



EL PASO COMMUNITY COLLEGE PROCEDURE

For information, contact Institutional
Effectiveness: (915) 831-6740

CF-2 Purchasing Procedures

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Year of last review: 2021

AUTHORIZING BOARD POLICY: CF

Classification: Institutional

Vice President or Associate Vice President: Vice President of Financial and Administrative Operations

Designated Contact: Director of Purchasing and Contract Management

OBJECTIVE: To identify and outline the general guidelines, documents and procedures to direct the purchasing and contract practices of the El Paso County Community College District (“District”) in order to provide best value in compliance with State of Texas and federal law and the statutory or codified laws or regulations of either the State of Texas or the United States. Any laws enacted or amended on or after the date of adoption of these procedures shall take precedence in the event of any conflict with these procedures.

PROCEDURE: The mission of the District’s Purchasing and Contract Management Department is to facilitate the acquisition of goods and services in an effective and efficient manner, in compliance with the mission statement and the policies of the El Paso County Community College District and the laws of The State of Texas.

I. Processing of Requisitions

PURPOSE: To establish and maintain procedures for the initiation, authorization and processing of purchase requisitions to procure goods and services.

SCOPE: The provisions of this procedure apply to all employees of the El Paso County Community College District authorized to initiate, approve and process requisitions.

RESPONSIBILITY: The initiator of the requisition shall be responsible for providing all pertinent information about the goods or services to be procured. Budget heads are responsible for ensuring budget availability for issued requisitions. The Purchasing and Contract Management Department will be responsible for processing the requisition and acquiring goods and services per the specifications and information referenced in the requisition.

Requisitions shall be processed through the administrative integrated management system (BANNER).

A. Requisitions generated by District employees shall contain the following information:

1. Date
2. Department
3. Account number
4. Delivery information (campus, building and room number; delivery date)
5. Departmental justification
6. Contact information for preferred supplier/vendor (include address and phone number)
7. Requestor’s telephone number
8. Name of requester
9. Quantity
10. Unit of measure (Ea., Dz., Roll, Reel, Set, Pair, etc.)
11. Description of goods or services in sufficient detail to adequately describe the goods or services to be purchased to the supplier/vendor. Include manufacturer, model number, part number, color, type, class, grade, dimensions, options to be purchased, etc.
12. Unit cost
13. Total
14. Special conditions, if applicable (safety concerns, special packaging, special transportation, etc.)
15. Please note if this is a rush requirement and, if so, include the reason for the requested quick turnaround and also when the items are needed.

Office supplies and office furniture will be purchased from existing “contract vendors.” A contract vendor is a supplier/vendor which has been awarded a contract, for the goods and/or services specified, through one of the nine (9) methods listed in Section III below or a supplier/vendor which has been awarded a contract through the Texas Comptroller of Public Accounts, the Texas Department of Information Resources, an authorized purchasing cooperative, or other similar, statutorily-authorized method. Alternatively, if the supplier/vendor is a sole source for the goods/services being considered for purchase, the sole source method may be used.

Requesters shall exercise discretion and moderation with expenditures relating to items that are not considered of a “reasonable and customary” value. Purchases of items considered to be of a luxury nature, such as leather goods, high-grade furniture and others, are discouraged.

NOTE: If a purchase is of an urgent nature, the requester may call the Purchasing and Contract Management Department and inform the Purchasing Clerk or the Purchasing Systems Assistant of the urgent nature of the requisition and the requisition number. Requisition processing will be expedited once the requisition reaches the Purchasing and Contract Management Department.

- B. All requisitions will be processed and verified by the requester, ensuring that the required accounting codes are included and that the required budget signatory approvals are addressed. The Banner system contains appropriate approval routing for requisition approvals.

Dollar limits are as follows:

1. Purchases of \$100.00 or less: refer to Comptroller’s petty cash procedure.
2. Purchases of \$500.00 or less (in the aggregate): may be processed through a *Check Request* submitted to the Accounts Payable Department.
3. All purchases over \$500.00 shall be processed through a requisition except:
 - Accreditation fees
 - Membership fees
 - Subscriptions
 - Local workshops, seminars and conferences
 - Hospitality reimbursements
 - Postage meter charges
 - License fees
 - Inspection fees
 - Awards and stipends
 - Attorney fees

These purchases may be processed through a *Check Request* submitted to the Accounts Payable Department.

- C. Quotes obtained by requesters, as well as any specifications sheets and/or catalog pictures, if available, may be mailed, faxed or e-mailed to the Purchasing and Contract Management Department. The requester shall reference the requisition number on said documents so that they can be routed to the appropriate Buyer.
- D. Requisitions will be processed through the automated approval process and forwarded to the Purchasing and Contract Management Department.
- E. The responsible Buyer, before proceeding, will verify if the requisition’s funding source is federal funds. If so, the Buyer may only proceed with the purchase after the Buyer verifies and prints evidence supporting that the vendor has not been debarred. Evidence shall be attached to the requisition. If the Buyer comes across a debarred vendor, it is the Buyer’s responsibility to alert the Purchasing Specialist so that Banner can be flagged.
- F. The Buyer will process the requisition by selecting one of the methods in Section III, below, for competitive solicitation, as required. This process will be referenced by the Buyer on the purchase requisition and will be included in the purchase or service order.
- G. A purchase order will be issued to the supplier/vendor by the Purchasing and Contract Management Department.
- H. Requisitions that are routed to the NSF (Non-Sufficient Funds) Banner queue must be resolved by the requester. The Banner approval process does not allow such transactions to flow through; therefore, the requisition is not processed until the funding problem is resolved.

II. Methods of Procurement

PURPOSE: To establish proper procedures for the generation of purchase orders and contracts processed through competitive solicitation procedures, determined by the value of the purchase.

SCOPE: This procedure applies to all Purchasing personnel and other departmental personnel that are directly or indirectly related to any purchasing transaction.

DEFINITION: Procurement documents are defined as those that are used to contract goods and/or services from a supplier/vendor or a number of suppliers/vendors.

PROCEDURES:

A. Purchase orders

Purchase orders are generated by the Purchasing and Contract Management Department through the administrative integrated management system (BANNER).

1. Regular purchase orders: A purchase order is issued according to the information provided in the online requisition issued by the requester. Upon review and authorization by the Buyer, a purchase order is generated, printed, and approved by the Buyer and/or the Director of Purchasing and Contract Management Department. All standard terms and conditions, warranties, safety requirements and any special conditions stated on the purchase order apply. In general, all deliveries of goods purchased on regular purchase orders must be made directly to the District's Distributional Services Department. In some cases, exceptions to this rule must be made (e.g. the delivery of unusually large or heavy machinery). In cases when it is necessary for the delivery of the goods to be made to a location other than the District's Distributional Services Department, it is the requester's responsibility to provide the following information on the requisition: requested delivery location and contact name and phone number for person responsible for the receipt of goods. It is the recipient's responsibility to verify that there is no apparent damage to the goods, or indicate such damage on the delivery document(s) and inform the Purchasing and Contract Management's Customer Service Specialist of the damage on a timely basis, and to submit signed delivery documents to the Distributional Services Department so that the goods may be "key received" into Banner, which is a requirement for the payment process to begin. Delivery of goods to non-District addresses is not allowed. The purchase of "gift cards" is not allowed.
2. Open purchase orders: An open purchase order is issued according to the information provided in the online requisition issued by the requester. Upon review and authorization by the Buyer, a purchase order is generated, printed, and approved by the Buyer and/or the Director of Purchasing and Contract Management Department. Open purchase orders shall be issued for the following: to support the requirements of maintenance, repair, and operations activities for special printing jobs, for any other purchase of goods of a repetitive nature, or when an exact dollar amount is unknown. Open purchase orders will be issued to purchase goods with no single amount item to exceed \$1,000. Prices and terms for the goods must be agreed upon between the requester and the supplier/vendor prior to the delivery of the goods. All purchases made through open purchase orders must be received against and paid from the open order file. Only purchases of the items described on the purchase order are authorized. If the goods are not delivered to the District's Distributional Services Department because the goods are picked up at the vendor/supplier's location by a District employee or because the goods were "desktop delivered" as is the case with most office supplies, it is the recipient's responsibility to verify that there is no apparent damage to the goods, or indicate such damage on the delivery document(s) and inform the Purchasing and Contract Management's Customer Service Specialist of the damage on a timely basis, and to submit signed delivery documents to the Distributional Services Department so that the goods may be "key received" into Banner, which is a requirement for the payment process to begin. Delivery of goods to non-District addresses is not allowed. The purchase of "gift cards" is not allowed.

