

McLennan Community College

POLICIES AND PROCEDURES

Reference:	D-X	Effective Date:	10/29/2019 09/24/2024
Subject:	Purchasing Policy		
Source:	Board of Trustees		
Approval Authority:	Board of Trustees	Approval Date:	10/29/2019 09/24/2024
Approved by Leadership Team:		JEM:	MH:
		CE:	LW:
History:	Previously effective 10/29/2019, replaced policy dated 11/27/2018		
Remarks:	Policy updated to new format.		

In order to ensure the maximum beneficial use of tax funds in the provision of education services and to secure the best work, equipment, material and supplies at the lowest practical prices, it is the policy of the Board of Trustees and the responsibility of the President of the College to comply with all statutory requirements relating to contracts for the acquisition of real and personal property and for the construction, maintenance and repair of any facility.

To support the sustainability initiative of the College, McLennan Community College commits to the following:

1. All new campus construction and major renovations will be built to meet the most current energy efficiency code and with the least environmental impact as economically feasible. The College will use the most current version of the U.S. Green Building Council's LEED standards **or other comparable program such as ENERGY STAR Certification for Buildings** as a guide for design and construction.
2. If possible when purchasing major energy consuming appliances, the College will purchase those with Energy Star certification.

The College reserves the right to reject any and all bids.

All College contracts involving institutional funds, 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 one of the following methods that provides the best value for the College:

1. Competitive bidding/proposals;
2. Competitive sealed proposals;

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3. A request for proposals, for services other than construction services;
4. A catalog purchase as provided by Subchapter B, Chapter 2157, Government Code;
5. An inter local contract;
6. A design/build contract;
7. A contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager;
8. A job order contract for the minor construction, repair, rehabilitation, or alteration of a facility; or
9. The reverse auction procedure as defined by Section 2155.062(d), Government Code.

In awarding a contract, the College may consider:

1. Purchase prices;
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 College's needs;
5. The vendor's past relationship with the College;
6. The impact on the ability of the College to comply with laws and rules relating to historically underutilized businesses;
7. The total long-term cost to the College to acquire the vendor's goods or services; and
8. Any other relevant factor specifically listed in the request for bids.
9. The location of business. As allowed by Education Code 44.031(b1), a bid from a business that is within McLennan County must be within five percent of the lowest price to consider the location of the business as a preference. To award a contract based on location, the Board of Trustees must determine that the local vendor offers the best combination of products/services, price, and additional economic development opportunity.

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This policy does not apply to a contract for professional services rendered, including services of an architect, attorney, or fiscal agent.

Competitive bidding/proposal requires formal solicitation and shall include newspaper advertising once per week for two weeks prior to bid opening as well as all other legal requirements.

If the College proposes to enter into a contract for the acquisition of real property or improvements to real property by lease or purchase that is impacted by the authority of Local Government Code 271.001 and following the Public Property Finance Act, then the College shall provide the required sixty (60) day notice by newspaper publication prior to entering into a contract or advertising for bids.

The following procedures shall be followed by the College in contracting for goods or services if the value of the goods or services to be acquired is at least ~~\$10,000~~ **\$20,000** but less than \$50,000 in the aggregate for a 12-month period. **Aggregate is defined as total purchases from a single vendor for related products/services.**

The College shall create a list of available vendors. Prior to making a purchase, the College will obtain written price quotations from at least three (3) vendors or all vendors on the list if there is less than three (3). Records of the procedures will be kept as required by law. Subject to the College's right to reject bids as set forth above, the purchase shall be made from the bid that represents the best value to the College. Purchases of produce and fuel shall be made in accordance with this section.

The purchase of certain library goods and services is exempt from competitive bidding/proposal per Section 44.0311 and 130.0101 of the Texas Education Code and Section 2155.139 of the Texas Government Code.

If, in the judgement of the President, it is in the best interest of the College to waive the requirement of obtaining three quotes for a purchase valued over \$20,000 and less than \$50,000, an exception may be granted based on approval by the President and the Vice President of Finance and Administration. Exceptions shall be evaluated on a case by case basis and must exhibit a true benefit to the College.

Bidding/proposal procedures are not required for purchases less than ~~\$10,000~~

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\$20,000.

The Board of Trustees has determined that the competitive sealed proposal method of project delivery/contract award provides the best value for the College in most construction projects. Therefore, the College shall use the competitive sealed proposal method of project deliver/contract award for each construction contract valued at or above \$50,000 unless, prior to advertising, the Board determines to use a different method for a particular project. In the event the President determines that a different project deliver/contract award method would provide the best value for the College in any particular construction contract valued at or above \$50,000 the President shall recommend a project delivery/contract award method for the project to the Board.

The College shall prepare a request for competitive sealed proposals that includes construction documents, selection criteria, estimated budget, project scope, schedule, and other information that contractors may require to respond to the request. The College shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror and the relative weights to the criteria.

The College shall select the offeror that offers the best value for the College based on the published selection criteria and on its ranking evaluation. The College shall first attempt to negotiate with the selected offeror a contract. The College and its engineer or architect may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the College is unable to negotiate a contract with the selected offeror, the College shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

In determining best value for the College, the College is not restricted to considering price alone, but may consider any other factor stated in the selection criteria.

For construction contracts valued at or above \$50,000 the President shall also submit the successful proposer or bidder and the dollar amount of the contract to the Board for approval. Lesser expenditures for construction and construction-related materials or services shall be at the discretion of the President and consistent with law and policy. The College President will pay invoices when presented for approved replacements or repairs and then appropriately notify the Board.

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Exceptions to the bidding/proposal procedures will be in accordance with statutory authority and must be approved by the President.

Contract changes may be approved by the President if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished. The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money. The total of the change may not increase the revised contract amount by more than 25 percent of the original contract price.

Grant Funded Procurement

The following five methods of procurement shall be followed for purchases made wholly or in part with federal funds.

Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold of \$10,000. To the extent practicable, the College will distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the College considers the price to be reasonable.

Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold as determined by the Federal Acquisition Regulation at 48 CFR Subpart 2.1, which is currently \$250,000. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the following conditions of this section apply:

1. In order for sealed bidding/proposal to be feasible, the following conditions should be present:
 - (i) A complete, adequate, and realistic specification or purchase description is available;

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- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
 - (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
2. If sealed bids are used, the following requirements apply:
- (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publically advertised;
 - (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
 - (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
 - (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding/proposal documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - (v) Any or all bids may be rejected if there is a sound documented reason.

Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost- reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (ii) Proposals must be solicited from an adequate number of qualified sources;

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- (iii) The College will provide a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (iv) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (v) The College may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (i) The item is available only from a single source;
- (ii) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (iii) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the College; or
- (iv) After solicitation of a number of sources, competition is determined inadequate.

Consultants/Subcontractors

Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill and who are not officers or employees of the college are allowable. Remuneration using federal funds for consultants and/or subcontractors who are employees of the college is prohibited.

The President will provide the Board of Trustees with a monthly list of all expenditures.