



Purchasing Manual

Purchasing Department

- Functions of the Purchasing Department
- Code of Ethics & Conflict of Interest
- Purchasing Tools
- Unauthorized Purchases
- Best Value Purchasing
- Limits Established for Competitive Bidding
- Exemptions From Bidding or Price Comparisons
- Rules & Guidelines

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I. Function of the Purchasing Department

As a state agency, Midwestern State University is subject to many of the rules and regulations that have been established by the State and Federal government, as well as our own policies and procedures. It is the responsibility of the Purchasing Department to ensure that all purchases for goods and services requested by any department at Midwestern State University are in compliance with statutes and policies. While purchasing procedures must meet these requirements, they must also accommodate the needs of the institution and recognize the mission of Midwestern State University. The needs of the various departments are as diverse as the individuals responsible for the purchasing functions within each department. In order to meet the challenge of providing the goods and services needed by each department in a timely manner, certain levels of purchasing responsibility have been delegated to the individual departments. All employees involved in the purchasing process for their departments are responsible for understanding the limits of their authority as outlined within the Purchasing Manual and for understanding the rules and policies which govern the purchasing process that is to be used to purchase the goods or services. The Purchasing Department is available to provide training for individuals who perform the purchasing function for their departments. Department Heads or Administrators are responsible for directing their employees who need purchasing training to the Purchasing Department to coordinate any needed training, or refresher training.

II. Code of Ethics & Conflict of Interest

State officials and employees are entrusted with protecting the safety and welfare of the public's trust. All state officials and employees should endeavor to pursue a course of conduct that does not raise suspicion among the public. Therefore, they shall avoid acts which are improper or give the appearance of impropriety. This conduct is particularly important for state purchasing personnel who are charged with the disposition of state funds.

State purchasing personnel must adhere to the highest level of professionalism in discharging their official duties. The nature of purchasing functions makes it critical that everyone in the purchasing process remain independent and free from the perception of impropriety. Any erosion of public trust or any shadow of impropriety is detrimental to the integrity of the purchasing system. Therefore, with these principles in mind and in accordance with state law, the following policies and procedures should be adhered to by all Midwestern State University employees, vendors, and potential vendors. (*Fiscal Regulations & Procedures – Item #5-2. Purchasing Ethics*)

A Midwestern State University Employee May Not:

- Have an interest in, or in any manner be connected with a Midwestern State University contract or bid for the purchase of goods or services including participating in work on a contract knowing that the employee, or member of their immediate family has an actual or potential financial interest in a contract, including prospective employment;

- Solicit or accept anything of value whether by gift, rebate, service or favor from a person to whom a Midwestern State University contract may be awarded, directly or indirectly;
- Contract for future reward or compensation from an actual or potential vendor in exchange for a promise or other obligation on a contract;
- Knowingly disclose confidential information acquired in the course of one's official duties for personal gain;

A Vendor or Potential Vendor May Not:

- Offer, give, or otherwise agree to give an employee or an employee's relatives anything of value in exchange for a promise or other consideration in awarding a contract.

If a Violation Occurs:

- When an actual or potential violation of any ethical standard is discovered, the person or persons involved shall promptly file a written statement regarding the matter and request written instructions for the disposition of the matter from their immediate supervisor.
- If an actual violation occurs or is not disclosed the employee involved may be reprimanded, suspended, or dismissed from employment. Any vendor or potential vendor that is determined to have acted unethically may be barred from receiving future contracts and/or have any existing contracts canceled.

III Purchasing Tools

The following tools are provided to make the purchasing process as easy as possible while maintaining adequate financial controls. Purchases that do not utilize one of these tools are considered unauthorized.

A. Procurement Card

Orders for supplies and small items may be purchased with a University credit card, known as the procurement card (p-card). These purchases may not exceed the established credit limits of the p-card. The procurement card may be used with any vendor accepting MasterCard, in accordance with rules and regulations in the Procurement Card Program Guide, the Fiscal Regulations and Procedures Handbook,, Midwestern State University Policies and State of Texas Purchasing Procedures.

