

# Procedure 2-14: Bidding

## Formal Solicitations

Prior to any request for bid or proposal being prepared, advertised and disseminated to prospective bidders, a solicitation request must be completed and approved by all respective budget authorities for all procurements in which funding has not already been appropriated. The requesting department should indicate how the item or service will be used, the anticipated number of individuals who will use the item or service, the expected length of existence, the initial cost, and any future costs associated with the request. After approval is obtained, the requesting parts should forward the approval form to the Purchasing Department to initiate the procurement process.

## Purchasing Thresholds

The following purchasing thresholds apply to any single purchase or series of purchases of related items within a fiscal year.

### Purchases Within a Fiscal Year

Amount of Purchase	Purchase Procedure
\$4,999.99 or less	One quote or bid required
\$5,000.00 - \$9,999.99	Three quotes required. All quotes must be noted on the requisition in Banner. Quotes may be obtained by the requesting department or the Purchasing Department.
\$10,000 - \$49,999.99	Three <b>written</b> quotes required. All quotes must be noted on the requisition in Banner. Quotes may be obtained by the requesting department or the Purchasing Department. The quotes must be forwarded to the purchasing department via email, fax, interoffice mail, etc.
\$50,000.00 and above	Requires formal bidding procedures and Board approval. Contact the Purchasing Department for details.

## Purchases Valued at \$50,000 or More

All College purchasing 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 one of the following methods that provide the best value to the College:

1. Competitive Bidding;
2. Competitive Sealed Proposals;
3. Requests for Proposals, for services other than construction services;
4. Inter-local Contracts
5. Design/Build Contracts
6. Contract to construct, rehabilitate, alter, or repair facilities that involve using a construction manager;
7. Job order contract for the minor, repair, rehabilitation, or alteration of a facility;
8. The reverse auction procedure as defined by Section 2155.062 (D), Government Code.

## Timetable for Formal Procurement Procedures

1. Solicitation packet preparation: 1 week
2. Solicitation advertisement: fourteen (14) calendar days
3. Solicitation opening, evaluation, award preparation: 1 week
4. Prepare and submit contract award recommendation for Board approval (1-3 weeks)
5. Contract award by Board of Trustees: (scheduled board meeting following Solicitation opening date)
6. Total: Minimum 7-8 weeks

Specifications should be clearly written by the requesting department in conjunction with the buyer with the goal of obtaining the best value. The purchasing office will work with the requesting department to prepare the solicitation specifications, and a preferred vendor list, at least 60 days prior to the Board of Trustees meeting at which the contract will be awarded.

## Public Notification of Solicitations

Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received shall be published in the paper of general circulation in the county in which the College's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualification.

## Awarding Contracts

In awarding a contract, the College shall consider:

1. Purchase price;
2. The reputation of the vendor and of the vendor's goods and 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 relating to historically underutilized businesses;
7. The total long-term cost to the College to acquire the goods or services;
8. Any other relevant factor that a private business entity would consider in selecting a vendor.

## Evaluation of Responses

When bids or proposals are received, the evaluation method stated in the solicitation will be employed. Following are several examples of methods that may be utilized:

1. The Purchasing Department will evaluate the offers and recommend the offer which provides the best overall value to the department;
2. A committee comprised of several individuals associated with the procurement will evaluate the responses utilizing a quantitative and/or qualitative scoring process;
3. An independent consultant hired by the College will evaluate the responses and recommend a vendor for award.

The bid or proposal will be awarded in accordance with the criteria listed in the solicitation document and State laws.

When the apparent "low-bidder" or highest ranked vendor is not recommended, written justification must be furnished to support the alternate selection. Written justification utilizes the criteria listed in Section 44.031 of the Texas Education Code. Brand preference, additional features or personal preference is not justification for awarding a contract. The justification document will be maintained in the Solicitation file.

After the bids or proposals are opened, tabulation sheets shall be compiled and an award recommendation shall be submitted to the Board of Trustees for approval at the next regularly scheduled Board meeting.

## **Tie Bids**

If the College receives two or more bids from responsible bidders that are identical in nature and amount as the lowest and best bids, it shall select only one bidder from the identical bids with preference given to the bidder (if applicable) who is a resident of the District.

