



## PURCHASING PROCEDURES MANUAL

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**101      Mission Statement**

The Purchasing Department has as its primary mission the duty to serve the colleges and support service departments in the most cost efficient and responsive manner possible. In doing so, the mission of the District to serve the students is made possible.

As a core of professionals, the entire department seeks innovative answers to the needs of its customers; while making cost effective use of District funds. Staff must meet the mandates of the rules and regulations which govern their actions as well as perform their duties in an ethical and responsible manner.

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## 102 Department Directory and Buyer's Assignment

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**Ren Carlson, C.P.M.**  
**Purchasing Supervisor**

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<u>Construction</u> Major Renovation Projects JOC Projects	<u>Buildings &amp; Grounds</u> <u>(All trades &amp; crafts)</u> Equipment Supplies Services M&O Rentals Tools, Safes Custodial/Ground Services Pest Control Elevators Parking Lot Sweeping Trash Removal Locksmith Services Tractors, Mowers	<u>Signage</u> Exhibits Displays Interior/Exterior Kiosks
<u>Art</u> Sculptures Paintings Misc. Art		<u>Professional Services</u> Architects/Engineers Construction Consultants
<u>Furnishings</u> Hard Floors Window Coverings Carpeting Awnings	<u>Environmental</u> Hazardous Materials Recycling	<u>Stage &amp; Theater Equipment</u> <u>Third-Party Financing</u> <u>Utilities</u> <u>Consultants -Leases</u>

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**Senior Procurement Analyst**

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<u>Furniture</u>  <u>Office Supplies/Equipment</u> Copier Paper Computer Paper Printer Cartridges Fax Machines Shredders General	<u>General</u> Flags, Pennants Arts and Crafts Awards/Trophies Banners  <u>Travel</u> Reservations Transportation Tours Registrations Group Travel	<u>Performing Arts</u> Sheet Music Royalties Music Instruments  <u>Temp Personnel Services</u> <u>IGAs</u> <u>ESAs</u> <u>Professional Services Contracts</u> <u>Dual Enrollment</u> <u>Subscriptions/Memberships</u> <u>Consultants - Insurance</u>
<u>Libraries</u> Suppliers Labels		

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# Maricopa Community College District Purchasing Procedures Manual

## Chapter One: General Information

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### Vehicles: Fleet

Automobiles  
Trucks  
Vans, Buses  
Supplies, Oil, Gas  
Parts/Repair  
Gas Cards

### Vehicles: Off Road

Electric Carts  
Supplies, Oil, Gas  
Parts & Repair

### Audio Visual

Equipment  
Services  
TV Studio Equipment

### Fire Safety Products

Alarm Systems  
Extinguisher Programs

### Security

Services, Systems  
Contract Personnel  
Guns & Ammunition  
Security Systems  
Two-Way Radios

### Facilities Management

Copy Centers  
Convenience Copiers  
Mail  
Intercampus Mail  
Print Management/Solutions

### Photography

Equipment  
Supplies  
Repair  
Photo ID Supplies & Equip.  
Services

### Mailing Services

Mailing  
Equipment  
Postage  
FedEx, UPS  
Messenger/Delivery  
Marketing Materials

### Printing

Decals  
Envelopes & Stationery  
Business Cards  
Schedules  
Catalogs  
Services  
Printed Media

### Graphic Design Services

### Video Production

### Forms Management

### Consultants - Marketing

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### Aviation

Equipment  
Supplies

### Linen Services

Laundry  
Equipment  
Supplies

### Textbooks, Manuals

Instructional  
Pre-Recorded  
Testing Materials  
Scanning Equipment

### Consultants

Finance  
Human Resources  
Legal

### Moving & Storage

Equipment  
Services  
Rentals  
Material Handling

### Food Services

Products  
Equipment  
Catering  
Bottled Water

### Fitness Center

Equipment  
Supplies  
Clothing

### Lab and Scientific

Equipment  
Supplies

### Graduation Supplies

Caps & Gowns  
Diplomas  
Rentals: Tents/Seating/Lighting

### Radio Broadcast

Equipment  
Supplies

### Athletics

Equipment  
Supplies  
Clothing/Uniforms

### Instructional EMT/Fire Science

Instructional  
Supplies

### Misc. Clothing/Uniforms

### Purchasing Card



## Maricopa Community College District Purchasing Procedures Manual

### Chapter One: General Information

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Computer  
Equipment  
Supplies  
Software  
Installation

Communications  
Cabling, Wiring  
Telephones  
Satellite Services

Printer  
Equipment  
Supplies

Consultants - Grants

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Procard Card Administrator

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Procard Compliance Specialist

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Vendor Setup Assistance  
Department Information

Bid Processing  
Contract Files

Support Documents  
Audit Document Research



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**103      Organizational Chart**

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## **104 Competitive Solicitation Thresholds and Procurement Methodology**

Procurement transactions and the rules that govern how they are managed are based upon aggregate dollar amount and type of purchase. The guidelines are as follows:

### **104.1 Purchases for \$100,000 and Greater Amounts; The Invitation for Bid Process**

Purchasing transactions exceeding \$100,000 require competitive, sealed bidding utilizing the Invitation for Bid (IFB) process. (See 302; Competitive Sealed Bidding.)

### **104.2 Purchases for \$100,000 and Greater Amounts; The Request for Proposal Process**

Purchasing transactions exceeding \$100,000 in which it is determined not to be advantageous or practical to use the sealed bidding process, may be purchased through the use of sealed competitive proposals. This is the Request for Proposal (RFP) process. (See 303; Competitive Sealed Proposals.)

### **104.3 Governing Board Approval**

Pursuant with Governing Board Policy 4.2.14, the Governing Board reserves the authority to approve certain types of agreements. Most contracts/purchases that exceed \$250,000 require Governing Board approval prior to award of a contract or issuance of a Purchase Order. Exceptions to the policy are listed. The policy section is excerpted below.

The Board will reserve authority to approve the following types of agreements:

- Cooperative agreements with outside entities requiring a significant commitment of District funds or that may impair the District's bonding capacity.
- Leases involving a commitment of the District's funds in excess of the annual amount specified in Arizona Revised Statute §15-1444B-2 [or in excess of a total of \$300,000 over the original term].
- Contracts for District-wide services for insurance, bookstores, and food service.
- Real property leases or continuous use of District property by outside entities for commercial activity or for any activity that substantially increases the potential liability for the District or may impair its bonding capacity.
- Dual enrollment agreements where an intergovernmental agreement is not required.
- Contracts in which the legal authority to proceed is not explicit in statute or confirmed through case law or Attorney General's opinion.
- Purchases described below:
- A construction contract or construction consulting services contract, including those for architects and engineers, exceeding \$250,000.
- Any purchase of a single piece of information technology equipment or software exceeding \$250,000.



- Any purchase of services exceeding \$250,000, other than recurring annual services for support of District-wide systems or operations such as utilities, equipment, or software maintenance.
- Purchases or sale of real property.
- Agreements that by law must have Governing Board approval

Whenever there is a question of applicability to a particular purchase, the Director of Purchasing and Auxiliary Services, and as appropriate in consultation with the Office of General Counsel, will make the final determination on approval requirements.

Purchasing buyers are responsible for ensuring any contract/purchase requiring Board approval obtains the appropriate approvals. An initial determination will be made by the Buyer when the Invitation for Bid (IFB) or the Request for Proposal (RFP) request is received in Purchasing. If the ultimate purchase will require Board approval, the files will be placed in a red folder indicating that Board approval will likely be necessary. The Purchasing buyer will notify the requesting unit upon receipt of a purchase request notifying them of the possibility of Governing Board approval. Once the IFB/RFP responses have been received the Buyer will make the final determination on whether Board approval is necessary. If Board approval is deemed unnecessary, the Buyer must obtain a written approval of that determination from the Purchasing Manager.

The requesting department/college is responsible for drafting the action item for inclusion on the Governing Board Agenda and actually placing this item on a Board agenda for action, listing their executive (President or Vice Chancellor) as the responsible agent along with the Vice chancellor with responsibility for the functional area. Prior to award, the Purchasing buyer will verify all Governing Board approvals have been granted prior to award.