To receive a procurement card, a University employee must:

- Be a benefit eligible employee (to ensure out-processing through Human Resources).
- Complete an application form which requires the signature of the department head/supervisor and supervising Vice President/Provost
- Attend mandatory training.

After the Procurement Card Administrator processes the application and receives the card, the applicant will be contacted to establish a time for training. Certain

purchases are restricted from being made with the card. Review the Procurement Card Program Guide for specific details. Audits will be conducted by the Procurement Card Administrator to ensure compliance. Cards may be terminated, suspended, a warning given, or re-training required if an individual fails the compliance audit on a consistent basis. If recurring purchases are made from the same vendor for the same item(s), please contact the Purchasing Department to discuss whether a standing order would be more efficient and/or represent a better value to the University.

B. Purchase Requisition

If other delegations or tools are not applicable to the purchase, a Purchase Requisition must be used. Depending on the spend level, competitive bidding may be required in order to obtain possible cost savings through the bid process.

When purchasing using a Purchase Requisition, preliminary discussions with a vendor by the end user are acceptable, but the official purchase order and commitment of funds for the University must be completed by the Purchasing Department. The end user has no authority to make a commitment before submitting a requisition or obtaining an authorized purchase order number. In addition, the end user must allow an adequate amount of time for the Purchasing Department to complete the purchasing process appropriate to the purchase; i.e., developing specifications, soliciting formal bids, requiring on-site visits, HUB Subcontracting Plan, etc.

IV. Unauthorized Purchases

An unauthorized purchase is any purchase made in a manner other than the Purchasing Tools described above. Unauthorized purchases present problems and create unnecessary paperwork for the Purchasing Department, Accounts Payable, vendors, end-users and supervisors. **The individual responsible for the unauthorized purchase may be held personally liable for payment.** Any person responsible for initiating an unauthorized purchase (responsibility will be determined by the Department Head, Dean, and/or Vice President) will be held personally accountable until the transaction is resolved.

Resolution options are:

- A. To submit a memo signed by the individual, Department Head, Dean, AND the Vice President, which must include:
 - 1. Description of the goods or services purchased;
 - 2. The reason for making the purchase without proper authority/delegation; and
 - 3. Measures that will be taken to avoid recurrence of an unauthorized purchase in the future.

- B. To return goods to the vendor for full credit. The individual may be required to pay restocking fees or other charges, if any.

- C. **To pay for the goods or services personally, NOT from University funds.**

*PRE-PLANNING IS THE BEST WAY TO AVOID AN UNAUTHORIZED PURCHASE
CALL THE PURCHASING DEPARTMENT EARLY; WE ARE HERE TO HELP*

V. Best Value Purchasing

The University purchases goods and services on a best value basis. The Purchasing Department is responsible for determining which purchase option represents the best value to the department and the University. Purchasing options include a variety of state contracts, cooperative contracts, and various solicitation methods. Best value is represented not only by the best price but also by selecting the most efficient, effective method of completing the purchase.

A. Determining Best Value

Regardless of the purchasing process used, the University may define best value evaluation criteria. Determination of best value must be justifiable and based on facts and/or review of the submitted quotes, proposals or bids. It is not to be based on the end user's opinion.

1. purchase price;
2. reputation of the vendor and of the vendor's goods or services;
3. quality of the vendor's good or services;
4. extent to which the goods or services meet the University's needs (delivery dates, schedules, etc.);
5. vendor's past relationship with the University;
6. impact on the ability of the University to comply with the laws and rules relating to historically underutilized businesses and to the procurement of goods and services from persons with disabilities;
7. total long-term cost to the University of acquiring the vendor's goods or services;
8. any other relevant factor that a private business entity would consider in selecting a vendor; and
9. written justification of a proprietary need for a single vendor or product specified in the request for bids.