The following items cannot be purchased through an open purchase order: printers, fax machines, typewriters, cameras, VCR units, DVD/Blu-Ray units, television sets, monitors, guns, camcorders, defibrillators, microscopes, hubs and switches, incubators, x-ray machines, copiers, transcribers, Stenograph machines or similar, radio transceivers, drafting machines, washers, dryers, musical instruments, laptops, oscilloscopes, projectors, video game consoles/, computing devices, portable and non-portable (e.g. PC's, Macs, laptops, notebook computers, iPads, etc.) and furniture.

3. Service orders: A service order is issued according to the information provided in the online requisition issued by the requester. Upon review and authorization by the Buyer, a service order is generated, printed, and approved by the Buyer and/or the Director of Purchasing and Contract Management Department. The purpose of a service order is to contract the services of a supplier/vendor for a specified period of time and for a specific dollar amount. The pricing on the service order should be inclusive of all of the service provider's travel-related costs, if any. An informational copy of the service order is issued to the requesting department. After the work is completed to the satisfaction of the requester, the budget head must sign the invoice or work order and submit it to the Accounts Payable Department, acknowledging satisfactory completion of services. This is required for the payment process to begin.
4. Open service orders: An open service order is issued according to the information provided in the online requisition issued by the requester. Upon review and authorization by the Buyer, a service order is generated, printed, and approved by the Buyer and/or the Director of Purchasing and Contract Management Department. Open service orders shall be issued for the following: to support the requirements of maintenance, repair, and operations activities; for any other purchase of services *of a repetitive nature*, or when an exact dollar amount is unknown. An informational copy of the open service order is issued to the requesting department. Prices and terms for the services must be agreed upon between the requester and the supplier/vendor prior to the delivery of the services. All purchases made through open service orders must be received against and paid from the open service order file. Only purchases of the services described on the service order are authorized. After the work is completed to the satisfaction of the requester, the budget head must sign the invoice or work order and submit it to the Accounts Payable Department, acknowledging satisfactory completion of services. This is required for the payment process to begin.
5. Library orders: District libraries place orders for books utilizing the automated process. This process was established to handle book inventories to meet the needs of the libraries. Most orders for library books are purchased from a sole source (publisher), a Jobber, or other contract vendor, or through the Texas Comptroller of Public Accounts contract.
6. Modifications and cancellations of purchase orders: A purchase order confirms the existence of a contract between the District and the supplier/vendor. Consequently, it cannot be modified or canceled by only one party. Any request to modify or cancel an order must be directed to the Purchasing and Contract Management Department. If it becomes necessary to make any change to the original purchase order, the requesting department shall fax a properly-completed *Request for Change Order* form to the Purchasing and Contract Management Department. The Purchasing and Contract Management Department will notify the supplier/vendor of approved changes by making a change to the original purchase order and issuing a change order to the supplier/vendor. Any changes to price, quantity, item description, or terms and conditions shall be made through this process. Dollar amounts may only be increased for an amount up to and including 25% of the original purchase order amount. Amount increases exceeding 25% shall be requested through a new requisition and will be added to a purchase order if allowed within the guidelines of this College procedure CF-1 *Purchasing Procedures*.

Cancellations of purchase orders shall also be done through the *Request for Change Order* form. Generally, a supplier/vendor will agree to a request for cancellation if the item(s) or service(s) has/have not been shipped or performed and if the supplier/vendor has incurred no costs as a result of the order. The department requesting the cancellation may be held responsible for material already shipped by the supplier/vendor or for other costs incurred by the supplier/vendor before the cancellation of the order. Occasionally, the payment of a restocking fee may be authorized. RETURNS -- Goods to be returned to the supplier/vendor for replacement or credit should be coordinated through the Purchasing and Contract Management Department's Customer Service Specialist. The actual return of the goods is handled by the Distributional Services Department, in compliance with property disposal procedures. The supplier/vendor is under no obligation to accept a return of goods shipped according to the purchase order unless the goods arrive damaged, and then only if the damage is reported to the supplier/vendor on a timely basis, which is generally three business days. Agreement from the supplier/vendor to accept a return is not automatic, and a restocking fee or other costs may be incurred by the District. These costs will be charged to the requesting department.

7. Purchase requests requiring prepayment: The prepayment of goods and/or services is generally not allowed.

Reference: *The Texas Constitution, Article 3, Section 52*

The District will adhere to the provisions and dollar limits imposed by *Texas Education Code* 44.031. Further, purchases in the amount of \$50,000 or over will require Board of Trustees approval through a Board agenda abstract provided by the requester through the office of the Vice President over the area, to the office of the President on or before the deadline to submit Board agenda items. A copy of said abstract shall be provided to the Purchasing and Contract Management Department to be included in the contract file.

- B. Contracts – The Purchasing and Contract Management Department of the El Paso County Community College District shall process the purchase of goods and services. Purchases shall comply with the policies and procedures as approved by the Board of Trustees. No obligation shall be incurred or pledge given on behalf of the District or the Board except by written contract.

The Board of Trustees shall have the authority to obligate District funds for purchases of goods and services. No liability will be assumed for payment of obligations except those incurred in accordance with authority thus granted. District employees shall have no right or authority at any time to make any contract or binding promise of any nature on behalf of the Board of Trustees, whether oral or written, without the express written consent of the Board of Trustees.

All contracts the District enters into shall be in compliance with the District’s General Conditions. All contracts, in the amount of \$50,000 or more shall be approved by the Board of Trustees before final execution. Contracts and purchase orders for less than \$50,000 are hereby approved by the Board of Trustees, provided that the expenditure(s) is(are) included in the budget of the District.

All contracts shall be awarded upon determination of what constitutes the best value for the District. All contract awards must comply with applicable laws and established District policies and procedures. The Board reserves the right to reject any and all competitive solicitations and to accept the bid or proposal that represents the best value in the best interest of the District. All parties awarded a contract shall comply with established statutory insurance requirements.

The District shall not indemnify, defend, or hold another contracting party harmless, unless such indemnification or hold harmless is authorized by law and specifically approved by separate written order of the Board. Any variances as to this provision shall be null and void and of no effect.

Competitive solicitations requirements per *Texas Education Code* Section 44.031 shall apply to all purchases.