#### **104.4 Purchases greater than \$5,000 to under \$100,000**

The procurement of goods and services in amounts greater than \$5,000 and under \$100,000 shall be made with as much competition as is practical and deemed necessary by the Purchasing Manager.

A minimum of three written quotations will be obtained.

These quotations may be obtained by either the responsible buyer or the requisitioning department and are subject to review and approval by Purchasing.

Supporting documentation and price quotations are maintained as part of the purchasing file.

In all competitive procurement, the award is made by the Purchasing Department to the vendor with the lowest price for the good or service that conforms to specifications and other requirements.

#### **104.5 Purchases of \$5,000 and less**

Purchasing transactions of \$5,000 or less are not subject to the competitive process. A Purchase Order may be created and approved by the college Fiscal Agent for transactions up to this limit. This purchase amount does not include tax or freight.

**\*\*Purchases of \$3,500 or greater that utilize federal funds (grants) must adhere to the competitive process as outlined in paragraph 104.4. Grants Accounting will review the requisition prior to approval to insure proper quotes have been received. Any requisition without the proper quotes will not be approved.**

#### **104.6 Splitting Purchases**

Purchasing transactions are not to be artificially divided or fragmented in order to meet the lesser requirements of lower dollar transactions.

#### **104.7 Confidentiality of Price and Other Information**

Price and other confidential information provided by vendors shall not be shared with competitors by any individual involved in the process. Pricing may be shared after an award has been made. This includes requisitioners, reviewers and Purchasing staff.



105

Not Used

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## 106 Blanket Purchase Orders

Blanket Purchase Orders are documents issued to a vendor for purchase of certain classes or categories of items.

The Purchase Order may spell out terms, conditions, delivery information and other contract information, including pricing or discounts from published lists for a specific period of time. A "Not to Exceed" amount is listed on the Blanket Purchase Order document as a method of monitoring and control. Additional controls relative to maximum one-time purchases or single item costs may also be included.

Blanket Orders are used to serve the recurring needs of the requisitioner and to reduce paperwork on items bought repetitively. They may be used for commodity type purchases, such as maintenance supplies, office supplies and food. If the number of items, such as supplies, parts, or foodstuffs, are too lengthy to list, a group or class of commodities can be named on the Blanket Order. Blanket Orders are not to be used to purchase capital items.

The blanket order is only valid for the specified period of time as indicated on the order and for amount it is funded. Once the effective period has passed or the funding has been depleted the order is no longer valid. To preclude any issues with people overspending the blanket orders, strict attention to the expiration date and the declining balance of funds should be closely monitored. As always, as the remaining balance drops and the requirement still exists for the Blanket PO, funds can be added. Additional goods/services should not be ordered until the funds increase is applied to the order. Overspending a Blanket Purchase order is subject to the same process as any other unauthorized purchase.

The amount of competition needed on a Blanket Order varies according to commodity, service and/or delivery as well as whether or not a contract has been awarded for the commodity through a competitive process. A decision as to the level of competition needed shall be made by the buyer in consultation with the Purchasing Manager.

**106A      Blanket Purchase Order Guidelines for Phones and Pagers**

- These steps pertain to all pagers and phones including long distance service and cellular:
1. Identify ALL the phone or pager numbers the Blanket Purchase Order will pertain to.
  2. Create a list of these numbers on either a MEMO or a spreadsheet. This way, the list can be easily updated.
  3. When creating the Requisition, consider the anticipated cost for the entire fiscal year. This will eliminate the lengthy process of obtaining a PO increase later in the year.
  4. Indicate any services that should NOT be charged to the Purchase Order on the Requisition and the Purchase Order (such as a new line installed).
  5. Forward your phone and pager number lists along with the Blanket Purchase Order number to your Accounts Payable Technician at the District Office.
  6. Maintain this information for future reference.
  7. Notify your Accounts Payable Technician immediately of ANY changes, additions, or deletions of phone and pager numbers, as well as changes in Purchase Order number, by submitting a revised listing. To find out which Accounts Payable Technician is handling phones and pagers, please visit the Accounts Payable Directory web site.

**107      Evaluation and Loan of Equipment**

All equipment brought in for loan or evaluation purposes shall have prior authorization by the requester, division head, Fiscal Agent and Purchasing.

This prior approval shall be noted by signatures in the appropriate lines, on a Requisition form clearly marked "*FOR EVALUATION PURPOSES ONLY.*"

In addition, the **Requisition shall also state** that "*All costs associated with the delivery, installation, evaluation and return of the equipment shall be borne by the vendor. All risk for damage and/or loss of the equipment shall also remain with the vendor.*"

This requisition shall be used to issue a Purchase Order that states the same terms as the requisition. This will be provided to the vendor prior to delivery of the equipment.

Loan or evaluation of equipment should in no manner constitute a preference for that equipment or imply that it will result in an order for the purchase. Purchasing has the responsibility to subject the purchase of all equipment to a competitive process as well as to negotiate all terms and conditions, price, warranty and service with the vendor.

**108 Public Review of Bids**

Formal Sealed Bids and Sealed Proposals are considered public information and as such, are open for review pursuant to the following guidelines:

***Process:***

Formal sealed bids are opened publicly and the name of the bidder, amount of the bid and other related information deemed relevant by the buyer is announced and recorded. This record shall be open to public inspection. The actual bid documents and related materials shall not be open to public review until after contract award.

Formal Sealed Proposals are opened publicly with only the names of the proposers announced and recorded. All other information including pricing, shall not be open to the public for review until after contract award.

***Proprietary Information:***

Certain information relative to the procurement process can be deemed proprietary in nature and not open for public review. This proprietary information must be clearly marked as such by the bidder/proposer and if possible, submitted in a separate sealed envelope. This information will be considered proprietary and not open to public review, unless deemed otherwise by the Purchasing Manager. The final decision as to whether this information is proprietary lies with the Purchasing Manager.

***Review of Bids or Proposals:***

Requests for information or review of the documents shall be made to the Purchasing Manager or his designee. An appointment to review the file shall be made with the Purchasing Manager or buyer at a mutually convenient and reasonable time. The reviewer shall not take possession of any of the documents in the file. All proprietary information shall be removed from the file prior to the review. All reviewers must sign a reviewers log sheet that becomes a part of the original bid file.

**109 Purchases Made with Grant Funding**

Purchases made with grant funding will follow all applicable guidelines as outlined in the granting agency's letter of award. For federal grants this may include, but is not limited to, following the guidelines as detailed in the OMB Uniform Guidance. Also see 104.5

The responsibility for advising the Purchasing Department of any grant-related purchasing restrictions or requirements shall remain with the requesting department and grant awardee.



## **110      Prepayment for Goods or Services**

The District provides prepayments only for very limited types of procurements. These include, but are not limited to, prepayment of subscriptions, dues, memberships, deposits for travel-related expenses, and certain maintenance and license fees.  
(See 110A; Prepayment for Goods or Services, and Process)

Prepayment for standard goods or services is prohibited by statute. Exceptions are to be made only in those situations in which no other source for the goods or services is available and no other arrangements can be made.

Justification must be provided to Purchasing management who must approve all special prepayments.

## **110A      Prepayment for Goods or Services**

The following processes are followed for procurements that pertain to prepaids which occur when the vendor will not accept payment subsequent to the goods or services being received and Purchasing has authorized the prepayment.

Prepaids are only issued to vendors.

1. Requisition is prepared, reserved, and approved.
2. Purchase Order (PO) is prepared, reserved, and approved.
3. Copy of the PO with the original (or copy) of supporting documentation is forwarded to AP and stamped "Received" with the date. Supporting documentation includes an invoice or a form indicating what the procurement pertains to, when it will occur, for whom, and the amount (as applicable). Submission of supporting documentation with the PO is required.
4. Amount to be paid is input into the system, matching to the PO, creating an invoice.
5. The PO is stamped "Keyed" with the date.
6. Invoice is paid in the next check run and the PO stamped "Paid" with the date.
7. Check is mailed to the vendor **unless special instructions are indicated on the PO.**
8. Prepayment PO's, with supporting documentation attached, are filed in the Business Services file room.



