PURCHASING MANUAL
2026-2027

EFFECTIVE DATE: JULY 1, 2026

Pursuant to Board Policy BP (Local), the Superintendent and administrative staff shall be responsible for developing and enforcing procedures for the operation of the District. These procedures shall constitute the administrative regulations of the District and shall consist of guidelines, handbooks, manuals, forms, and any other documents defining standard operating procedures. The administrative procedures set forth in this manual facilitate the District's compliance with Board Policy and applicable law.

The Superintendent and Chief Financial Officer formally adopt the administrative procedures set forth in this manual to facilitate the District's compliance with Board Policy and applicable law.

Dr. Jack Lee
Superintendent of Schools

11/3/2026
Date Signed

Elizabeth Banks, RTSBA
Chief Financial Officer

11/3/26
Date Signed

Sec. 1. **OVERVIEW**

As with every organization, Seguin ISD (hereafter, the "District") strives to provide its personnel with the procedures and forms necessary to facilitate organizational compliance with applicable legal requirements, to minimize the abuse and waste of limited financial resources, and to mitigate the risk of fraudulent conduct.

Sec. 1.1. **Purpose**

With this manual, the District endeavors to provide its personnel with a sufficiently informative description of the purchasing process applicable to its use of all District funds – local, state, and federal. Accordingly, this manual identifies and describes the procedures applicable to the procurement of goods and services. This manual does not address other requirements that do not directly pertain to the procurement of goods and services. District personnel should consult the appropriate handbook for direction and guidance.

Sec. 1.2. **Legal Requirements**

Through this manual, the District strives to implement the fiscal requirements set forth in the following legal authorities.

Subchapter B, Chapter 44 of the Texas Education Code (Tex. Ed. Code)
Chapter 2254, Subchapter A and Chapter 2269 of the Texas Government Code (Tex. Govt. Code)
Code of Federal Regulations, Title 2, Part 200 (2 CFR 200)
Financial Accountability System Resource Guide (FASRG)
Board of Directors Policy for Purchasing and Acquisition (Board Policy)

Sec. 1.3. **Manual to Supplement Legal Requirements**

This manual does not supersede and is not in lieu of the legal requirements promulgated in applicable state and federal law and rule (collectively, law), grants, contracts, and other agreements (collectively, contracts). Instead, this manual shall supplement existing legal requirements and facilitate District compliance with applicable law and contracts. In any instance where this manual conflicts with state and federal law or a contractual provision, the legal requirement will govern and control. When in doubt, department personnel are advised to consult legal, accounting, and business professionals concerning applicable legal and accounting requirements under state and federal law.

Sec. 1.4. **Manual to Implement Board Policy**

This manual does not supersede and is not in lieu of the policies adopted by the Board of Trustees (Board). Instead, this manual implements Board policy by describing District purchasing practices and processes. In any instance where this manual conflicts with Board policy, Board policy will prevail.

Sec. 1.5. **General Applicability**

The administrative procedures described in this manual apply to the use of all District funds – local, state, and federal – for the purchase of goods and services.

Sec. 1.6. **Organization of Manual**

This manual is organized into sections and subsections that are identified by number. For ease of reference, procedural statements in paragraphs are also identified by number (if a subsection

contains multiple paragraphs). The procedures described in this manual outline the process that the District shall follow to demonstrate compliance with applicable law and Board policy.

Sec. 1.7. **Responsibility for Development and Maintenance**

The Chief Financial Officer is primarily responsible for the development and maintenance of this manual. District administrators, employees, and Board members may assist with the development and maintenance of this manual and may make recommendations to the Chief Financial Officer to improve the District's purchasing practices.

Sec. 1.8. **Review and Amendment of Manual**

This manual will be reviewed and revised annually before the fiscal year ends and prior to the start of the following fiscal year. For administrative expediency, this manual will only be amended during a fiscal year if a new and significant law, policy, or procedure is adopted and made effective during the fiscal year.

Sec. 1.9. **Effective Date**

This manual is effective for fiscal years beginning on July 1, 2026, and thereafter.

Sec. 1.10. Retention of Manual

This manual shall be updated annually or as needed.

Sec. 2. **CODE OF CONDUCT**

Sec. 2.1. **Standards of Conduct**[1]

District personnel shall be responsible for adhering to the following standards of conduct when using District funds for the purchase of goods and services.

(a) It is a breach of ethics to attempt to realize personal gain through public employment with the District by any conduct inconsistent with the proper discharge of an employee's duties.

(b) It is a breach of ethics to attempt to influence any District employee to breach the standards of ethical conduct set forth in this code.

(c) It is a breach of ethics for any District employee to participate directly or indirectly in a procurement when the employee knows that:

(1) The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;

(2) A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or

(3) Any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment participates in the procurement.

(d) It is a breach of ethics to offer, give or agree to give any District employee or former District employee, or for any District employee or former District employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before the District. Acceptance of gratuities may be construed as a criminal offense.

(e) It is a breach of ethics for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher-tier subcontractor for any District contract, or any person associated therewith, as an inducement for the award of a subcontract or order.

(f) The prohibition against gratuities and kickbacks prescribed at (d) and (e) above should be conspicuously set forth in every contract and solicitation thereof.

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1 FASRG (Update 19)

(g) It is a breach of ethics for any District employee or former District employee to knowingly use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.

Sec. 2.2. Individual Conflicts[2]

In accordance with 2 CFR 200.318(c)(1), prior to participating in the selection, award, or administration of a contract supported by a Federal award, employees, officers, and any agent conducting work on behalf of the District must disclose, in writing, any real or apparent conflict of interest. If the employee, officer, or agent has no such conflict, the employee, officer, or agent must provide a written statement to this effect.

Sec. 2.2.1. Written Statement.

Employees, officers, and agents may provide the required written statement via electronic mail using their District or other employer-issued e-mail address. In their statement, employees, officers, and agents must declare as follows:

I, [Name], have reviewed Sec. 2.2 of the Purchasing Manual relating to individual conflicts and the conflicts of interest policy adopted by the Board of Trustees, and, after consulting with management, have identified the following conflicts(s) of interest:

[Identify the conflicted party and provide a sufficiently detailed, but brief, description of the conflict of interest.]

I hereby certify and attest that, to the best of my knowledge and belief, the conflict(s) of interest enumerated and described above, are my only such conflicts and I further certify and attest that, also to the best of my knowledge and belief, I do not have any real or apparent conflict of interest with any prospective vendor for the invitation for bids or request for proposals, No. [IFB/RFP ID], for which this certification is provided.

Or

I, [Name], have reviewed Sec. 2.2 of the Purchasing Manual relating to individual conflicts and the conflicts of interest policy adopted by the Board of Trustees, and hereby certify and attest that, to the best of my knowledge and belief, I do not have any real or apparent conflict of interest with any prospective vendor for the invitation for bids or request for proposals, No. [IFB/RFP ID], for which this certification is provided.

Sec. 2.2.2. Circumstances Resulting in a Conflict of Interest.

A conflict of interest would arise when an employee, officer, or agent has a financial or other interest in or a tangible personal benefit from an organization that is being considered for a contract. Moreover, a conflict of interest would also arise if any member of said employee's, officer's, or agent's immediate family, partner, or an organization that employs or is about to employ any of the parties indicated herein has a financial or other interest in or a tangible personal benefit from an organization that is being considered for a contract. In addition to the requirement set forth in this subsection, employees and officers must consider the requirements set forth in the conflicts of interest policy adopted by the Board.

[2] 2 CFR §200.318(c)

2.2.3. Participation.

For purposes of this subsection, participation means any involvement, be it direct or indirect, in the process for selecting and awarding a contract and the subsequent administration of said contract, including monitoring contractor performance with the terms and conditions of the contract and any required evaluation of contractor performance.

Sec. 2.2.4. Apparent.

For purposes of this subsection, apparent means both clearly visible and understood (i.e., obvious) and seemingly real or true but not necessarily so.

Sec. 2.2.5. Participation Prohibited.

If an employee, officer, or agent has a real or apparent conflict of interest, the employee, officer, or agent shall not participate in the selection, award, or administration of a contract supported by a Federal award.

Sec. 2.2.6. Exclusion of Conflicted Agents.

In accordance with 2 CFR 200.319(b), District agents who develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals shall be excluded from competing for such procurements.

Sec. 2.3. Organizational Conflicts[3]

An organizational conflict of interest may result when the District conducts a business transaction with an affiliate or subsidiary organization and, as a result of this relationship, the District is unable or appears to be unable to be impartial in conducting a procurement action involving its affiliate or subsidiary. Generally, because of its relationship with an affiliate or subsidiary, the District may encounter one or more of the following types of organizational conflicts of interest.

(a) Unequal access to information
(h) Biased ground rules
(i) Impaired objectivity

Thus, when using federal funds to procure goods and services from an affiliate or subsidiary organization, the Board and District administrators and employees are to avoid and take other actions to mitigate the potential for significant organizational conflicts of interest that may result in an unfair competitive advantage to an affiliate or subsidiary. If District personnel identify an organizational conflict of interest, the employee must prepare a memorandum to the Chief Financial Officer identifying the proposed procurement, the conflicted entity, and the circumstances giving rise to the conflict. Upon review, the Chief Financial Officer must submit the memorandum and a proposed remedy to the Superintendent and, if deemed appropriate and necessary, the Board for consideration and approval.

Sec. 2.4. Gifts

No employee shall accept or solicit any gifts, favors, services, or other benefits that could reasonably be construed to influence the employee's discharge of assigned duties and

[3] 2 CFR §200.318(c)

responsibilities or could be perceived as having been offered because of an existing or potential business relationship. Employees shall disclose any gifts, favors, services, or benefits received with an aggregate value of $100 or more from any one individual over the course of the fiscal year to the Chief Financial Officer. This includes items of food, lodging, transportation, tickets, or business entertainment accepted as a guest. When the employee is in doubt about the value of the gift, he or she should report it to the Chief Financial Officer. If an employee has any questions regarding acceptable conduct or the interpretation of this policy, or if he or she is in doubt about the best course of action in a particular situation, the employee must seek clarification from his or her supervisor or the Chief Financial Officer. Failure by an employee to disclose gifts pursuant to this policy could result in adverse personnel action against the employee.

Special Rule for Federal Grants: Pursuant to 2 C.F.R. 200.318(c)(1) and the District's EDGAR Manual, officers, employees, and agents participating in the selection, award, or administration of a contract supported by federal funds may not solicit or accept any gifts or gratuities, except unsolicited items of nominal value ($50 or less). The general $100 disclosure threshold under Chapter 176 does not permit acceptance of gifts under federal programs.

Sec. 2.5. Failure to Adhere to Code of Conduct

The Chief Financial Officer or designee will investigate any alleged failure by an employee to adhere to the Code of Conduct, as set forth in this section, including the disclosure of gifts. If the alleged misconduct is found to be substantiated, the District shall, in accordance with the policies adopted by the Board, apply an adverse personnel action against the employee that is appropriate to the infraction identified, including, but not limited to, termination of employment and referral to the proper law enforcement authorities.

Sec. 3. GENERAL REQUIREMENTS APPLICABLE TO ALL PURCHASES

This section describes local requirements that apply to all procurements of goods, services, and construction services.

Sec. 3.1. Definitions

For purposes of implementing the procedures set forth in this manual, the following terms have the meanings disclosed in this section.

Sec. 3.1.1. Budgetary Line Item

"Budgetary Line Item" means the amount of approved[4] budgeted expenses for a unique accounting classification consisting of a fund code, function code, object code, organizational code, fiscal year code, and program intent code (e.g., 199-E-11-6219-001-7-23). It may include locally defined optional codes (e.g., sub-object code).

Sec. 3.1.2. Component Purchases

"Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.[5]

Sec. 3.1.3. Computing Devices

"Computing devices" means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or ''peripherals'') for printing, transmitting, receiving, or storing electronic information.

Sec. 3.1.4. Equipment

"Equipment" means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the District's capitalization threshold of $10,000, as established under Board Policy CFB(LOCAL).[6]

Sec. 3.1.5. Goods

"Goods" means personal property such as appliances, contract rights, equipment, furniture, intellectual property, consumable materials, software, supplies, and vehicles.

Sec. 3.1.6. Micro-purchase Threshold

"Micro-purchase threshold" means $49,999.[7]

Sec. 3.1.7. Non-Professional Services

"Non-professional services" means any service not specifically identified as a professional service.

