



**INTERNATIONAL AMERICAN FEDERATION, INC.
DBA
INTERNATIONAL LEADERSHIP OF TEXAS**

ADMINISTRATIVE PROCEDURES MANUAL FOR PURCHASING
Approved by Superintendent on February 15, 2017

A handwritten signature in blue ink, appearing to read "E. Conger", is written over a horizontal line.

Edward G. Conger, Superintendent

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Sec. 1. OVERVIEW

As with every organization, International American Education Federation, Inc. DBA International Leadership of Texas (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 (e.g., federal time and effort reporting) that do not directly pertain to the procurement of goods and services. District personnel should consult the appropriate handbook for guidance and direction.

Sec. 1.2. Legal Requirements

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

- (a) Code of Federal Regulations, Title 2, Part 200 (2 CFR 200)
- (b) Code of Federal Regulations, Title 34
- (c) Chapter 12, Subchapter D of the Texas Education Code (Tex. Ed. Code)
- (d) Chapter 2269 of the Texas Government Code (Tex. Govt. Code)
- (e) Chapter 100, Subchapter AA of Title 19 of the Texas Administrative Code (19 TAC 100)
- (f) Financial Accountability System Resource Guide (FASRG)
- (g) Board Policies

Sec. 1.3. Manual to Supplement Legal Requirements

This manual does not supersede and is not in lieu of the legal requirements promulgated in state and federal law and rule (collectively, law), the contract for charter, grants, contracts and other legal mandates. Instead, this manual supplements existing legal requirements and facilitates corporate and District compliance with state and federal law and applicable contracts. In any instance where this manual conflicts with the state and federal law or a contractual or grant clause, the law or clause will govern and control. When in doubt, District 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 Directors (Board). Instead, this manual implements Board policy by describing the corporate and District purchasing practices and processes. In any instance where this manual conflicts with Board policy, Board policy will prevail.

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Sec. 1.5. General Applicability

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

Sec. 1.6. Applicability for Convenience

In general, the purchasing policies, procedures and practices described in this manual shall not be applied to the District's non-charter school programs, services, functions and activities (collectively, activities). However, if administratively convenient and cost effective, the District may, at its discretion and on a case-by-case basis, apply the purchasing process described in this manual, in whole or in part, to the purchase of goods and services for its non-charter school activities and from non-charter school funds.

Sec. 1.7. Organization of Manual

This manual is organized into sections and subsections that are identified with a number. The procedures described in this manual outline the process that the District and the corporate office shall follow to demonstrate compliance with applicable law and Board policy.

Sec. 1.8. Responsibility for Development and Maintenance

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

Sec. 1.9. 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. 1.10. Effective Date

This manual is effective for fiscal years beginning on February 15, 2017, and thereafter.

Sec. 1.11. Retention of Manual

This manual was superseded on [February 15, 2017. Accordingly, this version of the manual shall be retained until February 12, 2022.¹

¹ See Texas State Library and Archives Commission Local Schedule GR (Record Number GR1000-38 and GR1025-25).

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Sec. 2. CODE OF CONDUCT

Sec. 2.1. Standards of Conduct²

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 is involved 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.

² FASRG Module 3, Appendix 1 (General Ethical Standards)

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- (f) The prohibition against gratuities and kickbacks prescribed at (d) and (e) above should be conspicuously set forth in every contract and solicitation therefore.
- (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. Organizational Conflicts³

Sec. 2.2.1. An organizational conflict of interest may result when the District conducts a business transaction with an affiliate or subsidiary organization and, as a result 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 conflict of interest.

- (a) Unequal access to information
- (b) Biased ground rules
- (c) Impaired objectivity

Sec. 2.2.2. Thus, when using federal funds to procure goods and services from an affiliate or subsidiary organization, the Board and District officers 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 Superintendent identifying the proposed procurement, the conflicted entity, and circumstances giving rise to the conflict. Upon review, the Superintendent must submit the memorandum and a proposed remedy to the Board for consideration and approval.