B. TIBH Industries, Inc. (Texas Industries for the Blind and Handicapped)

The University is required to consider purchases from persons with disabilities, represented by Texas Industries for the Blind and Handicapped (TIBH). Purchases from TIBH are considered part of the set-aside program and are not subject to bidding or price comparisons.

C. TCI (Texas Correctional Industries)

The University is required to consider purchases from the correctional industry, represented by Texas Correctional Industries (TCI). Purchases from TCI are considered part of the set-aside program and are not subject to bidding or price comparisons.

D. State Contract

The University may utilize State of Texas Contracts without additional bidding.

E. Texas Multiple Award Schedule Contract (TX-MAS)

The University may utilize State of Texas Multiple Award Schedule Contracts (TX-MAS) without additional bidding.

F. DIR Contracts

DIR contracts may be utilized without additional bidding. The most widely used of the DIR contracts is that for software licenses. However, there are many contracts for microcomputer and peripheral hardware, as well as networking and telecommunications equipment and service.

G. Cooperative Purchasing

Cooperative Purchasing allows the University to complete purchases, without bidding, from cooperatives in which Midwestern State University is a member. The University is currently a member of the following cooperatives:

- E&I Cooperative (Educational & Institutional Cooperative Services, Inc.),
- Texas Cooperative Purchasing Network (TCPN) -
- Texas Association of School Boards –
- TIPS (The Interlocal Purchasing System)
- Harris County Department of Education (HCDE)

Links to Cooperative Purchasing websites are updated and located on the Purchasing website.

H. University and Other State Agency Contracts

The University may purchase from contracts that have been through a solicitation process either by Midwestern State University or another state agency.

I. Standing Orders (Annual Purchase Orders)

Most standing orders have been established for departments with a need for frequent purchases of the same item(s). Individual orders are placed by the end user as needed or by Purchasing Department staff and the invoice forwarded to the Purchasing Department. Standing Orders that are prepared for multi-department or single use are established yearly by the Purchasing Department through a standing order renewal process.

J. Competitive Bidding

Competitive bidding is defined as the process of inviting and obtaining bids from competitive sources. Competitive bidding is considered to be a level of competition at which two or more manufacturers' products will meet the specifications, terms and conditions of the bid. Competitive bidding requires that all requirements be included in the specifications and the best value is typically but not always the low bid meeting specifications. Any considerations other than

price must be specifically stated in the bid and must be measured and documented during the evaluation process.

K. Competitive Sealed Proposals

Competitive Sealed Proposals are typically large purchases and are utilized when several options may meet the University's needs or when other considerations may be more important than price. Specifications are typically limited and a Statement of Work details required specifications and the end result desired. Vendors may submit a variety of possibilities to achieve the desired results. Factors to be used in evaluating the proposals are often included in the Request for Proposal (RFP).

L. Interagency and Interlocal Agreements

The purchase of goods or services from another state agency is handled as an Interagency Agreement and is allowed so long as neither agency exceeds its duties and responsibilities or the limitation of its appropriated funds. The purchase of goods or services from a political subdivision such as a city or county government, school district, or junior or community college is handled as in Interlocal Agreement and is allowed so long as neither agency exceeds its duties and responsibilities or the limitation of its appropriated funds.

1. If Midwestern State University is the Receiving Agency and will be paying for services, a requisition must be submitted. An Interlocal Agreement requires a formal written agreement regardless of the dollar amount.
2. If Midwestern State University is the Performing Agency and will be receiving payment, the department is responsible to complete the necessary paperwork. If the contract is less than \$50,000 an informal letter, memo or agreement is required. If \$50,000 or greater, a formal written agreement is required. An Interlocal Agreement requires a formal written agreement regardless of the dollar amount.

M. Emergency Purchases

An emergency purchase is defined as the purchase of goods or services that are so badly needed that the agency will suffer financial or operational damage if they are not secured immediately. An emergency is not a department's failure to follow through with paperwork, but is defined by the answers to the following questions:

1. What is the emergency and/or what caused the emergency?
2. What financial or operational damage will occur if needs are not satisfied immediately?
3. Why could the needs not be anticipated so that proper procedures could be followed?