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4 "Approved" means that the Superintendent and/or Chief Financial Officer approved the specific Budgetary Line Item which was subsequently included in the budget submitted to and approved by the Board.

5 Tex. Ed. Code §44.032(a)(1)

6 2 CFR §200.1

7 Seguin ISD self-certified for a higher micro-purchase threshold through TEA for the 26-27 school year.

Sec. 3.1.8. Professional Services[8]

"Professional services" means services:

(a) Within the scope of the practice, as defined by state law, of:

(1) Accounting;
(2) Architecture;
(3) Landscape architecture;
(4) Land surveying;
(5) Medicine;
(6) Optometry;
(7) Professional engineering;
(8) Real estate appraising;
(9) Professional nursing; or
(10) Forensic science;

(b) Provided in connection with the professional employment or practice of a person who is licensed or registered as:

(1) A certified public accountant;
(2) An architect;
(3) A landscape architect;
(4) A land surveyor;
(5) A physician, including a surgeon;
(6) An optometrist;
(7) A professional engineer;
(8) A state-certified or state-licensed real estate appraiser; or
(9) A registered nurse; or
(10) A forensic analyst or forensic science expert; or

(c) Provided by a person lawfully engaged in interior design, regardless of whether the person is registered as an interior designer under Chapter 1053, Occupations Code.

Sec. 3.1.9. Personal Property

Personal property means property other than real property. It may be tangible, have physical existence, or intangible.[9] Generally, personal property includes:

(a) Furniture, equipment, supplies, and other goods;

(b) Computer hardware and software;

(c) Contract rights, intellectual property such as patents, and other intangible property;

(d) Cash, currency, funds, bank accounts, securities, and other investment instruments;

[8] Tex. Gov't. Code §2254.002
[9] 2 CFR §200.1

(e) The right to repayment of a loan, advance, or prepayment or to the payment of other receivables; and

(f) Any other form of personal property recognized by Texas law.

Sec. 3.1.10. Separate Purchases

"Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.[10]

Sec. 3.1.11. Sequential Purchases

"Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.[11]

Sec. 3.1.12. Services

"Services" means professional services and non-professional services.

Sec. 3.1.13. Simplified Acquisition Threshold

"Simplified acquisition threshold" means $100,000.

Sec. 3.1.14. Supplies

"Supplies" means all tangible personal property, other than equipment, as defined at Sec. 3.1.4, and may include, regardless of the length of its useful life, a computing device, as defined at Sec. 3.1.3, if the acquisition cost is less than the District's capitalization threshold of $10,000, as established under Board Policy CFB(LOCAL).[12]

Sec. 3.2. Designee

As set forth in Board Policy, the Superintendent delegates purchasing authority and primary responsibility for implementing the procedures set forth in this manual to the Chief Financial Officer.

Sec. 3.3. Purchasing Officer

As authorized by the Superintendent of Schools, the Chief Financial Officer designates the Purchasing Coordinator, as the District's purchasing officer. In this capacity, the purchasing officer shall be responsible for the following additional duties and responsibilities:

(a) Assist District employees in preparing purchase order requests and purchase orders;

(d) Assist District employees in complying with the federal and state laws and rules and the local requirements established in Board Policy and this manual;

(e) Contact potential vendors for inclusion in the District's approved vendor list;

(f) Maintain the District's approved vendor list;

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10 Tex. Ed. Code §44.032(a)(2)
11 Tex. Ed. Code §44.032(a)(3)
12 2 CFR § 200.1

(g) Maintain a template(s) of standard contractual provisions required by prudent business practice and applicable law and rule;

(h) Contact approved vendors to check on the availability of goods and services and the status of outstanding purchase orders;

(i) Place orders on behalf of District employees;

(j) Identify, address, and resolve issues with outstanding purchase orders;

(k) Coordinate the preparation and approval of contracts and other agreements;

(l) Maintain the District's contracts;

(m) Maintain evaluations and notes of contractor performance in the approved vendor files.

The designation made in this subsection notwithstanding, the Chief Financial Officer is ultimately accountable to the Superintendent for any delegated authority.

Sec. 3.4. **Segregation of Duties**

Recognizing that the proper segregation of duties mitigates the risk of erroneous and inappropriate actions in the procurement of goods and services, the Chief Financial Officer will ensure that an appropriate degree of separation exists between duties that could facilitate such actions. To this end, the following general duties are assigned to the positions indicated.

(a) Central office and campus staff (i.e., end user):

(1) As set forth in the district/campus improvement plan, identify good(s) and/or service(s) necessary to implement the identified strategy and activity;
(2) Establish minimum acceptable requirements and technical specifications that the good(s) and/or service(s) must meet;
(3) Identify quantities needed and/or scope of work;
(4) Determine timeline for delivery of good(s) and/or service(s);
(5) Ensure that funds are available in the budget, as adopted or amended by the Board, to procure the needed good(s) and/or service(s) (Refer to Sec. 3.5 of this manual.);
(6) Identify approved vendors that may provide the good(s) and/or service(s) needed; and.
(7) Submit a request to purchase the good(s) and/or service(s), including a line-item reference to the district/campus improvement plan, the budget line item to be used for the purchase, and the minimum acceptable requirements that must be met, via email or purchase request form.

(b) Central office/campus secretary:

(1) Receive request to purchase good(s) and/or service(s);
(2) Verify that the purchase is supported by the district/campus improvement plan as applicable and that the funds are available in the identified budget line item (Refer to Sec. 3.5 of this manual.);
(3) For purchases subject to Sec. 4.2.3, Sec. 5, Sec. 6, and Sec. 7, refer to the requested purchase to the purchasing officer;

(4) For purchases subject to Sec. 4.2.1 and 4.2.2, initiate a procurement by soliciting a written[13] quote(s) from an approved vendor(s) pursuant to the process set forth in the applicable section;
(5) Create a purchase order request through Skyward;
(6) Attach all supporting documentation to the purchase order request; and
(7) Route purchase order request and supporting documentation for approval.
(8) Email the accounts payable department that online receiving has been completed in the software system.

(c) Purchasing officer:

(1) For purchases subject to Sec. Sec. 4.2.1 and 4.2.2, review purchase order request prepared by the central office/campus secretary and verify that funds are available in the identified budget line item (Refer to Sec. 3.5 of this manual.) and that the vendor quote(s) were documented; or
(2) For purchases subject to Sec. 4.2.3, Sec. 5, Sec. 6, and Sec. 7, follow the procurement process set forth in the applicable section;
(3) Create a purchase order request through Skyward;
(4) Attach all supporting documentation to the purchase order request;
(5) Upon approval, issue a purchase order to the vendor.

(d) Chief Financial Officer:

(1) Review the documented quote(s) or bids or proposals responsive to the District's solicitation and validate that the procedures set forth in Sec. 4 through 7, as applicable, were followed;
(2) Approve (or disapprove) the purchase order request (Refer to Sec. 3.10 for further discussion.); and
(3) Execute the contract (if applicable and as authorized).

(e) For any request in excess of $49,999, the Superintendent:

(1) Review the documented quote(s) or bids or proposals responsive to the District's solicitation and validate that the procedures set forth in Sec. 4 through 7, as applicable, were followed;
(2) Approve (or disapprove) the purchase order request (Refer to Sec. 3.10 for further discussion.); and
(3) Execute the contract (if applicable and as authorized).

(f) Board:

(1) As determined applicable, consider, and approve (or disapprove) the Superintendent's or designee's recommendation to award a contract to a vendor.

(g) Central office and campus staff (i.e., end user):

(1) Receive, inspect, and accept or reject goods and/or services;

[13] If a written quote is not obtained, document the quote in an email to the vendor and request that they confirm the quote.

(2) Document receipt and acceptance or rejection of goods and/or services on receiving a report or other record;
(3) For services, prepare an evaluation of the service provider and the service(s) rendered.

(h) Accounts Payable Specialist:

(1) Accept receiving email and vendor invoice;
(2) Reconcile receiving to the vendor invoice noting any discrepancies;
(3) Reconcile vendor invoice to purchase order noting any discrepancies;
(4) Communicate and resolve discrepancies; and
(5) Prepare payment voucher to vendor.

(i) Budget Coordinator /Comptroller:

(1) On an audit or sample basis, review payment voucher, including purchase order, vendor invoice, receiving report, quotes, or other competitive purchasing records; and
(2) Approve payments;
(3) Reconcile general ledger and subsidiary ledgers to third-party bank or billing statements; and
(4) Disclose any observed discrepancies.

The Chief Financial Officer will periodically review duties within the purchasing function to determine if one or more employees are able to perform the general duties described above, either separately or jointly.

If the general duties described above cannot be separated, the Chief Financial Officer will perform a detailed supervisory review of related activities as a compensating control activity.

Sec. 3.5. **Budgetary Compliance**

In accordance with Board Policy, the Chief Financial Officer, purchasing officer, and other District employees are authorized to make budgeted purchases or other purchases authorized by the Board. To ensure compliance, the Chief Financial Officer, purchasing officer, and other District employees must observe the following process.

(a) Determine if the sum of actual expenses to date, encumbrances to date, and the proposed expenses are less than the Budgetary Line-Item amount.

(1) If so, approve the proposed expense.

(2) If it does not, determine if the proposed expense would result in an unfavorable variance of greater than ten (10) percent for the budgeted amount for the function code to which the Budgetary Line Item pertains.

(i) If so, prepare a budget amendment. Refer to budget amendment procedures in the accounting manual.

(A) Once the budget amendment is approved, proceed with the purchase.

(B) If the budget amendment is disapproved, discontinue purchase.

(ii) If it does not, prepare a budget reclassification for review by the Chief Financial Officer. Refer to budget reclassification procedures in the accounting manual.

(A) Once the budget reclassification is approved, proceed with the purchase.

(B) If the budget reclassification is disapproved, discontinue purchase.

(b) Determine if the purchase was specifically approved by the Board. If so, the Chief Financial Officer may approve the proposed expense in accordance with the Board's authorization. Upon approval by the Chief Financial Officer, District personnel may proceed with the purchase.

Sec. 3.6. **Authorized Signatory**

In accordance with Board Policy, the District will observe the thresholds identified in Table A below to determine who may sign a contract, purchase order, or other binding purchasing agreement.

*Table A: Contract Signatory Authorizations**

Authorized Signatory	May Sign Contracts for Business Arrangements or Transactions with a Cost or Value of		
	Less than $25,000	Between $25,000 and $50,000	$50,000 or more
President, Board of Trustees			Yes
Superintendent of Schools	Yes	Yes	Yes
Chief Financial Officer	Yes	Yes	Yes
Purchasing Coordinator	Yes		

*Note: Pursuant to Board Policy CH(LOCAL), any single purchase or contract commitment of $50,000 or more require prior authorization by the Board of Trustees before an authorized signatory many execute the agreement, unless the transaction qualifies under one of the four policy exceptions in CH(LOCAL) (Interlocal agreements, state/Co-op purchasing programs, continuing/periodic bids, or produce/fuel). *

Sec. 3.7. **Contract Required**

As set forth in Board Policy, the Chief Financial Officer or designee will prepare a fully executed contract pursuant to the following process.

(a) Determine if the total cost or value of the proposed business arrangement or transaction exceeds the simplified acquisition threshold.

(c) If the total cost or value of the proposed business arrangement or transaction exceeds the simplified acquisition threshold, obtain, or prepare a contract.

(d) Route the draft contract to legal counsel for review if the value is in excess of one million dollars or if legal review is deemed necessary by District administration. Legal counsel

may negotiate the terms and conditions with the vendor's attorney as appropriate and necessary, after consulting with District personnel.

(e) After legal counsel has reviewed the contract, route the contract, including counterparts, to an authorized vendor signatory.

(f) After the contract has been executed by the vendor's representative, route the contract, including counterparts, to an authorized District signatory.

(g) File an original, fully executed contract in the District's contract administration files and mail a counterpart to the vendor.

Sec. 3.8. **Required Board Approval**

As set forth in Board Policy CH(LOCAL), any single, budgeted purchase of goods or services that costs $50,000 or more, regardless of whether the goods or services are competitively purchased, shall require Board approval before a transaction may take place. In accordance with Board Policy CH(LOCAL), the Superintendent is not required to obtain prior Board approval for the following types of budgeted purchases, regardless of cost, but shall subsequently report them to the Board:

(a) A purchase made pursuant to a Board-approved interlocal contract, in accordance with law;
(b) A purchase made through a cooperative purchasing program or state purchasing program that satisfies the District's obligation for competitive purchasing;
(c) A continuing or periodic purchase under a Board-approved bid or contract; or
(d) A purchase for produce or fuel.