Sec. 2.3. Gifts

No employee shall accept or solicit any gifts, favor, services, or other benefit that could reasonably be construed to influence the employee's discharge of assigned duties and 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 one school year to the CFO. This includes items of food, lodging, transportation, tickets, or business entertainment accepted as a guest. When the employee is in doubt of the value of the gift, he or she should report it to the CFO. If an employee has any questions regarding acceptable conduct of 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 CFO. Failure by an employee to disclose gifts pursuant to this policy could result in adverse personnel action against the employee.

³ Conforms to Board Policy FMPF, Sec. 6 and 2 CFR §200.318(c)

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Sec. 3. PURCHASING AND CONTRACTING (GENERAL)

This section describes local requirements that apply to all purchases of goods and services.

Sec. 3.1. Designee

As set forth in Policy FMPG, Sec. 3, the Superintendent delegates purchasing authority to the CFO, as set forth in this section. The CFO may delegate responsibility for implementing the procedures in this section but will do so in writing through an administrative procedure, job description or internal memorandum.

Sec. 3.2. Segregation of Duties

Sec. 3.2.1. As set forth in Policy FMPG, Sec. 4, and in recognition that the proper segregation of duties mitigates the risk of erroneous and inappropriate actions in the procurement of goods and services, the CFO will ensure that an appropriate degree of separation exists between duties that could facilitate such actions. Accordingly, the CFO will periodically review duties within the purchasing function and to determine if one or more employees are able to, either collectively or in combination:

- (a) Initiate a procurement (i.e., create a purchase requisition);
- (b) Encumber funds (i.e., create a purchase order);
- (c) Approve a procurement, including the encumbrance of funds;
- (d) Receive goods and/or services;
- (e) Receive vendor invoices;
- (f) Prepare payment vouchers, including reconciling purchase orders to vendor invoices and receiving reports;
- (g) Approve payments;
- (h) Reconcile general ledger accounts to third-party bank or billing statements; and/or
- (i) Prepare, review and/or approve summary or detail accounts payable reports.

Sec. 3.2.2. If these activities cannot be separated, the CFO will perform a detailed supervisory review of related activities as a compensating control activity. In this manner, the District may implement an appropriate degree of segregation of duties as a deterrent to fraud, waste or abuse.

Sec. 3.3. Budgetary Compliance

In accordance with Policy FMPG, Sec. 5, the CFO or designee and other District employees are authorized to make budgeted purchases or other purchases authorized by the Board. To ensure compliance, the CFO or designee and other District employees must:

- (a) Review the approved budget to determine if there are funds sufficient for the proposed expense;
- (b) Approve purchases only if the proposed expense will not result in actual expenses exceeding budgeted expenses by more than ten percent (10%) of the initial or amended budgeted expenses; and

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- (c) Prepare a budget amendment if actual and proposed expenses exceed budgeted expenses by more than ten percent (10%) of the initial or amended budgeted expenses.

Sec. 3.4. Authorized Signatory

In accordance with Policy FMPG, Sec. 5, the District will observe the thresholds identified in Table A below to determine who may sign a contract or other agreement.

Table A: Contract Signatory Authorizations

Authorized Signatory	May Sign Contracts for Business Arrangements or Transactions with a Cost or Value of		
	Less than \$50,000	\$50,000 to \$150,000	Greater than \$150,000
Superintendent	Yes	Yes	Yes
Chief Academic Officer	Yes	Yes	
CFO	Yes	Yes	
Chief Information Officer	Yes	Yes	
General Counsel	Yes	Yes	
Area Superintendent	Yes	Yes	
Campus Principals	Yes		
CFO's Designee	Yes		

Sec. 3.5. Contract Required

As set forth in Policy FMPG, Sec. 6, the CFO or designee will prepare an executed contract pursuant to the following process.

- (a) Determine if the total cost or value of the proposed business arrangement or transaction exceeds \$150,000.
- (b) If the total cost or value of the proposed business arrangement or transaction exceeds \$150,000, obtain or prepare a contract.
- (c) Route the draft contract to the General Counsel for review. The General Counsel may negotiate the terms and conditions with the vendor as appropriate and necessary and after consulting with District personnel.
- (d) After the General Counsel has reviewed the contract, route the contract, including counterparts, to an authorized signatory as set forth in Sec. 3.5 of this manual.
- (e) If the contract has not been executed by the vendor's representative, route the contract for signature by the vendor's representative.
- (f) File an original, fully executed in the District's contract administration files.