If these questions cannot be adequately answered, the purchase cannot be handled as an emergency and will be subject to Best Value purchasing rules outlined above.

VI. Limits Established for Competitive Bidding

A. Bidding Limits

\$0 to \$5000

Purchases within this range do not require competitive bids. The Purchasing Department has the discretion to seek competitive bids if warranted. Purchase Requisitions should be forwarded to the Purchasing Department. Departments do not have the authority to place orders with vendors on items requested on a purchase requisition. A purchase order will be forwarded to the vendor from the Purchasing Department.

\$5,001 to \$24,999

Departments DO NOT HAVE authority to purchase goods or services within the stated dollar limit. Departments are to forward purchase requisitions to the Purchasing Department for processing. A minimum of three bids is required.

- The department shall not enter into an agreement with the vendor, i.e. purchase the item without a purchase order issued by the Purchasing Department.
- When submitting a requisition, departments are asked that clear specifications accompany the requisition when routed to the Purchasing Department.
- Department can recommend vendors to the Purchasing Department. The recommendations should accompany the requisition. The Purchasing Department will then solicit vendors through a bidding process. The Purchasing Department will notify the department of the bid results.
- The Purchasing Department will evaluate the bid responses and notify the Department of their selection, pending departmental approval
- Upon departmental approval, the best valued vendor will be notified.
- In some instances the item being purchased may be from a single vendor.

Over \$25,000.00 –

Departments do not have authority to purchase within the stated dollar limit. Expenditures within the stated dollar limit require the solicitation of formal bids on the Electronic State Business Daily (ESBD). All requisitions totaling over \$25,000.00 must be sent to the Purchasing Department for processing. The departments can provide a list of recommended vendors but are not allowed to solicit a bid. Formal bid invitations will be sent to vendors by the Purchasing Department. The standard solicitation and vendor response time for formal bid invitations is a maximum of 21 business days. After such time, the Purchasing Department will notify the department of the bid results. A vendor will be

selected and a purchase order will be issued. The entire process can take between 4-6 weeks.

B. Additional Competitive Bidding Requirements

- \$0 and up – Procurement of goods and services from persons with disabilities (TIBH) must be considered when using STATE FUNDS
- \$0 - \$5000 -- Printing — Requires a minimum of 2 bids or price comparisons when using STATE FUNDS

Purchases that require a signed contract must adhere to MSU Policies & Procedures 2.24 Approval and Execution of University Contracts.

VII. Exemptions from Bidding or Price Comparisons

The University defines the following additional exemptions from the above bidding or price comparison process:

- Classified Advertising
- Hotels and Conference Rooms
- Conference Expense; expenses related to conference room services such as audio/visual/network and food services. (Does not include goods purchased for attendees or transportation services.)
- Moving Expenses (employee)
- Student Travel; expenses related to student travel
- Library materials for Midwestern State University Library, when such exemption represents the best value to the University
- Membership fees and dues
- Newspaper and magazine subscriptions, books, videos and software direct from the publisher
- Freight
- Intra-agency payments
- Rental of exhibit space; i.e., booths for display purposes
- Goods and services provided by the Texas Department of Criminal Justice
- Internal Repairs
- Purchases from Federal agencies
- Utilities
- Goods and services for an organized activity when such exemption represents the best value to the University

VIII. Rules and Guidelines

A. Purchases From Employees

The PURCHASE OF PRODUCTS & SERVICES from employees is prohibited UNLESS the price is equal to or less than that which can be obtained from any other known and ethical source, regardless of the dollar amount. Documentation showing comparative or bid pricing from a minimum of two other sources is

required on any Purchase Order, or voucher submitted for payment to an employee of the State of Texas or any of its agencies.

