



**DUNCANVILLE ISD**

**PURCHASING GUIDELINES**

**2023 – 2024**

## Introduction

As a support organization of the District, the Purchasing Department is charged with the procedural processes for the acquisition of goods and services required by the district that are the most cost effective and efficient. To this end, the Purchasing Department staff will function in a manner consistent with applicable laws, School Board policies, the Uniform Commercial Code, and other sound business practices, while establishing a competitive opportunity for all qualified vendors.

The purpose of these guidelines is to provide information to all schools and departments to allow them the opportunity to become familiar with the Purchasing Policies and Procedures of Duncanville Independent School District.

## Requisitions/Purchase Orders

Purchase orders are issued by the Purchasing Department to procure specific goods and services needed by the schools and departments. The purchase order is a formal document and is a legal, binding commitment between the district and the vendor. It is a contract.

The following are the procedures:

- Requisitions are entered and approved in Skyward.
- After the requisition has been approved, a purchase order will be generated and controlled by number sequence through the district's financial operating system (Skyward).
- The Purchasing Department will print the purchase order with electronic signature of the Director of Purchasing.
- It is the responsibility of the purchasing department to provide purchase order copies to the vendor, unless the originator requests the purchase order be returned to them. Exception is during District closures or work from home situations, all POs (other than e-commerce or POs emailed from Skyward) will be sent back to the originator to make sure their order is placed with the vendor.
- Online purchasing is not allowed unless you have an approved purchase order. **No district credit card is to be used for online purchases.**
- **Purchase orders must be for the exact items listed and freight must be included.**
- If the purchase order is not for the correct amount or freight was not included, Purchasing must authorize any changes or increases to the original order.
- Long term purchase orders (blanket PO's) *may* be issued for recurring expenses. These requests will be reviewed and approved on an "as-needed" basis; this is for operations departments.
- No POs for Media Center are needed, invoices will be sent to the Business Office for processing. Transportation (field trips), Nutrition and Culinary Arts, a PO still needs to be done.
- When ordering for multiple campuses/departments place the orders by each campus/department and have it delivered to that campus/department. **Orders will not be delivered to one place, sorted, and then re-delivered to another place.**

## Requisition Format

In order to avoid delays in processing, requisitions should include all information necessary to clearly define the needs of the user department or campus. The information required includes the following:

- Name of cooperative and contract number (if any), such as BuyBoard, Region 20, TCPN, etc. This information will be located in a drop-down box if it is not there contact purchasing immediately.
- Incident IQ Ticket # must be on the PO if purchasing technology items. Trip # must be on the PO for Transportation needs.
- **Complete and accurate description of items to be purchased who, what, where, when & why or item # and quantity.**
- Travel requisitions must state the following: **5Ws and have Travel form A attached.**
- Vendor name and address (as listed in Skyward).
- Account code to be charged. It is the end user's responsibility to ensure the correct budget codes are used when entering a requisition. A requisition that contains the wrong budget code will be denied by the Business Services department in order that the correct account code can be approved by each approver. A comment will be entered in the notes section.
- Price (per unit and in total).
- Payment terms, if any.
- Discounts, if any.
- Transportation arrangements (shipping/freight costs, if any).
- Requested by (warehouse, school campus, department, individual, etc.)
- Required delivery date, if any.
- Special instructions - a drop down box under **Narrative** has preset options for special instructions:
  - 01 – Fax purchase order to vendor
  - 02 – Do not fax purchase order
  - 03 – Return purchase order to campus
  - 04 – Ordered online

Alternatively, special instructions can be typed into the body of the requisition. **Do not use the internal note for any special instructions as they cannot be viewed on the actual Purchase Order.**

- All support documentation must be attached in Skyward, that is needed (Edgar form, board minutes, quote etc.).
- After a requisition is in the system it must then be approved by the Budget Manager. Requisitions which require expenditures from a Special Revenue Fund must be approved by the State and Federal Program Administrator or Special Ed. Director.

## **Review by Purchasing**

Requisitions received by the Purchasing Department are reviewed for the following items prior to approval of a purchase order.

- Accuracy.
- Adequate description, **who, what, where, when & why or item # and quantity.**
- Contract information.
- Overall completeness.
- Compliance with competitive procurement as established in Education Code 44.031, compliance with Board policy.
- **Will be denied if the above items are not met.**

## **Modifications to a Purchase Order**

- Purchase orders are not to be modified with the vendor or by schools or departments directly.
- If it becomes necessary to change the terms of a purchase order, the school or department must **first contact the Purchasing Department.**
- Once an agreement to any price increases or modification of terms is reached, purchasing will adjust the encumbrance on the purchase order and notify all involved parties of the changes.
- In the case of reorders, the same purchase order number cannot be used.

