

C.1.5.1 (Procedure) Purchasing Authority

Responsible Department: Vice Chancellor for Finance and Administration

Based on Board Policy: C.1.5 - Purchasing and Acquisitions

Approved: 8-18-09

Last Amended: 7-13-16

Overview

The purpose of these procedures is to provide the guidelines for all purchases made by the Alamo Colleges as required by the policy C.1.5 Purchasing and Acquisitions. Purchases are to be made in compliance with the appropriate laws, rules and regulations and follow sound business practices.

The Alamo Colleges objective is to purchase the best products, materials, and services at the lowest practical prices *within relevant statutes and policies*. Procurement policies and procedures must, of course, accommodate our unique operating environment and needs. While Purchasing & Contract Administration is not authorized to override state law or board policy, it shall customize the purchasing function to provide for regulatory compliance while minimizing procedures and related costs.

Centralized Procurement

Purchasing & Contract Administration is responsible for all purchases of goods and services made by the Alamo Colleges. Other than procurement card transactions and the retention and compensation of outside counsel by the Office of Legal Services as provided for in Policy B.7.2, individuals outside the Purchasing Office are not authorized to commit the Alamo Colleges to acquiring products or services. If appropriate, a funded requisition is processed by Purchasing & Contract Administration and a purchase order or contract is generated. A requisition is NOT a purchase order and the act of entering a requisition does not guarantee that a purchase order will be issued. Unauthorized purchases will not be honored by the Alamo Colleges and the individual who made the unauthorized purchase may be responsible for the vendor payment.

Signature authority for vendor contract execution shall be centralized in Purchasing & Contract Administration to provide reasonable assurance of compliance with reporting reliability, Board and Chancellor delegation and applicable laws and policies.

Responsibilities

Communication between the requisitioning department (Requisitioners) and Purchasing & Contract Administration is a mutual responsibility. The Requisitioners should contact Purchasing when:

- Developing an item specification for planned procurement
- Requiring that suppliers are to be added to a bid list
- Planning procurement action involving a potential sole source of supply
- Needing to identify sources of supply for a specific service or commodity; and
- Determining that supplier services or products are in compliance with specifications or requirements.

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Purchasing & Contract Administration is responsible for providing the business skills and coordinating, when necessary, appropriate technical skills required to purchase all goods and services, supplies, or equipment, including:

- Reviewing departmental requisitions for accuracy and completeness of specifications and determining the proper procurement procedure
- Negotiating, and processing all vendor agreements, (including, without limitation, licenses) and purchase orders
- Processing official solicitations and issuing resultant vendor agreements or purchase orders
- Developing and maintaining accurate and up-to-date information on sources of materials, services and equipment
- Identifying alternative sources of supply
- Communicating with colleges and DSO units to stay current with planned needs
- Providing acceptable terms and conditions for procurement
- Defining, maintaining and providing access to processes and records to support established objectives
- Assisting Requisitioners in developing specifications and requirements
- Assisting Requisitioners with information about sources of supply
- Managing quotation requests and the bid process
- Communicating with suppliers during the purchasing process
- Updating the Requisitioners with information relative to price, quality, and delivery of a requisitioned item during the purchasing process; and
- Maintaining all information, including notes, reports and correspondence between suppliers and Requisitioners, pertaining to the purchase.

Purchase Requisitions

Purchase Requisitions are used for the procurement of all supplies, equipment and services not purchased using the procurement card, other than payment of outside counsel fees. Purchasing & Contract Administration requires the use of a fully funded purchase requisition. The necessity for Requisitioners to pre-plan supplies and equipment needs cannot be over-emphasized. The time required for issuing an order and securing delivery may vary.