B. Historically Underutilized Businesses (HUBs)

1. Historically underutilized businesses or HUB vendors are defined as Texas businesses that are at least 51% owned, operated and controlled by United States citizens, born or naturalized and members of qualifying groups which include Asian Pacific Americans, Black Americans, Hispanic Americans, Native Americans and American Women. All state agencies and institutions of higher education are required to make a good faith effort to INCREASE business with HUBs. This good faith effort applies to ALL FUNDS and ALL DOLLAR AMOUNTS, including amounts that do not require bidding. The University reports semi-annually and annually total expenditures from which the State prepares a report showing the percentage of expenditures made with State of Texas Certified HUBs. A comparison of annual percentages is reported each year in the annual financial report and each biennium in the legislative appropriations request. This information is scrutinized closely by legislators. Departments must attempt to use HUBs when placing orders under delegated authority.
2. HUB SUBCONTRACTING PLANS are a requirement of ALL solicitations that are expected to be \$100,000 or greater. Inclusion of a HUB Subcontracting Plan requires Midwestern State University to investigate subcontracting opportunities before the solicitation is issued. The opportunity, or lack thereof, of subcontracting opportunities must be stated in the solicitation. If subcontracting opportunities are identified, a list of potential HUB subcontractors must be included in the solicitation document. The respondent's HUB Subcontracting Plan MUST BE RETURNED with the bid or proposal response in order for the response to be given consideration. Failure to return the HUB Subcontracting Plan automatically disqualifies the bid, offer, or proposal. In addition, the HUB Coordinator reviews each HUB Subcontracting Plan. If the HUB Coordinator determines that the respondent did not make a good faith effort to do business with HUBs, the bid, offer, or proposal may be rejected from further consideration.
3. HUB AUDITS have been developed by the State Auditor's Office to determine if agencies are making a good faith effort to identify and do business with HUBs. If Midwestern State University is determined to be non-compliant, we will be reported to the Legislative Budget Board.

C. Insurance

The purchase of liability insurance should be initiated through the normal requisition process. The University purchases a campus-wide policy covering automobiles, property, scheduled equipment, general liability and professional liability. Your insurance needs may already be met in an existing policy. Insurance is also an important and part of Midwestern State Universities' Terms

& Conditions and consideration when a vendor is hired to perform work on the campus.

D. Information Technologies/Software Purchases

Computer and software brands acceptable for on campus support and networking are defined and approved by Information Technology.

E. Postage

State funds may be used to purchase postage or rent a post office box ONLY from the United States Postal Service. Exceptions to the above restriction are:

- reimbursements to a state employee for an emergency purchase of postage;
 - reimbursements under a contract for mailing services that may include postage.
- The University Post Office should be the first source for the purchase of postage and postal services.

F. Printing

The Texas Constitution requires that at least 2 bids or price comparisons be obtained for printing when state funds will be used for payment, if \$5000 or less. The University requires three competitive bids be obtained in accordance with Best Value guidelines if the amount will exceed \$5000.

G. Professional and Consultant Services

Professional and Consulting Services rules **do not require nor prohibit** competitive bidding. However, it may be advantageous and may be required in certain circumstances to issue a Request for Qualifications. In all cases the availability and capability of HUB's to perform the work should be considered.

1. ***Professional Services --***

Professional services include but are not necessarily limited to:

- professional architect
- land surveyor
- guest musicians
- medicine guest performers
- optometry guest speakers
- professional engineering
- real estate appraisal
- professional nursing

Specific rules relate to the selection of an Architect, Engineer or Land Surveyor. Consult with the Purchasing Department BEFORE PURSUING A CONTRACT FOR THESE SERVICES.

2. ***Consulting Services --***

Consulting services are defined as the service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee. One exception to the idea of 'studying or advising' is in relation to computer consulting where the

consultant may be designing a database, writing software code, etc. Consulting services valued at \$15,000 or greater over a period of one or more years are required to go through a proposal process involving approval by the Governor's Office and posting in the Electronic State Business Daily (ESBD). Allow at least 3 months for this process.