110B	Not Used

**111      Governing Board Policy: Asset Protection**

The Governing Board policy regarding asset protection may be found at <https://chancellor.maricopa.edu/public-stewardship/governance/board-policies/2-chancellor-limitations/2.5-asset-protection-chancellor-limitation>.

## 201 Basis for Purchasing Policies and Procedures

Pursuant to Arizona Revised Statute 41-2501, political subdivisions are not subject to Arizona's State Procurement Code, though they may adopt all or some of the Code. The Maricopa Community Colleges is a political subdivision of the State and its Governing Board has not adopted all or some of the Code. As such, all procurement conducted by the District is governed by relevant Maricopa Community College District Policies, Chancellor's Limitations, Administrative Regulations and Procedures. These are based upon the American Bar Association Model Procurement Code, a generally accepted guide.

Procurement also is conducted pursuant to applicable State Statutes and Administrative Rules, again noting that Maricopa is not subject to the Arizona Procurement Code.

**202 Authority of the Chief Procurement Officer**

As named and approved by the Governing Board, the Director of Purchasing & Auxiliary Services serves as the Chief Procurement Officer for the District.

Consistent with the rules and regulations which govern the District, the Chief Procurement Officer shall adopt operational procedures governing the internal functions of the Purchasing Department.

Except as otherwise noted, the Chief Procurement Officer shall, in accordance with the rules and regulations affecting the District, procure or supervise the procurement of all supplies, services, and construction needed by the District.

## 203      Delegation of Purchasing Authority

The Governing Board and the Chancellor empower the Vice Chancellor for Business Services to act as Chief Fiscal Officer for the District.

The Authority to commit the District to purchases of equipment, supplies, and services is delegated by the Vice Chancellor for Business Services to the Director of Purchasing & Auxiliary Services. This is formally carried out as a Governing Board motion, naming the Director of Purchasing & Auxiliary Services as the Purchasing Authority (Chief Procurement Officer) for the District.

This authority is further delegated to the purchasing manager and the professional staff of Buyers in the Purchasing Department; to the Fiscal Agents at each college for Purchase Orders and Petty Cash transactions only; and to the professional staff of Library Technical Services for the procurement of library books, subscriptions, and audio-visual rentals.

Requests for increases in Purchase Order amounts and cancellation of Purchase Orders are to be routed through the Fiscal Agent for approval, prior to being forwarded to the Purchasing Department.

## 204 Centralized Purchasing

The District subscribes to a process of centralized purchasing. This is designed to monitor, standardize, and maximize the use of purchase contracts and agreements that are available to the District as well as to extend fiscal control over the expenditure of funds.

***Purchase Orders (PO) are:***

generated by the Purchasing Department for purchases of equipment, supplies, and services.

***Authorized Signatures:***

Authorized signers of purchasing documents are outlined in the Governing Board Policy manual (VIII K, "Procurement of Goods and Services") as well as in the Purchasing Procedures Manual ([See 203; Delegation of Purchasing Authority](#)). Only these individuals as outlined in those policies are authorized to commit the District to purchases of services, equipment, and supplies.

The District is bound to receive and pay only for those goods or services authorized by valid signatures on recognized Purchasing Department documents. (See 105; Purchasing Documents)



## 301 Bidders Lists and Source Selection

The Purchasing Department maintains a list of vendors by category. This list is updated with vendor names, addresses, phone numbers, and categories on an on-going basis.

This list is utilized to notify vendors of Requests for Proposal and Invitations for Bid on various goods and services.

Prospective vendors request to be added to the bid list by registering at the [Supplier Registration Portal](#). The registration outlines the company name, address, and phone number as well as the categories of service or products that they have to offer.

Removal of a vendor from the bid list may be for failure to respond to more than three consecutive notices to bid, for failure to perform after an award of a bid, or for other reasons that show the bidder to be a non-responsive or non-responsible bidder. The removal of a bidder from the bid list will only be after review and approval by the Purchasing Manager.

In those categories in which there are no vendors on the bid list or a very limited number, the buyer shall be responsible for researching and creating a list of potential sources. The requisitioner, consultants, directories of suppliers, and trade journals and publications are some of the sources available to provide this information.

## **302 Competitive Sealed Bidding: The Invitation for Bid (IFB) Process**

Purchases of goods and services in the aggregate amount of \$100,000 and over shall be awarded by a process of competitive sealed bidding. Prior to initiation of the bid process an approved requisition, in the estimated dollar amount, must be in place.

### **302.1 The Invitation for Bid**

The Invitation for Bid shall include the following:

Instructions and information to bidders concerning the bid submission requirements, including time and date for receipt of bids, the address of the office to which they are to be delivered, and any other information.

The purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements.

The contractual terms and conditions, including warranty and bonding or other security requirements applicable to the procurement.

### **302.2 Bidding Time**

The bidding time is the period of time between the date of distribution of the Invitation for Bids and the time and date for receipt of bids.

In each case a bidding time shall be set that affords bidders a reasonable time to prepare the bids. A minimum of 14 calendar days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the Purchasing Manager.

### **302.3 Bidder Submissions**

The Invitation for Bids shall provide a form or format which the bidder shall include the bid price and in which the bidder shall sign and submit with all other necessary submissions. Telegraphic, telephone and Facsimile transmissions are not acceptable for sealed bidding purposes.

### **302.4 Public Notice**

Adequate public notice of the Invitation for Bid or notices of the availability of the Invitation for Bid shall be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Advertisement in a general publication newspaper with a local circulation may be used for sealed competitive bidding. When the

bid list is not sufficient to maximize competition, the determination not to advertise shall be made by the Purchasing Manager.

### 302.5 Bidders Lists

The Purchasing Department shall compile a list of bidders that express interest in providing products or services to the District. Bidders that fail to respond to Invitations for Bid on three consecutive procurements of similar items may be removed from the bidders list.

Prospective bidders currently meeting criteria for inclusion on the list may be reinstated at their request. Names and addresses on the bidders lists shall be available for public inspection, provided these lists are not used for private promotional commercial or marketing purposes.

### 302.6 Pre-Bid Conferences

Pre-bid meetings may be conducted to explain the procurement requirements. They shall be announced to all prospective bidders known to have received an Invitation for Bid. The conference shall be held long enough after the announcement has been issued to allow bidders to become familiar with the document, but sufficiently before bid opening to allow consideration of the conference results in preparing their bid.

Generally, the receipt of bids will be no sooner than seven calendar days after the pre-bid conference. Any exceptions must be granted in writing by the Purchasing Manager. Nothing stated at the conference shall change the Invitation for Bid unless a change is made by written amendment.

### 302.7 Amendments to Invitations for Bid

Amendments to Invitations for Bid shall be identified as such and shall require that the bidder acknowledge receipt of all amendments issued. The amendment shall reference the part of the Invitation for Bid that it amends.

All addenda shall be identified as such and shall be sent to all bidders that have acknowledged receipt of the bid. The addendum shall require that the bidder acknowledge the receipt of the addendum.

Addenda shall be issued within a reasonable amount of time for potential bidders to consider them in the preparation of their bids. If the time and date set do not permit sufficient time for bid preparation, the date and time of the bid opening shall be extended either in the addendum or by telephone, fax or telegram.

### **302.8 Withdrawal and Modification of Bids**

A bidder may modify or withdraw its bid at any time before bid opening if the modification or withdrawal is received before the time and date set for bid opening in the location designated in the Invitation for Bid for receipt of bids.

All documentation relating to a withdrawal or modification of a bid shall be kept as part of the procurement file.

### **302.9 Late Bids**

A bid, withdrawal of a bid, or modification of a bid is late if it is received at the designated location of the bid opening after the time and date of bid opening.

A late bid, late withdrawal of a bid, or late modification of a bid shall be rejected. Bidders submitting bids that are rejected as late shall be notified as soon as practical.

All documents concerning a late bid shall be retained in the procurement file.

### **302.10 Receipt of Bids**

Bids and bid modifications shall be received by appropriate staff, marked with the date and time of receipt and stored unopened in a secure location, until the bid opening.