Enforcement of Purchase Procedures: Criminal Penalties; Removal; Ineligibility:

- a. In this section,
1. “Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.
 2. “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.
 3. “Sequential purchases” means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.
- Reference: *Texas Education Code* 44.032 (a)**
- b. An officer, employee or agent of the District commits an offense if the person with criminal negligence makes or authorizes separate, sequential, or component purchases to avoid the requirements of Section 44.031 (a) or (b). An offense under this subsection is a Class B misdemeanor and is an offense involving moral turpitude.
- Reference: *Texas Education Code* 44.032 (b)**
- c. An officer, employee or agent of the District commits an offense if the person with criminal negligence violates Section 44.031 (a) or (b) other than by conduct described by Subsection (b). An offense under this subsection is a Class B misdemeanor and is an offense involving moral turpitude.

Reference: *Texas Education Code* 44.032 (c)

- d. An officer or employee of the District commits an offense if the officer or employee knowingly violates Section 44.031, other than by conduct described by Subsection (b) or (c). An offense under this subsection is a Class C misdemeanor.

Reference: *Texas Education Code 44.032 (d)*

- e. The final conviction of a person other than a trustee of the District for an offense under Subsection (b) or (c) results in the immediate removal from office or employment of that person.

A trustee who is convicted of an offense under this section is considered to have committed official misconduct for purposes of Chapter 87, *Local Government Code*, and is subject to removal as provided by that chapter and Section 24, Article V, *Texas Constitution*. For four years after the date of the final conviction, the removed person is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by or act as an agent for the state or a political subdivision of the state, and is ineligible to receive any compensation through a contract with the state or a political subdivision of the state. This subsection does not prohibit the payment of retirement benefits to the removed person or the payment of workers' compensation benefits to the removed person for an injury that occurred before the commission of the offense for which the person was removed. This subsection does not make a person ineligible for an office for which the federal or state constitution prescribes exclusive eligibility requirements.

Reference: *Texas Education Code 44.032 (e)*

- f. A court may enjoin performance of a contract made in violation of *Texas Education Code*, Chapter 44, Subchapter B. A county attorney, a district attorney, a criminal district attorney, a citizen of the county in which the District is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court.

Reference: *Texas Education Code 44.032 (f)*

NOTE: The Texas Constitution and Texas Education Code provisions are subject to change by Texas State Legislature.

There are two basic types of contracts:

- Procurement contracts -- Include services, Service Agreements, and construction contracts.
 - Revenue Generating Contracts -- Include instructional and auxiliary services contracts.
1. Services: Contracts for services will be issued by the Purchasing and Contract Management Department from an authorized requisition and/or applicable supporting documents. The pricing on the contract should be inclusive of all of the service provider's travel-related costs, if any. Services include but are not limited to maintenance; renovations; services in support of repair, maintenance and operational activities; and software license agreements. The District will adhere to the provisions and dollar limits imposed by *Texas Education Code 44.031* when issuing service orders. Further, purchases in the amount of \$50,000 or over will require Board of Trustees approval through a Board agenda abstract provided by the requester through the office of the Vice President over the area, to the office of the President on or before the deadline to submit board agenda items. A copy of said abstract shall be provided to the Purchasing and Contract Management Department to be included in the contract file.
 2. Service agreements: For contracting of services to be provided by individuals acting as independent contractors.

Contracts for services to be provided by an individual shall be issued and submitted to the Purchasing and Contract Management Department for approval prior to services being rendered. In selecting a services provider, the responsible budget head shall base the choice on demonstrated competence, knowledge, qualifications, and on the reasonableness of the proposed fee. The responsible budget head and the District must also comply with Internal Revenue Service guidelines regarding independent contractors versus employees when selecting the services provider. Although, whether a person is considered an independent contractor or employee by the IRS depends on the facts of each case, the general rule is that an individual is an independent contractor if and only if the District and/or its employees have the right to

control or direct only the result of the work and not the means and methods of accomplishing the result. According to the IRS, facts that provide evidence of the degree of control and independence fall into three categories: behavioral (i.e. does the District control or have the right to control what the vendor/worker does and how the vendor/worker does his job?); financial (i.e. are the business aspects of the vendor's/worker's job such as how the vendor/worker is paid, whether expenses are reimbursed, and who provides tools and/or supplies, controlled by the District?); and type of relationship (i.e. are there written contracts or employee type benefits; also will the relationship continue and is the work performed a key aspect of the District's business?). The regulations of the IRS, and any judicial interpretation thereof, shall take precedence over these procedures.

All contracts shall specify the nature and timeframe of the service, dollar amount, and any special payment requirements. The pricing on the contract should be inclusive of all of the service provider's travel-related costs, if any. A copy of a written proposal (an offer) from the supplier/vendor which outlines their proposal in detail, including timeframe and cost, and which must include the name and address of the supplier/vendor and must be signed and dated by the supplier/vendor, must be included with the *Services Agreement*. An *Authorization for Payment of Services* form and a W9 completed by the supplier/vendor will be issued by the budget head to the Accounts Payable Department upon satisfactory completion of the work. The requester shall contact the Purchasing and Contract Management Department to communicate any changes and/or problems during the process of completing the project. Payment issues should be directed to the Accounts Payable Department. District employees and members of their immediate families are not allowed to provide services, in compliance with El Paso Community College Policy CFE (Legal) *Purchasing and Acquisition, Vendor Relations*. Also, College Procedure CF-1 *Service Agreements*.

3. Construction contracts: The District will adhere to the provisions and dollar limits imposed by *Texas Education Code* 44.031 and Chapter 2267, *Texas Government Code*. Contracts in the amount of \$50,000 or over will be Board approved before final execution. All contract terms and conditions shall comply with the terms and conditions of the competitive solicitation. Construction contractors are required by law to provide bonding and insurance coverage not required of other contractors or service providers.

The Board of Trustees, in considering a construction contract authorized by *Texas Education Code*, Subchapter B, Section 44.031(a)(5) and Chapter 2267, *Texas Government Code*, and if using a method other than competitive bidding for construction services, is required to determine, before advertising, which method provides the best value for the District.

Reference: *Texas Government Code 2267.056 (a)*

The District shall

- a. Base its selection among offerors on the following criteria:

- (1) the price;
- (2) the offeror's experience and reputation;
- (3) the quality of the offeror's goods or services;
- (4) the impact on the ability of the governmental entity to comply with rules relating to historically underutilized businesses;
- (5) the offeror's safety record, for which the District will use OSHA reports
- (6) the offeror's proposed personnel;
- (7) whether the offeror's financial capability is appropriate to the size and scope of the project; and
- (8) any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

Reference: *Texas Government Code 2267.055 (a)*

- b. Publish in the request for bids, proposals, or qualifications the criteria that will be used to evaluate the offerors and the relative weights given to the criteria, and
- c. Document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

Reference: *Texas Government Code 2267.056 (b) and (c)*

The District will utilize the approved contract form for construction services. The contract shall be issued upon approval of an award by the Board of Trustees. The contract shall specify all terms and conditions as stated in the bid award.

An architect or engineer required to be selected or designated under this chapter has full responsibility for complying with Chapter 1051 or 1001, *Occupations Code*, as applicable.

Reference: *Texas Government Code 2267.057 (a)*

If the selected or designated architect or engineer is not a full-time employee of the District, the District shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004.

Reference: *Texas Government Code 2267.057 (b)*

Independently of the contractor, construction manager at risk, or design-build firm, the governmental entity shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the District.