Sec. 3.9. **Contract Administration**

Consistent with Board Policy, the purchasing officer will maintain a contract administration system that includes: (1) original, fully executed legal agreements; and (2) information regarding the contractor's performance. To this end, the purchasing officer will work collaboratively with:

(a) Legal counsel to maintain a template(s) of standard contractual provisions required by prudent business practice and applicable law and rule. The standard provisions will be used to prepare contracts; and

(h) Central and campus office staff to evaluate contractor performance, particularly their accurate, complete, and timely delivery of undamaged goods and/or services that conform to the District's specifications and needs and that are delivered in compliance with contract terms.

The purchasing officer should prepare and include summary notes of the evaluation of contractor performance for inclusion in the approved vendor record maintained pursuant to Sec. 3.15 of this manual.

Sec. 3.10. **Purchase Order System**

In accordance with Board Policy, the District's Department of Business Services will maintain a purchase order system to serve as the formal method for procuring goods and/or services from a vendor. In general, the purchasing process has eight distinct steps:

(a) Planning the purchase;
(b) Request of goods and services;
(c) Procurement by an authorized method;
(d) Preparation and issuance of purchase order, including a fully executed contract;
(e) Delivery and receipt of goods and services;
(f) Receipt of vendor invoice;
(g) Preparation of payment to vendor; and
(h) Evaluation of vendor.

The process for steps (a), (b), (d), (e), and (h) will be addressed in Sec. 3.10 of this manual. Step (c) is addressed in Sec. 4, 5, 6, and 7 of this manual.

Sec. 3.10.1. Planning the Purchase

In general, the purchasing process begins when a need is identified by an end user and is not completed until payment is made for the goods and/or services received. Because the District's program is based on the implementation of a campus improvement plan and the operating budget adopted by the Board, employees should plan their purchases in a manner consistent with the strategies and activities described in the plan. Employees should give particular attention to the timelines associated with strategies and activities that require the purchase of goods or services at the same time (e.g., the purchase of computers and related peripherals at the start of the fiscal year for a computer lab).

Consistent with Sec. 3.4.1(a) of this manual, central office, and campus staff (i.e., end users) must adhere to the following procedure to ensure that purchases further the District's instructional goals in a purposeful manner as contemplated in its plans and budget.

(a) As set forth in the district/campus improvement plan, identify the good(s) and/or service(s) necessary to implement an identified strategy and activity pursuant to the timeline specified in the plan.

(b) Identify the types of goods (e.g., laptops) and services (e.g., software subscriptions) that will be needed and establish minimum acceptable requirements and technical specifications that the good(s) and/or service(s) must meet to facilitate the adequate implementation of the related strategy and activity documented in the plan.

(c) Identify quantities of each product that will be needed to adequately implement the plan. For example, a campus may only need ten (10) laptops to serve 100 students participating in a grade 3 mathematics intervention program staggered across ten one-hour pull-out sessions each week (i.e., ten students per session). For services, determine the known or anticipated number of students or staff who will use, participate in, or otherwise benefit from the service(s) to be rendered. For example, due to the assessments that each student will take and to properly evaluate student academic progress, a campus may need 100 subscriptions for instructional software to address academic deficiencies in grade 3 mathematics.

(d) Determine the timeline for delivery of good(s) and/or service(s).

(e) Ensure that funds are available in the Budget Line Item to be used to procure the needed good(s) and/or service(s). Refer to Sec. 3.5 of this manual for further guidance.

(f) Identify approved vendors that may provide the good(s) and/or service(s) needed. Refer to Sec. 3.15 of this manual for approved vendor requirements.

(g) Submit a request to purchase the good(s) and/or service(s), including a specific reference to the line item in the district/campus improvement plan to which the purchase pertains (i.e., the strategy and activity), the Budget Line Item to be used for the purchase and the minimum acceptable requirements that must be met, via email purchase request form to the central office or campus secretary.

Sec. 3.10.2. Requisition of Goods and Services

The purchasing process is formally initiated when a purchase order request is created in Skyward by the requesting campus or central office department and submitted for approval. A purchase order request is an internal document that is generated electronically (through the use of the automated system – Skyward) for the purchase of equipment, furniture, materials, services, supplies, etc. Through a purchase order request, the central office/campus secretary or purchasing officer initiates a purchase on behalf of a campus or department. A purchase order request is an unapproved purchase order. Once approved, the purchase order request becomes a purchase order. ***District personnel are prohibited from making any purchasing commitment without an approved purchase order.***

Skyward allows users to enter purchase order requests electronically, verify account balances, select pre-approved vendors, etc., at the point of data entry. The central office/campus secretary or purchasing officer preparing the purchase order request must:

(a) Identify the Budget Line Item; and

(b) Attach all documents pertaining to the procurement method used (e.g., quotes, online product details, conference online brochure, bids, unexecuted contract).

Prior to creating a purchase order request, the central office/campus secretary or purchasing officer must obtain quotes or other documentation after following the required procurement process. Refer to Sec. 4, 5, 6, and 7 of this manual. After the authorized signatory identified in Table A at Sec. 3.6 of this manual has reviewed and approved a purchase order request, a purchase order is generated and may be issued to the vendor. ***At least five business days should be allowed for a purchase order request to become a purchase order.***

When contacting vendors in the initial phase of a request, the central office/campus secretary or purchasing officer should inform the vendor that delivery of goods and/or services should not be initiated until the vendor has received an approved purchase order from the District.

Sec. 3.10.2.1. *Purchase Order Request Content*

Purchase order requests must include the following minimum information:

(a) Department/Campus group;
(b) Vendor name and address;
(c) Ship to destination;
(d) Quantity needed/being ordered;
(e) Unit cost/price per line item;
(f) Complete and accurate description per line item;
(g) The Budget Line Item(s);

(h) Discounts, if any;
(i) Shipping/Freight costs, if any;
(j) Bid/Proposal/contract number, if applicable; and
(k) Any special instructions.

Sec. 3.10.2.2. *Pre-Approval Review*

The purchasing officer shall review the purchase order request to ensure compliance with the following requirements:

(a) Board Policy;
(b) Sec. 3.10.4, 4, 5, and 6, as applicable, of this manual;
(c) Availability of funds in the identified Budget Line Item; and
(d) Attachment of all documents pertaining to the procurement method used.

Sec. 3.10.3. Purchase Orders

After a purchase order request is approved, it becomes a purchase order, which serves as the record of a formal order for goods and/or services from a vendor and is a binding commitment for the District to remit payment to the vendor after the good(s) and/or service(s) are received. Also, the purchase order is an important accounting record as it contains information on the expenditure to be made and the Budget Line Item(s) to be charged. Once issued, the purchase order encumbers funds and serves as an expenditure control mechanism. The purchase order is also used in the accounts payable process as it documents that an order has been issued, received, and accepted by the user, and payment may be made to the vendor.

Each purchase order is uniquely numbered for audit tracking purposes. In accordance with Board Policy, District employees shall not order or receive goods without an approved purchase order. A purchase order request cannot be used to place an order. An approved purchase order must be in hand before goods or services can be ordered. All purchase orders should be prepared pursuant to the purchase order request process described in Sec. 3.10.4 of this manual and subsequently mailed, emailed, or faxed to vendors by the purchasing officer or central office/campus secretary.

Sec. 3.10.3.1. *Approval Required*

As set forth in Sec. 3.6 of this manual, only the District employees identified in Table A are authorized to approve purchase orders. District employees may not issue a purchase order to a vendor unless an authorized employee has approved it. If a District employee issues a purchase order to a vendor without the required approval, the employee will be financially responsible for the purchase, as set forth in Board Policy.

Sec. 3.10.3.2. *Purchasing Deadlines*

In an effort to maximize the use of budgeted funds during the fiscal year, the purchasing deadline for supplies and equipment shall be communicated by the Purchasing Coordinator on an annual basis. District personnel should anticipate summer needs for staff development and other activities, as established in the district/campus improvement plan, and order goods and/or services prior to this deadline. At times, the purchasing deadlines for state or federal grants may be earlier than the deadline stated above due to grant ending dates. The specific purchasing deadlines for state and federal grants will be distributed on an annual basis by the Director of Federal Programs.

Sec. 3.10.3.3. *Modifications*

District personnel and vendors are prohibited from modifying a purchase order once it has been issued. If it becomes necessary to change the purchase order, the central office/campus secretary who originated the purchase request must first inform the purchasing officer. Once an agreement on any price increases or modification of terms is reached with the vendor, the original purchase order must be closed and a new purchase order request entered. Once approved, all parties involved must be notified of the changes. An improperly modified purchase order may be declared null and void by the Chief Financial Officer at his/her sole discretion.

Sec. 3.10.4. Delivery and Receipt of Goods and Services

Upon receipt of the goods, District employees will:

(a) Inspect the item(s) delivered;

(b) Ensure that the item(s) delivered are in good condition;

(c) Reject any item(s) that are not in good condition;

(d) Annotate the packing slip and purchase order to identify the item(s) that were received and: accepted or rejected; complete the online receiving in the software system;

(e) Sign and date for the item(s) delivered and accepted;

(f) Notify the District employee who ordered the item(s) that the item(s) requested were received; and

(g) Email the accounts payable department that item(s) are received online in the software system.

Upon the receipt of services, District employees will:

(a) Create a record (e.g., sign-in sheet) of the staff and/or student(s) served and the date(s) and time(s) that service(s) was rendered;

(b) Document the type(s) of service(s) rendered;

(c) Evaluate the quality of the service(s) rendered; and

(d) If feasible, obtain a copy of any materials (e.g., training handout) provided or used by the vendor to render services.[14]

Sec. 3.11. **Charge/Credit Accounts**

The use of charge accounts and corporate credit accounts (“procurement card, or P-Card/Credit, program”) will be governed by the applicable Board Policy and this subsection.

[14] In certain instances, such as when a contractor does not use any material(s) or uses proprietary or voluminous material(s), it may not be feasible to obtain a copy.

Sec. 3.11.1. Board Authorization

The Superintendent of Schools and the Chief Financial Officer are authorized to establish a P-Card/Credit program for the purpose of procuring goods and/or services.

Sec. 3.11.2.

Sec. 3.11.3. Cardholder Responsibilities

Employees authorized to receive and use a P-Card/Credit account must sign a cardholder agreement and agree to the following terms and conditions.

Sec. 3.11.3.1. *Appropriate Use of Charge/Credit Authority*

The employee must agree to the appropriate use of their assigned P-Card/Credit account. Accordingly, the employee will agree to limit the use of this authority to the purchase of goods and/or services pertaining to District activities and functions. Moreover, the employee will agree not to use this authority to purchase goods and/or services of a personal nature. Lastly, the employee will agree to limit individual purchases to the amount authorized in this section and allowable uses as discussed in Sec. 3.16 and 5.8 of this manual.

Sec. 3.11.3.2. *Liability for Charges*

The employee must agree to be liable for any and all unauthorized charges to their assigned P-Card/Credit account.

Sec. 3.11.3.3. *Accounting for Expenses*

The employee must agree to prepare, as appropriate and necessary, an accounting record (e.g., purchase order form, general expense reimbursement form, travel authorization form, travel expense reimbursement form, or other internal accounting record) for each purchase or billing cycle. On the accounting record, the employee must identify the business-related reason for the purchase and the good(s) and/or service(s) purchased (if not sufficiently described on the third-party receipt or invoice). Additionally, the employee must provide an original, itemized third-party receipt(s) or invoice(s) for all the charges to their assigned P-Card/Credit account. Documents should be submitted to the Purchasing Department by 5 p.m. Monday of the week in which the check will be needed.

Sec. 3.11.3.4. *Meal Receipts Not Required*

District employees are not required to submit an original, itemized third-party receipt(s) for the cost of meals incurred while traveling to conduct District business, unless using an assigned P-Card/Credit account. The employee may not incur and will not be reimbursed for the cost of meals exceeding the maximum allowable reimbursement rate as reflected on the District's official Travel Voucher Request form. Any exception, due to unusual circumstances, will be considered on a case-by-case basis. Employees travel using federal funds will require meal receipts for the cost of meals incurred while traveling. For further information, please refer to the Travel Guide.

