texas; and
 - d. Is at least 51% owned by one or more persons who are identified as members of one of these groups: 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.

3. "Mentor-Protégé Program" means a program designed by the Texas Comptroller to assist agencies in identifying contractors and HUBs.
4. "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 economically disadvantaged persons. Per Texas Government Code Chapter 2161 and Title 34 Texas Administrative Code Part 1, Chapter 20, Subchapter D, Division 1, it is the state's policy to create an environment that will enhance 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. TWU 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 University offices and departments shall identify and ensure that HUBs are given an equal opportunity to bid or provide proposals on commodities and services.

II. Responsibilities

- A. The Chancellor and President will designate a HUB coordinator who will be at least equal in position to the institution's Chief Procurement Officer. The Chief Procurement Officer may serve in this capacity. The HUB coordinator will designate one or more Procurement Services staff member(s) to assist with HUB efforts.

- B. The HUB coordinator or their designee(s) shall:

1. Coordinate programs to recruit, identify, and certify HUBs, report any required information, and match HUBs with appropriate procurement opportunities;
2. Obtain and utilize the Centralized Master Bidders List ("CMBL") as the primary reference list for HUB vendors;
3. Ensure all TWU employees participating in the purchase of goods and services adhere to the requirements of this URP and the guidance on the Procurement Services website;
4. Prepare, publicize, and distribute information on procurement procedures in a manner designed to encourage HUBs to participate in the University's acquisition of goods and services;
5. Provide potential bidders or proposers with the CMBL website, HUB Directory, or other directories when searching for HUB subcontractors;
6. 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;
7. Encourage utilization of firms that commit to using certified HUB firms to provide a portion of the goods and services; and
8. Establish a Mentor-Protégé Program individually or in cooperation with other state agencies or public entities to increase the ability of HUBs to contract with the University or to receive subcontracts under University contracts.

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 coordinator or their designee(s) 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 coordinator or their designee(s) 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 and vendor pay vouchers or invoices and supporting documentation shall be reviewed for compliance with any awarded contract, purchase order, or HUB subcontracting plan.
- D. TWU will require 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 and vendor divided the contract work into reasonable portions in accordance with prudent industry practices;
 - 2. Whether the contractor and vendor sent notices containing adequate information about bonding, insurance, the plans, the specifications, scope of work, and other requirements of the contract to three (3) or more qualified HUBs, providing no less than seven (7) business days' notice to potential subcontractors;
 - 3. Whether the contractor and vendor negotiated in good faith with qualified HUBs, not rejecting qualified HUBs who were also the best value respondent;
 - 4. Whether the contractor and vendor 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 and vendor advertised in general circulation, trade association, or minority or women focused media sources concerning subcontracting opportunities; and

6. Whether the contractor and vendor assisted non-certified HUBs to become certified.

- E. Failure of the contractor and vendor 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 and vendor 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 cancel the existing contract.
- F. Contractors and vendors will make all reasonable efforts to maintain their stated HUB participation goal, regardless of changed scope of goods or services in the contract, and prepare and submit established forms within the time designated on each form.
- G. The contractor's and vendor's past performance in meeting the requirements outlined in the award may be a consideration in determining future awards of University contracts.

IV. Data Collection and Reporting

The HUB coordinator will comply with all HUB reporting requirements, including biannual reports to the Texas Comptroller.

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

[Texas Government Code § 2161](#)

[34 Texas Administrative Code § 20.281-298](#)

[TWU Procurement - Historically Underutilized Business Strategic Plan Website](#)

[TWU Procurement – Purchasing Website](#)

FORMS AND TOOLS

None

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