Reference: *Texas Government Code 2267.058 (a)*

The District shall select the services for which it contracts under this section in accordance with Section 2254.004.

Reference: *Texas Government Code 2267.058 (b)*

The District shall award a competitively bid contract at the bid amount to the bidder offering the best value to the District according to the selection criteria that were established by the District.

Reference: *Texas Education Code 44.040 (d)*

4. Grant purchases: Grant purchases follow the same processing procedures as non-grant purchases. However, purchase deadlines will be determined by specific grant provisions. Also, purchases may be restricted by certain grant conditions (e.g. the Carl Perkins grant is for the purchase of equipment to be used for students only and not for administrative applications). Grant administrators shall communicate to the Purchasing and Contract Management Department any and all grant provisions regarding the procurement of goods and services under each grant. When a grant award names a specific supplier/vendor and/or a specific item through a valid purchasing process, this information shall be included in the Board agenda abstract submitted to the Board of Trustees which authorizes the acceptance of the grant.
5. Addendum to contracts: Any changes to an existing contract shall be addressed through a document known as an "addendum." This document specifies in detail: the change, the effective date(s), and dollar amount(s), as applicable. The addendum will be generated through a memorandum and/or a requisition issued by the requester and approved by the Budget Head of the requesting area. The request shall specify in detail the changes to be integrated into the contract document and the reason for the change. Applicable back-up documents justifying the change must be submitted by the requesting department.

The addendum will be issued by the Purchasing and Contract Management Department and will be signed by the Buyer and by the supplier/vendor. The addendum document will be attached to and become part of the original contract.
6. Legal review: All contracts shall be subject to legal review by El Paso County Community College District's legal counsel, prior to approval by the Purchasing and Contract Management Department.
7. Revenue-generating contracts:
 - a. Originator must contact the Associate Vice President of Budget and Financial Services prior to the issuing of a revenue-generating contract. The Associate Vice President of Budget and Financial Services will direct originator to provide a cost/benefit analysis using the *Revenue-Generating Contracts-Cost Analysis Form* to ensure the District is compensated properly for services to be rendered. Revenue-generating contracts shall support the mission of the District.

- b. Revenue-generating contract documents must then be forwarded to the Purchasing and Contract Management Department for review. If required, the Purchasing and Contract Management Department will forward the contract to the District's legal counsel for review.
- c. If changes to the written document are required, the Purchasing and Contract Management Department will either contact the agency/customer directly or work through the originator to request that changes be integrated into the contract. A revised original shall be submitted to the Purchasing and Contract Management Department for final review.
- d. Contracts in the amount of \$50,000 or over will require Board of Trustees approval through a Board agenda abstract provided by the originator through the office of the Vice President over the area, to the office of the President on or before the deadline to submit Board agenda items.
- e. Once Board approved, if Board approval is required, the final document will be forwarded to the Purchasing and Contract Management Department for signature. Fully executed copies will then be forwarded to the customer/agency and the Vice President of the originating department.
- f. The Contract will be monitored through a contract number, which will be assigned by the Purchasing and Contract Management Department. Any contract changes or addenda shall be submitted to the Purchasing and Contract Management Department for approval and execution.
- g. Revenue-generating contracts for Auxiliary Services such as District-wide beverage vending are issued upon award of a Request for Proposal process and approval by the Board of Trustees.

III. Competitive Solicitation

PURPOSE: The purpose of this procedure is to document the initiation and processing of the competitive solicitation, for the purpose of acquiring goods and services, in compliance with El Paso Community College Policy CF (Legal) *Purchasing and Acquisition*.

SCOPE: The provisions of this procedure apply to all District employees authorized to initiate and process a request to purchase goods or services.

DEFINITION: The District will adhere to the provisions and dollar limits imposed by *Texas Education Code* 44.031 and, as applicable, Chapter 2267, *Texas Government Code*. All contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for the District:

- Competitive bidding for services other than construction services;
- Competitive sealed proposals for services other than construction services;
- A request for proposals, for services other than construction services;
- An inter-local contract (e.g. purchasing cooperatives contracts);
- a method provided by Chapter 2267, *Government Code*, for construction services;
- The reverse auction procedure as defined by Section 2155.062(d), *Government Code*;
- The formation of a political subdivision corporation under Section 304.001, *Local Government Code*

Reference: *Texas Education Code* 44.031 (a)

Except as provided by this *Texas Education Code*, Subchapter B, in determining to whom to award a contract, the District shall consider:

- (1) The purchase price;
- (2) The reputation of the vendor and of the vendor's goods or services;
- (3) The quality of the vendor's goods or services;
- (4) The extent to which the goods or services meet the District's needs;
- (5) The vendor's past relationship with the District;

- (6) The impact on the ability of the District to comply with laws and rules relating to historically underutilized businesses;
- (7) The total long-term cost to the District to acquire the vendor's goods or services;
- (8) For a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner:
 - (A) has its principal place of business in this state; or
 - (B) employs at least 500 persons in this state; and
- (9) Any other relevant factor specifically listed in the request for bids or proposals.

Reference: *Texas Education Code 44.031 (b)*

This section does not apply to a contract for professional services rendered, including services of an architect, attorney, certified public accountant, engineer, or fiscal agent. The District may, at its option, contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Section 2254.003, *Government Code*, in lieu of the methods provided by this section.

Notice of the time by when and place where the bids, proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which the District's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications.

In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately.

The District shall receive record and award competitive solicitations in accordance with Purchasing and Contract Management Departmental procedures, as specified in the general conditions section of the competitive solicitation packets issued to vendors. On the date and at the time of the closing of the proposal receipt process, responses will be publicly opened, logged and identified by offerer name; however, proposals will not be read aloud unless they are for construction services.

The Board reserves the right to reject any and all competitive solicitations and to accept the bid or proposal that represents the best value in the best interest of the District.

Any bid, offer, or response to a request for qualifications may be withdrawn prior to the scheduled time for opening.

PROCEDURES: All contracts valued at \$50,000 or over shall be presented to the Board of Trustees for approval before execution.

A. Applicable dollar thresholds:

- 1. Purchase of \$100.00 or less:
Utilize Comptroller's petty cash procedure.
- 2. Purchase of \$500.00 or less (in the aggregate):
May be processed through a check request submitted to the Accounts Payable Department.
- 3. Purchases in the amount of less than the dollar limit imposed by *Texas Education Code 44.031(a)* shall be processed by the Purchasing and Contract Management Department from authorized sources through a spot purchase or single source process; the informal quote procedure, as needed; through a sole source process if applicable; or from a contract vendor.
- 4. Purchases in the amount of the dollar limit imposed by *Texas Education Code 44.031(a)* or more (in the aggregate for the fiscal year for like items) require processing through a contract vendor unless the supplier/vendor can be demonstrated to be a sole source, and will be made in accordance to *Texas Education Code 44.031*.
- 5. The estimated timeline for the competitive solicitation process is as follows:
 - Packet preparation: 1 week

- Advertisement: 3 weeks
- Response opening, evaluation, award preparation: 1 week
- Consideration by Board of Trustees: up to 4 weeks
(next scheduled Board meeting,
following response opening date)
- TOTAL up to 9 weeks