Delegation of Purchasing Authority

The Board of Trustees has delegated authority to Purchasing & Contract Administration to award purchase orders and contracts up to \$100,000 in any 12-month period, subject to full compliance with all applicable Texas state procurement laws, Board policies, Alamo College procedures and any applicable grant or other funding requirements. Texas Government Code § 2252.908 requires all non-interlocal vendors to file with, and Purchasing and Contract Administration to acknowledge with, the Texas Ethics Commission, a state form of disclosure of interested parties for any acquisition transaction requiring Board approval or exceeding \$1,000,000 in value before entering into a contract. Purchasing & Contract Administration personnel and the Requisitioner are

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responsible for understanding and complying with these procedures. Any situation requiring exception to or variation from these procedures should be brought to the attention of Purchasing & Contract Administration.

Formal Competitive Procurement Process

All vendors responding to competitive procurement opportunities using the Competitive Sealed Proposal (CSP) or the Sealed Bid methods shall send responses in sealed envelopes, plainly marked with the name and identifying number of the procurement opportunity and the time of opening of the responses. The bids/proposal responses are open publicly at which time any interested party is welcome to attend. The Alamo Colleges shall not consider proposal/bid responses received after the time specified (deadline). After the bid/proposal due date, Purchasing & Contract Administration coordinates and supervises a process to evaluate and recommend an award be made by the Board of Trustees.

Informal Competitive Procurement Process

Requisitioners should first contact Purchasing & Contract Administration to determine if a contract is already in place for meeting requirements and before issuing a Purchase Requisition for most goods and services. If there is no contract, Purchasing & Contract Administration may informally solicit quotes from vendors for purchases of less than \$50,000 in the aggregate for any 12-month period.

It is a good business practice to make purchases based on a best value assessment of a quote (taking into account a variety of factors in addition to price, such as delivery capabilities, quality, past performance, training, reporting capabilities, compliance with specifications/requirements, financial stability, etc.). The award will be made to the responsive and responsible bidder that offers the best combination of all of such factors as are specified. Purchasing & Contract Administration works with the Requisitioner to assess the total planned spend (estimated total value of the contract for any 12-month period).

Expedited Process for Low-Risk Service Contracts for Less Than \$10,000

Current policy and procedure requires that Purchasing and Contract Administration sign all vendor transaction agreements, subject to discretionary delegation.

Risk Management and Legal Services recognize a category of service provider whose services are not expected to present sufficient risk to require insurance to do business with Alamo Colleges. Eligibility for the use of the attached Services Agreement Form - Low Risk Individual, which does not require insurance, is described in its cover sheet.

Purchasing and Contract Administration hereby delegates to College Presidents and Vice-Presidents for College Services its authority to sign the Services Agreement Form - Individual Low

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Risk to contract for eligible services for a price not exceeding \$10,000. No individualized price evaluation or additional price quotes are required.

You should first determine eligibility of the transaction to use the form agreement, and then complete it, including its Exhibits A (for transaction details) and B (to qualify the services provider as an independent contractor rather than a part-time employee). Any provider-supplied additional terms require Legal review. The provider should next sign and return the completed agreement, after which the delegated Alamo Colleges signer should counter-sign, enabling the provider to proceed with the delivery.

Once delivery is completed and the service is accepted, you are to proceed with payment processing using either a Purchase Order or PCard. When processing using a Purchase Order, submit a signed copy of the agreement with the Purchase Requisition (marked "Confirming Order") to Purchasing & Contract Administration. Allow at least four business days for Purchase Order processing. When using the PCard, make the payment and send a signed copy of the agreement with the PCard Expense Report.

Following the directions provided is important. Sending completed agreements to Purchasing allows for management of purchasing statute compliance. Completing Exhibit B reduces exposure to significant tax penalties for incorrect classification of service providers as independent contractors. Ineligible use of the Services Agreement Form Low-Risk Individual reduces the effectiveness of Alamo Colleges' risk management policies. Failure to use an Alamo Colleges form of agreement for PCard transactions exposes Alamo Colleges to self-serving terms and conditions imposed by vendors. Compliance will ultimately be audited. Coordinate with Purchasing (for any extensions, amendments or subsequent agreements with the same vendor within any 12-month period), Human Resources, and the Office of Legal Services, as appropriate, to ensure compliance.