If two or more such bidders are residents of the District, one shall be selected by the casting of lots. The Director of Contracts and Purchasing Services shall prescribe the manner of casting lots and shall be present when the lots are cast.

## **Out-of-State Vendors**

The Board shall not award a contract for general construction, improvements, services, or public works projects or for the purchase of supplies, materials, or equipment to a vendor whose principal place of business is not in this state, unless the non-resident underbids the lowest bid submitted by the responsible bidder by an amount that is not less than the amount which the resident bidder would be required to underbid a non-resident bidder to obtain a comparable contract in the state in which the non-resident's principal place of business is located.

## **Bidders List**

The College's Purchasing Department will compile, and periodically review of list of vendors who have expressed an interest in providing goods or services to the College in their specific commodity grouping. The list will be updated and reviewed in order to maintain a current list of qualified vendors for all commodities.

## **Emergency Purchases**

Emergency purchases shall comply with the Texas Education Code 44.031 (h). Contracts for the repair or replacement of a school facility or school equipment that has been destroyed, severely damaged or experiences a major unforeseen operational or structural failure may be made by other means than those required in Section 44.031 of the Texas Education Code if the Board determines that the time delay posed by adhering to those requirements would prevent or substantially impair the conduct of classes or other essential school activities.

Emergency situations are those in which facilities, equipment or other property is damaged or destroyed and in which the time delay posed by the competitive bidding process would prevent or substantially impair the conduct of classes or other essential district activities. Emergency situations include, but are not limited to, broken water pipes, electrical power outages or shortages, air-conditioning and heating failures, damage to buildings which, if not repaired expeditiously, would disrupt classes or the operation of the building or would lead to further damage to the building. In emergency situations where bidding would otherwise be required, the competitive bidding requirements stated above shall not apply. The following procedure will prevail:

1. If an emergency situation arises on a campus, the employee discovering the problem will notify his or her supervisor, who will, in turn, notify the President of the campus or his/her designee;
2. If an emergency situation is declared, the college may contract for the necessary services without the necessity of obtaining competitive bids. Bids or phone quotations should be obtained if time permits.
3. Any person or company appropriate for the job may be utilized in emergency situations;
4. All contracts in excess of \$50,000 entered into under these provisions shall be presented to the Board of Trustees for approval and ratification at their next meeting.

## Vendor Protest and Dispute Resolution

In the event a vendor wishes to contest a contract awarded under the provisions of the Texas Education Code, Subchapter B, Section 44.031– 44.044, or the Texas Government Code, Section 2269, the protests must be in writing and received in the Director of Contracts & Purchasing Services office within ten (10) working days after such aggrieved person knows, or should have known, of the occurrence of the action which is protested.

In the event of a timely protest or appeal, the College may elect to postpone making an award of the contract unless the Director of Contracts & Purchasing Services – after consultation with the using department – determines the award or contract without delay is necessary to protect the interests of the San Jacinto Community College District.

A formal protest must contain:

1. A specific identification of the statutory or regulatory provisions(s) that the action complained of is alleged to have violated;
2. A specific description of each act alleged to have violated the statutory or regulatory provision(s) identified above;
3. A precise statement of the relevant facts;
4. An identification of the issue or issues to be resolved;
5. Argument and authorities in support of the protest.

The Director of Contracts & Purchasing Services shall have the authority, prior to referral to the Vice Chancellor of Fiscal Affairs, to settle and resolve the dispute concerning the solicitation or award of a contract. The Purchasing Director may solicit written responses to the protest from other interested parties.

If the protest is not resolved by mutual agreement, the Director of Contracts & Purchasing Services will refer the protest to the Vice Chancellor of Fiscal Affairs.

1. If the Vice Chancellor of Fiscal Affairs determines that no violation of rules or statutes has occurred, the Vice Chancellor Fiscal Affairs shall so inform the protesting party, the using units, and other interested parties by letter that sets forth the reasons for the determination.
2. If the Vice Chancellor of Fiscal Affairs determines that a violation of the rules or statutes has occurred in a case where a contract has not been awarded, the Vice Chancellor of Fiscal Affairs shall so inform the protesting party, the using unit, and other interested parties by letter which sets forth the reasons for the determination and the appropriate remedial actions.
3. If the Vice Chancellor of Fiscal Affairs determines that a violation of the rules or statutes has occurred in a case where a contract has been awarded, the Vice Chancellor of Fiscal Affairs shall so inform the

protesting party, the using unit, and other interested parties by letter which sets forth the reasons for the determination, which may include ordering the contract void.