6. Multi-year awards, or the right of the administration to renew the award for more than one year, as previously approved by the Board, shall be subject to an administrative annual or other review to determine continuation of the contract award based on supplier/vendor performance based on the criteria established in the competitive or other solicitation and the availability of funds.
7. Single source - The practice of using one source, among others in the competitive market, which, for justifiable reason or reasons, is found to be most advantageous for the purpose of fulfilling a given purchasing need is considered a “single source.”
8. Sole source - Without complying with 44.031, Subsection (a), the District may purchase an item that is available from only one source, including: an item for which competition is precluded because of the existence of a patent, copyright, secret process, or monopoly; a film, manuscript, or book; a utility service, including electricity, gas or water; and a captive replacement part or component for equipment. These exceptions do not apply to mainframe data-processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

Reference: *Texas Education Code 44.031 (j) and (k)*

The Administration recognizes that there may be instances when proprietary or sole source purchases must be made, but such purchases must be appropriately justified. The justification for such purchases must be in writing and must be based upon a need for some feature or characteristic (specification) that is unique to the requested product or service that cannot be provided by any other product or service. The written justification must be forwarded to the Purchasing and Contract Management Department and must contain the following elements:

- a. Identification of the unique specification of the requested product or service that will serve as the basis for the proprietary/sole source justification.
- b. An explanation of the need for the unique specification. This explanation must address the critical importance of the unique specification as it relates to the intended use of the product or service.
- c. A reason stating why a competitor’s product or service is not satisfactory. This section must relate to the explanation of need for the unique specification and should serve to support a finding that the stated need cannot be met with competing products or services. Sufficient detail must be included to show that the marketplace has been canvassed to locate acceptable competitive products or services.
- d. Authorized signatures (Budget Head and the Budget Head’s Vice President) and date.
- e. A letter from the company describing the unique characteristics of the good or service offered and a statement that the product or service is exclusively sold by them and cannot be purchased from any others. The letter must be dated and signed by an officer of the company. The purchase must be made within one calendar year of the date of the letter.

The written justifications may be presented to the Board of Trustees as support for the agenda item requesting Board approval for the purchase. The written justification is not a justification to purchase. The law does not require that the decision to purchase products and services be justified. It is a justification of the need for something that is unique about the product or service that precludes competition. It is important to note that the price of a product is not acceptable justification for a proprietary purchase. If there are two or more products that are acceptable, preserving the competitive solicitation environment will help ensure that the District receives the best price. The proprietary purchase procedure is a valuable tool that should be used whenever appropriate. If a proprietary purchase is justified, the request should be processed accordingly, rather than by soliciting “competitive” proposals and then attempting to disqualify proposals received on other products. As purchasing files are subject to

the Open Records Act, the proprietary/sole source purchase procedure is an overt act that must withstand critical scrutiny. Justifications must be objective and must avoid statements that cannot be substantiated. The justification cannot be that competing products are not satisfactory. Statements regarding product quality that may be subjective should not be used. It is recognized that many purchases are based upon extensive investigative work done by the requester before submitting the purchase request and that there are good reasons why one product will work and another may not. Remember, however, that the proprietary/sole source purchase procedure is an exception to the competitive solicitation requirements to be used when appropriate. It is not a mechanism for avoiding such requirements.

9. Conflict of interest: The purchase of goods and/or services from students, District employees or their immediate families and/or from businesses which are majority-owned by District employees or their immediate families is not allowed. Any such transaction represents a conflict of interest. Refer to El Paso Community College Policy CFE (Legal) *Purchasing and Acquisition, Vendor Relations*. The president of the College, with the consent of the Board of Trustees, may waive this prohibition in extraordinary circumstances, provided however, that no such exception shall be made if it is in conflict with the laws of the State of Texas or the United States. Acquisitions from a business in which an employee has financial interest are prohibited, as provided by the laws of the State of Texas.
10. Purchases in the amount of \$50,000 or over will require Board of Trustees approval through a Board agenda abstract provided by the requester through the office of the Vice President over the area, to the office of the President on or before the deadline to submit Board agenda items. A copy of said abstract shall be provided to the Purchasing and Contract Management Department to be included in the contract file.

B. Request for Proposal (RFP)

A Request for Proposal is a competitive solicitation that allows for negotiation with the offeror. In this instance, a school district may open the proposal upon receipt and begin the negotiation process for the offered goods/services. Construction projects may not be processed using the Request for Proposal process.

Reference: Texas Education Agency – Resource Guide, June 2008

1. Development of specifications: Specifications will be developed and documented by the requesting department. Specifications shall be descriptive and technical and shall be written in a clear, detailed manner, providing as much information as is required for a supplier/vendor to identify the goods and/or services being solicited. Requesters may also ask the Purchasing and Contract Management Department for assistance in specification development. Evaluation criteria and relative weights must be included in the specifications. The Buyer will review specifications and may add or remove information, with input from the requester as required.
2. RFP documents: A request for proposals packet will be prepared by the Purchasing and Contract Management Department's Bid Specialist. The packet shall contain, but is not limited to, the following sections:
 - a. Uniform provisions consisting of: Invitation, General Conditions, Instructions to Proposers, Family Code Notice, Felony Conviction, Conflict of Interest Questionnaire and such other information as required by law
 - b. Specifications
 - c. Proposal Form and any attachments
 - d. Special instructions, if any
3. Supplier/vendor list: The requesting department will supply a list of suggested suppliers/vendors. All suppliers/vendors qualified to provide goods or services of the kind being solicited are invited to participate in the process. The Buyer of record may utilize his/her experience in the particular market to include additional suppliers/vendors. The Purchasing and Contract Management Department will also add suppliers/vendors from the "Prospective Bidder File."
4. RFP advertising: The Request for Proposal will be advertised for two consecutive weeks in the local newspaper and on the Purchasing and Contract Management Department's website. Packets will be available for pickup in the office of Purchasing and Contract Management at the address below and at www.epcc.edu/purchasing. Sealed proposals will be due on or before the deadline specified in the "Invitation" section of the packet. Sealed proposals may be hand-delivered to: El Paso Community

College, Purchasing and Contract Management Department, 9050 Viscount, Room A-147, El Paso, Texas 79925, or mailed to: El Paso Community College, Purchasing and Contract Management Department, P.O. Box 20500, El Paso, Texas 79998-0500. Excluding institutional holidays, business hours are Monday through Friday, 8:00 a.m. to 5:00 p.m., MST/MDT.

5. Receipt and tabulation of RFP: Upon receipt, sealed proposals will be date-stamped and logged by the Purchasing and Contract Management Department on or before the deadline specified in the "Invitation" section of the packet. Two members of the Purchasing staff will be present at the opening of proposals. On the date and at the time of the closing of the proposal receipt process, responses will be publicly opened, logged and identified by offerer name; however, proposals will not be read aloud.
6. RFP evaluation: Proposals will be evaluated by an evaluation team composed of, but not limited to, three (3) or more representatives of the District. Each member of the evaluation team will complete and sign the Evaluation Committee Member Agreement and Disclosure before evaluating the proposals submitted. The Buyer and the Bid Specialist will be present to coordinate and record the evaluation process. The evaluation committee will make a recommendation for award based on the offer that represents "best value" for the District, per the provisions of the *Texas Education Code*, Section 44.031(b). District employees shall conduct evaluations in an ethical and fair manner. The Buyer is responsible for recording the evaluation process. The Bid Specialist is responsible for coordinating the process and maintaining all applicable forms.
7. RFP award: The award process shall be based on the criteria contained in the RFP and made in accordance with El Paso Community College Policy CF (Legal) *Purchasing and Acquisition*. Purchases in the amount of \$50,000 or over will require Board of Trustees approval through a Board agenda abstract provided by the requester through the office of the Vice President over the area, to the office of the President on or before the deadline to submit Board agenda items. A copy of said abstract shall be provided to the Purchasing and Contract Management Department to be included in the contract file.
8. Contract management: The Purchasing and Contract Management Department will be responsible for documenting supplier/vendor performance, as required, in the areas of: adherence to the contract terms and price, the quality of product and/or service, and the delivery of product and/or service. District departments are encouraged to provide information pertaining to the performance of the awarded supplier(s)/vendor(s). A supplier/vendor that does not meet the requirements of the award will be determined to be non-compliant. The Purchasing and Contract Management Department will notify the supplier/vendor, in writing, of any problem requiring immediate corrective action. If no satisfactory corrective action is received, the supplier/vendor will be considered to be non-compliant. This may lead to cancellation of the current contract and may affect the evaluation scores of the vendor in future competitive solicitations as allowed by *Texas Education Code* 44.031(b).