State and Cooperative Purchases

Vendor contracts awarded through approved federal, state or cooperative purchasing agreements are a statutorily approved alternative to competitively procured vendor contracts. Only the following such contract purchases require prior Board approval:

- a. Purchases valued at \$100,000 or more in any 12-month period that will result in additional gross square footage (permanent or otherwise) that will require cleaning and maintaining, and have at least two utilities present;
- b. Purchases valued at \$100,000 or more in any 12-month period that in the judgment of the Chancellor or Purchasing & Contract Administration would commit the College District or one of the colleges to an entirely new technology that would be pervasive for subsequent years.

For any cooperative purchasing contract valued at \$25,000 or more, Purchasing & Contract Administration shall document any contract-related fee, including any management fee. At least

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annually, Purchasing & Contract Administration shall present a written report regarding these contract-related fees, including any management fees, to the Board of Trustees at a properly posted open meeting.

Purchase Approval Authority

The Approval Authority Schedule establishes the authority that is required to approve each purchase requisition, and to approve procurement of goods and services at different dollar thresholds.

The purchase of goods and services must adhere to the Purchasing Policy. The Approval Authority Schedule for procurement initiated by the Requisitioner is a pre-established hierarchy of approvals in the financial system and is dependent on the total dollar spending unless otherwise delegated.

Procurement Value \$	Approval Authority
1 - 5,000	Manager, Department Head, Chair or equivalent, or higher
5,001 – 50,000	Vice President College Services or Associate Vice-Chancellor or higher
50,001 – up	College President, Vice Chancellor, General Counsel or higher

Conflict of Interest

Prohibition Against Employees Providing Goods or Services

College District employees shall not provide or seek to provide services to the College District for compensation outside the scope of College District employment or supplemental service assignments (see D.2.5.1) or act or seek to act as a vendor to the College District.

The following shall not submit bids or proposals for goods or services or otherwise do business or seek to do business with the College District, unless the goods or services are procured through formal competitive procurement process:

- a. Members of a College District employee’s immediate family (spouse, parent, son, daughter, brother or sister);
- b. Persons living in the same household as a College District employee; or
- c. A business entity in which a College District employee or any person under (a) or (b) above owns 10% or more of the voting stock, shares, or fair market value of the business entity, or \$15,000 or more of the fair market value of the business entity.

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It is the employee's responsibility to disclose all such relationships to the College District prior to the beginning of the selection process. Failure to disclose such relationships described above may result in disciplinary action against the employee and termination of any contract or other relationship with the College District involving persons or entities described above.

Requirement to Report Potential Purchasing Conflicts of Interest

The specific disclosure requirements of this section apply pursuant to Chapter 176 of the TEXAS LOCAL GOVERNMENT CODE to any Board member, the Chancellor, the Director, any assistant Director, any employee or agent of the Purchasing and Contract Administration Department, or counsel with responsibility for contract review with any responsibility for interaction with a particular vendor or potential vendor, and any employee or agent of the College District exercising discretion in the planning, recommending, selecting or contracting of a vendor (collectively, "Covered Agent"). No member of any procurement evaluation committee or other advisory body established by Purchasing and Contract Administration shall be allowed any such discretion to constitute such person a Covered Agent, that discretion in that aspect of the procurement process being reserved entirely to the Purchasing and Contract Administration Department, and the deliberations and notes of such committees shall be confidential.

Any Covered Agent must file a Form CIS with the Texas Ethics Commission within seven (7) calendar days after becoming aware that a vendor is considering entering into or has entered into a contract with the College District and any of the following factors pertain to a relationship between the Covered Agent and the vendor:

- (1) The Covered Agent has an employment or other business relationship with the vendor resulting in the receipt of non-investment income by the Covered Agent exceeding \$2,000 in the 12-month period immediately preceding the date of first Covered Agent awareness of the potential or actual vendor relationship;
- (2) Covered Agent or a family member within the third degree of consanguinity or the second degree of affinity has received anything of value from the vendor, other than food accepted as a guest or a political contribution, of an aggregate value of more than \$100 in the 12-month period immediately preceding the date of first Covered Agent awareness of the potential or actual vendor or relationship;
- (3) Covered Agent is related within the first degree of consanguinity or affinity to the vendor.