3. ***Hiring a Previous Employee as a Professional or Consultant --***
Hiring a past employee or retiree within 12 months of the employee's separation date is strictly prohibited with state funds. Additional restrictions apply to hiring employees after 12 months from their separation, hiring a retiree, hiring a company employing a past or retired employee, or hiring an executive director of any state agency. Please contact the Purchasing Department for more details BEFORE PURSUING A CONTRACT OF THIS NATURE.

H. Proprietary Product/Sole Source Purchases

Proprietary Source purchasing represents the purchase of a specific item that is available from only one vendor who is the sole manufacturer and distributor of the item. The end user must submit a justification explaining the need for the item and why only this specific item will meet his/her needs.

I. Specifications

Specifications are absolutely necessary for the Purchasing Department to successfully complete a competitive bid or competitive sealed proposal. What the Purchasing Department buys for the end user will only be as good as the specifications provided. The Purchasing Department Buyer has to know things such as what size, what color, how fast, how slow, how big, how small, automatic or standard, and anything else that is minimum to the department's needs. Listing a brand and model is good, but a brand and model number alone does not a specification make. At the same time specifications cannot be so restrictive as to limit the bid to one product or one vendor unless an acceptable Proprietary Product/Sole Source justification is submitted. Only the specifications and best value evaluation criteria listed in a competitive sealed bid may be used to judge the acceptability of, or disqualify a bid. Any vendor who receives compensation for writing specifications may or may not be allowed to participate in the solicitation process.

The end user should communicate clearly to the employee that is developing the purchase order or requisition form, the specifications and requirements for the commodity or services needed. A specification is a detailed description of a product or service that a user seeks to procure, and consequently, a description of what a bidder must offer to be considered for an award, or a vendor if awarded a contract, is required to supply. Specifications are the primary means of communicating the requirements expected of the product or services requested. Specifications control the following procurement aspects:

- the quality of the product

- the amount of competition
- suitability of the product or service for the job
- the method of evaluation used in making an award and in determining the bid with the best value for the purchase

Write Competitive Specifications based on the following guidelines:

- Specifications should not limit or eliminate competition unless the proprietary component of the specification is justified;
- Specifications should incorporate a clear and accurate description of the goods or services to be procured. This description should include:
 - a statement setting minimum requirements;
 - the specific features of the goods or services which must be met;
 - language with additions, extensions of the order, escalations, etc.;
 - dates of service or delivery terms for items being purchased, as required;
 - minimum essential characteristics and standards of items or services to which they must conform if they are to satisfy their intended use;
 - special clauses for funding purposes, as required;
 - include any written data requirements, if necessary.
 - evaluation factors, which will be used in determining the successful bidder if other factors, will be considered. (warranty information or other value added aspect of the goods or services)

Contractor Insurance Requirements is a required specification when an individual or company will be on this campus performing a service. Please note that the vendor is usually not required to have the insurance prior to bidding, but must provide proof of insurance prior to performing the work.

Note: A user may not expect a vendor to provide any service or item that was not requested in the bid specification.

J. Purchase of Surplus Property

Surplus property is available from the University Warehouse/Central Receiving at no charge to University Departments. Departments are welcome to contact the Warehouse/Central Receiving Department for more information.

Often equipment is available in good condition for a nominal fee from State of Texas and Federal sources. A list of surplus equipment available from both State and Federal Government sources is available on the Internet.

Purchases for State or Federal Surplus property should be initiated through the normal requisition process.

K. Used Equipment

As a rule, a department should purchase new equipment, but sometimes it is necessary or advantageous to purchase used or demonstrator equipment. The most common reasons are:

- the inability to secure new equipment;
- the lack of adequate funds for new equipment; or
- used equipment will satisfy the agency's need at a substantial saving.