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Sec. 3.6. Required Board Approval

As set forth in Policy FMPG, Sec. 9.3.2, prior to executing a contract for the procurement of goods and/or services with a cost of \$150,000 or more, the Board shall approve the contract.

Sec. 3.7. Contract Administration

In accordance with Policy FMPG, Sec. 8.1, the CFO or designee 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 CFO or designee will:

- (a) Work collaboratively with the General 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.
- (b) Work collaboratively with central, area 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.

Sec. 3.8. Purchase Order System

In accordance with Policy FMPG, Sec. 8.2., the CFO or designee will maintain a purchase order system to serve as the formal method for procuring goods and/or services from a vendor.

Sec. 3.8.1. Purchasing Officer

As authorized in Policy FMPG, Sec. 8.5, the CFO designates the purchasing coordinator or its equivalent job function 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 prepare purchase requisitions and purchase orders;
- (b) Assist District employees comply with the federal and state law and rules and the local requirements established in Board policy and this manual;
- (c) Contact potential vendors for inclusion in approved vendor list;
- (d) Maintain approved vendor list;
- (e) Contact approved vendors to check on availability of goods and services and status of outstanding purchase orders;
- (f) Place orders on behalf of District employees;
- (g) Identify, address and resolve issues with outstanding purchase orders; and
- (h) Coordinate the preparation and approval of contracts and other agreements.

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Sec. 3.8.2. Purchase Requisitions and Purchase Orders

A purchase order form is used to purchase supplies, equipment, or services from an external vendor. Requisition forms should be created in the SKYWARD School Business Suite (Fiscal Management) (SKYWARD) by the requesting campus or department and submitted for approval of a purchase order. The electronic system allows users to enter purchase requests electronically, verify account balances, select pre-approved vendors, etc. at the point of data entry. Budget codes must be noted on all requisitions. Supporting documentation such as order forms, graphics, etc. shall be submitted to the District Financial Clerk. After the requisitions pass all electronic approvals, a purchase order is generated upon final approval by the principal, CFO or Superintendent and generated electronically by SKYWARD. Each purchase order is uniquely numbered for audit tracking purposes. No employee shall order or receive goods without an approved purchase order. A requisition cannot be used to place an order. An approved purchase order must be in hand before services or items can be ordered. All purchase orders should be mailed, emailed or faxed to vendors by the campus budget clerk or the district department making the PO request, exceptions if any, should be approved by the CFO.

Sec. 3.8.3. Approval Required

Consistent with Policy FMPG, Sec. 8.2.1. through 8.2.3., only the District employees identified in Table A of this manual are authorized to approve purchase orders. District employees may not issue a purchase order to a vendor unless it has been approved by an authorized employee. If a District employee issues a purchase order to a vendor without the required approval, the employee will be financially responsible for the purchase.

Sec. 3.8.4. Purchasing Deadlines

In an effort to maximize the use of budgeted funds during the current fiscal year, the purchasing deadline for supplies and equipment shall be May 1st. Summer needs for staff development and summer school should be anticipated and ordered prior to the deadline. At times, the purchasing deadlines for state or federal grants may be earlier than the deadlines 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 Grants. All reimbursements for the current fiscal year must be requested by August 1st.

Sec. 3.9. Receipt of Goods and Services.

Sec. 3.9.1. Consistent with Policy FMPG, Sec. 8.3., upon the receipt of 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/or purchase order to identify the item(s) that were received and:

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- (1) Accepted; or
- (2) Rejected;

- (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) Route the marked Receiving Copy of the Purchase Order and the marked packing slip (if provided) to the Purchasing Officer.

Sec. 3.9.2. Consistent with Policy FMPG, Sec. 8.3., 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.⁴

Sec. 3.10. Corporate Charge/Credit Accounts

The use of corporate charge accounts and corporate credit accounts (“corporate card program”) will be governed by Policy FMPG, Sec. 8.4 and this subsection.