## **Checking Purchase Order Status**

- You have the ability to check the status of the purchase order using Purchasing Activity.
- The Purchasing Department uses notes to enter comments regarding incorrect or missing information that the end user needs to correct or provide in order for the requisition to be approved.
- **It is the end user's responsibility to monitor purchase order status.**

## **Cancellation of a Purchase Order**

- In the event it is necessary to cancel a Purchase Order, the school or department must contact the Purchasing Department.
- The Purchasing Department will close the purchase order and liquidate the funds encumbered.
- The school or department placing the order must also notify the vendor of the cancellation of the purchase order.

## **Grant and Special Fund Purchases**

Refer to Federal and State programs guidelines and procedures in Appendix C. No micro purchases are allowed.

## **Unauthorized Purchases**

**All District employees shall strictly adhere to Board policy CH Legal & Local. Employees should note that acquisitions of goods or services that do not follow the established procedures are considered to be unauthorized and the person completing such a transaction may be held personally liable for the debt as per Board policy CH (LOCAL). No “after the fact” POs. Purchase of gift cards is NOT allowed.**

## **District Property**

- District funds will not be used to purchase personal items.
- All items purchased with District funds are the property of DISD.
- Property may be assigned to a staff member, but it is always the property of the district. It must be returned to the district if the staff member leaves the employment of DISD or is re-assigned.
- If the equipment is removed from the campus, the Asset Inventory Coordinator (ext. 2276) or Technology (Help Desk, ext. 2300) must be notified and the proper forms completed.
- Items purchased using federal funds may not be removed or transferred from the original location for which the purchase was intended without contacting the State & Federal Programs Administrator.

## **Produce and Fuel**

There is an exception for produce and fuel that allows the district to make these purchases.

## **Professional Services**

An additional exception applies to professional services as defined under Government Code, Section 2254.003. Contracts for professional services are not procured through competitive bids. Rather such services are chosen through a process of selection involving the review of professional qualifications. These services include, but are not limited to:

- Professionals such as attorneys
- Architects
- Fiscal agents
- Licensed medical professionals
- Auditors

## Licenses

All technological software or hardware purchases must be approved by the Technology department and quotes are obtained through the Technology department and you must follow all of their procedures.

## Memberships and Subscriptions

- Memberships must be institutional memberships when available.
- Individual memberships will be paid if the membership is necessary for the job position currently held.
- Personal liability insurance will not be paid by the district.
- Subscriptions must be in the name of DISD – Campus/Department and must be related to the mission of the school or department for which the subscription is purchased. Magazines will not be delivered to home addresses.
- POs for memberships and subscriptions will be returned to the campus/department for processing. There are numerous steps involved with processing these and there will be less confusion if they are handled by the campus/department.

## Sole Source

- The district recognizes that there may be instances when sole source purchases must be made, but such purchases must be appropriately justified according to Education Code 44.031.
- The justification for such purchases must be in writing and must be based upon a need for some feature or characteristic (specification) that is unique to the requested product or service that cannot be provided by any other product or service.
- Additionally, it must be documented that the item or product to be purchased is precluded from competitive procurement practices. Sole Source forms are located on the Purchasing website and must be completed each year in order to be compliant with purchasing law.
- **Sole source items are defined as follows:**
  - a. An item for which competition is precluded because of the existence of a patent, copyright, secret process, or monopoly.
  - b. A film, manuscript, or book.
  - c. A utility service, including electricity, gas, water (if available through a single source) or.
  - d. A captive replacement part of component for equipment.

## Purchasing Cooperatives

- Memberships to Purchasing Cooperatives are allowable under state law and must be approved by the Board of Trustees.