The Vice Chancellor of Fiscal Affairs' decision will be final.

Unless good cause for delay is shown or the College determines that a protest or appeal raises issues significant to procurement practices or procedures, a protest or appeal that is not filed timely will not be considered.

## Contract Cancellation

The following procedures shall be followed when a vendor is not performing according to the specifications, terms, conditions and performance measures of the contract or bidding document. These procedures shall be followed for an ongoing contract arrangement. The performance measures must have been communicated to the vendor in the bidding document or resulting contract or attachments thereto.

1. In the event the vendor fails to perform in accordance with the instructions, conditions, and specifications set forth in the bidding document, or the provisions contained in the accepted responses as incorporated in a resulting contract, and/or under the terms of the contract, the contract will provide for the College to give written notice of the non-performance to the vendor with an opportunity to cure the problem. Responsible party shall document the complaint by using the Vendor Performance Form and notifying the Purchasing Department of the complaint. This form shall be maintained in the Purchasing Department
2. If the non-performance issue is continued past the allotted period and is properly documented, the Director of Contracts & Purchasing Services shall contact the vendor as stated in the contract and inform them that due to their failure to cure the non-performance, the Purchasing Department is recommending the College initiate contract cancellation procedures. The vendor shall be given an opportunity to dispute the non-performance issue with a face-to-face meeting with all responsible parties. This meeting shall be documented and filed along with the vendor performance form. Subject to results of the meeting, the Director of Contract & Purchasing Services has the authority to rescind the recommendation or continue with the contract cancellation process.
3. If the contract cancellation process is continued, the Director of Contracts & Purchasing Services will cancel the contract.
4. If the vendor does not agree with the Director's decision, the vendor may appeal the decision to the Vice Chancellor of Fiscal Affairs whose decision is final.
5. Failure to provide a satisfactory remedy or cure the non-performance within the cure window will constitute cause for immediate termination of the contract. Notwithstanding the foregoing, the College reserves the right to terminate the contract immediately if the vendor fails to perform to the satisfaction of the College if the College determines, in its sole discretion that termination is in the best interest of the College. In either case, whether notice is given and the opportunity to cures is granted, in the event that the contract is terminated for convenience, the College has no further obligations or liabilities to the vendor; shall not be subject to any penalties as a result of termination, and the College shall be entitled to any and all remedies available at law or in equity, including any and all types of damages and costs, from the vendor.

## Vendor Non-Performance & Debarment

The following procedures shall be followed for situations in which the vendor grossly failed to meet or perform according to the specifications, terms, conditions and performance measures of the contract or bidding document. The performance measures must have been communicated to the vendor in the bidding document or contract.

1. Responsible party shall document the complaint by using the Vendor Performance Form and notifying the Purchasing Department of the complaint. This form shall be maintained in the Purchasing Department.
2. After the non-performance has been confirmed, the Purchasing Department shall contact the vendor by mail and inform them that due to their non-performance, the Purchasing Department is recommending the College initiate debarment procedures. The vendor shall be given an opportunity to dispute the non-performance issue with a face to face meeting with all responsible parties. This meeting shall be documented and filed along with the Vendor Performance Form. Subject to results of the meeting, the Director of Contracts & Purchasing services has the authority to rescind the recommendation or continue with the department process.
3. If the debarment process is continued, the Director of Contracts & Purchasing Services will debar the vendor from participating in any Solicitations or financial transactions with the College for a period not to exceed two years.
4. If the vendor does not agree with the Director's decision, the vendor may appeal the decision to the Vice Chancellor of Fiscal Affairs whose decision is final.
5. If the Vice Chancellor of Fiscal Affairs determines debarment is warranted, the vendor will be prevented from participating in any financial transactions with the San Jacinto Community College District and shall be removed from the bidders list for a minimum of two years. The vendor will be notified in writing by the Director of Contracts & Purchasing Services. Thereafter, they may make reapplication. Approval will be subject to the vendor's ability to demonstrate that similar problems in a contractual relationship are not likely to recur.

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