Bids shall be opened publicly at the time, date, and location advertised in the bid document. The name of each bidder, the bid price, and other pertinent information shall be read aloud and recorded. A bid abstract shall be made available to the public for review.

### **302.11 Inspection of Bids**

Only after formal award of the bid, shall the bids be made available for public inspection. Information deemed proprietary in nature by the bidder and approved as such by the Purchasing Manager, shall not be included in the materials available for public inspection.

### **302.12 Mistakes and Informalities in Bids**

Mistakes in bids may be corrected by modification or withdrawal as outlined in sections above, if discovered prior to the bid opening. After bid opening, a bid submitted in error of judgment, may not be corrected. A bid may be withdrawn pursuant to the following sections:

Minor informalities in a bid may be waived if the Purchasing Manager deems it advantageous to the District.

A bid may be withdrawn after bid opening only if the mistake is clearly evident to the Purchasing Manager or if the bidder establishes evidence clearly showing a mistake was made.

Mistakes shall not be corrected after award of the bid.

Any withdrawals or corrections to a bid permitted or denied after the bid opening shall have a written determination that is included in the procurement file.

### **302.13 Bid Evaluation and Award**

The bid shall be awarded to the lowest responsive and responsible bidder whose bid meets, in all material respects, the requirements and criteria as defined in the Invitation for Bid. The amount of any applicable transaction privilege or use tax is not a factor in determining the lowest bidder.

Bids shall be evaluated to determine which bidder offers the lowest cost to the District in accordance to the criteria as defined in the Invitation for Bid. Only objectively measurable criteria shall be applied in determining the lowest cost to the District.

A contract may not be awarded to a bidder submitting a higher quality item than designated in the bid document unless the bidder is also the lowest bidder as determined by the criteria outlined above.

### **302.14 Tie Bids**

Tie bids are defined as instances of identical pricing from responsible bidders that meet all requirements as set forth in the bid documents. Tie bids may be awarded by drawing lots or any other random choice manner. Care shall be taken by the buyer to ascertain that the tie bidders meet all requirements as outlined in the bid document before declaring a tie bid situation.

Records and methods of determining the successful bidder shall be maintained in the procurement file for all tie or apparent tie bids.

### **302.15 Single Bids**

In instances of only one bid being received, a determination must be made by the Purchasing Manager that the price submitted is fair and reasonable and that other prospective bidders had time to respond or that re-solicitation is not possible due to time constraints. In those instances, an award may be made.



If it is determined in writing by the Purchasing Manager that the need for the product or service continues and that the acceptance of the sole bid is not advantageous to the District, then the procurement may be conducted in a manner as defined by the Purchasing Manager.

### **303 Competitive Sealed Proposals: The Request for Proposal (RFP) Process**

Purchases of goods and services in the aggregate amount of \$100,000 and over that cannot be awarded by a process of competitive sealed bids shall be procured through the use of a Request for Proposal process.

#### **303.1 The Request for Proposal**

The Request for Proposal shall include the following:

Instructions and information to proposers concerning the submission requirements, including time and date for receipt of proposals, the address of the office to which they are to be delivered, and any other information.

The purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements.

The contractual terms and conditions including warranty and bonding, or other security requirements applicable to the procurement.

#### **303.2 Proposal Time**

The proposal time is the period of time between the date of distribution of the Request for Proposal and the time and date for receipt of proposals.

In each case, a proposal time shall be set that affords proposers a reasonable time to prepare the proposals. A minimum of 14 calendar days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the Purchasing Manager.

#### **303.3 Proposal Submissions**

The Request for Proposal document shall provide a form or format in which the proposer shall include all pertinent information relative to the process. The proposer shall sign and submit all necessary information called for in the Request for Proposal document.

#### **303.4 Public Notice**

Adequate public notice of the Request for Proposal or notices of the availability of the Request for Proposal shall be mailed or otherwise furnished to a sufficient number of proposers for the purpose of securing competition. Advertisement in a general publication newspaper with a local circulation may be used for sealed competitive proposals that are expected to exceed \$100,000 in cost.

### 303.5 Pre-Proposal Conferences

Pre-proposal meetings may be conducted to explain the procurement requirements. They shall be announced to all prospective proposers known to have received a Request for Proposal. The meeting shall be held long enough after the Request for Proposal has been issued to allow proposers to become familiar with the document, but sufficiently before receipt of proposals to allow consideration of the conference results in preparation of their proposal.

Generally, the receipt of proposals will be no sooner than seven calendar days after the pre-proposal meeting. Any exceptions must be granted in writing by the Purchasing Manager. Nothing stated at the conference shall change the Request for Proposal unless a change is made by written amendment.

### 303.6 Amendments to Requests for Proposals

Amendments to Requests for Proposals shall be identified as such and shall require that the proposer acknowledge receipt of all amendments issued. The amendment shall reference the part of the Request for Proposal that it amends.

Amendments shall be issued within a reasonable amount of time for potential proposers to consider them in the preparation of their proposals. If the time and date set does not permit sufficient time for proposal preparation, the date and time of the proposal opening shall be extended in the form of an addendum.

### 303.7 Withdrawal and Modification of Proposals

Withdrawal or modification of proposals is acceptable if the notification of withdrawal or modification is received prior to the deadline for receipt of the proposals at the designated location.

All documentation relating to a proposal withdrawal or modification shall be kept as part of the procurement file.

### 303.8 Late Proposals

A proposal, a request for withdrawal of proposal, or a modification of proposal is late if received at the designated location of the proposal receipt after the time and date listed in the Request for Proposal.



Late proposals, late withdrawal of proposals, or late modification of a proposals shall be rejected. Proposers submitting proposals that are rejected as late shall be notified as soon as practical.

All documents concerning a late proposal shall be retained in the procurement file.

### **303.9 Receipt of Proposals**

Proposals and proposal modifications shall be received by appropriate staff, marked with the date and time of receipt, and stored unopened in a secure location until the proposal opening.

Proposals shall be opened publicly at the time, date, and location advertised in the proposal document. The name of each proposer and other pertinent information shall be read aloud and recorded. Pricing information, if part of the Request for Proposal, is not read aloud or recorded.

### **303.10 Inspection of Proposals**

Only after formal award of the proposal, shall the proposals be made available for public inspection. Information deemed proprietary in nature by the proposer and approved as such by the Purchasing Manager shall not be included in the materials available for public inspection.

### **303.11 Receipt of Proposals**

Mistakes in proposals may be corrected by modification or withdrawal as outlined in sections above, if discovered prior to the proposal opening.

After proposal opening, a proposal submitted in error of judgment may not be corrected.

A proposal may be withdrawn pursuant to the following sections:

Minor informalities in a proposal may be waived if the Purchasing Manager deems it advantageous to the District.

A proposal may be withdrawn after proposal opening only if the mistake is clearly evident to the Purchasing Manager or if the proposer establishes evidence clearly showing a mistake was made.

Mistakes shall not be corrected after award of the proposal.

Any withdrawals or corrections to a proposal permitted or denied after the proposal opening shall have a written determination that is included in the procurement file.

### **303.12 Proposal Evaluation and Award**

The award will be made to the most qualified proposer, based upon review and recommendations of a committee of individuals that score responses to the Request for Proposal document based upon published grading criteria.

### **303.13 Single Proposals**

In instances of only one proposal being received, a determination must be made by the Purchasing Manager that the proposal submitted is fair and reasonable and that other prospective proposers had time to respond or that re-solicitation is not possible due to time constraints. In those instances, an award may be made.

If it is determined in writing by the Purchasing Manager that the need for the product or service continues and that the acceptance of the single proposal is not advantageous to the District, then the procurement may be conducted in a manner as defined by the Purchasing Manager.

**304 Procurement of Commodities**

The procurement of certain commodities on a regular basis is not practical with common public procurement procedures such as sealed bidding.

Examples of these types of purchases include the on-going purchase of food products or other commodity type items such as computer memory. Products such as these have pricing and availability which vary on a daily or weekly basis.

Methods of maximizing competition, within reason, are to be implemented by the Purchasing staff with the approval of the Purchasing Manager.