C. Competitive Sealed Proposals (CSP)

1. Development of specifications: Specifications will be developed and documented by the requesting department. Specifications shall be descriptive and technical and shall be written in a clear, detailed manner, providing as much information as is required for a supplier/vendor to identify the goods and/or services being solicited. Requesters may also ask the Purchasing and Contract Management Department for assistance in specification development. Evaluation criteria and relative weights must be included in the specifications. The Buyer will review specifications and may add or remove information, with input from the requester as required.
2. Proposal documents: A request for competitive sealed proposals packet will be prepared by the Purchasing and Contract Management Department's Bid Specialist. The packet shall contain, but is not limited to, the following sections:
 - a. Uniform provisions consisting of: Invitation, General Conditions, Instructions to Proposers, Family Code Notice, Felony Conviction, Conflict of Interest Questionnaire and such other information as required by law
 - b. Specifications
 - c. Proposal Form and any attachments
 - d. Special instructions, if any
3. Supplier/vendor List: The requesting department will supply a list of suggested suppliers/vendors. All suppliers/vendors qualified to provide goods or services of the kind being solicited are invited to

participate in the process. The Buyer of record may utilize his/her experience in the particular market to include additional suppliers/vendors. The Purchasing and Contract Management Department will also add suppliers/vendors from the "Prospective Bidder File."

4. Advertisement: The request for Competitive Sealed Proposals will be advertised for two consecutive weeks in the local newspaper and on the Purchasing and Contract Management Department's website. Packets will be available for pickup in the office of Purchasing and Contract Management at the address below and at www.epcc.edu/purchasing. Sealed proposals will be due on or before the deadline specified in the "Invitation" section of the packet. Sealed responses may be hand-delivered to: El Paso Community College, Purchasing and Contract Management Department, 9050 Viscount, Room A-147, El Paso, Texas 79925, or mailed to: El Paso Community College, Purchasing and Contract Management Department, P.O. Box 20500, El Paso, Texas 79998-0500. Excluding institutional holidays, business hours are Monday through Friday, 8:00 a.m. to 5:00 p.m., MST/MDT.
5. Receipt and tabulation of CSP's: Upon receipt, sealed proposals will be date-stamped and logged by the Purchasing and Contract Management Department on or before the deadline specified in the "Invitation" section of the packet. On the date and at the time of the closing of the proposal receipt process, responses will be publicly opened, logged and identified by offerer name; however, proposals will not be read aloud unless they are for construction services.
6. CSP pre-evaluation and evaluation: Proposals will be evaluated by an evaluation team composed of, but not limited to, three (3) or more representatives of the District. Each member of the evaluation team will complete and sign the Evaluation Committee Member Agreement and Disclosure before evaluating the proposals submitted. The Buyer and the Bid Specialist will be present to coordinate and record the evaluation process. The evaluation committee will make a recommendation for award based on the offer that represents "best value" for the District, per the provisions of the *Texas Education Code*, Section 44.031(b). District employees shall conduct evaluations in an ethical and fair manner. The Buyer is responsible for recording the evaluation process. The Bid Specialist is responsible for coordinating the process and maintaining all applicable forms.

Once a supplier/vendor is identified to be the one selected for recommendation for award, the evaluation committee may request that the Purchasing and Contract Management Department further conduct negotiations with the supplier/vendor. Negotiations can be done on specifications and pricing, in the best interest of the District. The District, at its discretion, may request "best & final offers" from all suppliers/vendors in the case of a change to the supplier/vendor requirements, or from the supplier/vendor most likely to be awarded. All communication with suppliers/vendors must be conducted in a written manner. A second evaluation meeting may be scheduled if further discussion is required by the committee. Award recommendation must be made in compliance with the published evaluation criteria and applicable relative weights included in the specifications.

7. CSP award: The award process shall be based on the criteria contained in the CSP and made in accordance with El Paso Community College Policy CF (Legal) *Purchasing and Acquisition*. Purchases in the amount of \$50,000 or over will require Board of Trustees approval through a Board agenda abstract provided by the requester through the office of the Vice President over the area, to the office of the President on or before the deadline to submit Board agenda items. A copy of said abstract shall be provided to the Purchasing and Contract Management Department to be included in the contract file.
8. Contract management: The Purchasing and Contract Management Department will be responsible for documenting supplier/vendor performance, as required, in the areas of adherence to the contract terms and price, the quality of product and/or service, and the delivery of product and/or service. District departments are encouraged to provide information pertaining to the performance of the awarded supplier(s)/vendor(s). A supplier/vendor that does not meet the requirements of the award will be determined to be non-compliant. The Purchasing and Contract Management Department will notify the supplier/vendor, in writing, of any problem requiring immediate corrective action. If no satisfactory corrective action is received, the supplier/vendor will be considered to be non-compliant. This may lead to cancellation of the current contract and may affect the evaluation scores of the vendor in future competitive solicitations as allowed by *Texas Education Code* 44.031(b).

D. Request for Qualifications (RFQ) - professional services

The Request for Qualifications process is required for the contracting of professional services, such as those provided by certified public accountants, architects, landscape architects, land surveyors, physicians including

surgeons, optometrists, professional engineers, state-certified or state licensed real estate appraisers and registered nurses. The selection and award of the firm is done based on demonstrated competence and qualifications and for a fair and reasonable price. The selection of the firm is conducted as per the provisions of *Government Code*, Section 2254. Contracting through the RFQ process is done in a two-tier format:

Step 1 Qualification process, and

Step 2 Negotiation and issue of cost proposal by qualified firm.