Sec. 3.10.1. Board Authorization

The Superintendent and CFO are authorized to establish a corporate credit program for the purpose of procuring goods and/or services. As set forth in Board policy, the following District employees are authorized to participate in the corporate card program.

Table B: Corporate Card Program Authorizations

Authorized Cardholder	Authorized Spending Limit
Superintendent	\$150,000
Chief Academic Officer	\$150,000
CFO	\$150,000
Chief Information Officer	\$150,000
General Counsel	\$150,000
Area Superintendent	\$150,000

⁴ 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.

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Campus Principals	As Approved
CFO's Designee	As Approved
Other Employees	As Approved

Sec. 3.10.2. Cardholder Responsibilities

Employees authorized to receive and use a corporate charge account and/or a corporate credit account must sign a cardholder agreement and agree to the following terms and conditions.

Sec. 3.10.2.1. Appropriate Use of Charge/Credit Authority

The employee must agree to the appropriate use of the corporate charge account and/or corporate 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 subsections 4.4 and 4.5 of this manual.

Sec. 3.10.2.2. Liability for Charges

The employee must agree to be liable for any and all unauthorized charges to the corporate charge account and/or corporate credit account.

Sec. 3.10.2.3. 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 the assigned account.

Sec. 3.10.2.4. Meal Receipts Not Required

In accordance with Policy FMPG, Sec. 8.4.3., 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. However, the employee may not incur and will not be reimbursed for the cost of meals exceeding the maximum allowable reimbursement rate promulgated by the Texas Comptroller of Public Accounts. If the Superintendent or CFO allow such a reimbursement, the employee shall be required to provide all of the receipts to support the cost reimbursement, which may be subject to Federal income tax withholding.

Sec. 3.10.3. Monitoring of Accounts

The CFO or designee will monitor all corporate charge accounts and/or corporate credit accounts to identify any unusual or inappropriate use of the accounts. Upon identifying the unusual or potentially inappropriate use of an account(s), the CFO or designee 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.

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Sec. 3.10.4. Revocation of Corporate Account

If an employee is found to have misused their assigned account(s), the CFO may recommend to the Superintendent that the employee's account be terminated. Upon approval by the Superintendent, the CFO 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. 3.10.5. Employee Liable

If an employee fails to provide the required records pursuant to Subsection 3.10.2.3. of this manual, the employee shall be financially liable for the costs charged to the account(s).

Sec. 3.11. Area Superintendents and Campus Principals Responsible

As set forth in Policy FMPG, Sec. 8.6., area superintendents and campus principals must ensure that purchases conform to the budget approved for their area or campus. Refer to Sec. 3.3 of this manual for guidance. Additionally, area superintendents and campus principals should work with the purchasing officer to determine the degree to which purchasing law and rule and the local requirements established in this manual apply to any one particular purchase. If area superintendents 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 law and rule and the purchasing requirements of this manual.

Sec. 3.12. Nonconforming Purchases Prohibited

In accordance with Policy FMPG, Sec. 8.7, 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. 3.13. Prohibited Purchasing Practices

Sec. 3.13.1. 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 a better value and reduced costs through aggregated purchases.

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Sec. 3.13.2. Separate, Sequential or Component Purchases Prohibited

In accordance with Policy FMPG, Sec. 9.1, 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 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. 3.13.2.1. *Separate Purchases Defined*

“Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

Sec. 3.13.2.2. *Sequential Purchases Defined*

“Sequential purchases” means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

Sec. 3.13.2.3. *Component Purchases Defined*

“Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

Sec. 3.13.3. 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 CFO 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 or additional cost to the District of purchasing the same or similar items in the manner advocated.

Sec. 3.14. Authorized Vendor List

In accordance with Policy FMPG, Sec. 8.8, District employees must use vendors previously approved as set forth in this subsection.

Sec. 3.14.1. 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.

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

Sec. 3.14.2. Vendor List Must Be Current and Sufficient

The Purchasing Officer must ensure that all lists of authorized vendors which 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. 3.14.3. 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. 3.14.4. Use of Unauthorized Vendors

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

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Sec. 4. PURCHASING AND CONTRACTING WITH STATE FUNDS

Sec. 4.1. Applicability

Sec. 4.1.1. This section pertains to the use of state funds to purchase:

- (a) General goods and services (hereafter, "general purchases"); and
- (b) Goods and services for the construction, renovation, or repair of a structure, road, highway, or other improvement or addition to real property (hereafter, "public works") with a cost or value of less than \$50,000.