## 305 Sole Source Procurement

Products or services may be procured without competition if there is documentation that there is only one source available.

Submission of cost and specifications data may be required by the requesting department in conjunction with the Purchasing department.

Sole source procurement shall be avoided whenever possible.

Written justification is required on all sole source determinations. They shall be approved by either the Director Purchasing and Auxiliary Services or the Purchasing Manager. If there is a need to continue the requirement for a previously approved Sole Source the end user or buyer is required to recertify that the Sole Source is still valid and approved prior to the issuance of a purchase order. The Sole Source documentation is then attached to the electronic version of the purchase order and additionally it is stored in the "Approved Sole Source Forms" folder housed on the purchasing server.

Examples of sole source procurement include, but are not limited to:

- Products where compatibility with existing systems, equipment, or accessories is absolutely necessary for function, serviceability, warranty, or cost.
- For trial or evaluation products or services.
- For public utilities and services.

Purchases of educational materials may be purchased directly from the publisher as a sole source, without the need for written justification.

Examples of single source procurement include, but are not limited to:

- Unique services, such as advertising, in which circulation, billboard location, audience demographics, and other factors make each provider different.
- Rental of certain facilities in which location is an important factor.

Completing a [Sole Source Justification Form](#) and returning it to the Purchasing Department will provide the documentation necessary to identify sole source purchases.

## 306 Emergency Procurement

The Purchasing Manager or designee may make or authorize others to make emergency procurement of equipment, goods, or services.

This will only be in instances of a true emergency where there exists a threat to the safety, health, or welfare of students, staff, or the public. In such instances, price competition is less important than the quick and safe resolution to the emergency. The normal quotation process may be waived.

Full back-up materials and justification will be provided to the Purchasing Department as soon as possible to substantiate the purchase. This information will be made a part of the file.

## 307 Procurement of Real Estate

The procurement of real estate is not subject to the same formal competitive processes as good and services.

The purchase of real estate is unique, relative to location, access, associated improvements and other factors. In as much, the procurement of real estate cannot be competitively bid. Guidelines and benchmarks such as appraisals and comparative sales of similar properties will be used to determine the appropriateness of the purchase price.

The purchase of real estate is conducted by negotiation based upon comparable market listings, if available, as well as an appraisal.

All issues such as legal description, rights of way, size, suitability, and assessment of risk factors such as structural analyses and asbestos surveys shall be performed prior to purchase.

In the role of Chief Fiscal Officer for the District, the Vice Chancellor for Business Services may act as agent for the procurement of real estate, or may delegate that responsibility to the Director of Purchasing & Auxiliary Services. Pursuant with Governing Board Policy 4.2, the Governing Board shall approve the purchase or sale of Real Property. Once approved, the Governing Board President shall sign all purchase agreements for purchase or sale of real estate.

## **308 Privatization of Services**

The District believes in utilizing the most beneficial method of providing services and goods, whether it be from the public or private sector. Whenever possible, established criteria shall be used to analyze the benefits of one source over the other.

### **308.1 Delegation of Authority**

The Chief Procurement Officer (Director of Purchasing & Auxiliary Services) as delegated by the Governing Board, through the Chancellor and the Vice Chancellor for Business Services, shall be responsible for timely review, action, and reporting on all privatization proposals. Personnel-related actions due to privatization efforts are separate from procurement activities.

### **308.2 Reporting Responsibility**

A report shall be filed annually with the Audit and Finance Committee by the Chief Procurement Officer outlining progress in the areas of privatization. Numbers of formal inquiries as well as any records of any appeals and their outcomes shall also be reported. This annual report shall be provided to other agencies such as the Private Enterprise Review Board, if so requested.

### **308.3 Initiation and Review of Privatization Proposals**

Opportunities for privatization can be identified by the public, private sector business, District employees, the Governing Board, and other organizations such as the Private Enterprise Review Board, (PERB).

Individuals or businesses wishing to make an initial privatization proposal (petition of interest), will not be supplied information that would later provide an unfair advantage over other proposers during a competitive process.

All privatization proposals from individuals or businesses shall be forwarded to the Chief Procurement Officer for initial review for clarity, completeness.

Proposals shall be forwarded to appropriate department/division/college representatives for initial joint review and recommendations in conjunction with the Chief Procurement Officer.

If the proposal is rejected, the Chief Procurement Officer shall notify the proposer of the decision and supporting rationale and shall provide an outline of the appeal process, if desired.

If it is determined that the proposal has merit, the concept will be further developed into a Bid or Request for Proposal document by the department/division/college representative in conjunction with the Chief Procurement Officer and others.

The bid or Request for Proposal will be designed to be competitively bid following all District Purchasing guidelines and allowing maximum competition.

### 308.4 Privatization Review Criteria

Proposals for privatization will be evaluated on a number of factors including cost. Additional factors will depend upon the service or goods proposed, but may include:  
Quality of Service - the effect privatization will have on the quality of service.

1. Cost Efficiency - expected cost of service, including District oversight of the contract, assuming no decrease in quality.
2. Market Strength - availability of private providers interested in providing the service.
3. Risk to the District - degree which privatization increases District exposure to hazards and risk.
4. Legal Barriers - the effect of laws on privatization decisions.
5. Control - ability of the District to oversee and monitor the service once it has been privatized.
6. Resources - efficient and effective use of existing District assets.
7. Impact on Employees - the effect privatization will have on both full time and student employees of the District.
8. Political Resistance - opposition from the public, the provider of the service, interest groups, or elected officials.

### 308.5 Appeal of Outcome of Privatization Review

1. The outcome of a privatization review can be appealed by any proposer.
2. The request for appeal shall be first submitted to the Chief Procurement Officer. The Chief Procurement Officer shall weigh all merits of the appeal and, in consultation with the affected department/division/college representative, shall make a recommendation to re-open the review or to deny the request.
3. If the request is denied, the proposer may ask that the appeal be forwarded to the next step in the appeal process: the Vice Chancellor of Business Services or designee.
4. The Vice Chancellor for Business Services shall weigh all merits of the appeal and shall make a recommendation to re-open the review or to deny the request.
5. If the request is denied, the proposer may ask that the appeal be forwarded to the Governing Board.
6. The Governing Board shall weigh all merits of the proposal and shall make a recommendation to re-open the process or to deny the request.

### 308.6 Definitions:

- "Petition of Interest" means the document that is the form of information that is requested by the District, completed by the petitioner, expressing interest in providing the goods or services.



- "Privatization" means the provision of services or goods by a private sector business, another public sector body or non-profit agency, that is normally provided by employees of the District.

### 309 Types of Contracts

There are a number of types of contracts used in the District. The most common are listed below:

#### 309.1 Blanket or Requirements Contract

This type of contract encompasses the needs of a particular requisitioner or college or the district for a specific product or line of products or services. Contracts may be based upon a set price for a number of items or services, or it may be for a wide range of products or services with a predetermined discount or mark-down based upon a catalog or book standard price.

#### 309.2 Multi-Term Contracts

Multi-term contracts for goods or services may be utilized for a period not to exceed five (5) years, if they meet the following criteria:

- The estimated requirements subject to this contract are identifiable as to scope and/or general quantities for the periods covered.
- The contract serves the best interest of the District by encouraging competition and economies of scale based upon extended purchase periods.
- The contracts are written for a period of one fiscal year only, with an option to renew each year based upon availability of funding. No contracts are automatically renewable.

The vendor must continue to meet all criteria based upon performance and other requirements that may apply such as bonding, insurance and licensure, etc.

Contracts may be written with options for terms greater than five years, only with approval of the Purchasing Manager.

#### 309.3 Contracts for Professional Services

Professional Services Contracts should be used for the procurement of services, not products or construction/renovation.

Professional Services contracts are to be used only for the following types of services:

- **Consultants (e.g. Management), Educational Consulting (e.g. Curriculum Development and Evaluation), Technical Support, Grant Writing/Development, Speaking/Facilitating/Presenting, Editing/Writing, Teaching/Instruction Services, and Student Activities.**

Exceptions to these categories are to be upon approval of the Purchasing Manager.