Sec. 3.11.4. Monitoring of Accounts

The Purchasing Officer will monitor all P-Card/Credit accounts to identify any unusual or inappropriate use of the accounts. Upon identifying unusual or potentially inappropriate use of an account(s), the Chief Financial Officer will investigate the employee's use of the account(s) and determine if the employee's use of the account(s) violates Board policy and the procedures set forth in this manual.

Sec. 3.11.5. Revocation of P-Card/Credit Account

If an employee is found to have misused their assigned P-Card/Credit account(s), the Chief Financial Officer may recommend to the Superintendent that the employee's account be terminated. Upon approval by the Superintendent, the Chief Financial Officer may then terminate the employee's account(s) and direct the employee to return the assigned card(s) and to submit any required accounting records and original, itemized third-party receipts and invoices. Upon termination of the account(s), the employee will be financially responsible for any unauthorized and inappropriate expenses charged to the account(s).

Sec. 3.11.6. Employee Liable

If an employee fails to provide the required records pursuant to Sec. 3.11.2.3 of this manual, the employee shall be financially liable for the costs charged to the account(s).

Sec. 3.12. Administrators' Responsibilities

Central office administrators and campus principals must ensure that purchases conform to the budget approved for their department or campus. Additionally, central office administrators and campus principals should work with the purchasing officer to determine the degree to which purchasing laws and rules and the local requirements established in Board Policy and this manual apply to any one particular purchase. If central office administrators and campus principals choose to purchase goods and services through their assigned corporate account(s), they are nonetheless responsible for ensuring compliance with applicable purchasing laws and rules and the purchasing requirements of this manual.

Sec. 3.13. Nonconforming Purchases Prohibited

In accordance with Board Policy, employees may only purchase goods and services as prescribed in this manual and are prohibited from entering into any arrangement or conducting any transaction that results in the obligation of public funds and otherwise prompts the expenditure of public funds for goods and services. *In the event that any goods and/or services are received by the District without formal approval as described in this manual, the District may not be held financially liable by the employee or the vendor for the unauthorized purchase of goods and/or services by the employee. If an employee fails to follow the purchasing requirements described in this manual, the employee will be financially responsible for any purchases of goods and services.*

Sec. 3.14. Prohibited Purchasing Practices

Sec. 3.14.1. Economies of Scale

When considering the purchase of quantities of an item or a category of similar items, District employees must consider combining all such purchases for the entire District. Through this combined effort, District employees should endeavor to achieve an economy of scale that affords the District a reduced administrative burden and cost, and better value and reduced costs through aggregated purchases.

Sec. 3.14.2. Separate, Sequential, or Component Purchases Prohibited

In accordance with Board Policy, and unless a legitimate business reason exists beneficial to the District, District employees are prohibited from making or authorizing separate, sequential, or component purchases to avoid the requirements of this manual. To the contrary, District employees should complete the purchase of the same item or category of similar items at one time and not as individual components or in a series of transactions.

Sec. 3.14.3. Exception

If an employee believes that an exception exists to the prohibition set forth in this subsection, the employee must prepare a written request to the Chief Financial Officer describing the business-related reason and the benefit to the District for purchasing the same or similar items in component, separate, or sequential purchases. In the written request, the employee must identify the cost savings to the District of purchasing the same or similar items in the manner advocated.

Sec. 3.15. **Authorized Vendor List**

In accordance with Board Policy, District employees must use vendors previously approved as set forth in this subsection.

Sec. 3.15.1. List Maintenance

To facilitate the purchasing process and minimize the administrative cost of the purchasing function, the purchasing officer will maintain a list of authorized vendors. In determining which vendors to include on the list, the purchasing officer may consider the following criteria.

(a) The reputation of the vendor and of the vendor's goods and services.

(b) The quality of the vendor's goods or services.

(c) The extent to which the vendor's goods or services meet the District's needs for commonly ordered goods and services.

(d) The vendor's past relationship with the District.

The purchasing officer should list each vendor by category of goods (e.g., classroom supplies, library books, laptops) or service (e.g., diagnostic services for special education, plumbing, electrical) commonly procured by the District.

Sec. 3.15.2. Vendor List Must Be Current and Sufficient

The purchasing officer must ensure that all lists of authorized vendors that are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the purchasing officer must not preclude potential vendors from qualifying during the solicitation period.

Sec. 3.15.3. Responsible Vendors

District employees must issue purchase orders and award contracts only to responsible vendors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as vendor integrity, compliance with public policy, record of past performance, and financial and technical resources.

Sec. 3.15.4. Use of Unauthorized Vendors

District employees may consider unauthorized vendors if the same or similar goods or services may be obtained at a lower cost without necessarily sacrificing the quality of the goods or services purchased.

Sec. 3.16. **Allowable and Prohibited Uses of Public Funds**

In general, a cost may be allowable if:

(a) It is necessary and reasonable, and
(b) Is adequately documented.

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost and if the cost is of a type generally recognized as ordinary and necessary for a Texas school district.

Although not all-inclusive, the following costs qualify as an allowable use of public funds.

(a) Cost of purchasing goods and services for:

(1) Classroom instruction,
(2) The implementation of the district/campus improvement plan,
(3) Addressing statutory requirements, and
(4) The effective and efficient operation of the District and campus.

(b) Cost of procuring construction services for a school facility.

(c) Expenses for business-related travel.

(d) Expenses to prepare and conduct Board meetings.

(e) Expenses to attend conferences, seminars, workshops, and other professional development and training.

(f) For other purposes necessary in the conduct of the District as determined by the Board, and provided that the use of public funds benefits the District's students.

Although not all-inclusive, the following costs do NOT qualify as allowable use of public funds.

(a) Alcoholic beverages.
(b) Entertainment, including music venues, parties, sporting events, etc.
(c) Gifts including awards that are not part of a Board-approved performance incentive program, door prizes, flowers, gift baskets, gift cards, etc.
(d) Goods or services for personal use or benefit.
(e) Souvenirs.
(f) Tips or gratuities.
(1) For additional information regarding tips or gratuities and travel, please see the Travel Guide and/or EDGAR Administrative Procedures Manual.

Sec. 3.17. Contractor Compliance with District Policies and Applicable Law

1. General Requirement

Contractors providing services at, for, or on behalf of the District shall comply with applicable federal and state law, State Board of Education and Texas Education Agency requirements, Board policy, District administrative regulations, and applicable contractual requirements.

2. Senate Bill 12 Compliance

In accordance with Texas Education Code §§11.005 and 28.0022, the District shall prohibit contractors from intentionally or knowingly engaging in or assigning activities prohibited by those provisions while providing services at, for, or on behalf of the District.

The District shall provide each contractor a physical and electronic copy of the policies and procedures adopted by the District pursuant to Texas Education Code §§11.005 and 28.0022.

3. Contractor Notification

The Purchasing Department, in coordination with District administration, shall provide existing contractors and service providers performing services at, for, or on behalf of the District with the applicable notices, policies, and procedures required by law. Required notices and policies shall be provided both electronically and by physical delivery or mail.

For new contractors and service providers, the required notices, policies, and procedures shall be included as part of the District's vendor approval or contracting packet.

The Purchasing Department shall maintain documentation of the electronic and physical distribution of the required notices, policies, and procedures.

4. Documentation and Record Retention

The Purchasing Department shall maintain documentation sufficient to demonstrate contractor notification and District compliance. Documentation may include the contractor or vendor name, policies or procedures provided, date of distribution, method of electronic distribution, method of physical distribution, and other documentation necessary to demonstrate compliance.

Records shall be maintained in accordance with the District's applicable records retention requirements.

5. Contractual Provisions

When applicable, District solicitations, contracts, purchase orders, vendor agreements, or contractual addenda shall include provisions requiring contractors to comply with applicable law and District policy. The Purchasing Department shall maintain standard contractual provisions and update those provisions as necessary to reflect changes in applicable law, Board policy, or administrative requirements.

Contractors shall promptly notify the District if the contractor becomes aware that a requested service or activity may conflict with applicable law or District policy. The District may require modification, suspension, or termination of services when necessary to maintain compliance with applicable law, Board policy, or the terms of the applicable contract.

Sec. 4. PURCHASING AND CONTRACTING WITH LOCAL AND STATE FUNDS

Sec. 4.1. Applicability

This section pertains to the use of local and state funds to procure goods and non-professional services.

This section does not apply to the procurement of:

(a) Construction services;
(b) Professional services; or
(c) Procurements with federal funds.

With respect to subsections (a), (b), and (c), refer to Sections 7, 6, and 5 of this manual, respectively.

Sec. 4.2. Methods of Procurement

Depending upon the cost or value of the proposed purchase, the District shall utilize one of the following methods for purchasing goods and non-professional services.

Sec. 4.2.1. No Method Required

Applicability. This method is best for the purchase of commonly available commercial goods (e.g., round activity table) and/or non-professional services (e.g., painting) where cost or price is the primary or sole determining factor for the purchase.

Threshold. In accordance with Board Policy, this method may be used for the purchase of goods and/or non-professional services that have a cost or value that does not exceed the micro-purchase threshold of $49,999 in the aggregate on an annual basis.

Requirement. The most expedient manner available through vendors on the approved vendor list.

Procedure. For this procurement method, central office/campus secretaries and the purchasing officer shall adhere to the following procedure.

(a) Verify that the purchase does not exceed the micro-purchase threshold. Document this verification on the purchase order request.

(b) Verify that the purchase is not a component, separate or sequential purchase. Refer to Sec. 3.14.2 of this manual.

(c) Utilizing the approved vendor list, identify and contact an approved vendor(s) to purchase the goods and/or non-professional services.

(d) If the vendor contacted has been previously utilized, contact a different vendor. If a previously selected vendor is chosen for the purchase, include a justification for this decision on the purchase order request.[15]

[15] This step is specific to the use of federal funds to procure supplies and non-professional services and may be skipped if only local and state funds are used for the purchase in question.

(e) If more than one (1) vendor is contacted, obtain quotes. Document any oral quotes on the purchasing quotations form. Preferably, confirm oral quotes in writing by email, facsimile, or mail. Attach written quotes to the purchase order request.

(f) Select the vendor providing the lowest quoted cost or price. If the purchase is awarded to a vendor other than the vendor providing the lowest quote, include a justification for this decision on the quotation form.

(g) Determine if the cost or price quoted is reasonable by comparing it to previously paid amounts for the same or similar goods and/or non-professional services or to the other quotes obtained (if any).[16]

(h) Prepare a purchase order request pursuant to the procedure described in Sec. 3.10.4 of this manual.

(i) Issue the purchase order pursuant to the procedure described in Sec. 3.10.5 of this manual.

(j) File all original records in the purchasing department.

No Contract Required. Because of the relatively low cost or value of a micro-purchase, a formal, executed contract is not typically used and, consequently, is not required.

Sec. 4.2.2. Competitive Bidding

Applicability. This method is best for the purchase of goods (e.g., mid-year student assessment) and/or non-professional services (e.g., curriculum development) where cost or price is the primary or sole determining factor for the purchase. This type of purchase requires the preparation and communication of product or service specifications.

Threshold. In accordance with Board Policy, this method may be used for the purchase of goods and/or non-professional services that have an aggregate cost or value equal to or exceeding the simplified acquisition threshold of $100,000 for each twelve (12) month period.

Requirement. The District shall award a contract(s) to the bidder(s) offering the best value to the District selected from among those submitting the best responsive bids satisfying District requirements, with price and other factors considered. The contract shall be awarded to the selected bidder(s) at the bid amount.[17]

Responsibility. To ensure compliance with applicable law, local policy, and this procedure, the purchasing officer shall be primarily responsible for completing the process described in this subsection.

Procedure. For this procurement method, the purchasing officer shall adhere to the following procedure.

[16] This step is specific to the use of federal funds to procure supplies and non-professional services and may be skipped if only local and state funds are used for the purchase in question.

[17] Tex. Ed. Code § 44.0351(c)

(a) Receive procurement requests from the end user department or campus and, as appropriate and necessary, further develop and refine request parameters to facilitate the purchase under this method.

(i) Prepare the RFB that includes:

(1) Timeline for RFB process, including:

(i) Date RFB is issued, and advertisement is first published;

(ii) Date, time, and location of pre-bid meetings (if any);

(iii) Date and time by when questions from prospective bidders are due via common courier, electronic mail, and/or facsimile (as deemed appropriate);

(iv) Date by when questions and answers will be posted on the District's website;

(v) Date, time and place that the bids are due and will be opened; and

(vi) Date for the Board meeting at which the bids shall be considered and a contract(s) shall be awarded;

(2) Address for the delivery of sealed bids and contact information for the purchasing officer;

(3) General instructions to prospective bidders;

(4) General requirements and conditions;

(5) Detailed specifications and bid requirements;

(6) Bonding and insurance requirements;

(7) Required forms;

(8) Bid evaluation criteria and scoring methodology; and

(9) Other information necessary for the bidder to submit a responsive bid.