Sec. 4.1.2. This section does not apply to the purchase of:

- (a) General purchases from federal funds;
- (b) Professional services; or
- (c) Goods and services for public works with a cost or value exceeding \$50,000.

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

Sec. 4.2. Purchasing Methods

Sec. 4.2.1. Quotes

District employees must procure goods and/or services through the solicitation of three or more written quotes from authorized vendors. Specifically, District employees must adhere to the following procedure:

- (a) Define the product or service specifications, including the timeline for product or service delivery;
- (b) Prepare a written solicitation for goods and/or services that includes the defined specifications;
- (c) Identify three or more authorized vendors that may provide the requisite product or service in accordance with the defined specifications;
- (d) If less than three authorized vendors are identified, identify unauthorized vendors that may provide the requisite product or service in accordance with the defined specifications;
- (e) Issue the written solicitation to the vendors identified at (c) and (d) above;
- (f) By the date specified in the solicitation, receive and review the vendor quotes;
- (g) Identify the vendor quote that provides the best value to the District at the lowest cost without sacrificing the quality of the goods and/or services sought; and

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(h) Refer to the requirements described in Sec. 3 of this manual.

Sec. 4.2.2. Cooperative

In lieu of written quotes, and as set forth in Policy FMPG, Sec. 9.3., 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 complies with state purchasing laws. District employees may procure goods and/or 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 services offered at cooperative prices, District employees may procure the goods and/or services using the vendor's direct quote.

Sec. 4.3. State Grants

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

Sec. 4.4. Use of State Aid

In accordance with Tex. Ed. Code §12.107 and FASRG Module 10, District employees are required to use state funds to purchase goods and services that benefit the District's students. Specifically, District employees may only use state funds for the following purposes:

- (a) The payment of teachers' and superintendents' salaries and interest on money borrowed on short time to pay those salaries that become due before the state funds for the current year become available;⁵
- (b) The purchase of appliances and supplies;
- (c) The payment of insurance premiums;
- (d) The payment of janitors and other employees;
- (e) The purchase of school sites;
- (f) The buying, building, repairing, and renting of school buildings, including acquiring school buildings and sites by leasing through annual payments with an ultimate option to purchase; and
- (g) For other purposes necessary in the conduct of the District's affairs as determined by the Board.

⁵ Loans for the purpose of payment of teachers may not be paid out of funds other than those for the current year.

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Sec. 4.5. Use of State Aid for Social Activities Prohibited

In accordance with FASRG Module 10, District employees may not use state funds to purchase goods or services that relate to entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities), unless such a purchase is directly related to the benefit of students.

Sec. 4.6. Other Local Requirements Applicable

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

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Sec. 5. PURCHASING AND CONTRACTING WITH FEDERAL FUNDS

Sec. 5.1. Applicability

Sec. 5.1.1. This section pertains to the purchase of general purchases from federal funds.

Sec. 5.1.2. This section does not apply to the purchase of:

- (a) General purchases from state funds;
- (b) Professional services;
- (c) Goods and services for public works with a cost or value of less than \$50,000; or
- (d) Goods and services for public works with a cost or value exceeding \$50,000.

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

Sec. 5.2. Procurement Thresholds

For purposes of implementing these purchasing thresholds, the prohibition at subsection 3.13 of this manual must be observed.

Sec. 5.2.1. Micro-Purchase Threshold

The micro-purchase threshold is \$3,500.

Sec. 5.2.2. Simplified Acquisition Threshold

The simplified acquisition threshold is \$50,000 for Food and Nutrition Program (FNP) funds and \$150,000 for other federal funds.

Sec. 5.3. Methods of Procurement

The District shall purchase goods and services by the method, of the following methods, that provides the best value for the District.