Professional Services Contract procedures vary according to dollar limits:

- ***Professional Services Contracts \$100,000 or more***

Professional Services exceeding \$100,000 require competitive, sealed proposals utilizing the Request for Proposal (RFP) process. ([See 303; Competitive Sealed Proposals.](#))

- **Professional Services Contracts from \$25,000 to under \$100,000**  
Professional Services from \$25,000 to under \$100,000 need to show as much competition as is practical and deemed necessary by the Purchasing Manager. A minimum of three written quotations shall be obtained.
- **Professional Services Contracts from \$5,000 to under \$25,000**  
Professional Services from \$5,000 to under \$25,000 generally do not require competition, unless deemed appropriate for competition by the Purchasing Manager.
- **Professional Services Contracts under \$5,000**  
A contract is not required by Purchasing or Legal although it is recommended to use the standard Professional Services Contract form, ensuring that all pertinent information is obtained.

**"Contract for Professional Services" forms** are standard forms designed for use with Professional Services Contracts up to \$100,000 to ensure that all pertinent information is obtained and agreed to by the Contractor. Contracts for Professional Services exceeding \$100,000 are developed by the Legal and Purchasing Departments. Non-numbered forms are now available for download from the Legal Department web site.

In addition to a contract, **an approved Requisition is necessary** for creation of a Purchase Order (Coding should be to Professional Services - 3210). Itemized invoices must also be submitted to process payments to the Contractor to verify that the services have been provided.

The following information is to be included on the Requisition:

- Contract Number, RFP Number (if applicable), Description of Services, and Payment Schedule

**Note:** Professional Services Contracts are not to be used for the temporary employment of staff. For those instances, special services contracts (available through Payroll department) are to be used. I-9 forms are only to be used if the contractor is considered a temporary or contract employee. If the person has assigned hours, is provided a workspace plus equipment and supplies, and is treated or performs such as an employee, this may be a temporary employment situation that warrants use of a Special Services Contract.

## 309.4 Routing of Contracts

All contracts that require signature regardless of the dollar amount are to be forwarded to the Legal department. All other contracts are routed to Purchasing. Purchasing will

then send any contracts that need review and signature to the Legal department, if necessary. Please reference the requisition number on all contract forms. After the contract is signed by the appropriate authority, a Purchase Order is then created based on the approved requisition and signed contract. The Purchase Order along with the signed contract is then sent to the vendor.

**Note:** A vendor shall not begin work or provide any service until a requisition is approved, a contract is signed, and a Purchase Order is created.

### 309.5 Contract Signatory Authority

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The authorized individuals to sign contracts on the behalf of the District are set by Governing Board Policy and are as follows:

- Chancellor
- District Contracts Manager (Assistant General Counsel);
- Vice Chancellor for Business Services, in the absence of the Contracts Manager;
- The Director of Purchasing & Auxiliary Services, in the absence of the Vice Chancellor for Business Services and the Contracts Manager.

**Note:** No other employee of the District is authorized to sign contracts on behalf of the District.

**310 Right to Audit Records**

The District may, at reasonable times and locations, audit the books and records of any person or organization that submits costs or pricing or is awarded a contract which includes cost reimbursement. For purpose of this procedure, District includes appropriate Purchasing, Finance and Internal Audit staff as well as representatives of the Auditor General's staff or other review organizations.

Any person or organization that receives a contract of which cost or pricing data is required, shall maintain the books and records that relate to that information for a period of three years from the date of the final payment under that contract, unless a different period is required.

The District may, at reasonable times and locations, audit the books and records of any contractor or subcontractor relating to the performance of a contract or subcontract.

The contractor or subcontractor shall maintain the books and records that relate to the contract or subcontract for a period of three years from the date of the final payment under that contract, unless a different period is required.

**311 Right to Inspect Plant**

The District may, at reasonable times inspect part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded.

This extends to the inspection of a plant or business location prior to award, as part of a determination process to decide capability and fitness for the contract.

## 312 Record Retention Policy

The retention of Purchasing records is in accordance with the standards as set forth in the Arizona Community College District Uniform System of Accounting and Financial Reporting.

1. Formal Bids for construction and Requests for Proposals for architects, engineers and related professionals: Supporting documentation and summaries for the process are kept indefinitely. Submittals from non-successful bidders and proposers are kept for three years from completion of the project.
2. Formal Bids and Requests for Proposals: Supporting documentation and summaries for the process as well as additional back-up materials are kept for three years after close of the fiscal year in which they were received.
3. Purchase Orders, Requisitions and Vendor Invoices are kept for three years after close of the fiscal year in which they were processed.
4. Leases, Contracts and other agreements are maintained for a period of six years after expiration of the agreement.
5. Disclosure of Substantial Interest forms are kept for three years after close of the fiscal year in which they were received.

Records will be kept longer if audits were not performed in a timely manner. In this case, these records will be maintained for a period of three years after completion of that audit.

### 313 Special Procurements

A situation may arise which makes compliance with Sections 104.1 through 104.4 impracticable, unnecessary or contrary to the public, but for which a sole source or emergency procurement is inappropriate.

In such cases, the Chief Procurement Officer or his or her designee may make or authorize others to make procurements with limited or no competition, as the officer deems appropriate based on the circumstances. The Chief Procurement Officer or designee shall make a written determination of the basis for his or her decision, and the selection of the contractor. The determination will be retained in the contract file.

The Chief Procurement Officer may authorize the purchase of certain specified classes of services, equipment or goods as special procurements under this Section. He or she may do so only through a written determination that sets forth the reason for the designation of the class of service, equipment or good as a special procurement, along with appropriate requirements applicable to the procurement, such as dollar/expenditure limits or limited competition procedures.



## 314 Procurement of Used Equipment

Used equipment may be purchased if it meets the needs of the college as required by the user. The purchase of used equipment must be in the best interest of the District and result in a cost savings when compared to the purchase of new or refurbished equipment. A statement containing the following information must accompany the requisition.

- The requestor has inspected the equipment.
- The equipment is in proper working order.
- The equipment meets the needs of the user.
- It is in the District's best interest to procure the used equipment.
- A determination as to price reasonableness.

The statement must be reviewed and approved by the Purchasing Manager.

Methods of maximizing competition, within reason, are to be implemented by the Purchasing staff with the approval of the Purchasing Manager.

Purchases of used equipment in excess of \$100,000 must adhere to the competitive bid process.

## 315 Employees as Vendors

The use of MCCD employees to provide goods or services is strongly discouraged. Only in cases in which it is proven that the employee is able to provide the goods or service at a lower cost will the purchase be made. ***ANY purchases from an employee should show evidence of competition and be approved in advance*** by Purchasing. A minimum of three written quotes must be obtained.

If you are an Employee acting as a potential vendor or have a relative who is a potential vendor, you must complete the Acknowledgement and Disclosure located here <https://administration.maricopa.edu/acknowledgement-and-disclosure>

## 316 Appliance Purchases

As one of many actions in support of the American College and University Presidents' Climate Commitment, only Energy Star rated appliances and equipment will be purchased, if available.

This means that even if a non-Energy Star appliance is less costly, the Energy Star rated appliance will be purchased.

The link to the Energy Star Web site is

[http://www.energystar.gov/index.cfm?c=products.pr\\_find\\_es\\_products](http://www.energystar.gov/index.cfm?c=products.pr_find_es_products)

The purchase of any type of kitchen appliance (refrigerator, microwave, coffee maker, toaster, dishwasher, etc.) is prohibited using district/college funds if the intent of the purchase is for the personal use of employees. The use of district/college funds for this type of purchase must have a clear business use.

**401 Specifications**

Specifications for the procurement of goods or services shall be determined by the requesting department with assistance from Purchasing and other District staff if necessary.

These specifications shall be written in order to insure satisfaction with the product or service, yet general enough to insure competition.

Brand name or equal specifications may be utilized when the Purchasing Manager determines that the use of brand name or equal specification is advantageous to the District and:

- A. No existing specifications are available.
- B. Time does not permit the preparation of specifications.
- C. The nature of the product makes the use of a brand name or equal specification suitable for procurement.

A brand name or equal specification shall designate as many brands as possible. The specification shall include a description of the particular design, function, or performance characteristics that are required, unless the Purchasing Manager determines that the brand names in the specifications are commonly known.