(j) Prepare and publish an advertisement for the RFB in accordance with Sec. 4.3 of this manual.

(k) Conduct the pre-bid meeting (if any) in accordance with Sec. 4.4 of this manual.

(l) Receive questions from prospective bidders and post answers in accordance with Sec. 4.5 of this manual.

(m) Open all bids received in accordance with Sec. 4.6 of this manual.

(n) Evaluate all bids received in accordance with Sec. 4.7 of this manual.

(o) Submit a tabulation of results to the Board's consideration and approval in accordance with Sec. 4.8 of this manual.

(p) As authorized by the Board, award a contract to the selected bidder; however, prior to awarding the contract, legal counsel may review and approve the contract.

(q) File all original records in the purchasing department in accordance with Sec. 4.9 of this manual.

(r) Three (3) quotes may be required for single projects equal to or exceeding $100,000 for all open bid approved vendors to ensure a competitive process.

Sec. 4.2.3. Competitive Sealed Proposals

Applicability. This method is best for the purchase of goods (e.g., interactive video tool software) and/or non-professional services (e.g., online learning environments and web-based curriculum, private duty nursing services) where cost or price is not the primary determining factor. This type of purchase requires the preparation and communication of qualitative specifications subject to final negotiation.

Threshold. In accordance with Board Policy, this method may be used for the purchase of goods and/or non-professional services that have an aggregate cost or value equal to or exceeding the simplified acquisition threshold of $100,000 for each twelve (12) month period.

Requirement. The District shall select the offeror(s) that offers the best value for the District based on the selection criteria published in the request for proposals (RFP) and on the ranking evaluation derived using said criteria.

Responsibility. To ensure compliance with applicable law, local policy, and this procedure, the purchasing officer shall be primarily responsible for completing the process described in this subsection.

Procedure. For this procurement method, the purchasing officer shall adhere to the following procedure.

(a) As appropriate and as otherwise provided herein, the procedure set forth in Sec. 4.2.4.5 of this manual.

(s) For Sec. 4.2.4.5(g), the purchasing officer, in conjunction with the requesting department or campus, shall complete the District's evaluation and ranking of each proposal received not later than the 45th day after the date established under Sec. 4.2.4.5(b)(1)(v) of this manual. The Superintendent of Schools and/or Chief Financial Officer must approve the ranking of proposals.

(t) In lieu of Sec. 4.2.4.5(h) and as authorized by the Board, the purchasing officer, after consulting with the requesting department or campus, shall select the offeror that offers the best value for the District based on the results of Sec. 4.2.5.5(b) of this manual. The Superintendent of Schools and/or Chief Financial Officer must approve the selected offeror.

(u) In lieu of Sec. 4.2.4.5(h) and as authorized by the Board, the purchasing officer, in collaboration with the requesting department or campus and legal counsel, shall first

attempt to negotiate a contract with the offeror selected under Sec. 4.2.5.5(c) of this manual. As appropriate and necessary, the District may discuss with the selected offeror options for a scope or time modification and any cost or price change associated with the modification. If the District is unable to negotiate a satisfactory contract with the selected offeror, the purchasing officer shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking prepared under Sec. 4.2.5.5(b) of this manual until a draft contract is satisfactorily negotiated or all proposals are rejected. The Superintendent of Schools and/or Chief Financial Officer must approve the draft contract.

(v) In lieu of Sec. 4.2.4.5(h) and Sec. 4.8.1 and as authorized by the Board, the Chief Financial Officer shall present the draft contract satisfactorily negotiated and approved by the Superintendent of Schools to the Board during the meeting established at Sec. 4.2.4.5(b)(1)(vi) of this manual. Sec. 4.8.2 and Sec. 4.8.3 apply to this step.

Sec. 4.2.4. Interlocal Contract: Cooperative

In lieu of written quotes, and as set forth in Board Policy, the purchasing officer will maintain and make available to District employees a listing of cooperatives in which the District participates. Additionally, for each cooperative, the purchasing officer will maintain a written assurance from the cooperative's management that the cooperative complied with state purchasing laws. District employees may procure goods and/or non-professional services through any vendor participating in the cooperative's purchasing program. If a participating vendor in the purchasing cooperative program quotes a lower price for the same goods and/or non-professional services offered at cooperative prices, District employees may procure the goods and/or non-professional services using the vendor's direct quote.

Sec. 4.3. **Publication of Notice**[18]

General Requirement. Pursuant to state law, the District is required to publish a notice of when and where bids, proposals, or responses to a request for qualifications (RFQ) will be received and opened. As also established in state law, the District must publish the notice in the county where the District's central administrative office is located, once a week for at least two weeks prior to the deadline for receiving bids, proposals, or responses to an RFQ.

Selected Newspaper(s). Consistent with Sec. 4.3.1, the District shall publish any required notices with the Seguin Gazette.

Duration. The District shall publish any required notices once a week for at least two (2) weeks prior to the deadline established under Sec. 4.2.4.5(b)(1)(v). However, as deemed appropriate and necessary, the purchasing officer may publish the notice for an additional period of time based on the complexity of the RFB.

Website Posting. Although not required under state law, the purchasing officer will nonetheless post the RFB, RFP, or RFQ on the District's website.

Sec. 4.4. **Pre-Submission Meeting.**

In collaboration with the requesting department or campus, the purchasing officer may arrange and conduct a pre-submission meeting for any prospective bidders or offerors. The purpose of the meeting is to provide prospective bidders or offerors an opportunity to meet with District staff

[18] Tex. Ed. Code § 44.031(g)

to discuss the RFB, request for proposals (RFP) or RFQ specifications and requirements and to ask questions that are necessary to enable the bidders or offerors to prepare a responsive bid, proposal, or RFQ response.

Sec. 4.5. **Inquiries**

In collaboration with the requesting department or campus, the purchasing officer will determine the date and time by when questions from prospective bidders or offerors will be due.

Unless otherwise deemed appropriate and necessary, the District will only accept questions from prospective bidders or offerors via electronic mail at Jraskemartinez@seguin.k12.tx.us. If a different method(s) is selected, the purchasing officer will publish the other method(s) in the RFB, RFP, or RFQ.

In collaboration with the requesting department or campus, the purchasing officer will draft the District's official answer to each question submitted. As appropriate and necessary, the purchasing officer may consult with legal counsel. The Chief Financial Officer will approve the draft answers. Upon approval, the purchasing officer will post the questions and answers on the District's website by the date specified under Sec. 4.2.4.5(b)(1)(iv) of this manual. In doing so, the purchasing officer will post the questions and answers under the RFB, RFP or RFQ posted to the District's website pursuant to Sec. 4.3.4 of this manual.

Sec. 4.6. **Opening Procedures**[19]

In accordance with state law and Board policy or resolution, the Board has authorized the Superintendent of Schools to open bids or proposals. The Superintendent of Schools, in consultation with the Chief Financial Officer, delegated this authority to the purchasing officer.

In the RFB, RFP, or RFQ, the District will invite all interested parties, including current and prospective vendors and the public at large, to attend and observe the opening.

As set forth under Sec. 4.2.4.5(b)(1)(v), the purchasing officer will promptly open all of the bids, proposals, or RFQ responses received by the date and time and at the place specified in the RFB, RFP, or RFQ. As each bid or offer is opened, the purchasing officer will read aloud the names of the bidders or offerors and all prices stated in each bid or offer.

Once bids are opened, the bidder is prohibited from changing their bid for the purpose of correcting an error in the bid price. Consistent with state law, if the bidder realizes that a mistake has been made, the bidder may:

(a) Honor their bid as written; or

(w) Withdraw their bid on the item(s) in question or the entire bid.

Sec. 4.7. **Evaluation**[20]

Pursuant to state law, the District is required to award a contract to the bidder or, based on the published criteria and ranking evaluation, select the offeror offering the best value for the district.

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[19] Tex. Ed. Code § 44.0351(a) and Tex. Local Gov't. Code § 271.026(a); Tex. Ed. Code § 44.0352(c)

[20] Tex. Ed. Code §§ 44.031(a)/(g), 44.0352(b)/(d) and 44.0351(c) and Tex. Local Gov't. Code § 271.026(a)

As established under state law, in determining to whom to award a contract, the District is required to consider:

(a) The purchase price;

(x) The reputation of the vendor and of the vendor's goods or services;

(y) The quality of the vendor's goods or services;

(z) The extent to which the goods or services meet the District's needs;

(aa) The vendor's past relationship with the District;

(bb) The impact on the ability of the District to comply with laws and rules relating to historically underutilized businesses;

(cc) The total long-term cost to the District to acquire the vendor's goods or services;

(dd) 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:

(1) Has its principal place of business in this state; or

(2) Employs at least 500 persons in this state; and

(ee) Any other relevant factor specifically listed in the request for bids or proposals.

In determining the best value for the District, the District is not restricted to considering price alone but may consider any of the criteria enumerated under Sec. 4.7.2 of this manual, as published in the selection criteria under Sec. 4.2.4.5(b)(8). In this regard, in collaboration with the requesting department or campus, the purchasing officer will prepare and publish the selection criteria for the RFB, RFP, or RFQ and the related scoring methodology.

If a bid, proposal, or RFQ response is deemed incomplete or unresponsive, the purchasing officer may recommend that the District reject the bid. In this event, the purchasing officer must prepare a written justification for the recommendation, including identification of the element(s) of the RFB, RFP, or RFQ that the bidder or offeror failed to adequately address. The Superintendent of Schools and/or Chief Financial Officer must approve the recommendation. The Board may further consider the recommendation to reject the bid or offer if the recommendation is protested by the respondent and if deemed necessary by District administration.

In collaboration with the requesting department or campus, the purchasing officer will review, evaluate, and score each bid, proposal, or RFQ response pursuant to the published selection criteria. The purchasing officer will prepare a tabulation summarizing the results of this work. The Superintendent of Schools and Chief Financial Officer must approve the tabulation.

Sec. 4.8. **Board Approval**

The Chief Financial Officer shall present the tabulation prepared by the purchasing officer and approved by the Superintendent of Schools under Sec. 4.7.5 of this manual to the Board during the meeting established at Sec. 4.2.4.5(b)(1)(vi) of this manual.

During its meeting, the Board will consider the bids, proposals or RFQ responses received. At its discretion, the Board may award a contract(s).

In accordance with state law, the District may reject any and all bids.

Sec. 4.9. **Records**

In accordance with state and local record retention requirements, prepare the procurement file to include all required records, including a notation specifying the required record retention period for each record type. Generally, the file should include the following record types.

(a) Requests for information preliminary to the procurement of goods and services.

(ff) Quotes and written solicitation (if any).

(gg) Successful bids, proposals, or RFQ responses, including fully executed contracts; bids, proposals, or RFQ responses; RFB, RFP, or RFQ; tabulation of results; and other documents demonstrating compliance with applicable law.

(hh) Unsuccessful bids, proposals, or RFQ responses.

Sec. 4.10. **State Grants**

When purchasing goods and/or non-professional services through state grant funds, District employees must identify and adhere to the state law, rules, and other requirements prescribed in the approved grant application.

Sec. 4.11. **Other Local Requirements Applicable**

In general, District employees should refer to Sec. 3 of this manual for other applicable procedures.

Sec. 5. PURCHASING AND CONTRACTING WITH FEDERAL FUNDS

Sec. 5.1. Applicability

This section pertains to the use of federal funds to procure goods and non-professional services.

This section does not apply to the purchase of:

(a) Construction services;
(ii) Professional services; or
(jj) Procurements with local and state funds.

With respect to subsections (a), (b), and (c), refer to Sections 7, 6, and 4 of this manual, respectively.

Sec. 5.2. Methods of Procurement

Sec. 5.2.1. Micro- and Small Purchases

As set forth in Board Policy, central office/campus secretaries and the purchasing officer may procure supplies, as defined in Sec. 3.1.14, and non-professional services, as defined in Sec. 3.1.7, that have a cost or value that does not exceed the micro-purchase threshold pursuant to Sec. 4.2.1 of this manual. If the procurement of supplies, as defined in Sec. 3.1.14, non-professional services, as defined in Sec. 3.1.7, and other personal property, as defined in Sec. 3.1.9, has a cost or value exceeding the micro-purchase of $49,999 in the aggregate throughout the fiscal year but not more than the simplified acquisition threshold of $100,000 for each twelve (12) month period, central office/campus secretaries and the purchasing officer must utilize the procedure set forth at Sec. 4.2.2 or Sec. 4.2.3, as appropriate, of this manual.