Sec. 5.3.1. Informal Procurement Methods

Generally, the District shall apply one of two informal procurement methods – micro-purchase procedures or small purchase procedures – to general purchases valued at less than simplified acquisition threshold in the aggregate for each twelve-month period. The District shall determine the appropriate method to utilize based on a comparison of the total cost or value of the purchase to the applicable procurement thresholds.

Sec. 5.3.1.1. Micro-Purchase Procedures

The District must adhere to the following procedures for any single purchase that has a total aggregate cost or value that is equal to or less than the micro-purchase threshold.

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

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- (b) Verify that the purchase is not a component, separate or sequential purchase. Refer to subsection 3.13.2 of this manual. Document this verification on the purchase order.
- (c) Utilizing the approved vendor list, identify and contact an approved vendor(s) to purchase the goods and/or services. 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. If more than one vendor is contacted, obtain quotes. Document any oral quotes on the purchase order. Whenever possible, oral quotes should be confirmed in writing by email, facsimile or mail. Attach written quotes to the purchase order. Select the vendor providing the lowest quote. If the purchase is awarded to a vendor other than the vendor providing the lowest quote, include a justification for this decision on the purchase order.
- (d) Determine if the price(s) quoted is reasonable by comparing it to previously paid amounts for the same or similar goods and/or services or to the other quotes obtained (if any).
- (e) Prior to making any purchase with Federal funds, review the System for Award Management 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.
- (f) Prepare a purchase order, including the documentation described above, and route it to the administrator (e.g., campus principal) with signatory authority over the budgeted line item to which the purchase will be charged.
- (g) Upon approval, the signing administrator will route the purchase order to the finance department where staff will review the purchase order for accuracy, completeness, and conformance with the procedures described in this subsection, other pertinent policy and procedures, and other legal requirements.
- (h) After review by finance department staff, the purchase order must be routed to the CFO for final review and approval prior to issuance to the vendor.

Because of the dollar value of a micro-purchase, a formal, executed contract is not typically used and, consequently, is not required. Generally, a purchase order is sufficient to formalize the business transaction for goods and/or services with the vendor.

Sec. 5.3.1.2. Small Purchase Procedures

The District must adhere to the following procedures for any single purchase that has a total aggregate cost or value that exceeds the micro-purchase threshold but is less than the simplified acquisition threshold.

- (a) Verify that the purchase does not exceed the simplified acquisition threshold. Document this verification on the purchase order.
- (b) Verify that the purchase is not a component, separate or sequential purchase. Refer to subsection 3.13.2 of this manual. Document this verification on the purchase order.

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- (c) Utilizing the approved vendor list, identify and contact at least three (3) or more approved vendors and obtain no less than three (3) written quotes. If the purchase is for goods and/or services that are not commonly available commercial goods and/or services, prepare and provide vendors with a sufficiently detailed written description of the goods and/or services to be purchased. Refrain from contacting vendors that have been previously used; instead, contact different vendors. If a previously selected vendor is chosen for the purchase, include a justification for this decision on the purchase order. Document any oral quotes on the purchase order. Whenever possible, oral quotes should be confirmed in writing by email, facsimile or mail. Attach written quotes to the purchase order. Also, include any written or oral specifications provided to the vendors contacted. Select the vendor providing the lowest quote. If the purchase is awarded to a vendor other than the vendor providing the lowest quote, include a justification for this decision on the purchase order.
- (d) Determine if the price(s) quoted is reasonable by comparing it to the other quotes obtained.
- (e) Prior to making any purchase with Federal funds, review the System for Award Management 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.
- (f) Prepare a purchase order, including the documentation described above, and route it to the administrator with signatory authority over the budgeted line item to which the purchase will be charged. For purchases exceeding \$150,000, a contract should also be prepared. Refer to subsection 3.5 of this manual.
- (g) Upon approval, the signing administrator will route the purchase order to the finance department where staff will review the purchase order for accuracy, completeness, and conformance with the procedures described in this subsection, other pertinent policy and procedures, and other legal requirements. If a contract is required, the signing administrator will forward the unsigned contract to legal counsel for review. Once legal counsel approves the contract, a copy is sent to the finance department where staff will review the purchase order for accuracy, completeness, and conformance with the procedures described in this subsection, other pertinent policy and procedures, and other legal requirements.
- (h) After review by finance department staff, the purchase order must be routed to the CFO for secondary review and approval prior to issuance to the vendor. If a contract is required, the CFO will forward the unsigned contract to the Superintendent after it has been reviewed and approved by legal counsel.
- (i) After review by the CFO, the purchase order must be routed to the Superintendent for final review, if applicable, and approval prior to issuance to the vendor. Also, if applicable, the Superintendent shall execute the contract.