If a consultant is used to develop specifications, the consultant shall provide to the District a general statement to be included in their recommendations that reads as follows:

**"No direct or indirect benefit is to be realized by (the consultant) from the Maricopa County Community College District using these specifications or awarding a bid based upon them."**

**501 Lease, Buy, or Build**

Before initiating a construction project, consideration shall be given to alternatives, such as leasing or buying existing building space, whenever appropriate. The Chief Procurement Officer, a representative from Facilities Planning and Development and the representative from the College/Unit/District shall participate in deciding whether to build, buy, or lease. Factors for consideration include, but are not limited to:

- A. Whether this is an addition to an existing college campus, in which case leasing or buying is usually not an alternative.
- B. Whether the college's need is on-going or temporary.
- C. The adequacy of available space to fit the college's needs
- D. Whether there is need for control over the building.
- E. The need to physically separate the college's operations from private facilities.
- F. Whether the cost of acquisition of an existing building meets the needs of the college and is cost effective considering the expense and time to be invested in the construction of a new facility.

For more information regarding leases and funding, please refer to ["How-To"s for Leases](#) on the Property Accounting website.

## **502 Construction Procurement**

Construction procurement shall be conducted in accordance with all Governing Board Policies, and District procedures.

The District may procure design services, construction and construction services, as applicable, under any of the following project delivery methods:

1. Design-bid-build.
2. Construction-manager-at-risk.
3. Design-build.
4. Job-order-contracting.

### **502.1 Definitions**

Design-bid-build is the process in which separate procurements are conducted for architect/engineer services and general construction. The design provided by the architect/engineer is utilized as part of the bidding document for the general contracting services.

A Construction-manager-at-risk acts as a general contractor at the contracted-for price and provides consultation to the institution regarding construction during and after the design of the facility.

Design-build is a method of contracting in which a single contract is created with a firm or group of firms in partnership to build or renovate a building or group of buildings. The intent is for the architect/engineering professionals to work more closely with the general contractor and subcontractors to provide a single source of responsibility for the design and construction of the project. This contrasts with the separate contracts with architects/engineers and general contractor involved in the standard design-bid-build or Construction Manager at Risk.

Job-order contracting is a construction contract used for new construction, maintenance, rehabilitation, and alterations of a recurring nature but which is of an indefinite delivery and indefinite quantity. The Job Order Contract shall include a comprehensive compilation of detailed real property repair, rehabilitation, alteration, maintenance, and minor construction task descriptions or specifications, a pre-determined and agreed upon pricing, discount coefficient or mark-up pricing structure.

### **502.2 Design-Bid-Build**

For the design-bid-build project, the District shall procure the Design services according to Section 506; Architect, Engineer, Land Surveying and Related Services and the Construction by competitive sealed bidding, according to Section: 302: Competitive

Sealed Bidding - The Invitation for Bid (IFB) Process, except as otherwise provided in 305: Sole Source Procurement and Section 306: Emergency Procurement.

### **502.3 Construction-Manager-at-Risk, Design-Build and Job-Order-Contracting**

The District shall procure construction services under the construction-manager-at-risk, design-build and job-order-contracting project delivery methods according to Section 508: Alternative Construction Procurement Methods.

The District shall procure design services relating to a construction-manager-at-risk construction services project according to Section 508: Alternative Construction Procurement Methods.

For job-order-contracting construction services projects, if the District does not include design services in the job-order-contracting construction services contract, the District shall procure any design services relating to job-order-contracting construction services projects under the contract according to Section 506: Architect, Engineer, Land Surveying and Related Services.

**503 Bid Security**

Bid security shall be used on all competitive sealed bidding for construction contracts that exceed \$25,000 in value, unless a waiver is deemed appropriate and approved by the Purchasing Manager. Bid security protects the District against the failure or refusal of the low bidder to supply the necessary performance and payment bonds, as required, and to proceed with the performance under the contract.

Bid security shall be provided by a surety company licensed to conduct business in the State of Arizona or it shall be in the form of a cashier's check made payable to the District.

Bid security is set at 10% of the bidder's base bid amount. Bid security is required to be submitted at the time of the submittal of the sealed bid. If the bidder fails to accompany its bid with bid security, the bid shall be considered non-responsive.

If a bid does not comply with the security requirements, the bid shall be rejected as non-responsive, unless the failure to comply is determined by the Purchasing Manager to be non-substantial where:

- A. Only one bid is received and there is not sufficient time to rebid the contract;
- B. The amount of the bid security submitted, while less than the amount required by the Invitation for Bid, is equal or higher than the difference in the price stated in the next higher acceptable bid; or
- C. The bid guarantee becomes inadequate as a result of the correction of a mistake in the bid or bid modification, if allowed, if the bidder increases the amount of the guarantee to required limits within two working days after bid opening.



## 504 Performance and Payment Bonds

A performance bond is required for all construction contracts that exceed \$25,000 in value, in the amount of 100% of the contract price. The performance bond shall be delivered to the District at the same time the contract is executed. If a contractor fails to deliver the performance bond, the contractor's bid shall be rejected, its bid security shall be enforced, and award of the contract shall be made to the next lowest responsible and responsive bidder.

A performance bond protects the District against loss resulting from the failure of the contractor to perform a construction contract in accordance with plans and specifications.

A payment bond is required for all construction contracts that exceed \$25,000 in value, in the amount of 100% of the contract price. The payment bond shall be delivered to the District at the same time the contract is executed. If a contractor fails to deliver the payment bond, the contractor's bid shall be rejected, its bid security shall be enforced, and award of the contract shall be made to the next lowest responsible and responsive bidder.

A payment bond guarantees payment and protection for those furnishing labor and materials to the contractor or its subcontractors for the work bonded.

**505 Changes in Construction Contracts**

At any time, the Purchasing Manager may, in a signed letter without notice to the surety, approve a change order that may make:

- A. Changes in the work within the scope of the contract; and
- B. Changes in the time for performance of the contract that do not alter the scope of the contract.
- C.

If this change order increases or decreases the contractor's cost of or the time required for performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made and the contract shall be modified in writing. A change order shall be used for this process.

**506 Architect, Engineer, Land Surveying and Related Services**

This procedure relates to the contracting of architect, engineer, land surveying, and related professional registrant services involved in the planning, design, construction, and renovation, of facilities for the District.

**506.1 Procurement of Professional Services in an amount of from \$50,000 to \$100,000**

For procurement of these professional services in an amount of from fifty thousand dollars (\$50,000) to one hundred thousand dollars (\$100,000), Purchasing shall assign a selection committee, which shall independently evaluate and score submittals received from firms or individuals responding to the District's Request for Qualifications. If possible, the selection committee may conduct discussions with a short list of at least three of the highest scoring firms or individuals.

Subject to review by Purchasing at their option, the College President or Vice President of Administrative Services shall initiate an appropriately qualified selection committee. The selection committee shall contain the Facilities Planning and Development (FPD) Project Manager and no more than six additional members selected from college administration, Facilities/ Maintenance and Operations, and representatives of the project's user groups. A non-voting representative of Purchasing will observe all meetings and selection committee activities.

For projects that include architectural or engineering work with selection made on a qualifications basis, the selection committee shall have at least one person who is an architect or engineer registered to practice in the State of Arizona. The design professional may be an employee of the District and the FPD project manager may fulfill this requirement. If they are not a registrant, an additional member will be added to the selection committee to meet this requirement. At FPD's option, one additional external architect or engineer may be added to the committee as a voting participant and will not count against the six college representative limit.

Outside architects and engineers serving on a selection committee shall not receive compensation for performing this service. A person who is a member of a selection committee shall not be a contractor under a contract awarded or provide any professional or other services under the contract awarded through this selection.

**506.2 Procurement of Professional Services in an amount greater than \$100,000**

For the procurement of professional services in an amount of more than one hundred thousand dollars (\$100,000) the District shall follow the standard Request for Proposal (RFP) procedures as outlined in section 303. The contracting of these related types of services may be made in advance for use on an "as-needed" basis for smaller projects that do not exceed \$500,000 in value. The Request for Proposal process as outlined in



## Maricopa Community College District Purchasing Procedures Manual

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### Chapter Five: Procurement of Construction and Construction Consultant-Related Services

Section 303 shall be used for these types of procurements. A master listing of these chosen providers by type of service shall be maintained.