Sec. 5.2.2. Like-Types of Items

In accordance with policy guidance issued by the Texas Education Agency ("TEA"),[21] the District shall only procure supplies and services under the micro-purchase method, as set forth in Sec. 5.2.1 and Sec. 4.2.1 of this manual, if the micro-purchase threshold is not exceeded in the aggregate throughout the fiscal year for all the federal grants received by the District. Once attained, the District shall make any additional purchases using federal funds through the small purchase method set forth in Sec. 5.2.1 and Sec. 4.2.2 or Sec. 4.2.3, as appropriate, of this manual. In this event, the purchasing officer shall notify District personnel that the micro-purchase threshold has been met for federal programs and that future purchases shall require quotes under Sec. 4.2.2 or Sec. 4.2.3, as appropriate, of this manual. However, as further established in TEA guidance, the District has opted to define "like-types of items" to provide federal program administrators and staff flexibility regarding micro-purchases. Refer to Sec. 5.2.2.2 through Sec. 5.2.2.5 below.

In accordance with TEA policy guidance, the District has defined "like-types of items" pursuant to the following criteria:

(a) The District must define what like-types of items may be micro-purchased;

(kk) A like-type may not be defined as a single purchase order or a single vendor;

[21] TEA To The Administrator Addressed letter dated November 29, 2018

(ll) A like-type may correlate to a subcategory of a commodity code but not to the commodity code itself;

(mm) TEA does not limit the number of like-types that the LEA may define;

(nn) TEA does not limit the cost of the items categorized as like-types; and

(oo) The District's like-type definitions are subject to monitoring and audit.

In accordance with TEA policy guidance, the District may utilize the micro-purchase method under Sec. 4.2.1 of this manual to procure like-types of supplies, as defined in Sec. 3.1.14 and Sec. 5.2.2.4, and like-types of non-professional services, as defined in Sec. 3.1.7 and Sec. 5.2.2.4.[22] In this event, the District shall adhere to the following TEA policy guidance:

(a) The *"aggregate amount" micro-purchase threshold*[23] shall apply to purchases of like-types of supplies and like-types of non-professional services;

(pp) The *"aggregate amount" micro-purchase threshold* applies to each like-type, as defined in Sec. 5.2.2.4 below; and

(qq) Once the *"aggregate amount" micro-purchase threshold* has been attained for a like-type, the District must utilize the small purchase method under Sec. 5.2.1 and Sec. 4.2.2 or Sec. 4.2.3, as appropriate, of this manual to procure additional supplies and services for that like-type.

In making micro-purchases using federal funds, the District shall define like-types as established in Section 8 to this manual.

Once the *"aggregate amount" micro-purchase threshold* has been attained for a like-type, the purchasing officer shall notify District personnel that the micro-purchase threshold has been met for the like-type and that future purchases of the like-type shall require quotes under Sec. 4.2.2 or Sec. 4.2.3, as appropriate, of this manual.

Sec. 5.2.3. Formal Procurement Methods

Sec. 5.2.3.1. *Competitive Bidding*

As set forth in Board Policy, the purchasing officer shall procure goods and non-professional services that have a cost or value exceeding the simplified acquisition threshold through the public solicitation of sealed bids if the following conditions apply:

(a) A complete, adequate, and realistic specification or purchase description is available;

(b) Two or more responsible bidders are willing and able to compete effectively for the business; and

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[22] The District is not limited to the micro-purchase method for these types of procurements. Accordingly, District personnel may utilize the small purchase method.

[23] The phrase *"aggregate amount" micro-purchase threshold* means that the District used the micro-purchase method on one or more instances to procure supplies and non-professional services for a like-type up to the micro-purchase threshold.

(c) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

(a) Bids must be solicited from an adequate number of authorized vendors, providing them sufficient response time prior to the date set for opening the bids;

(b) The invitation for bids, which will include any specifications and pertinent attachments, must define the goods or non-professional services in order for the bidder to properly respond;

(c) All bids will be opened at the time and place prescribed in the invitation for bids;

(d) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder; and

(e) Any or all bids may be rejected if there is a sound documented reason.

For any federally funded contract or contract modification exceeding the federal simplified acquisition threshold ($350,000), the District must conduct an independent cost or price analysis in accordance with 2 C.F.R. 200.324 prior to receiving bids or proposals.

All bids shall be submitted in sealed envelopes, plainly marked with the name of the bidder and the time of opening. All bidders shall be invited to attend the bid opening. Any bid may be withdrawn prior to the scheduled time for opening. Bids received after the specified time shall not be considered.

Upon approval by the Board, the District will award a firm fixed price contract to the lowest responsible bidder with the bid that conforms to all the material terms and conditions of the invitation for bids.

As appropriate and necessary, the District will adhere to the process established under Sec. 4.2.4 of this manual.

Sec. 5.2.3.2. *Competitive Sealed Proposals*

As set forth in Board Policy, if the conditions enumerated under Sec. 5.2.3.1.1 of this manual are not met, the purchasing officer must procure goods and non-professional services that have a cost or value exceeding the simplified acquisition threshold through competitive proposals. To this end, the purchasing officer must adhere to the following requirements:

(a) Advertise the request for proposals;

(rr) Identify all evaluation factors and their relative importance in the request for proposals;

(ss) Consider any response to advertised requests for proposals to the maximum extent practical;

(tt) Solicit proposals from an adequate number of qualified sources;

(uu) Conduct a technical evaluation of the proposals received pursuant to the following procedure:

(1) Prepare a worksheet that includes the following data elements:

(i) Proposer's name;
(ii) Date vendor's proposal was received;
(iii) Date vendor's proposal was evaluated;
(iv) Evaluation factors (management capability, technical abilities, knowledge and skill, proposed manner of meeting performance requirements, price, etc.) identified in the request for proposals;
(v) Weighted value, in the form of a percent, of each evaluation factor;
(vi) Points awarded, from 0 to 10, to each evaluation factor addressed by the proposer; and
(vii) Total score (sum of weighted points for each evaluation factor; weighted points are the product of the weighted value and points awarded.

(2) Based on the total score, rank each proposer from highest to lowest; and

(3) Prepare a recommendation for the highest ranked proposer that discusses the qualitative and quantitative attributes of the highest ranked proposal.

Based on the results of the technical evaluation, the Board may award a contract to the responsible firm whose proposal is most advantageous to the District, with price and other factors considered.

All proposals must be submitted in sealed envelopes, plainly marked with the name of the proposer and the time of opening. Proposals received after the specified time shall not be considered. Proposals shall be opened at the time specified, and all proposers shall be invited to attend the proposal opening. Proposals may be withdrawn prior to the scheduled time of opening. Changes in the content of a proposal, and in prices, may be negotiated after proposals are opened. The District may reject any and all proposals.

The Superintendent or Board's designee shall award either a fixed price or cost reimbursement type contract.

As appropriate and necessary, the District will adhere to the process established under Sec. 4.2.5 of this manual.

Sec. 5.2.3.3. *Sole Source Procurement Approval*

In accordance with Board Policy, the purchasing officer may procure goods through the solicitation of a proposal from only one source when one or more of the following circumstances apply:

(a) The item is available only from a single source;

(b) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(c) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to the District's written request; or

(d) After solicitation of a number of sources, competition is determined inadequate.

Sole source purchases exceeding the micro-purchase threshold ($49,999) must be submitted with a signed statement supporting sole-source selection and supporting vendor documentation. Single sole source purchases of $50,000 or more require prior Board approval pursuant to Board Policy CH(LOCAL). Single sole source purchases under $50,000 may be reviewed and approved administratively by the Chief Financial Officer or Superintendent.

Sec. 5.3. **Full and Open Competition**

District employees must endeavor to maximize the use of federal funds to purchase goods and non-professional services and to limit such purchases to the furtherance of the District's mission and facilitate the implementation of the district or campus improvement plan. To attain this goal, the Superintendent of Schools, Chief Financial Officer, and other personnel will promote full and open competition in all District purchases through the implementation of the procedures described in this manual. The Superintendent of Schools and Chief Financial Officer will bear primary responsibility for ensuring that District personnel adhere to these procedures, especially when using federal funds to procure goods and services.

Sec. 5.3.1. Conflicted Vendors

If a vendor develops or drafts specifications, requirements, statements of work, and invitations for bids or requests for proposals, the District may not select the vendor for the purchase in question.

Sec. 5.3.2. Restrictions to Competition

The District may not place restrictions on competition including, but not limited to:

(a) Placing unreasonable requirements on vendors in order for them to qualify to do business;

(b) Requiring unnecessary experience and excessive bonding;

(c) Noncompetitive pricing practices between vendors or between affiliated companies;

(d) Noncompetitive contracts to consultants that are on retainer contracts;

(e) Organizational conflicts of interest;

(f) Specifying only a ‘‘brand name’’ product instead of allowing ‘‘an equal’’ product to be offered and describing the performance or other relevant requirements of the procurement; and

(g) Any arbitrary action in the procurement process.

Sec. 5.3.3. Geographical Preferences

The District may not restrict purchases to vendors based upon geographical preference. However, when contracting for architectural and engineering services, geographic location may be a

selection criterion provided that the application of such criteria leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

Sec. 5.3.4. Solicitations

The District must include the following disclosures in any formal solicitation for the purchase of goods and/or non-professional services with an aggregate value at or above the simplified acquisition threshold for each twelve-month period.

(a) Description of Technical Requirements. Solicitations must provide a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such a description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a ‘‘brand name or equivalent’’ description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated.

(b) Disclosure of All Requirements. Solicitations must identify all requirements which the prospective vendors must fulfill and all other factors to be used in evaluating bids or proposals.

Sec. 5.4. **Unnecessary or Duplicative Purchases**

To avoid the purchase of unnecessary or duplicative goods and services, District employees must give consideration to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

Sec. 5.5. **Excluded Parties**

In accordance with applicable federal rule, the District may not obligate federal funds through the award of a contract or issuance of a purchase order or otherwise procure goods and services from a party listed on the government-wide Excluded Parties List System in the System for Award Management (SAM). The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority. Prior to making any purchase with federal funds, central office/campus secretaries and the purchasing officer must review the SAM website (www.sam.gov) to ensure that the vendor is not an excluded vendor. A record of this review shall be created and maintained with each purchase.

Sec. 5.6. **Contract Provisions**

With respect to the use of federal funds for the procurement of goods and services, the District must include the following provisions in any vendor contract.

(a) Remedies for Contract Breach or Violations. Contracts for more than the simplified acquisition threshold must address administrative, contractual, or legal remedies in

instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(b) Termination for Cause and Convenience. All contracts in excess of $10,000 must address termination for cause and for convenience by the District including the manner by which it will be affected and the basis for settlement.

(c) Equal Employment Opportunity. Except as otherwise provided under 41 CFR 60, all contracts that meet the definition of ‘‘federally assisted construction contract’’ in 41 CFR 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, ‘‘Equal Employment Opportunity’’ (30 FR 12319, 12935, 3 CFR 1964–1965 Comp., p. 339), as amended by Executive Order 11375, ‘‘Amending Executive Order 11246 Relating to Equal Employment Opportunity,’’ and implementing regulations at 41 CFR 60, ‘‘Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.’’

(d) Davis-Bacon Act. When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by the District must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR 5, ‘‘Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction’’). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The District must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The District must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland ‘‘Anti-Kickback’’ Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR 3, ‘‘Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States’’). The Act provides that each contractor or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The District must report all suspected or reported violations to the Federal awarding agency.

(e) Contract Work Hours and Safety Standards Act. Where applicable, all contracts awarded by the District in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily

available on the open market, or contracts for transportation or transmission of intelligence.

(f) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of ‘‘funding agreement’’ under 37 CFR 401.2 (a) and the recipient or sub-recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that ‘‘funding agreement,’’ the recipient or sub-recipient must comply with the requirements of 37 CFR 401, ‘‘Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,’’ and any implementing regulations issued by the awarding agency.