- All items and services available through a cooperative have satisfied all procurement regulations for competitive procurement. These items or services do not require further bidding before being procured.
- DISD is a member of the following Purchasing Cooperatives:
  - ◆ **IGPA** (Government Procurement Alliance)
  - ◆ **BUYBOARD** (Texas Local Government Statewide Purchasing Cooperative)
  - ◆◆ **CTPA** (Central Texas Purchasing Alliance )
  - ◆ **CITIES**
    - ◆ **City of Dallas**
    - ◆ **City of Duncanville**
    - ◆ **City of Frisco**
  - ◆◆ **CTPA** (Central Texas Purchasing Alliance) – TASBO Comm.
  - ◆ **DIR** (Department of Information Resources)
  - ◆ **EDUCATION SERVICE CENTERS** (Region 3, 4, 10, 13, 14, 15, 19, and 20 Co-Operatives)
    - ◆ **Allied States Cooperative** Region 19
    - ◆ **ESC 10** (Multi Region Purchasing Co-op & RAMS) Region 10
    - ◆ **ESC 10** (Equalis & EdTech Exchange) Region 10
    - ◆ **NCPA** (National Cooperative Purchasing Alliance) Region 14
    - ◆ **NIPA** (National Intergovernmental Purchasing Alliance) Region 4-Omnia
    - ◆ **PACE** (Purchasing Association of Cooperative Entities) Region 13 & 20
    - ◆ **PCA** (Purchasing Cooperative of America) Region 3
    - ◆ **TCPN** (The Cooperative Purchasing Network) Region 4- Omnia
    - ◆ **TIPS** (Texas Interlocal Purchasing System) Region 13 & 20
    - ◆ **791 COOP** (791 Purchasing Cooperative) Region 15
  - ◆ **E&I** (E & I Cooperative Services)
  - ◆◆ **EPCNT** (Educational Purchasing Cooperative of North Texas) – TASBO Comm
  - ◆ **GSA** (General Services Administration - Federal Govt.)
  - ◆ **HCDE** (Harris County Department of Education-Choice Partners)
  - ◆ **HGAC** (Houston Galveston Area Council)
  - ◆ **KPN** (Keystone Purchasing Network)
  - ◆ **NPI** (National Procurement Institute) Tarrant County-Sourcewell
  - ◆ **NJPA** (National Joint Powers Alliance) - Sourcewell
  - ◆ **PCA** (Purchasing Cooperative of America)
  - ◆ **PCAT** (Property Casualty Alliance of Texas)
  - ◆ **TASB** (Fuel Program)
  - ◆ **TWCSP** (Texas Workers Compensation Solutions)
  - ◆◆ **TxSmartBuy** (Texas Comptrollers Statewide Procurement)
    - ◆ **TPASS** (Texas Procurement and Support Services)
    - ◆ **TXMAS** (Texas Multiple Award Schedule)
  - ◆ **US Communities** (Government Purchasing Alliance) - Omnia

## Vendors

- An “approved vendor” is a vendor that has met purchasing laws. The vendor may be an awarded vendor through an RFP or an awarded vendor through one of the cooperatives.
- Every effort must be made to use an awarded vendor for all purchases of goods and services.
- **Any request to purchase goods or services from a new vendor must be accompanied by a completed New Vendor Application, a current W-9, a Conflict-of-Interest Questionnaire, and which Co-ops they have been awarded bids and entered in Skyward as a vendor request. No exceptions.**
- **If a problem arises with an order, it is important to document the problem**, noting the date and an accurate description of the problem. Keep a record of all phone calls, including the dates and what was discussed and send a copy to the Purchasing Department preferably by e-mail.

## Compliance

- Budget Manager shall plan purchases for each budget year in order to maximize opportunities to use competitive procurement options.
- **Budget Manager shall contact the Purchasing Department for all requests for procurements that cost \$10,000 or more for competitive procurement and/or Board approval (CH Legal & Local).**
- **Purchases and contracts over \$50,000 must be approved by the Board of Trustees before a requisition is put in the Skyward system (CH Local & Legal) and a copy of the Board agenda page must be attached to the requisition in Skyward.**
- Budget Manager shall only initiate and approve procurements that are within approved budget authority.

## Procurement Thresholds

State law requires that school Districts consider all purchases in a category in the aggregate for a 12-month period. This applies to all goods and services. If the items or services needed are not currently covered by a competitive purchasing contract, the limits listed below will apply:

- |                     |  |
|---------------------|--|
| \$10,000 - \$49,999 | The Purchasing Department may ask for three written competitive quotes from vendors for best value. <b>Coordination with the Purchasing Department is required for this dollar volume.</b>   |
| \$50,000 and up     | The Board delegates to the Superintendent or designee the authority to make budgeted purchases for goods or services. <b><u>However, 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 (CH Local &amp; Legal).</u></b> |



### **Tax Exempt Status**

- The district is a political subdivision of the State of Texas and as such is exempt from state sales tax under Chapter 20, Title 122A, Revised Statutes of Texas.
- Items or services purchased for which tax exemption status is claimed must be used within the performance of the district's business.
- **It is a criminal offense to utilize this tax-exempt status for any other purpose.**

### **Blanket or Open Purchase Orders**

- A timeframe for the purchase order to cover.
- The total amount not to be exceeded.
- Give a concise sample description of items to be purchased and for what purpose (e.g.: paper goods, plates, cups, and napkins for professional development conference).
- These are mainly to be used with retail store only.