Purchases of used and demonstrator equipment are to be processed as follows:

- bids must be obtained following the appropriate procedures applicable to the total purchase amount.
- if only one bid is received, submit a proprietary justification statement.
- provide a letter or signed statement from the bidder(s) guaranteeing quality and condition of the merchandise offered;
- provide a letter from an authorized person connected with the ordering department that:
 - states that the equipment have been personally examined, and
 - describes the condition and value of the equipment;
- forward to the Purchasing Department the purchase/ requisition form and all of the above applicable documents.

If the Purchasing Department determines that the purchase is appropriate, a purchase order will be issued.

L. Vendor Warrant Hold Status

Midwestern State University is not allowed to contract with any vendor who is on warrant hold in the State of Texas Comptroller's Taxpayer and Vendor Account Information database. Warrant Hold Status should be verified prior to the contract start date. The Purchasing Department will perform this task when purchasing for a department. The end user is responsible when completing a purchase under delegated purchasing authority. Hold status can be verified using the Vendor Hold Search feature located on the Texas Comptroller of Public Account's website.

M. Deliveries to the Warehouse/Central Receiving

All supplies and equipment purchased for the University are to be delivered through the Purchasing Department – Warehouse/Central Receiving (Daniel Building) to ensure uniform handling of freight claims, accurate entry of receiving information, and necessary elements of institutional control. The following purchases are excluded from this requirement.

1. Items being delivered under delegated purchase authority to the Library, Bookstore, or Food Services.

2. Delegated purchases made by departments using local purchase authorizations or procurement cards.
3. Items which require installation by the contractor.
4. Items specifically authorized by the Purchasing Department.
5. Items marked as Toxic and/or Hazardous Materials. These items will be routed to the Warehouse, staff will count the boxes, compare to the receiving report and either direct the delivery company to the department's office to complete the delivery or accept the package(s) and deliver the package(s) themselves. The department will be responsible for opening and inspecting the items. The department will be responsible for notifying the Warehouse staff of any discrepancies or damaged goods.

If the department meets one of the five exemptions stated above, it is the responsibility of the department taking receipt of goods or services to immediately submit direct delivery of goods or services documentation, invoices and payment documentation to the Purchasing Department. Timely submittal of receiving information is essential to avoid late payment penalties and to effectively handle freight claims, shortages, or discrepancies.

N. Notify the Purchasing Department When the Following Situations Occur

1. Reporting Vendor Performance-When an ordering department first experiences a relatively minor problem or difficulty with a vendor, the department should contact the Purchasing Department. The Purchasing Department will immediately contact the vendor to attempt an informal resolution to the problem. If the initial attempt is unsuccessful then the Purchasing Department will follow the guidelines established by the Texas Procurement and Support Services Division (TPASS) for reporting vendor performance.
2. Cancellation of Orders-Items or orders may be canceled without the consent of the vendor due to failure to fulfill their contractual obligations. If cancellation is requested by an ordering entity for some other reason through no fault of the vendor, the vendor's permission to cancel is necessary.
3. Shipments from Canceled Orders-Ordering departments are not under any obligation to accept shipments from canceled orders. However, if it is in the ordering department's best interest to accept the shipment, the order should be reinstated. If the ordering department does not want the shipment, then they should notify the vendor and handle it in the same manner they would any item not ordered.
4. Shortages-Any shortages of shipping containers, cartons, etc. are to be noted on the shipping document and the shipment accepted.
5. Inspecting Merchandise-When merchandise is being delivered to a department, under one of the exemptions listed in Section IX.P, when unpacked, uncrated, etc., it should be checked against a copy of the purchase order for concealed damages, shortages, and compliance with the order's specifications. The carrier cannot be held responsible unless

shipments are checked immediately upon arrival, and written reports are made to the carrier within 15 days of receipt.