(g) Clean Air Act and the Federal Water Pollution Control Act. Contracts and sub-grants of amounts in excess of $150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(h) Energy Efficiency Standards and Policies. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(i) Debarment and Suspension. A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), ‘‘Debarment and Suspension.’’ The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(j) Byrd Anti-Lobbying. Contractors that apply or bid for an award of $100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier.

(k) Procurement of Recovered Materials. The District and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that

maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Sec. 5.7. **Allowable Costs**

Sec. 5.7.1. General Guidance

In general, District employees must use the following guidance to determine if a cost is allowable.

(a) 2 CFR 200, Subpart E

(vv) U.S. Department of Education and pass-through entity (e.g., TEA, Texas Department of Agriculture) grant requirements and related guidance

(ww) TexTravel (Comptroller of Public Accounts)

(xx) Sec. 3.16 of this manual

Sec. 5.7.2. Specific Approval

District employees must confirm that the cost was granted specific approval and/or was approved as a line item within the applicable grant budget. If a cost was not granted specific approval and does not represent an ordinary and necessary public education expense, District employees must seek specific guidance on the allowability of the cost in question from legal counsel, the District's independent auditor, a regional education service center or other authority. As appropriate and necessary, District employees may contact the grantor agency for specific guidance. District employees must obtain any guidance received and used in writing.

Sec. 5.8. **Other Local Requirements Applicable**

In general, District employees should refer to Sec. 3 of this manual for other applicable procedures.

Sec. 6. PURCHASING AND CONTRACTING FOR PROFESSIONAL SERVICES

Sec. 6.1. Applicability

This section pertains to the purchase of professional services from local, state, and federal funds.

This section does not apply to the procurement of services not defined as professional services. Refer to Sec. 3.1.7 and Sec. 3.1.8 of this manual.

Sec. 6.2. Applicable Law

Pursuant to Tex. Ed. Code §44.031(f), the District shall adhere to the requirements set forth in Tex. Govt. Code Chapter 2254, Subchapter A (also known as the Professional Services Procurement Act, or PSPA).

Sec. 6.3. Selection of Provider; Fees

Pursuant to Board Policy, the District may not select a provider of professional services or a group or association of providers or award a contract for professional services on the basis of competitive bids submitted for the contract or for the professional services, but shall make the selection and award:

(a) On the basis of demonstrated competence and qualifications; and
(b) For a fair and reasonable price.

Sec. 6.4. Professional Fees

The professional fees under the contract may not exceed any maximum provided by law.

Sec. 6.5. Contract for Professional Services of Architect, Engineer, or Surveyor

In procuring architectural, engineering, or land surveying services, the District shall:

(a) First select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and

(b) Then attempt to negotiate with that provider a contract at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the District shall:

(a) Formally end negotiations with that provider;
(b) Select the next most highly qualified provider; and
(c) Attempt to negotiate a contract with that provider at a fair and reasonable price.

The District shall continue the process described in Sec. 7.5.2. until a contract is satisfactorily negotiated and executed or until no other provider is left.

Sec. 6.6. Monitoring of Provider Performance

District employees must monitor provider performance to ensure that the service provider is performing the contracted services in accordance with the terms of the contract and to the District's satisfaction. Additionally, effective monitoring will provide the District with information concerning the effectiveness and quality of services rendered.

Sec. 6.6.1. Contract Manager

The signatory District employee, as identified in Table A of this manual, will be the contract manager for the contract in question. As the contract manager, the signatory District employee will be directly responsible for the administration of the contract from the beginning to the end of the contract, serve as the primary point of contact for the provider, and will be responsible for monitoring provider performance.

Sec. 6.6.2. Responsibilities of the Contract Manager

In addition to his/her regular duties, the contract manager shall be responsible for the following activities.

(a) Understanding the contract, including the specific contract obligations and performance indicators by which performance will be monitored.

(b) Ensuring that the provider has a clear understanding of how the contract will be managed and monitored.

(c) Providing the provider with guidance and technical assistance, as needed, to promote effective contract performance.

(d) Monitoring the provider's activities through a variety of means to ensure quality service delivery.

(e) Ensuring funding is used only for authorized purposes.

(f) Resolving issues or problems that arise during the contract period.

(g) Identifying and reducing fiscal or program risks to ensure the appropriate, effective use of public funds.

(h) Measuring and tracking District satisfaction with provider performance.

(i) Reviewing invoices and verifying the delivery of services.

(j) Notifying the next level management of serious problems, if any.

(k) Complying with federal and state rules and regulations pertaining to contract management.

(l) Collaborating with other District employees using the same provider to ensure that there is no overlap (i.e., duplication or double dipping) in services being provided or that services are not invoiced for another contract or purchase order.

Sec. 6.6.3. Frequency of Monitoring

The frequency of monitoring shall depend on the nature of the services provided and on the terms of the contract. In general, the contract manager should monitor a provider performance with each deliverable or completed task. At a minimum, the contract manager should assess provider performance upon receipt of each invoice to determine provider compliance with the terms of the contract and satisfaction with the services delivered.

Sec. 6.6.4. Method of Monitoring

At a minimum, the contract manager should review provider invoices and determine if the services described in the invoice were in fact delivered. Additionally, the contract manager should require and receive a progress report to determine if the provider delivered the contracted services as described in the contract. Lastly, the contract manager should conduct inspections or observations of the services rendered by the provider. In each instance, the contract manager should document their determination of provider compliance with the contract and satisfaction with the effectiveness, quality and timeliness of the services rendered on a provider monitoring checklist, memorandum, the provider's invoice, or other appropriate record.

Sec. 6.7. **Other Local Requirements Applicable**

In general, District employees should refer to Sec. 3 of this manual for other applicable procedures.

Sec. 7. PURCHASING AND CONTRACTING FOR CONSTRUCTION SERVICES OR PUBLIC WORKS

Sec. 7.1. Applicability

This section pertains to the purchase of goods and services for construction services or public works with a cost or value exceeding $50,000.

Sec. 7.2. Counsel Required

The Chief Financial Officer or purchasing officer must seek legal and professional advice and counsel regarding the laws, regulations, and other legal requirements applicable to the procurement of public works.

Sec. 7.3. Procedures

Pursuant to Board Policy, the Board delegated to the Superintendent or designee(s) the responsibility of adopting procedures for the acquisition of goods or services related to public works, including construction services. As set forth in Sec. 3.2 of this manual, the Superintendent of Schools delegated this responsibility to the Chief Financial Officer.

Sec. 7.4. Delegation of Authority

Pursuant to Board Policy, the Board delegated its full authority under Chapter 2269 of the Tex. Gov't. Code regarding an action authorized or required by Chapter 2269 to the Superintendent or designee(s) or a committee formed by the Superintendent or designee(s). The Superintendent of Schools hereby delegates the Board's full authority to the Chief Financial Officer or a committee formed by the Chief Financial Officer.

The Chief Financial Officer or purchasing officer shall provide notice of this delegation, the limits of the delegation, and the name or title of each person designated through Board Policy and this procedure or in the request for bids, proposals, or qualifications or in an addendum to said request. The Chief Financial Officer or purchasing officer shall conspicuously provide the notice required under this subsection in the request for bids, proposals or qualifications.

Sec. 7.5. Person Defined

For purposes of implementing this section, "person" means an individual (i.e., a natural person) or a corporation, partnership, limited liability company, business trust, trust, association, or other organization, estate, government or governmental subdivision or agency, or other legal entity.[24]

Sec. 7.6. Authority to Contract

As set forth in Sec. 3.6 and 3.8 of this manual, unless otherwise authorized by the Board, only a Board member, the Superintendent of Schools, or the Chief Financial Officer shall be authorized to sign contracts obligating the District to disburse public funds for public works contracts.

Sec. 7.7. Authorized Methods of Procurement

With the exception of the competitive bidding method, the Chief Financial Officer will determine which method, of the following methods, provides the **best value** for the District before it advertises for requests for bids, proposals or qualifications.

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[24] Texas Business Organizations Code §1.002(69-b)

(a) Interlocal agreement,
(b) Competitive bidding,
(c) Competitive sealed proposal,
(d) Construction manager-agent,
(e) Construction manager-at-risk,
(f) Design-build, or
(g) Job order contracts.

*As per CV(LEGAL), the District may not enter into a contract to purchase construction-related goods or services through a cooperative in an amount greater than $50,000 unless a designated District official certifies in writing that the project provides the best value. *

Unless determined otherwise under Sec. 7.7.1, the Chief Financial Officer shall procure construction services using the competitive bidding method of procurement.

The purchasing officer may recommend to the Chief Financial Officer a method of procurement, other than the competitive bidding method, from those listed under Sec. 7.7.1. In this event, the purchasing officer shall provide the Chief Financial Officer with a written proposal, including the justification for utilizing a different method of procurement.

As required under Tex. Gov't. Code §2269.056(b), the purchasing officer must publish in the request for bids, proposals, or qualifications the criteria that will be used to evaluate the offerors and the applicable weighted value for each criterion.

The Chief Financial Officer and purchasing officer may seek legal and professional advice and counsel regarding the legal and other requirements applicable to the procurement method selected by the Chief Financial Officer.

Sec. 7.8. **Notice**

The purchasing officer will publish a notice of the time by when and the place where the bids or proposals, or the responses to a request for qualifications, will be received and opened. The purchasing officer will publish the notice 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.[25]

Sec. 7.9. **Sealed Bids, Proposals or Qualifications Required**

Pursuant to Tex. Gov't. Code §2269.059, a person who submits a bid, proposal, or qualification is required to seal it before delivery. The purchasing officer will review every bid, proposal, or qualification to ensure that it is sealed. If the bid, proposal or qualification is not sealed, the purchasing officer will inform the Chief Financial Officer of the offeror's failure to comply with this requirement. The Chief Financial Officer will reject any bid, proposal or qualification that is not sealed and return it to the offeror with a statement:

(a) Identifying the date(s) that the bid, proposal, or qualification was received, inspected, and determined to be noncompliant with Tex. Gov't. Code §2269.059;

[25] In a two-step procurement process, the District is not required to separately publish the time and place where the second-step bids, proposals, or responses will be received.

(yy) Representing that the bid, proposal, or qualification was not opened or viewed;

(zz) Asserting that the content and form of the bid, proposal, or qualification was not examined or duplicated by or disseminated to any person or entity; and

(aaa) If the bid is received prior to the response deadline such that, at the sole determination and discretion of the Chief Financial Officer, a reasonably sufficient period of time is left to afford the offeror a timely response, instructing the offeror to resubmit an appropriately sealed bid, proposal or qualification as required by state law.[26]

Sec. 7.10. **Receipt and Opening of Bids**

The Chief Financial Officer and purchasing officer will receive, publicly open, and read aloud the names of the offerors and their bids at the District's central administrative office.

A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. However, an offeror has the common law right to withdraw a bid due to a material mistake in the bid.

The District is entitled to reject any and all bids.

Sec. 7.11. **Awarding of Contract Under Competitive Bidding Method**

In accordance with Tex. Gov't. Code §2269.101, "competitive bidding" is a procurement method by which the District may contract with a contractor for the construction, alteration, rehabilitation, or repair of a facility by awarding the contract to the lowest responsible bidder. As mandated at Tex. Gov't. Code §2269.101(b), the Chief Financial Officer may contract for the construction, alteration, rehabilitation, or repair of a facility only after the District advertises for bids for the contract in a manner prescribed by law, receives competitive bids, and awards the contract to the lowest responsible bidder.

Sec. 7.11.1. Responsible Bidder Defined

A responsible bidder is a person who has the capability in all respects to perform in full the contract requirements and integrity and reliability, assuring good faith performance.

A responsible bidder may be required to meet any or all of the following requirements.

(a) Be an experienced contractor who has served as a prime contractor on similar construction projects for Texas public Districts, has satisfactorily completed the scope of work described in the construction documents, and is knowledgeable about the requirements for the construction of and the building elements for Texas public Districts including, without limitation, applicable building code requirements.

(b) Provide a warranty and support for any equipment installed as part of the construction services and in accordance with the scope of work described in the construction documents.

[26] Generally, "a reasonably sufficient period of time" means that the offeror's bid, proposal, or qualification is received no later than five (5) business days prior to the response deadline.

(c) Be able to obtain payment and performance bonds of the types and in the amounts described in Tex. Govt. Code §2253.

(d) When submitting the bid, provide a Letter of Statement from a bonding company that the bidder is able to obtain both a payment bond and a performance bond described as stipulated in Tex. Govt. Code §2253.