### **Charter Buses**

- State reason for bus charter, name of event, destination, and date(s) of rental.
- Bus size (i.e., 33 passenger, 55 passenger).
- Rate: per mile, hour, or day.
- Applicable quantity: miles, hours, or days.

### **Printing**

- Contact Purchasing Department for instruction and quotes.

### **Independent Contractors**

- The term "independent contractor" is used in these instances to denote non-District personnel performing such services or programs on District property or on behalf of the district. Contracted services must still meet the competitive procurement laws, i.e., be tied to a co-op or RFP.
- Contact the Purchasing Department to determine the proper procurement procedure.
- Requires a contract, certificate of insurance, certification as required by Senate Bill 9, conflict of interest, etc.

### **Contract Time Period**

- DISD staff may only use funds appropriated by the Board in the approved budgets.
- The staff does not have the authority to commit funds in future budgets.

- While contracts may be issued for any time period as agreed to by the district and the vendor, if the contract extends beyond the end of the current fiscal year, it must contain a cancellation clause as defined by Local Government Code, Chapter 271.903.
- This clause permits the district to cancel, without penalty, any contract for which the Board does not allocate funding in the sequential year's budget.

### Contracts

- All contracts under \$50,000 are signed by the Superintendent or designee, CFO or Chief of Staff.
- A Superintendent signed contract must be received prior to submittal for a purchase order.
- **Any other employee who signs a contract or agreement will be personally liable for the terms of the contract or agreement.**

### Shipping Destination

- When a requisition is created the **“Ship To” address drop down contains various options.**
- The **“Attention”** field is the “end user” field. This field must be completed if the merchandise must be identified by individual or dept. /campus. If it is left blank, the merchandise will be delivered to the organization as identified by the purchase order group.
- If there is a problem with delivery, you should contact the Warehouse Supervisor at ext. 2293 immediately.

### Points to Remember

- Schools and Departments are encouraged to utilize planning activities for anticipated needs.
- Lead times vary for different purchasing methods so the administrator/secretary should consult with the Purchasing Department to determine the proper purchasing method.
- Principals and department heads are responsible for the funds under their control.
- Requests for additional funding or transfers from one budget category to another must be directed to the Director of Accounting or the CFO in the Business Services department.
- Principals and department heads may only authorize expenditure of appropriated funds; therefore, the state requires that a school District operate under an encumbrance accounting system.
- No one has the authority to spend District funds unless the funds have been set aside for the stated purpose and have been properly approved by the Director of Purchasing.
- All purchase commitments shall be made by the Purchasing Department on a properly drawn, signed, and issued purchase order.
- **Vendors of the District should be notified that orders placed without a properly drawn purchase order shall not be honored by the district.**

### **In Summary—Employee Responsibilities:**

- Shall plan accordingly. Requisitions have to be approved by several administrators before a PO is created. Due to the volume of requisitions generated daily, plan for several days to a week.
- Shall ensure that the purchasing process (through the use of an approved purchased order) always precedes the payment process (invoice).
- Shall only initiate and approve procurements that are within approved budget authority.
- Shall use approved vendors to procure goods and services.
- If a vendor must be contacted to obtain information to prepare a requisition, the employee shall explain to the vendor that the request for information does not represent a commitment to purchase.
- Shall provide for initiating, authorizing, and funding the procurement through a properly approved purchase order.
- Shall monitor the purchase order life cycle.
- Shall not release the requisition/purchase order number or use a draft copy of the requisition in dealing with the vendor until there is an approved purchase order by the Purchasing Department.
- Problems with vendor's unsatisfactory performance shall be directed to the Purchasing Department for appropriate action, which may include closing the purchase order.
- Shall not make any commitments to acquire goods or services in the name of the district for personal use or ownership.
- Shall not make or authorize separate, sequential, or component purchases in order to avoid requirements under the Texas Education Code, Section 44.031, or Local Board Policies concerning purchasing.
- Shall coordinate purchases valued at \$10,000 or more with the Purchasing Department and complete proper paperwork
- Shall process all requests for procurement that cost or aggregate to a cost of \$50,000 or more through the Purchasing Department and complete proper paperwork.
- Shall follow the policies and procedures contained in Board Policy CH (LEGAL) for emergency purchases.
- Shall be responsible for complying with statutory requirements, Board policies CH (LOCAL & LEGAL), and the Purchasing Guidelines procedures when purchasing goods or services for the district.
- Shall not make changes to purchase orders after it has been sent to the vendor without prior approval from the Purchasing Department.
- Shall ensure that items ordered match the purchase order.
- Shall not use the district tax exempt form for any other purpose than to purchase items to be used within the performance of the district's business.