1. Development of requirements: The requesting department and the Purchasing and Contract Management Department will develop the qualifying criteria and requirements, to meet the needs of the District.
2. RFQ documents: The RFQ packet will contain the following information as applicable:
 - a. Uniform provisions consisting of: Invitation, General Conditions, Instructions to Respondents, Family Code Notice, Felony Conviction, Conflict of Interest Questionnaire and such other information as required by law
 - b. Requirements.
 - c. Special instructions, if any.
3. Supplier/vendor list: The requesting department will supply a list of suggested suppliers/vendors. The list may be revised by the Buyer.
4. RFQ advertising: The Request for Qualifications will be advertised for two consecutive weeks in the local newspaper and on the Purchasing and Contract Management Department's website. Packets will be available for pickup in the office of Purchasing and Contract Management at the address below and at www.epcc.edu/purchasing. Response packets will be due on or before the deadline specified in the "Invitation" section of the packet. Sealed responses may be hand-delivered to: El Paso Community College, Purchasing and Contract Management Department, 9050 Viscount, Room A-147, El Paso, Texas 79925, or mailed to: El Paso Community College, Purchasing and Contract Management Department, P.O. Box 20500, El Paso, Texas 79998-0500. Excluding institutional holidays, business hours are Monday through Friday, 8:00 a.m. to 5:00 p.m., MST/MDT.
5. Receipt of RFQ's: Upon receipt, response packets will be date-stamped and logged by the Purchasing and Contract Management Department on or before the deadline specified in the "Invitation" section of the packet. On the date and at the time of the closing of the qualification statement receipt process, responses will be opened, logged and identified by offerer name; however, qualification statements will not be read aloud.
6. RFQ evaluation: Responses will be evaluated by an evaluation team composed of, but not limited to, three (3) or more representatives of the District. Each member of the evaluation team will complete and sign the Evaluation Committee Member Agreement and Disclosure before evaluating the qualification statements submitted. The Buyer and the Bid Specialist will be present to coordinate and record the evaluation process. The evaluation committee will make a recommendation for award based on selection criteria contained in the RFQ. District employees shall conduct evaluations in an ethical and fair manner. The Buyer is responsible for recording the evaluation process. The Bid Specialist is responsible for coordinating the process and maintaining all applicable forms.
7. RFQ award: The firm(s) will be ranked based on demonstrated competence and qualifications. The Board of Trustees will review the selection recommendation and approve negotiations with the selected firm or firms. Services must be provided at a fair and reasonable price. The Purchasing and Contract Management Department and requester will negotiate with the most qualified firm, or in the event the Board approves negotiations with more than one firm, with those firms so selected. If a satisfactory contract cannot be negotiated, the District shall formally end negotiations, select the next most highly qualified firm and attempt to negotiate a contract with that firm at a fair and reasonable price. The District shall continue this process to select and negotiate with firms until a contract can be signed. Purchases in the amount of \$50,000 or over will require Board of Trustees approval, before the contract can be signed, through a Board agenda abstract provided by the requester through the office of the Vice President over the area, to the office of the President on or before the deadline to submit Board agenda items. A copy of said abstract shall be provided to the Purchasing and Contract Management Department to be included in the contract file.

8. Contract management: The Purchasing and Contract Management Department will be responsible for documenting supplier/vendor performance, as required, in the areas of: adherence to the contract terms and price and the quality and delivery of service. District departments are encouraged to provide information pertaining to the performance of the awarded supplier(s)/vendor(s). A supplier/vendor that does not meet the requirements of the award will be determined to be non-compliant. The Purchasing and Contract Management Department will notify the supplier/vendor, in writing, of any problem requiring immediate corrective action. If no satisfactory corrective action is received, the supplier/vendor will be considered to be non-compliant and may jeopardize current and future business.

E. Request for quote process

Please Note: This is not required if the purchase is made from a contract vendor or a sole source supplier/vendor.

Purchase Requisitions valued under \$10,000

The Buyer will verify the information on the requisition and process a purchase order upon determining the best value for the District.

Purchase Requisitions valued at \$10,000.00 or more, but under the dollar limit imposed by *Texas Education Code 44.031(a)*

1. The Buyer will verify the information on the requisition and process a written quote. In the best interest of the District, the Purchasing and Contract Management Department may employ the formal solicitation process instead, at its discretion.
2. The Buyer will issue a request for quote to a minimum of, but not limited to, three (3) suppliers/vendors.
3. The Buyer will assign a timetable for the quote to be processed and returned by the supplier/vendor. The supplier/vendor may mail, hand deliver or fax the quote responses, which must be accompanied by supporting documents as necessary in order for the Buyer to identify the best value in the best interest of the District.
4. The Buyer will receive quotes and award based on the evaluation criteria to determine the best value for the District.

F. Department of Information Resources and Texas Comptroller of Public Accounts contracts

Purchases under a state contract in accordance with *Local Government Code*, Subchapter D, Section 271: "State Cooperation in Local Purchasing Programs," satisfies any state law requiring the District to seek competitive bids for the purchase of the item.

Reference: *Local Government Code*, Subchapter D, Sections 271.081 through 271.083

The District may acquire computers and computer related equipment, including computer software, through the Department of Information Resources under contracts entered into in accordance with Chapter 2054 or 2157, *Government Code*.

Reference: *Texas Education Code 44.031 (i)*

The El Paso County Community College District may source and purchase computer hardware, software, peripherals, and related services, as required, through the State of Texas Department of Information Resources. A political subdivision that purchases an item or service using a contract under this section satisfies any other law requiring the political subdivision to seek competitive bids for that item or service.

Reference: *Government Code 2054.0565(b)*

As a member of the Texas Comptroller of Public Accounts' Texas Procurement and Support Services Cooperative Purchasing Program, the El Paso County Community College District can purchase goods and services from state term contracts, TXMAS contracts, and piggyback contracts. A local government that purchases an item under a state contract or under a reverse auction procedure, as defined by Section 2155.062(d), *Government Code*, sponsored by the commission satisfies any state law requiring the local government to seek competitive bids for the purchase of the item.

Board Approval: Purchases in the amount of \$50,000 or over will require Board of Trustees approval through a board agenda abstract provided by the requester through the office of the Vice President over the area, to the office of the President on or before the deadline to submit board agenda items. A copy of said abstract shall be provided to the Purchasing and Contract Management Department to be included in the contract file.

G. Inter-local agreement

The El Paso County Community College District may enter into an inter-local agreement with another government agency for the purpose of sharing or “piggy-backing” competitive solicitations awarded by another government agency. The Board of Trustees shall approve participation through an inter-local agreement.

Texas Education Code 44.031

Board Approval: Purchases in the amount of \$50,000 or over will require Board of Trustees approval through a Board agenda abstract provided by the requester through the office of the Vice President over the area, to the office of the President on or before the deadline to submit Board agenda items. A copy of said abstract shall be provided to the Purchasing and Contract Management Department to be included in the contract file.

IV. Contract award dispute

PURPOSE: To provide guidelines for District representatives in the event a supplier/vendor dispute should arise as a result of contract award.

SCOPE: This procedure applies to all Purchasing personnel and departmental personnel directly or indirectly related to any purchasing transaction.

DEFINITION: Contract award is the final step in the competitive solicitation process. District representatives include, but are not limited to: the requester, the Buyer responsible for the commodity, the Director of Purchasing and Contract Management, the Associate Vice President of Budget and Financial Services, President of the College, and the District’s legal counsel.

PROCEDURE: In the event a supplier/vendor wishes to contest a contract awarded under the provisions of *Texas Education Code*, Subchapter B, Section 44.031(a) or (b) or other applicable law, the supplier/vendor shall initiate a written document stating the reason(s) to be the basis for the protest. In addition, the supplier/vendor shall provide supporting documents. Written protests must be submitted to the Director of Purchasing and Contract Management. The supplier/vendor will receive a written response addressing the issues presented. A contract award becomes final once it is approved by the Board of Trustees.

V. Purchase order follow-up, expediting, return of goods

PURPOSE: The Purchasing and Contract Management Customer Service Specialist reviews and monitors purchase orders for delivery and receipt of goods and assists in the resolution of order discrepancies and damage claims.

SCOPE: The provisions of this procedure apply to all Purchasing and Contract Management personnel and any departmental personnel that are directly or indirectly related to the receiving of goods ordered through the use of a purchase order.

