

**LONE STAR COLLEGE SYSTEM DISTRICT
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preceding the date that the officer becomes aware that a contract has been executed with the potential vendor or that the College is considering entering into a contract with the potential vendor; or

- (b) the potential vendor has given the officer or officer's family member one or more gifts having an aggregate value of more than \$100 in the 12-month period preceding the date that the officer becomes aware that a contract has been executed with the potential vendor or that the College is considering entering into a contract with the potential vendor.

The College's Purchasing Department maintains a list of College officers and makes that list available to the public and to any potential vendor who may be required to file a conflict of interest questionnaire. Completed questionnaires are subject to the Texas Public Information Act and are available on the College's website.

III.D.1.10. Certificate of Interested Parties

The College may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the College at the time the business entity submits the signed contract to the College. A Texas Ethics Commission Certificate of Interested Parties (Form 1295) is required for a College contract that either (1) requires an action or vote by Board before the contract may be signed or (2) has a value of at least \$1 million.

The College must notify the commission, using the commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the contract binds all parties to the contract.

III.D.2. Purchasing of Goods and Services

III.D.2.1. Policy

When purchasing goods and services, the College obtains the best overall value and conducts all procurement activities in an open and fair manner with equal opportunity for all qualified vendors. The College provides equal contracting opportunities as required by federal and state laws and by local laws and regulations for historically underutilized businesses. Purchases of goods and services are based upon competitive processes, except as otherwise provided in this policy. Purchases may not be separate, sequential, or component purchases to avoid state or local purchasing policies. This policy applies to most purchases of goods or services. It does not apply to purchases of real property or professional services.

III.D.2.2. Definitions

- (a) **Library goods and services** means (1) serial and journal subscriptions, including electronic databases, digital content, and information products; (2) other library materials and resources, including books, e-books, and media not available under a statewide contract and papers; (3) library services, including periodical jobber and binding services

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not available under a statewide contract; (4) library equipment and supplies; and (5) library or resource-sharing programs operated by the Texas State Library and Archives Commission.

III.D.2.3. Procedures

The Chancellor or designee develops and implements Chancellor's Procedures for complying with this policy.

III.D.2.4. Authority to Purchase Goods and Services

The College complies with the Texas Education Code by establishing open and fair purchasing and bidding practices that provide the best value to the College for goods and services valued at \$50,000 or more in the aggregate for each 12-month period.

The Board must approve purchases or contracts of \$100,000 or more over the contract term, including renewal options unless the Board has expressly authorized delegation to the Chancellor or designee. The Chancellor may delegate authority for purchases and contracts to procure goods or services below \$100,000 in writing. Those delegation forms must be filed with the Office of the General Counsel before the designee executes any agreements. Delegated procurement authority may be revoked.

That designee may further delegate authority to approve purchase orders, direct payment requests, and employee expense and petty cash reimbursements to other subordinate employees. Those delegation letters must also be filed with the Office of the General Counsel before the designee executes any agreements.

III.D.2.5. Goods and Services Procurement Options

Goods and services purchases valued under \$50,000 in the aggregate for each 12-month period adhere to Chancellor's Procedures.

Goods and services purchases valued at \$50,000 or more in the aggregate for each 12-month period shall be made by the following methods that provides the best value to the College:

1. Competitive bidding for services other than construction services;
2. Competitive sealed proposals for services other than construction services;
3. A request for proposals, for services other than construction services;
4. An interlocal contract;
5. A method provided by Chapter 2269, Government Code, for construction services;
6. The reverse auction procedure as defined by Section 2155.062(d), Local Government Code; or

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7. The formation of a political subdivision corporation under Section 304.001, Local Government Code.

III.D.2.6. Administrative Requirements for Purchasing of Goods and Services

Unless otherwise covered by the sections above or required by law to meet other requirements, purchases of goods or services made on the College's behalf must meet the administrative requirements outlined below.

- (a) **Purchases Valued at \$50,000 or More.** All goods and services purchases of \$50,000 or more are coordinated through the College's Purchasing Department, under Administration and Finance. Purchases requiring competitive procurement must include: (1) creating and issuing required standards and specifications; (2) advertising and issuing bid/proposal documents with weighted factors; (3) standardized submission of bids/proposals and public openings; (4) evaluating vendor qualifications and selection; and (5) awarding purchase orders and contracts.
- (b) **Purchases Valued at \$100,000 or More.** All goods and services purchases of \$100,000 or more require Board approval except as otherwise stated in this policy.
- (c) **Emergency Purchases.** In the event of a catastrophe, emergency, or natural disaster affecting the College, the Board authorizes the Chancellor to contract for the replacement, construction, or repair of College equipment or facilities if the replacement, construction, or repair is necessary for the health and safety of College students and staff.

Emergency purchases may be made by a method other than those provided in this policy if College equipment, facility, or a portion of a facility is destroyed, severely damaged, or experiences a major unforeseen operational, or structural failure, and the Board determines that the delay posed by the contract methods required by this policy would prevent or substantially impair the conduct of classes or other essential school activities.

Emergency purchases must be justified in writing and approved in advance by the Chancellor for purchases of \$100,000 or more, by the Vice Chancellor for Administration and Finance or designee for purchases under \$100,000. The Board must approve or ratify emergency or sole source purchases of \$100,000 or more.