- Employee Expense Reimbursements:
  - ◆ Contact Purchasing to add an employee as a vendor into Skyward for expense reimbursements.
- Receiving must be done timely and accurately.
  - ◆ Orders that come directly to your campus/department, i.e., Office Depot, Staples, etc.
  - ◆ **You must receive immediately** – quantity for line-item Purchase Orders, dollar amount for blanket Purchase Orders.

**The Purchasing Department Responsibilities:**

- Shall review each purchase order in a timely manner for completeness and verify that the proposed purchases are being made through approved sources.
- Shall verify compliance with statutes, regulations, and Board policy applicable to purchasing.
- Shall have discretion to direct purchases through interlocal agreements or cooperatives in order to save time and money.
- Shall review requests to use vendors in a timely manner and verify that the annual aggregate amount for the goods or services ordered does not require competitive procurement.
- Shall work with the end users to resolve problems with vendors.

Most orders that come to the warehouse will be received by the warehouse

## **Duncanville ISD Procurement Procedures Child Nutrition Program**

Duncanville ISD's policy for procuring goods and services for the Child Nutrition Department is as follows:

If procuring goods or services for Duncanville ISD's Child Nutrition Department, the first step in the process will be to determine a cost estimate. The Child Nutrition Director will gather estimates.

If the cost estimate is determined to be in excess of \$50,000 or more, then Formal Procurement Methods will be utilized. These formal methods will include either an Invitation for Bid or a Request for Proposal. The Child Nutrition Director will initiate these processes. The Purchasing Director will present the awarding bid or proposal to the Board of Trustees for consideration and approval.

If the cost estimate is determined to be under \$50,000, one of the Informal Procurement Methods will be utilized. If the total purchase amount is equal to or less than \$10,000 the micro purchase method will be used. The aggregate purchase amount will be less than \$10,000, there shall be equitable distribution of purchases, and the purchase must be a reasonable cost.

If the total purchase amount is greater than \$10,000.00 but less than \$50,000.00, then the Small Purchase Method will be utilized. Using the Small Purchase method, Duncanville ISD will solicit at least three quotes from at least three responsible vendors. A “no response” is considered a “response” and will be documented as such. Duncanville ISD will retain documentation demonstrating the price quotes.

Duncanville ISD will take steps to assure that small, minority and women’s businesses enterprises and labor surplus firms are used, when possible, as required per (2CFR 200.321)

These procurement procedures are effective July 1, 2023 and will be reviewed annually.

### **Contract Management**

- Use of our Child Nutrition Federal Funds is compliant with all Federal, State, and local regulations.
- That all specifications, technical requirements, and terms and conditions of all contracts are executed correctly.
- That we are not charged for duplicative services.
- Quantities specified are made available and delivered.

- Delivery times and schedules are being met per contract terms.
- Product deliveries and/or services are occurring at the correct location if multiple locations are part of the awarded contract.
- Products and/or services are meeting the specifications as described in the solicitation.
- Substitutions of products are being handled as outlined in the Terms and Conditions and are adequate to the specified product.
  - Contracts require a notification 72-hour prior to delivery to confirm that substituted product is comparable and acceptable.
- Vendor response time to product or service issues is appropriate concerning each situation, if any.
- Pricing received on invoices is checked against awarded bid pricing to ensure accuracy and correctness.
  - If incorrect pricing is charged, the vendor will be contacted to rectify the pricing and provide a credit.
  - If incorrect pricing is charged on a coop-procured bid, the Vendor and the coop Program Coordinator will be notified and follow up required to ensure a credit is given.
- Damaged or spoiled product will be identified at time of delivery and immediately rejected. Invoice will be noted and signed by the driver. Proper follow up will be done to ensure a credit is issued.
- Items ordered and appearing on the invoice but not included in the delivery will be noted on the invoice and require driver signature or initials. Vendor is required to “hot shot” the missing products or proper substitutions within a 24-hour period from time of original delivery.
  - If vendor cannot “hot shot” the products, proper credit will be requested.
- If the contract was procured by our coop, we will follow all above steps for managing the contract along with notifying our coop Program Coordinator of all issues with each awarded vendor.

### **Code of Conduct-Child Nutrition Program**

**Regulations:** 2 CFR Part 200.318(c)(1) and 7 CFR Part 210.21(c) State Procurement Code and Regulations, Duncanville ISD Child Nutrition Department.

**Procedures:** Duncanville ISD seeks to conduct all procurement procedures:

- In compliance with stated regulations, and to prohibit conflicts of interest and actions of employees engaged in the selection, award, and administration of contracts.
- No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal, State, or local funds if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, or any member of his or her immediate family, his or her partner, or an organization which 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 a firm considered for a contract.
- The officers, employees, and agents of the entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.
- Disciplinary actions will be applied for violations of such standards by officers, employees, or agents of the organization.
- Duncanville ISD’s procedures seek to avoid acquisition of unnecessary or duplicative items.