PROCEDURE: Expediting shall be handled as follows:

- A. Monitor and verify purchase order delivery and receipt of goods.
- B. Identify delivery problems, and coordinate solution with requester and supplier/vendor.
- C. Document all communication with the supplier/vendor in Banner.
- D. Identify discrepancies and damages and arrive at a resolution by coordinating with supplier/vendor and all essential internal departments.

- E. Coordinate the return of goods with the Distributional Services Department and any essential internal departments affected by the return.

VI. Emergency purchases

PURPOSE: To document the procedure for purchases processed on an emergency basis.

SCOPE: This procedure applies to all District employees who are directly and/or indirectly related to ordering goods and services classified as an emergency.

PROCEDURE: Individual departments will submit a requisition to justify the emergency purchase on a timely basis. The requisition shall provide detailed information on the goods and/or services purchased. In addition, the requester will also provide justification for the emergency purchase.

The Purchasing and Contract Management Department will issue a confirming order to the supplier/vendor.

“Two types of emergency purchases are made in districts. One type results from an eminent [sic] threat to the health, safety, or welfare of students. Such purchases must comply with state law and may be made only after a formal Board action declaring an emergency and authorizing the purchase. An example of an emergency purchase of this type is the authorization to repair a school after a fire or a natural disaster.

Emergency purchases exceeding the dollar amount triggering competitive procurement requirements shall be made in conformance with subsection (h) Section 44.031 *Texas Education Code*.”

Reference: Section 3.2.5.7, Texas Education Agency-Resource Guide – 2008

“If school equipment or a part of a school facility or personal property is destroyed or severely damaged, or as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the Board of Trustees determines that the delay posed by the methods provided for in this section would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment or the part of the school facility may be made by methods other than those required by this section.”

Reference: Texas Education Code 44.031 (h)

“The second type of emergency purchase usually is defined by local policy to provide for the acquisition of goods or services to meet an immediate need such as purchases to repair damage to a facility which may imperil students or the security of the facility. For example, if windows are broken at a school by vandals, an immediate need exists to not only secure the building, but also to protect the contents from damage by the elements. This type of emergency purchase is normally utilized after regular business hours or on weekends and holidays. After purchases of this type are made, a purchase order should be issued after the fact on the next business day. Care should be taken that emergency purchases do not result from improper planning rather than from a true emergency.

It is important that the District attempts to eliminate emergency purchases for non-emergency situations as much as possible and requires that all emergency purchases be fully justified.”

Reference: Section 3.2.5.7, Texas Education Agency-Resource Guide – 2008

VII. Unauthorized purchases

SCOPE: This procedure applies to all District personnel directly or indirectly related to any purchasing transaction.

PROCEDURE: The procurement of goods and/or services prior to obtaining proper authorization through an authorized process is considered to be an “unauthorized transaction.” This type of transaction directly violates established District purchasing procedures. Any employee who places an order for goods and/or services without following the required requisition process violates District purchasing procedures. District employees who generate financial liability for the District without being authorized to do so will be subject to disciplinary action up to and including suspension or termination.

The employment contract of most District employees contains the following clause: “It is expressly agreed that the Employee shall have no right or authority at any time to make any contract or binding promise of any nature on behalf of the Board, whether oral or written, without the express written consent of the Board.”

Any supplier/vendor that accepts an unauthorized order will be advised of this policy and may jeopardize its ability to do business with the District.

The Purchasing and Contract Management Department is the only entity, within the District, authorized to issue purchase orders or contracts. All purchases shall be made in compliance with the provisions of *Texas Education Code*, Section 44.031, and other applicable laws.

Component, Separate and Sequential Purchases

Enforcement of Purchase Procedures: Criminal Penalties; Removal; Ineligibility

(a) In this section:

- (1) “Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.
- (2) “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.
- (3) “Sequential purchases” means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

Reference: *Texas Education Code 44.032 (a)*

- (b) An officer, employee or agent of the District commits an offense if the person with criminal negligence makes or authorizes separate, sequential, or component purchases to avoid the requirements of Section 44.031 (a) or (b). An offense under this subsection is a Class B misdemeanor and is an offense involving moral turpitude.

Reference: *Texas Education Code 44.032 (b)*

- (c) An officer, employee or agent of the District commits an offense if the person with criminal negligence violates Section 44.031 (a) or (b) other than by conduct described by Subsection (b). An offense under this subsection is a Class B misdemeanor and is an offense involving moral turpitude.

Reference: *Texas Education Code 44.032 (c)*

- (d) An officer or employee of the District commits an offense if the officer or employee knowingly violates Section 44.031, other than by conduct described by Subsection (b) or (c). An offense under this subsection is a Class C misdemeanor.

Reference: *Texas Education Code 44.032 (d)*

- (e) The final conviction of a person other than a trustee of the District for an offense under Subsection (b) or (c) results in the immediate removal from office or employment of that person. A trustee who is convicted of an offense under this section is considered to have committed official misconduct for purposes of Chapter 87, *Local Government Code*, and is subject to removal as provided by that chapter and Section 24, Article V, *Texas Constitution*. For four years after the date of the final conviction, the removed person is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by or act as an agent for the state or a political subdivision of the state, and is ineligible to receive any compensation through a contract with the state or a political subdivision of the state. This subsection does not prohibit the payment of retirement benefits to the removed person or the payment of workers’ compensation benefits to the removed person for an injury that occurred before the commission of the offense for which the person was removed. This

subsection does not make a person ineligible for an office for which the federal or state constitution prescribes exclusive eligibility requirements.

Reference: *Texas Education Code 44.032 (e)*

A court may enjoin performance of a contract made in violation of this subchapter. A county attorney, a district attorney, a criminal district attorney, a citizen of the county in which the District is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court.

Reference: *Texas Education Code 44.032 (f)*

VIII. Sale of District property

PURPOSE: To dispose of surplus and obsolete property.

SCOPE: This procedure applies to all Purchasing personnel and departmental personnel that are directly and indirectly related to the disposition of surplus and obsolete property.

PROCEDURE: The disposition of surplus and obsolete property shall be handled as follows:

1. Transfer of surplus property from District departments to Property Control. The Property Control Department will transfer property to other departments, as required.
2. Obsolete surplus property will be placed on the public sale list to be sold through sealed bids, public auction, or in such other manner as authorized by the laws of the State of Texas.

The Purchasing and Contract Management Department facilitates the sealed bid process and ensures an open and fair process. The Property Control Department administers delivery of the awarded items to bidders.

IX. District policies and procedures

College Procedure CF-2 *Purchasing Procedures* only reflects those El Paso Community College policies and procedures applicable to the procurement process. Additional District policies and procedures for Accounts Payable, Distributional Services, Property Control and others also apply.



For College Procedure CF-2:
Purchasing Procedures

REVENUE-GENERATING CONTRACTS - COST ANALYSIS FORM

| | |
|----------------------------------|----------------------|
| Cost Analysis for: | |
| (Program Name) | |
| (Responsible Person) | |
| | Dollar Amount |
| Estimated Revenues: | |
| # of students | |
| Tuition | |
| (# of students x tuition) | |
| | |
| Other fees | |
| | |
| Total Revenue: | |
| | |
| Expenses: | |
| | |
| Overhead: | |
| College Fixed Costs | |
| Supplies | |
| Other: | |
| | |
| Total Expenses: | |
| | |
| Estimated Net Income: | |
| | |
| Estimated State Revenue | |
| | |
| Total Income: | |