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Sec. 5.3.2. Formal Procurement Methods

Sec. 5.3.2.1. Competitive Bidding

If competitive bidding is chosen as the purchasing method, the CFO or designee shall prepare bid specifications. 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. The District may reject any and all bids.

Sec. 5.3.2.2. Competitive Sealed Proposals

If competitive sealed proposals are chosen as the purchasing method, the CFO or designee shall prepare the request for proposals and/or specifications for items to be purchased. All proposals shall 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.

Sec. 5.3.2.3. Procurement by Noncompetitive Proposals

The District may purchase goods and/or services that are available from only one source, including:

- An item for which competition is precluded because of a patent, copyright, secret process, or monopoly;
- A film, manuscript, or book;
- A utility service, including electricity, gas, or water; or
- A captive replacement part or component of equipment.

Procurement through the solicitation of a proposal from only one source may be used only 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 a written request from the non-Federal entity; or
- (d) After solicitation of a number of sources, competition is determined inadequate.

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Sole source purchases in excess of micro-purchase threshold will be submitted to the CFO for approval according to the procedures identified in this manual. The requestor's signed statement supporting the sole source selection and a copy of the vendor's sole source letter will be submitted for review. Alternatively, District employees may file a Request for Noncompetitive Procurement (Sole-Source) Approval form to the Texas Education Agency Division of Grants Administration to seek approval of the purchase.

Sec. 5.4. Full and Open Competition

District employees must endeavor to maximize the use of federal funds to purchase goods and services and to limit such purchases to the furtherance of the District's mission and facilitate the implementation of the charter program. To attain this goal, the Superintendent, CFO 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 and CFO will bear primary responsibility for ensuring that District personnel adhere to these procedures, especially when using federal funds to procure goods and services.

Sec. 5.4.1. 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. 5.4.2. 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. 5.4.3. 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.

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Sec. 5.4.4. Solicitations

The District must include the following disclosures in any formal solicitation for a purchase of goods and/or 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 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. 5.5. Notice Publication

Notice of when and where bids, proposals or responses to a request for proposal or qualifications will be received and opened shall be published 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 a request for proposal or qualifications. If there is no newspaper in that county, the advertisement shall be published in a newspaper in the county nearest the county seat of the county in which the District's central administrative office is located.

Sec. 5.6. 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. 5.7. 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. The District must acquire and maintain documentary evidence that the vendor was not listed on the Excluded Parties List System.

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Sec. 5.8. 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 effected 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 subrecipient 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

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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 subrecipient 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 subrecipient 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 subgrants 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 governmentwide 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

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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. 5.9. Allowable Costs

Sec. 5.9.1. General Guidance

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

- (a) 2 CFR 200, Subpart E.
- (b) U.S. Department of Education and pass-through entity (e.g., Texas Education Agency, Texas Department of Agriculture) grant requirements and related guidance.
- (c) TexTravel (Comptroller of Public Accounts)

Sec. 5.9.2. 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 of the allowability of the cost in question from their independent auditor or regional education service center. 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. 5.10. Other Local Requirements Applicable

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

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Sec. 6. PURCHASING AND CONTRACTING FOR PROFESSIONAL SERVICES

Refer to Policy FMPS for local requirements.

Sec. 6.1. Applicability

Sec. 6.1.1. This section pertains to the purchase of professional services.

Sec. 6.1.2. This section does not apply to the purchase of:

- (a) General purchases from state funds;
- (b) General purchases from federal funds;
- (c) Goods and services for public works with a cost or value of less than \$50,000; or
- (d) Goods and services for public works with a cost or value exceeding \$50,000.