Participating in Selection

No College District employee shall participate in the selection of goods or services if the employee, a member of the employee's immediate family, or anyone living in the same household as the employee:

1. is seeking to provide the goods or services;

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2. owns 10% or more of the voting stock, shares, or fair market value, or \$15,000 of the fair market value of;
3. is an employee, partner, officer, director, trustee, or consultant for;
4. is eligible to receive support for travel, or has received honoraria from;
5. was involved in establishing or incorporating; or
6. has a right to receive royalties from: an entity that submits a bid or proposal or otherwise seeks to provide goods or services to the College District.

It is the employee's responsibility to disclose all such relationships prior to the bidding/proposal/selection process. Failure to disclose such relationships described above may result in disciplinary action against the employee and termination of any contract or other relationship with the College District entities described above.

Prohibition Against Dividing Purchases

An officer, employee, or agent of a college district commits an offense if the person with criminal negligence makes or authorizes separate, sequential, or component purchases to avoid the requirements of Education Code 44.031(a) or (b) or otherwise violates Section 44.031(a) or (b). An officer or employee of a college district commits an offense if the officer or employee knowingly violates Education Code 44.031 in any other manner.

"Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be made in one purchase. "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase. "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

Notice of Award

To ensure an effective process, clear communications and desired outcomes, the following process will be pursued. Purchasing will email to proposers/bidders a notice that it has made a recommendation for competitive procurements shortly before the release of that recommendation by publication in a Board of Trustees Committee agenda posted at the College District website. Any proposer/bidder for procurement may contact Purchasing & Contract Administration from the date of public release of the recommendation for a procurement for which they competed through the Friday immediately following such release with questions, comments or concerns regarding the recommendation. The College District's competitive proposal procedures are largely mandated by statute and do not permit the renegotiation of proposals after the submission deadline has passed, and its response may be limited by applicable procurement law. Pursuant to Policy C.1.5 (Purchasing and Acquisitions), the Chancellor or designee shall serve as hearing officer for proposer/bidder complaints regarding specifications or other elements of the procurement process.

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Personal Purchases

College District employees shall not be permitted to purchase goods or services for personal use through the College District. Notwithstanding the foregoing, the College District may make available to employees the opportunity to purchase in their private capacity certain items from

College District vendors, often on preferential terms, pursuant to vendor programs by reason of their College District employee status.

Delinquent Franchise Taxes

Each corporation contracting with the College District shall certify that its franchise taxes are current. If the corporation is exempt from payment of franchise taxes or is an out-of-state corporation not subject to Texas franchise tax, it shall certify a statement to that effect. Making a false statement as to corporate franchise tax status shall be considered a material breach of the contract and shall be grounds for cancellation of the contract.

Sole Source

Purchasing & Contract Administration may certify that there are no other functionally or professionally equivalent products or services in the marketplace and that the products or services can only be purchased from a sole source based on a demonstration of same by the Requisitioner. By this written certification, Purchasing & Contract Administration may by statute waive an otherwise applicable competitive procurement requirement and may make the purchase through established administrative procedures.

Additional Requirements

Purchasing & Contract Administration staff provides the first line of assistance for this Procedure and maintains additional procurement and acquisition procedures at the following webpage:

<http://www.alamo.edu/district/purchasing>

Legal Reference - TACC Policy Reference Manual

CF (LEGAL) - Purchasing and Acquisition

CFE (LEGAL) - Purchasing and Acquisition: Vendor Relations

CFF (LEGAL) - Purchasing and Acquisition: Payment Procedures

CFG (LEGAL) - Purchasing and Acquisition: Real Property and Improvements

CFH (LEGAL) - Purchasing and Acquisition: Financing Personal Property Purchases