



Policies & Procedures

Purchasing Procedures

Policies

The Board of Trustees has adopted rules and procedures for the acquisition of goods and services. All district contracts, except contracts for the purchase of produce or vehicle fuel, valued at \$25,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for a district:

1. Competitive bidding.
2. Competitive sealed proposals.
3. A request for proposals for services other than construction services.
4. A catalog purchase as provided by Government Code Chapter 2157, Subchapter B.

Public purchasing and the expenditure of public funds require that ethical standards be incorporated into every aspect of the District's purchasing functions.

Sequential Purchases – District employees shall not make purchases, over a period, of items that in normal purchasing practices would be made in one purchase.

Component Purchases – District employees shall not make purchases of the component parts of an item that in normal purchasing practices would be made in one purchase.

Separate Purchases – District employees shall not make purchases separately in order to circumvent board approval of items that in normal purchasing practices would be made in one purchase.

Conflict of Interest – In accordance with Board Policy DBD (Legal), employees who exercise discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions shall not solicit, accept, or agree to accept any benefit from a person the employee knows is interested in or likely to become interested in any such transactions of the District. *Penal Code 36.08(d)*. A conflict of interest is defined as any circumstance that could cast doubt on an employee's ability to act with total objectivity with regard to the District's interest.

Gifts - District employees shall not solicit, accept, or agree to accept any gifts or benefits from a person conducting or intending to conduct business with the District.



The prohibition of accepting gifts does not apply to accepting an unsolicited item with a value of less than \$50, excluding cash or a negotiable instrument (Penal Code 36.10).

Financial Interest – District employees shall not participate directly or indirectly in procurement when the employee or the employee’s family member has a financial interest pertaining to the procurement.

Personal Use - District employees shall not make any commitment to acquire goods or services in the name of the District for personal use or ownership.

Equal Consideration - All employees shall grant all competitive suppliers equal consideration as state/federal laws and District policy permit (especially when evaluating bids and proposals).

Under Texas Education Code § 44.032:

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

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

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

(e) The final conviction of a person other than a trustee of a school district for an offense under Subsection (b) or (c) results in the immediate removal from office or employment of that person. A trustee who is convicted of an offense under this section is considered to have committed official misconduct for purposes of Chapter 87, Local Government Code, and is subject to removal as provided by that chapter and Section 24, Article V, Texas Constitution.

For four years after the date of the final conviction, the removed person is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by or act as an agent for the state or a political subdivision of the state, and is ineligible to receive any compensation through a contract with the state or a political subdivision of the state. This subsection does not prohibit the payment of retirement benefits to the removed person or the payment of workers' compensation benefits to the removed person for an injury that occurred before the commission of the



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

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

Employees involved in the purchasing process are exposed to more than ordinary temptations because they are involved with the expenditure of large amounts of public money. Strict adherence to the above standards are critical to the protection of the employee's and the District's reputation. Any violations to these standards should be reported immediately using the District's Fraud Disclosure Form found on the Business Office's website.

Conflict of Interest Questionnaire (CIQ) - On May 23, 2005 the Texas Senate passed HB 914, adding Chapter 176 to the Local Government Code, and imposed new disclosure and reporting obligations on vendors (current and potential) to local government entities beginning on January 1, 2006.

During the 80th Legislative Session, HB 914 was updated with HB 1491. For more information on this topic you can visit the Texas Ethics Commission website.

Texans Can Academies will not provide any further interpretation or information regarding CIQ law. Compliance is the individual responsibility of each individual, business, and agent who is subject to the law's filing requirement.

Please see the Texas Ethics Commission website www.ethics.tx.us for additional information.

Contracts

In de-centralized purchasing, the campuses and departments are primarily responsible for vendor relations, contact, and communication. However, it must be understood that contact and communication with vendors by school campuses, departments, and staff are not to represent a commitment to purchase.