With respect to (a), (b), (c) and (d), refer to Sections 4, 5, 4 and 7 of this manual, respectively.

Sec. 6.2. Applicable Law

Pursuant to Tex. Ed. Code §12.1053, 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. Professional Services Defined

Sec. 6.3.1. In accordance with the PSPA, professional services include services, within the scope of the practice, as defined by state law, of:

- (a) Accounting;
- (b) Architecture;
- (c) Landscape architecture;
- (d) Land surveying;
- (e) Medicine;
- (f) Optometry;
- (g) Professional engineering;
- (h) Real estate appraising; or
- (i) Professional nursing.

Sec. 6.3.2. Typically, the professional services identified above are provided in connection with the professional employment or practice of a person who is licensed or registered as:

- (a) A certified public accountant;
- (b) An architect;
- (c) A landscape architect;
- (d) A land surveyor;
- (e) A physician, including a surgeon;
- (f) An optometrist;

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- (g) A professional engineer;
- (h) A state certified or state licensed real estate appraiser; or
- (i) A registered nurse.

Sec. 6.3.3. This section does not apply to the procurement of services not defined as professional services under the PSPA.

Sec. 6.4. Selection of Provider; Fees

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

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

Sec. 6.5. Professional Fees

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

Sec. 6.6. Contract for Professional Services of Architect, Engineer or Surveyor

Sec. 6.6.1. 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.

Sec. 6.6.2. 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.

Sec. 6.6.3. The District shall continue the process described in Sec. 6.6.2. until a contract is satisfactorily negotiated and executed or until no other provider is left.

Sec. 6.7. Monitoring of Provider Performance

In accordance with Policy FMPS, Sec. 8, District employees must monitor provider performance. Generally, the District's monitoring of provider performance is a preventative measure that includes identifying the provider's need for technical assistance or guidance in performing the contracted services in accordance with the terms of the contract and to the District's satisfaction. Additionally, effective monitoring will provide the contract manager with information concerning the effectiveness and quality of services rendered.

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Sec. 6.7.1. Contract Manager

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

Sec. 6.7.2. 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 signatory District employee or next level management if serious problems arise.
- (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 in services being provided or that services are not invoiced for another contract or purchase order.

Sec. 6.7.3. 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 provider performance with each

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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 District satisfaction with the services delivered.

Sec. 6.7.4. 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 may 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 District 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. 6.8. Other Local Requirements Applicable

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

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Sec. 7. PURCHASING AND CONTRACTING FOR PUBLIC WORKS

Sec. 7.1. Applicability

Sec. 7.1.1. This section pertains to the purchase of goods and services for public works with a cost or value exceeding \$50,000.

Sec. 7.1.2. This section does not apply to the purchase of:

- (a) General purchases from state funds;
- (b) General purchases from federal funds;
- (c) Professional services; or
- (d) Goods and services for public works with a cost or value of less than \$50,000.

With respect to (a), (b), (c) and (d), refer to Sections 4, 5, 6 and 4 of this manual, respectively.

Sec. 7.2. Compliance with Policy

The CFO or designee must refer to Policy FMPW for further direction and guidance regarding procurements for public works. Additionally, the CFO must seek legal and professional advice and counsel regarding the laws, regulations and other legal requirements applicable to competitive bidding or the alternate procurement method selected by the Board.

Sec. 7.3. Contracting with Certain Vendors

In accordance with Policy FMPW, Sec. 17, District employees must give consideration to vendors identified as minority owned businesses. However, this preferential treatment should not be given to a vendor if the result is detrimental to the quality of the goods and/or services procured. In each case, a minority owned business should be given preferential treatment if the quality of the goods and/or services is equal or substantially comparable to that provided by a competing authorized vendor that is not a minority owned business. Accordingly, District employees must perform the following procedure for public works contracts.

- (a) Placing qualified minority owned businesses on solicitation lists.
- (b) Assuring that minority owned businesses are solicited whenever they are potential sources.
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by minority owned businesses.
- (d) Establishing delivery schedules, where the requirement permits, which encourage participation by minority owned businesses.
- (e) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

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- (f) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (a) through (e) of this subsection.

Sec. 7.4. Other Local Requirements Applicable

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