6. Substitutions-Substitutions must be approved by the Texas Procurement & Support Services Division (TPASS), on term contracts. All other orders, the Purchasing Department must approve the substitution after checking with the ordering department for approval.
7. Failure to Meet Specifications-Notify the vendor in writing and request that the problem be corrected. A copy of all correspondence should be sent to the Purchasing Department. If it is a formal bid which was processed by the Purchasing Department, the original notification of failure should be mailed to the vendor by the Purchasing Department. Payment to the vendor should be withheld until the merchandise meets or exceeds all specifications without exception.

O. Common Carrier Freight Terms Impact on Claims

1. Free on Board (F.O.B.) Terms-These terms address the risk of loss between the buyer and seller. These terms do not address the freight charges.
2. F.O.B. Destination-The Purchasing Department recommends that all orders be placed as "F.O.B. Destination." Under these terms, the risk of loss to goods does not pass to Midwestern State University until the goods are delivered to the stated destination and the department has accepted the shipment. If goods are not accepted or received, the vendor is responsible for re-shipping new goods at their expense.
3. F.O.B. Origin-The Purchasing Department does not normally recommend using "F.O.B. Origin". Under these terms, the risk of loss passes to Midwestern State University when the carrier picks up the shipment from the vendor. The ordering department is responsible for the merchandise at that point. If the merchandise is damaged or lost in shipment, the ordering department owes the vendor full payment regardless. If there are damages or shortages, the department is responsible for filing any needed freight claims to attempt to recover the damages. If goods must be replaced, a new order must be placed with the vendor.

P. Late Payments

1. Payment Deadline -- A state agency's payment is overdue by the 31st day after the later of the following:
 - the date the agency receives the goods;
 - the date the vendor completed performing its services for the agency;
 - the date the agency receives a correct invoice for the goods and services. (*Fiscal Regulations & Procedures -- #5-17. Prompt Payment*)

2. Liability for Interest -- If Midwestern State University does not mail or electronically transmit a payment to a vendor or the vendor's financial institution by the applicable due date, then Midwestern State University is liable to the vendor for interest in compliance with the following provisions:
- beginning on the day after the payment is due, daily interest accrues on the unpaid balance at the rate of 1.0% per month unless otherwise contracted. The interest ceases to accrue on the date Midwestern State University mails or electronically transmits the payment to the vendor or the vendor's financial institution;
 - Effective September 1, 1999, the State of Texas Comptroller's Office shall compute interest imposed on the state agencies for late payment. The interest will be paid at the time the payment is made on the principal. The Comptroller shall also submit the interest payment with the net amount due for goods and services. The Comptroller or a state agency may not require a vendor to petition, bill, or wait an additional day to receive the interest due.

If a department recognizes any reason for which a payment should not be processed, the department is responsible for immediately notifying the Purchasing Department and Accounts Payables so that the following dispute procedures may be initiated.

3. Disputes Between State Agencies and Vendors -- If a department believes that an invoice from a vendor is erroneous (e.g. the invoice does not match the items ordered/received, is not understandable, or does not reference the corresponding order number, the University's full name, number and delivery address), the University must notify the vendor in writing by the 21st day after receipt of the invoice. If a dispute between the University and vendor is resolved in the vendor's favor, the University is liable to the vendor for interest on the invoice. This interest must be calculated from the original due date of the payment, as if no dispute ever existed. If a dispute between the University and a vendor is resolved in the University's favor, the vendor must submit a corrected invoice to the University.

Note: A purchase order must be issued prior to placing an order for commodities or services with a vendor. An invoice received with a purchase order request will be considered non-compliant. An invoice which is received by the Purchasing Department that is dated before the date the purchase order is issued will be considered non-compliant.

If a department has instructed a vendor to bill directly to the department instead of the Purchasing Department, then the ordering department is responsible for documenting on the invoice by date stamp or other method, the date the invoice was received by the ordering department. It is imperative that ordering departments approve and submit invoices to the Purchasing Department as soon

as possible to allow sufficient time for payment. Delays in forwarding the invoice for payment by the ordering department may cause late payment fees to be charged to the ordering department.