- Consideration is given to choose a method of procurement to obtain a more economical purchase that is in the best interest of the district. Where appropriate, an analysis will be made to determine the most economical approach.
- Duncanville ISD will purchase goods, products, and/or services for use in the Child Nutrition Program in compliance with 2 CFR Part 200 and State Laws using the procedures outlined as follows.

The primary purpose of this procurement plan is to ensure that open and free competition exists to the maximum extent possible. The procurement process practiced by the Duncanville ISD CNP must not restrict or eliminate competition (2 CFR Part 200.318(c)). For example, description of goods, products, and/or services to be procured should not contain features that unduly restrict competition. Competition helps assure that goods, products, and/or services will be obtained that best meets the needs of the CNP.

New procurement procedures do not need to be developed every year. However, an annual review of procedures is suggested to assure its relevance to current procedures.

# **APPENDIX A**



## AUTHORITY FOR PROCUREMENT

Under the Texas Education Code § 44.0312 (a), the Board of Trustees of the District may, as appropriate, delegate its authority under this subchapter regarding an action authorized or required by this subchapter to be taken by a school District to a designated person, representative, or committee.

Under Board policy CH (Local) Responsibility for Debts, the Board shall assume responsibility for debts incurred in the name of the district so long as those debts are for purchases made in accordance with adopted Board policy and current administrative procedures. The Board shall not be responsible for debts incurred by persons or organizations not directly under Board control; **persons making unauthorized purchases shall assume full responsibility for all such debts.**

Section 44.052 Texas Education Code states that a Superintendent that approves any expenditure of school funds in excess of the amount appropriated for that item(s) in the adopted budget commits a Class C misdemeanor offense. Consequently, close supervision and monitoring of the availability of budget dollars and of the approval process for requisitions are important elements of the district's purchasing process.

## ETHICS

The Texas Education Agency (TEA), *Financial Accountability System Resource Guide – General Ethical Standards and other documents*, prescribes common standards of ethics governing the conduct of employees involved in the purchasing function, which are incorporated in the procedures prescribed below.

**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), an employee who exercises 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. **Note:** The prohibition of accepting gifts does not apply to accepting an unsolicited item with a value of less than \$75, excluding cash or a negotiable instrument (Penal Code 36.10). This administration's position is that employees may never accept cash, negotiable instruments, gifts, or travel of any kind.

**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** - District employees shall grant all competitive suppliers' equal consideration insofar as state or federal laws and District policy permit.

*Credit for the content of this section is given to the Texas Education Agency and the Comptroller of Public Accounts, Standard Financial Management System for Texas Cities and Counties, Model Purchasing Guidelines. State law relating to violation of purchasing requirements imposes upon violators certain criminal penalties, which are found in Section 44.032, Texas Education Code, and Chapter 271.029, Local*

These are certain common standards of ethics which should govern the conduct of employees involved in the purchasing function, as follows:

1. It is a breach of ethics to attempt to realize personal gain through public employment with a school District by any conduct inconsistent with the proper discharge of the employee's duties.
2. It is a breach of ethics to attempt to influence any public employee of a school District to breach the standards of ethical conduct set forth in this code.
3. It is a breach of ethics for any employees of a school District to participate directly or indirectly in a procurement when the employee knows that: The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement; or  
A business or organization in which the employee, or any member of the employee immediate family, has a financial interest pertaining to the procurements; or
4. 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.
5. If a school District board member or other official has a substantial interest in procurement, that person shall abstain from discussion and decisions regarding the award of the procurement contract. In addition, the board member should disclose this substantial interest by filing an affidavit with the district.
6. Gratuities - It is a breach of ethics to offer, give or agree to give any employee or former employee of a school District, or for any employee or former employee of a school District 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 of subcontract, or to any solicitation or proposal therefore pending before this government. Acceptance of gratuities may be construed as a criminal offense.
7. Kickbacks - It is a breach 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 contract of a school District, or any person associated therewith, as an inducement for the award of a subcontract or order.

### **Criminal Charges: Texas Education Code 44.032**

Ethics relating to conflicts of interest, financial interests in firms conducting business with the district, kickbacks, gratuities, and improper use of a position or confidential information are clearly communicated throughout the district.

Additionally, District personnel should be aware that under the School Law, Chapter 44.031, as well as other state or federal statutes regarding the expenditure of public funds, there are penalties for violations of purchasing processes which can include criminal prosecution and loss of employment opportunities.