Contracts/Common Law

A District Purchase Order is an offer. A contract is created between the District and the vendor only when the vendor accepts the terms of the Purchase Order by causing the goods or services requested on the order to be delivered. In other words, the District's



offer (Purchase Order) is a presentation to the vendor of what the District wants from the vendor and under what conditions (terms). Purchase Orders provide a uniform way for the District to make offers to vendors with all terms in writing. This is why it is critical to the purchasing process that the school or department receiving the goods or services immediately compare the delivery of it with the Purchase Order. If the vendor has altered the terms of the Purchase Order to the point where the recipient is dissatisfied, then a possible breach of the contract has occurred. In such a situation, Purchasing should be notified at once.

In the case of bids and request for proposals (all types), a different set of circumstances exists. Here, the offer is the vendor's bid or proposal. This is the vendor's offer to the District of what the vendor will sell the District and under what terms. The acceptance of an offer occurs when the Board of Trustees or Administration awards a bid or selects a proposal.

A contract is created between the District and the vendor after the bid is accepted by the Administration or Board and a contract is signed by a District signatory. A Purchase Order for the goods or services may be withheld or amounts substantially reduced by the Purchasing Agent if the needs of the District change and the materials or services are no longer needed even though the Board has accepted the offer.

Personal Property Value

When the district seeks to purchase personal property of a value of at least \$10,000 but less than \$25,000, in the aggregate, for a 12-month period, the district may either purchase those items in accordance with Education Code 44.031(a) and (b) described above or follow the vendor list procedures described below.

Notice

For each 12-month period, the district shall publish a notice in two successive issues of any newspaper of general circulation in the county in which the district office is located, specifying the categories of personal property to be purchased and soliciting the names, addresses, and telephone numbers of vendors that are interested in supplying any of the categories to the district.

Vendor List

For each category, the district shall create a vendor list consisting of each vendor that responds to the published notice and any additional vendors the district elects to include. Before the district can make a purchase from a category of personal property, it must obtain written or telephone price quotations from at least three vendors from the list for that category. If fewer than three vendors are on the list, the district shall contact each vendor. Whenever possible, telephone quotes should be confirmed in writing by



mail or facsimile. The bidding records shall be retained with the District's competitive bid records and are subject to audit. Purchases shall be made from the lowest responsible bidder, except as provided by Education Code 44.033(f).

Professional Services

The purchasing requirements of Education Code Section 44.031 do not apply to a contract for professional services rendered, including the services of an architect, attorney, or fiscal agent. As such, the district may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031.

Competitive bids shall not be solicited for professional services of any licensed or registered certified public accountant, architect, landscape architect, land surveyor, physician, optometrist, professional engineer, state-certified or state-licensed real estate appraiser, or registered nurse. Contracts for these professional services shall be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. *Gov't. Code 2254.002, 2254.003(a)*

Component Purchases

A trustee, employee, or agent shall not, with criminal negligence, make or authorize separate, sequential, or component purchases to avoid the purchasing requirements set out in Education Code 44.031. An officer or employee shall not knowingly violate Education Code 44.031 in any other manner. Violation of this provision is a Class B misdemeanor and an offense involving moral turpitude, conviction of which shall result in removal from office or dismissal from employment.

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

The district may acquire computers and computer-related equipment, including computer software, through the Texas Building and Procurement Commission (BPC) under contracts with the BPC in accordance with Government Code Chapter 2157. *Education Code 44.031(i)* Compliance with Education Code 44.031 is not required for purchases that are available from only one source, including:

1. An item for which competition is precluded because of a patent, copyright, secret process, or monopoly.



2. A film, manuscript, or book.
3. A utility service, including electricity, gas, or water.
4. A captive replacement part or component for equipment.

The sole source exception shall not apply to mainframe data processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

Interlocal Agreements

To increase efficiency and effectiveness, the district may choose to contract or agree with other local governments and with state agencies, including the BPC, to perform some of its purchasing functions. When used, the interlocal contract must be authorized by the board and the governing body of each contracting party; must state the purpose, terms, rights, and duties of the contracting parties; and must specify that each party paying for the performance of governmental functions or services shall make those payments from current revenues available to the paying party.