

Prohibited Transactions and Exceptions

Prohibited Transactions

- A. No personal items shall be purchased from funds of the institution for any employee of the institution or any relative of any employee.

Examples of items that cannot be purchased:

1. Flowers or gifts for employees, student workers or relatives of employees not in support of an official University function.
 2. Seasonal and party decorations.
 3. Halloween treats for visiting children.
 4. Alcoholic beverages.
 5. Expenses for testing and study materials related to acquiring professional certification not directly related to the performance of an employee's duties. Examples include expenses related to completing the CPS and CPA exams.
 6. Reimbursement for damages to personal property. Claims may be filed with the Board of Claims. Forms are available in the Office of Human Resources.
 7. Any food or beverage for employees or student workers not in support of an official University function (including coffee, tea, bottled water, meals, parties, etc.)
 8. Personal items such as Kleenex, wet wipes, air fresheners, etc.
 9. Birthday, get well, graduation, holiday, etc., cards and related mailing expense.
 10. Stamps or postage for personal use.
 11. Personal use of departmental assets, ex. departmental copiers, without reimbursement to the department.
- B. Institutional purchases from businesses in which an employee or family member has a financial interest are not allowed (see TBR policy [1:02:03:10](#) Section 7.1.b.)

Exceptions

- A. Purchase of materials for additions to a library collection include cost of books, catalogs, periodicals, binding, audio- visual media and other general publications. These items are capital expenditures. These purchases may be made without formal bids or quotations, and appropriate documentation shall be maintained on these purchases to support sole source procurement.
- B. Advertising.
- C. Purchases off State contracts.
- D. Purchases off other TBR/UT schools' contracts.
- E. Sole source or proprietary purchases may be allowed pursuant to the following:

Sole source procurement - Sole source purchases are made only when items are unique and possess specific characteristics that can be filled by only one source.

Proprietary purchase - A proprietary product is one that is manufactured and marketed by a person or persons having the exclusive right to manufacture and sell the product. Generally marketing is controlled by franchises that may include competitive sales at wholesale or retail levels. When it is found that bids may be obtained from different franchises, bid invitations must be issued unless the estimated purchase is less than \$5,000.

Factors to be considered in sole source and proprietary purchases include the following:

1. Whether the vendor possesses exclusive and/or predominant capabilities or the items contain a patented feature providing superior utility not obtainable from similar products.
2. Whether the product or service is unique and easily established as one of a kind.
3. Whether the program requirements can be modified so that competitive products or services may be used.
4. Whether the product is available from only one source and not merchandised through wholesalers, jobbers and retailers.
5. Whether items must be interchangeable or compatible with in-place items.

6. Whether the cost of conversion, including but not limited to disruption, re-training and replacement precludes bidding competitively.
7. Whether the product is to be used in an instructional setting and the intent is to provide instruction on the specific product or diversity of products.
8. For personal, professional and consultant services, whether the use of non-competitive negotiation is in the best interests of the institution. (F&A Rule 0620-3-3-.03)
9. Other justifications as approved by the chancellor, president, director.

Only authorized sole source may be procured utilizing non-competitive negotiation.

Whenever specifications are not so worded or designed to provide competitive bidding, or specify a single brand, the person responsible for the recommendation shall be required to justify the necessity for the specification in writing, and the request shall be approved by the chancellor, president or director. The TBR Justification for Non-Competitive Purchases and Contracts Form must be completed and approved by the Purchasing Office or TBR Central Office (when applicable).