- 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.
- 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.
- 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.
- 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

### **RISK MANAGEMENT**

There are numerous risks factors associated with the procurement of goods and services. A few examples would include:

- Violating statutes and regulations governing appropriate procurement methods.
- Failing to comply with Board policies.
- Initiating purchases without Board approval or an approved purchase order.
- Abusing purchasing authority and committing fraud.

### **CONTROL ENVIRONMENT**

Texas Education Agency guidance states that “A District needs a strong control environment in which to perform the purchasing function.” In addition to the purchasing guidelines, the following activities enhance the control environment and require monitoring by those involved in procuring goods and services:

- **Approval of purchase requisitions at the campus and departmental levels.** The budget manager should review for need and approve purchase requisitions before they are submitted to the centralized Purchasing Department for processing. If a purchase is to be federally funded, approval should first be obtained from the State and Federal Program Administrator.
- **Approval of purchase orders.** The Purchasing Agent or other designated official should review requisitions for compliance before approving purchase orders for issuance to vendors.
- **Supervision of purchasing process.** Vigilance in the supervision of the entire purchasing function on a daily basis is essential.

- **Training of District personnel.** Formal training should be conducted annually (preferably at the beginning of the school year, however, training may be conducted throughout the school year through revisions to the purchasing guidelines or for newly hired personnel).
- **Purchasing Guidelines.** The Purchasing Guidelines shall be distributed to all new employees who have direct responsibility for the purchase of goods and services. The Purchasing Guidelines will also be posted on the district's web site.

## **PURCHASING PROCESS**

The following criteria are used by DISD to evaluate the overall, best value when awarding a bid:

### **Texas Education Code §44.031.**

1. The purchase price.
2. The reputation of the vendor and of the vendor's goods or services.
3. The quality of the vendor's goods or services.
4. The extent to which the goods or services meet the district's needs.
5. The vendor's past relationship with the district.
6. The impact on the ability of the district to comply with the laws and rules relating to historically under-utilized businesses.
7. The total long-term cost to the district to acquire the vendor's goods and services; and
8. Any other relevant factor specifically listed in the bid.

## **COMPETITIVE BIDDING**

All District transactions for the purchase of real property (goods) valued at \$50,000 or greater, in the aggregate, during a 12-month period are covered by state legal requirements. Texas Education Code, Chapter 44, Subchapter B, Section 44.031 (a) states: Except as provided by this subchapter, all school District contracts, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for the District:

1. Competitive bidding.
2. Competitive sealed proposals.
3. A request for proposals, for services other than construction services.
4. An Interlocal agreement.
5. A design/build contract.
6. A contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager.
7. A job order contract for the minor construction, repair, rehabilitation, or alteration of a facility.
8. The reverse auction procedure as defined by section 2155.062(d), Government Code; or
9. The formation of a political subdivision corporation under Section 304.001, Local Government Code.

A school District may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources (DIR) under contracts entered into in accordance with Chapter 2054 and 2157, Government Code.

## **BID SPECIFICATIONS/STATEMENT OF WORK**

Preparation of specifications shall be the responsibility of the department with assistance from the Purchasing Department. The responsibility of the Purchasing Department is to review the specifications to ascertain whether competitive bids can be obtained and assure that Board policies and state laws are followed regarding the purchase. Statement of work shall be provided prior to solicitation of quotes for services. Statement of work/ specifications must be provided to all vendors to ensure equal pricing.

Specifications must contain adequate technical descriptions to clearly identify for prospective bidders the type of material, equipment or services required. In addition to the detailed specifications, brand names, model numbers and like descriptions may be used to inform prospective bidders of the type of quality required. Descriptions must include quantitative data such as size, weight or volume and qualitative data such as commercial grade, texture, finish, strength, chemical analysis, or composition where possible.

## **INDEPENDENT CONTRACTORS**

The district departments or schools may contract with individuals or companies for certain services or programs. The term “independent contractor” is used in these instances to denote non-District personnel performing such services or programs on District property or on behalf of the district.

All independent contractors will be required to sign a contract agreement with DISD. Only the Superintendent can commit the district. A contractor must also provide proof of insurance at the levels recommended by the district. Additionally Independent Contractors are required by statute to provide a Criminal History Certification by Independent Contractor/Subcontractor certifying that the statute requirements have been met and will be monitored by the Contractor.

### **Required Background Checks for Independent Contractors**

Effective January 1, 2008, Texas Education Code Chapter 22, Subchapter C requires repair and service contractors to school Districts in Texas to obtain criminal history record information regarding covered employees and to certify to school Districts that they have done so.

Covered employees *with disqualifying convictions* **are prohibited** from performing services at a school District.