- (d) **Sole Source.** Sole source purchases must be justified in writing and approved in advance by the Chancellor or designee. A formal competitive process is not required to purchase an item available from only one source, including: (1) an item for which competition is precluded because of a patent, copyright, secret process, or monopoly; (2) a film, manuscript, or book; (3) a utility service, including electricity, gas, or water; or (4) captive replacement part or component for equipment.

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- (e) Interlocal Purchase Agreements & Cooperative Purchasing Programs.** The College may enter into an interlocal purchase agreement with a local government, the state, or a state agency to purchase goods or services. The interlocal purchase agreement must: (1) be authorized by the governing board of each party; (2) state the purpose, terms, rights and duties of the contracting parties; and (3) specify that each party paying for performance of governmental functions or services must make those payments from current available revenues.

The Board must approve interlocal purchase agreements for \$100,000 or more over the contract term, whether payable in a one-time payment or in installments unless the Board has expressly authorized delegation to the Chancellor or designee. Purchases may be made through an interlocal agreement without a competitive bid process after a market analysis determines that the interlocal agreement provides the best value for the College. The best value decision must be in writing for purchases exceeding \$50,000.

The College may participate in cooperative purchasing programs with a local cooperative organization. The participation agreement shall:

1. designate a person to act under the direction of, and on behalf of, the College in matters relating to the program;
2. make payments to the cooperative or directly to a vendor under a contract made under Local Government Code Chapter 271, Subchapter F; and
3. be responsible for the vendor's compliance with provisions relating to the quality of items and terms of delivery, to the extent provided in the agreement between the College and the cooperative organization.

- (f) Library Goods and Services Purchases.** The College purchases, licenses, or otherwise acquires library goods and services in any manner including, but not limited to: statewide purchasing contracts, library or resource-sharing programs, available from one source, or any other manner as authorized by Texas law.

- (g) Computer and Computer-Related Equipment Purchases.** The College may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources (DIR) under contracts entered into in accordance with Texas Government Code Chapter 2054 or 2157. Purchases and/or leases of computer equipment through public bids or proposals must be in accordance with applicable rules adopted by the Texas Comptroller pertaining to competitive bidding or competitive sealed proposals.

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- (h) Automated Information Systems Purchases.** Automated information systems must be purchased as a commodity item under Texas Government Code § 2157.068 or using a purchasing method identified by the Texas Comptroller as providing best value, including a request for offers method.

III.D.2.7. Bidding Requirements

All bidding practices shall comply with state law. The College establishes practices to identify when to require bids and when to utilize other procurement methods. Bid openings are public, and those submitting bids are invited to attend. The Chancellor or designee may reject any and all bids.

All bids are conducted through the College Purchasing Department unless the Board specifically authorizes another process. The College may hold pre-bid conferences and may, upon proper notice, make attendance at such conferences mandatory. The College does not open or consider any bid submitted by a vendor who did not attend a mandatory pre-bid conference.

III.D.2.8. Surety Bonds

The College may, at the Chancellor or written designee's discretion, require bid surety, payment bonds, and performance bonds for purchases of goods and services.

Bid surety bonds are returned to all bidders except the successful bidder at the time the award is made. The successful bidder's surety bond is retained until the merchandise has been delivered, inspected for quality, and determined to meet bid requirements.

III.D.2.9. Contract Term Limits and Non-Availability of Funds Provision

Long-term contracts are encouraged to maximize the procurement process's efficiency or to optimize long-term pricing. Long-term contracts shall not exceed five years including any renewals or amendments. Contracts that exceed the end of the College's fiscal year should include a provision that permits termination at the end of the fiscal year if funding is unavailable or be conditioned on a best efforts attempt by the governing body to obtain and appropriate funds for payment of the contract.

III.D.2.10. College Criteria for Awarding Contracts

In awarding a contract, the College must consider:

- (a)** purchase price, including delivery and installation;
- (b)** the reputation of the vendor and of the vendor's goods or services;
- (c)** the quality of the vendor's goods or services;
- (d)** the extent to which the goods or services meet the College's needs;

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- (e) the vendor's past relationship with the College;
- (f) the impact on the ability of the College to comply with laws relating to historically underutilized businesses;
- (g) the total long-term cost to the College to acquire the goods or services;
- (h) for a contract for goods and services, other than goods and services to be funded wholly or partially by one or more federal grants or related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or vendor's ultimate parent company or majority owner:
 - 1. has its principal place of business in this state; or
 - 2. employs at least 500 persons in this state; and
 - 3. any other relevant factor specifically listed in the request for bids or proposals.

LSCS Policy Manual Section adopted by the Board of Trustees on July 10, 2017

III.D.2.11. Departure from Purchase of Goods and Services Policy

Circumstances may justify a departure from the College's normal competitive process. The Chancellor, with the General Counsel's advice, may expressly approve departures from this policy. Any departure from this policy may not violate applicable law.

III.D.3. Purchase of Professional Services

III.D.3.1 Policy

The Board must approve professional services agreements, excluding legal services, with a value of \$100,000 or more over the contract term. The Chancellor or designee must approve professional services agreements with a value of less than \$100,000 over the contract term.

III.D.3.2. Definitions

(a) Professional services means:

- 1. Within the scope of the practice, as defined by state law, accounting, technology, financial, auditing, architecture, landscape architecture, land surveying, medical, optometry, professional engineering, legal, real estate appraising, or professional nursing; or
- 2. Provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse; or