(e) Prior to executing the contract, obtain and provide the payment and performance bonds of the types and in the amounts established at Tex. Govt. Code §2253.

(f) Have adequate financial resources or ability to obtain such resources as required during the performance of any resulting contract.

(g) Be able to comply with the required performance schedule, taking into consideration all existing business commitments.

(h) Have the necessary management and technical capability to perform any resulting contract for construction services.

(i) Be qualified as an established firm regularly engaged in the type of business to provide the items and work required by the request for bids.

(j) Be registered to do business in the State of Texas.

(k) Be in good standing with the State of Texas.

(l) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

The purchasing officer must include the requirements to be used to establish an offeror as a responsible bidder, as enumerated in Sec. 8.11.2.2 above, in the request for bids, proposals, or qualifications.

Sec. 7.11.2. Safety Record of Bidder Considered

In determining who is a responsible bidder, the Chief Financial Officer and purchasing officer may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution.

In determining who is a responsible bidder, the Chief Financial Officer and purchasing officer may take into account the following definition and criteria for accurately determining the safety record of a bidder.

(a) “Citations” include notices of violation, notices of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments. A Notice of Violation and Notice of Enforcement received from the Texas Commission on Environmental Quality (“TCEQ”) shall include those classified as major violations and moderate violations under the TCEQ’S regulations for documentation of Compliance History pursuant to 30 TAC §60.2(d)(1) and (d)(2).

(b) “Environmental Protection Agency” includes, but is not limited to the TCEQ, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, the Texas Department of Health, the Texas Parks and Wildlife Department, the Structural Pest Control Service, agencies of local governments responsible for enforcing environmental protection laws or regulations, and similar regulatory agencies of other states of the United States.

(c) Based upon the bidder’s response to certain questions, the Chief Financial Officer will consider the following criteria and, at his/her sole discretion, determine whether to disqualify the bidder.

(1) The revelation of more than two (2) cases in which final orders have been entered by the Occupational Safety and Health Review Commission (“OSHRC”) against the bidder for serious violations of Occupational Safety & Health Administration (“OSHA”) regulations within the past five (5) years.

(2) The revelation of more than one (1) case in which the bidder has received a citation or for which final orders have been entered by an environmental protection agency for violations within the past five (5) years.

(3) The revelation that the bidder has been convicted of a criminal offense within the past ten (10) years or has been subject to a judgment for a negligent act or omission, which resulted in serious bodily harm or death.

Before considering the safety record of the bidder, the purchasing officer must give notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder.

In making determinations concerning the safety records of the bidders, the Chief Financial Officer is prohibited from making the determinations in an arbitrary and capricious manner.

The purchasing officer will prepare and submit to the Chief Financial Officer a summary report of the information and the responses provided by each bidder for its consideration and to facilitate the determination by the Chief Financial Officer of whether to disqualify a bidder based upon its safety record.

Sec. 7.12. **Awarding of Contract Under Other Method**

Consistent with Tex. Gov’t. Code §2269.056(b), if the Chief Financial Officer selects a method of procurement other than competitive bidding pursuant to Sec. 7.7.3 of this manual, the purchasing officer will evaluate each offeror using the criteria published pursuant to Sec. 7.7.4 of this manual. Additionally, as mandated in Tex. Gov’t. Code §2269.056(c), the purchasing officer will document the evaluation of each offeror and prepare a recommendation to the Chief Financial Officer using the evaluation results. In accordance with Tex. Gov’t. Code §2269.056(b), the Chief Financial Officer shall base the selection of an offeror on the purchasing officer’s recommendation and evaluation of offers. Lastly, as required under Tex. Gov’t. Code §2269.056(c), the purchasing officer shall make the evaluations public on the District’s website within seven (7) days after the date the contract is awarded.

Sec. 7.13. Criteria to Consider

As set forth in Tex. Gov't. Code §2269.055, in determining the award of a contract pursuant to Sec. 7 of this manual, the Chief Financial Officer may consider:

(a) The price;

(b) The offeror's experience and reputation;

(c) The quality and reputation of the offeror's goods or services;

(d) The extent to which the offeror's goods or services meet the District's needs;

(e) The vendor's past relationship with the District;

(f) The impact on the ability of the District to comply with rules relating to historically underutilized businesses;

(g) The total long-term cost to the District to acquire the offeror's goods or services;

(h) 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;

(i) The offeror's safety record;

(j) The offeror's proposed personnel;

(k) Whether the offeror's financial capability is appropriate to the size and scope of the project; and

(l) Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

As further mandated under Tex. Gov't. Code §2269.055, the Chief Financial Officer shall, in determining the award of a contract under Sec. 7 of this manual:

(a) Consider and apply any existing laws, including any criteria, related to historically underutilized businesses; and

(b) Consider and apply any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

Sec. 7.14. Notification of Contractor's Criminal History

As set forth in Tex. Ed. Code §44.034(a), if the person or an owner or operator of a business entity selected for a public works contract has been convicted of a felony, the person or owner must provide the District with advance notice prior to entering into the contract. To this end, the purchasing officer should ensure that the offeror's bid, proposal, or qualifications includes an

advance notice disclosing this fact. The notice must include a general description of the conduct resulting in the conviction of a felony. To obtain the required information, the purchasing officer should include an inquiry(s) to this effect. The purchasing officer may require that the response to the inquiry(s) be in the form of a notarized affidavit included with the bid, proposal, or qualifications.

If the purchasing officer or other District employee learns that a contractor has been convicted of a felony and failed to disclose said conviction, the purchasing officer or District employee must disclose this information to the Chief Financial Officer.

As authorized at Tex. Ed. Code §44.034(b), the Chief Financial Officer may terminate a contract with a person or business entity if the Chief Financial Officer determines that the person or business entity failed to give notice or misrepresented the conduct resulting in the conviction, as required under Tex. Ed. Code §44.034(a). The District must compensate the person or business entity for services performed before the termination of the contract.

This subsection does not apply to a publicly held corporation.

Sec. 7.15. Contract with Person Indebted to District

Pursuant to Tex. Ed. Code §44.044(a) and Sec. 7.4 and Sec. 7.5 of this manual, the Chief Financial Officer hereby adopts Sec. 7.15 as the regulations for permitting the District to refuse to enter into a contract or other transaction with a person indebted to the District.

The purchasing officer shall notify the Chief Financial Officer of any debt due by an apparent low bidder or successful proposer. In the notice to the Chief Financial Officer, the purchasing officer must disclose:

(a) The amount of the offeror's outstanding indebtedness;

(b) The date(s) of when the bidder or proposer became indebted to the District;

(c) The cause(s) resulting in the bidder's or proposer's indebtedness;

(d) Any adverse consequence to the District resulting from the bidder's or proposer's indebtedness;

(e) The date of the last written correspondence to the bidder or proposer demanding the bidder's or proposer's satisfactory settlement of the indebtedness; and

(f) The frequency of requests for settlement of the indebtedness.

At the sole discretion of the Chief Financial Officer, the Chief Financial Officer may refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the District. If the Chief Financial Officer agrees to award a contract to or enter into a transaction with an offeror indebted to the District, the Chief Financial Officer shall secure favorable concessions from the offeror. If the Chief Financial Officer does not secure favorable concessions and nonetheless awards a contract to or enters into a transaction with the indebted offeror, the Chief Financial Officer must document a justification for this decision.

Sec. 7.16. Right to Work

As established at Tex. Ed. Code §44.043, when procuring goods or services, awarding a contract or overseeing procurement or construction for a public work or public improvement to which Sec. 7 applies, the Chief Financial Officer:

(a) May not consider whether a person is a member of or has another relationship with any organization; and

(b) Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Sec. 7.17. Selection of Architect or Engineer

As set forth in Tex. Govt. Code §2269.057, unless the District employs an architect or engineer on a full-time basis to oversee construction projects, the District shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Tex. Govt. Code §2254.004. Refer to Sec. 6 of this manual.

Sec. 7.18. Other Professional Services

As set forth in Tex. Govt. Code §2269.058, the District shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of a facility. The District shall select the services for which it contracts under this subsection in accordance with Tex. Govt. Code §2254.004. Refer to Sec. 6 of this manual.

Sec. 7.19. Emergency/Disaster Contracting Authority

In the event of a catastrophe, emergency, or natural disaster affecting the District, the Board delegates to the Superintendent the authority to contract for the replacement, construction, or repair of school equipment or facilities in accordance with law, if emergency replacement, construction, or repair is necessary for the health and safety of District students and staff. The Superintendent shall report any contract made under this emergency authority to the Board at its next regular meeting in accordance with Board Policy CH(LOCAL).

Sec. 7.20 Change Orders

In accordance with Tex. Ed. Code §44.0411(a), if a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the Chief Financial Officer has general authority to approve change orders making the changes.

As established at Tex. Ed. Code §44.0411(b), the total contract price may not be increased because of the changes unless additional money for increased costs is approved by the Superintendent of Schools for that purpose from available money or is provided for by the authorization of the issuance of time warrants, as authorized by the Superintendent. In any event, neither the Superintendent of Schools nor the Chief Financial Officer may increase the total contract price if a budget amendment is necessary and required and such an amendment has not been approved by the Board.

Pursuant to Tex. Ed. Code §44.0411(d), a contract with an original contract price of $1 million or more may not be increased under Sec. 7.20 by more than 25 percent of the original contract price.

If a change order for a contract with an original contract price of less than $1 million increases the contract amount to $1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Sec. 7.21. Monitoring and Oversight

The Chief Financial Officer and purchasing officer shall monitor and oversee all construction projects and services. The Chief Financial Officer and purchasing officer shall document their monitoring and oversight activities.

Sec. 7.21.1. The Chief Financial Officer shall report to the Board the progress and status of any and all real property improvements and public works projects procured under Board Policy and this section.

Sec. 7.21.2. The Chief Financial Officer shall not make any final payments for real property improvements procured under Board Policy or this section until the work has been completed. Upon completion, the Chief Financial Officer shall provide a final report to the Board. Upon accepting the work performed, the Board may authorize the Chief Financial Officer to issue final payment(s).

Sec. 7.22 Other Local Requirements Applicable

In general, District employees should refer to Sec. 3 of this manual for other applicable procedures.

Sec. 8. LIKE-TYPES OF ITEMS

In accordance with TEA policy guidance,[27] the District defines like-types of supplies, as defined in Sec. 3.1.14 of this manual, and like-types of non-professional services, as defined in Sec. 3.1.7 of this manual, as set forth below.

Sec. 8.1. Like-Types of Supplies

Refer to the following online resources for like-types of supplies.

(a) National Institute of Governmental Purchasing Commodity Book: https://comptroller.texas.gov/purchasing/nigp/.

(b) U.S. Department of Agriculture, Food and Nutrition Service Foods Available List: https://www.fns.usda.gov/usda-fis/foods-available.

Sec. 8.2. Like-Types of Non-Professional Services

The following are examples of like-types of non-professional services.

1. Air conditioning and refrigeration
2. Amusement rides[28]
3. Athletic training
4. Auctioneering
5. Barbering
6. Behavior analysis/evaluation
7. Boiler safety
8. Carpentry
9. Chemical dependency counseling
10. Combative sports[29]
11. Cosmetology
12. Counseling, including rehabilitation counseling
13. Diagnostic and evaluation services
14. Dietitians/Nutritionists
15. Driver education and safety
16. Dyslexia therapy
17. Electricians
18. Elevator/Escalator safety
19. Hearing instrument fitters and dispensers
20. Interpreting services
21. Licensed specialist in school psychology
22. Mold assessment and remediation
23. Occupational therapy
24. Orientation and mobility therapy
25. Orthotics and prosthetics
26. Painting
27. Parent counseling and training
28. Pest control

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27 TEA To The Administrator Addressed letter dated November 29, 2018

28 Tex. Occupations Code Chapter 2151

29 https://www.tdlr.texas.gov/sports/sports.htm

29. Physical therapy
30. Plumbing
31. Podiatry
32. Private security
33. Professional employer organizations (formerly, staff leasing services)
34. Property tax consulting
35. Service contract providers[30]
36. Social work services
37. Speech-language pathologists and audiologists
38. Temporary common worker employment
39. Therapeutic recreation
40. Towing
41. Transportation networking (ridesharing)
42. Used vehicle parts recycling
43. Vehicle salvage[31]
44. Vehicle storage

[30] https://www.tdlr.texas.gov/scp/scp.htm
[31] Tex. Occupations Code Chapter 2302