- A. As defined by Texas Education Code, Chapter 22, disqualifying convictions include any of the following, if at the time of the offense, the victim was under 18 or enrolled in a public school:
1. A felony offense under Title 5, Texas Penal Code.
  2. An offense for which a defendant is required to register as a sex offender under Chapter 62, Texas code of Criminal Procedure; or
  3. An equivalent offense under federal law or the laws of another state.

Repair and service contractors must obtain the criminal history record information on all new or existing employees who will have continuing duties relating to the contract and will have **direct contact** with students.

Contractors shall contact the Texas Department of Public Safety (DPS) directly to establish an account to obtain criminal histories or they may contact our Human Resources Department for assistance with this requirement.

The contractor must certify to the school District that it has performed the required criminal history reviews.

## **TYPES OF PURCHASE ORDERS**

**Routine purchase orders** are for all normal purchasing transactions requiring a purchase order. These are “line item” purchase orders (i.e., purchase order that have a quantity and a unit price per each item purchased).

A **blanket purchase order (open purchase order)** is issued to an approved vendor authorizing purchases from that vendor over a specified period of time. However, blanket purchase orders must follow certain criteria: pre-qualification of vendors, limitation on the maximum amount for purchases, a specific time frame for purchases covered by the blanket purchase order, and identification of authorized purchasers. Blanket purchase orders are issued so that supplies, materials, or services are available "as needed" by end users. For example, blanket purchase orders may be requested on a regular basis by the Food Service department for perishable items. These purchase orders eliminate numerous individual purchase orders for small dollar-value items.

Certain controls should be in place for the use of blanket purchase orders:

- The number of vendors to whom blanket purchase orders are issued is limited.
- Those who can make purchases under blanket purchase orders should be clearly designated.
- Dollar limits should be carefully observed.
- **Do not use blanket purchase order (open purchase order) when you know the quantity and unit price per item to be purchased or for one-time purchases.**

Two types of **emergency purchases** are made in school Districts. One type of result from an eminent threat to the health, safety, or welfare of students. Such purchases must comply with state law and may be made only after a formal board action declaring an emergency and authorizing the purchase. An example of an emergency purchase of this type is the authorization to repair a school after a fire or a natural disaster.

1. Emergency purchases exceeding the dollar amount triggering competitive procurement requirements shall be made in accordance with subsection (h) Section 44.031 Texas Education Code.
  - a. *Text of subsec. (h) as amended by Acts 1999, 76th Leg., ch. 922, § 1 (h) If school equipment, a school facility, or a portion of a school facility is destroyed, severely damaged, or experiences a major unforeseen operational or structural failure, and the board of trustees determines that the delay posed by the contract methods required by this section would prevent or substantially impair the conduct of classes or other essential school activities,*

*then contracts for the replacement or repair of the equipment, school facility, or portion of the school facility may be made by a method other than the methods required by this section.*

2. The second type of emergency purchase provides for the acquisition of goods or services to meet an immediate need such as purchases to repair damage to a facility which may imperil students or the security of the facility. For example, if windows are broken at a school by vandals, an immediate need exists to not only secure the building, but also to protect the contents from damage by the elements. This type of emergency purchase is normally utilized after regular business hours or on weekends and holidays. After purchases of this type are made, a purchase order should be issued after the fact on the next business day.

Electrical, plumbing and wastewater emergency repairs will be reviewed on a case-by-case basis by the Director of Purchasing & Warehouse Services, the Director of Maintenance, and the Assistant Superintendent of Operations to determine if an emergency truly exists.

## **CONFLICT OF INTEREST**

Local Government Code Chapter 176 provides information regarding Conflict-of-Interest statements to be filed by vendors and certain school District employees.

The Texas Conflict of Interest statutes apply to the district's officers and elected officials. There are specific rules regarding what constitutes a conflict of interest in regard to a business transaction or real property transaction. For more information, please review the information provided on the Texas Ethics Commission website, [www.ethics.state.tx.us](http://www.ethics.state.tx.us).

When selecting a vendor, remember that nothing shall be purchased from any person related by blood or marriage within the second degree to any person holding the position of director or above or to any employee in the Purchasing Department. Nothing shall be purchased from any firm that is controlled, owned, or operated by a District employee who has purchasing decision authority, a Board member, or from any person related as described here.

# **APPENDIX B**

## **CH (Legal & Local)**

**<https://pol.tasb.org/PolicyOnline/PolicyDetails?key=363&code=CH>**



# **APPENDIX C**

## **Federal Funds**

**Contact the Director of Federal Funds**

**APPENDIX D**  
**Forms & additional info**

**All forms & “how to” are on the  
Purchasing webpage**