**507 Construction by District Employees**

Employees may construct a building, structure, addition, or alteration of a District facility, if the cost does not exceed forty thousand dollars (\$40,000).

For this procedure, "Cost" means the aggregate cost of all materials and services, including labor performed by District employees.

Force account work provided under this section shall adhere to the following [guidelines maintained by the district's facilities planning and development department](#).

## 508 Alternative Construction Procurement Methods

Professional services and construction services shall be procured for the alternative construction procurement methods as outlined in this section. Exceptions are those instances in which Sole Source Procurement, Section 305, or Emergency Procurement, Section 306 apply. Alternative construction procurement methods as defined in Section 502, Construction Procurement, are construction-manager-at-risk, design-build, and job-order-contracting.

### 508.1 Definitions

For purposes of this section, "construction services" includes: construction-manager-at-risk construction services, design-build construction services, and job-order-contracting construction services. These may or may not contain a professional services component. For the purposes of this section, "professional services" includes architect services, engineer services, landscape architect services, assayer services, geologist services and land surveying services and any combination of those services, provided by a registered professional.

RFQ or Request for Qualifications means a solicitation with an intended response that includes initial data about a firm or individual such as experience, references, and approach to the project. For purposes of this section, pricing may not be required in the initial solicitation.

RFP or Request for Proposals means a solicitation with an intended response that is fairly detailed. For purposes of this section, it will supplement an initial RFQ response. Also, for purposes of this section, the technical and financial portions of the proposal response will be provided at the same time, but in a separately sealed manner, to enable the committee to review the technical response separately and prior to the review of the financial proposal.

For procurement of construction services relating to the alternative construction procurement methods, two thresholds apply:

### 508.2 Procurement of All Alternative Construction Services

For procurement of construction-manager-at-risk, design build and job-order-contracting, the District shall follow these procedures:

The District shall announce and issue the solicitation according to its normal procedures. Subject to review by Purchasing at their option, the College President or Vice President of Administrative Services shall initiate an appropriately qualified selection committee. The selection committee shall contain the Facilities Planning and Development (FPD) Project Manager and no more than six additional members selected from college administration, Facilities/Maintenance and Operations, and representatives of the project's user groups.

A non-voting representative of Purchasing will observe all meetings and selection committee activities.

For projects that include construction with selection made on a qualifications basis, the selection committee shall have at least one person who is a senior management employee of a licensed contractor and one person who is an architect or engineer registered to practice in the State of Arizona. The contractor or design professional may be an employee of the District and will not count against the six college representative limit.

Outside architects, engineers or contractors serving on a selection committee shall not receive compensation for performing this service. A person who is a member of a selection committee shall not be a contractor under a contract awarded under the procurement or provide any professional services, construction, construction services, materials or other services under the contract awarded through this selection.

The selection committee shall:

- A. Independently evaluate and score the written proposals and qualifications submitted by the firms or individuals.
- B. If outlined in the solicitation, shall attempt to conduct discussions with at least three of the highest scoring firms or individuals. If only two firms or individuals respond to the solicitation, the committee may proceed with the selection process or Purchasing may re-solicit for additional proposals. If only one firm or individual responds to a solicitation for professional services, the selection committee may choose to proceed with the process with that firm or individual if Purchasing determines in writing that the fee negotiated as a result of the process is fair and reasonable and that other firms and individuals had a reasonable opportunity to respond, or if there is not adequate time for a re-solicitation.

### 508.3 The One-Step Competitive Process

Purchasing shall enter into contract negotiations with the highest qualified firm or individual for the professional services or construction services as a result of following the processes outline in section 508.2 or section 508.3. Negotiations shall include fees as well as other contractual terms and conditions deemed fair and reasonable and important to the District. Purchasing shall take into account the estimated value, scope, complexity and nature of the procurement. If Purchasing is unable to negotiate a satisfactory agreement with the firm or individual considered to be the most qualified, then Purchasing shall terminate those negotiations and undertake negotiations with the next most qualified firm or individual in sequence until an agreement is reached. If a construction contract is entered into as a result of this process, construction shall not

begin until Purchasing and the contractor agree in writing on a price for the construction portion of the contract.

#### 508.4 The Two-Step Competitive Process

For design-build construction services or job-order-contracting, as an alternative to the one-step competitive process outline in Section 508.3 above, Purchasing Dept may utilize the following process:

- A. Purchasing shall issue a Request for Proposals to those firms or individuals short-listed as a result of the process outlined above.
- B. The selection committee make up shall remain the same as outlined in sections 508.2 or 508.3 above.
- C. For design-build construction services and job-order-contracting construction services, the Request for Proposals shall include:
  1. Specifically, for design-build construction projects, the project schedule, project final design and construction budget or life cycle budget.
  2. For both types of services, a statement that the contract will be awarded to the firm or person whose proposal receives the highest number of points under a scoring system.
  3. A description of the scoring method, including a list of factors in the scoring method and the number of points allocated to each factor. Those factors may include:
    - i. Proposer's qualifications
    - ii. Proposer's financial capacity
    - iii. Proposer's proposed compliance with the District's project schedule
    - iv. Proposer's quality management plan
    - v. Any other evaluation factors as determined by Purchasing.
    - vi. For design-build construction services only, demonstrated compliance with the design requirements.
    - vii. For design-build construction services only, if the Request for Proposals specifies the District will spend its project budget and not exceed that budget, and thus is seeking the best proposal for the project budget.
  4. A requirement that each proposer submit separately a technical proposal and a price proposal and that the proposer's entire proposal is responsive to the RFP. For design-build construction services, the price in the proposal shall be a fixed price or a guaranteed maximum price.
  5. A statement that the selection committee will separately evaluate the technical proposal and the price proposal, and that they will evaluate and score the technical proposal before opening the price proposal.
- D. If determined by Purchasing and noted in the RFP, the selection committee or a subcommittee consisting of Purchasing and at least one other member may



conduct discussions with any or all firms or individuals chosen. Discussions shall be for the purpose of clarification to assure full understanding of the project and responsiveness to the solicitation requirements. Information from proposals submitted and discussions held shall not be disclosed to competing proposers.

- E. Best and Final Offer submittals may be requested of any or all finalists. These submittals shall contain both technical and financial information. The final technical proposals shall be evaluated and scored first before opening and evaluating and scoring final financial proposals.
- F. Purchasing shall award the contract to the responsive and responsible proposer whose proposal receives the highest score.
- G. For design-build construction services only, the District shall award a stipulated fee equal to a percentage of the District's project final construction budget, as prescribed in the request for proposals, but not less than two-tenths of one per cent of the project final construction budget to each short listed proposer who provides a responsive, but unsuccessful, proposal.

If the District does not award a contract, all responsive short listed proposers shall receive the stipulated fee based on the District's estimate of the project final design and construction budget as included in the request for proposals. The District shall pay the stipulated fee to each proposer within ninety days after the award of the initial contract or the decision not to award a contract. In consideration for paying the stipulated fee, the District may use any ideas or information contained in the proposals in connection with any contract awarded for the project, or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the unsuccessful proposers.

Notwithstanding the other provisions of this paragraph, an unsuccessful short list proposer may elect to waive the stipulated fee. If an unsuccessful short list proposer elects to waive the stipulated fee, the District may not use ideas and information contained in the proposer's proposal, except that this restriction does not prevent the purchasing agency from using any idea or information if the idea or information is also included in a proposal of a proposer that accepts the stipulated fee.

## **508.5 Job-Order-Contracting Dollar Limits and Subcontracting**

For job-order-contracting construction services only:

- A. The dollar amount of an individual job order shall not be more than one million dollars (\$1,000,000.00) Requirements shall not be artificially divided or fragmented in order to constitute a job order that satisfies this requirement.
- B. If the contractor subcontracts or intends to subcontract part or all of the work under a job order and if the job-order construction services contract includes descriptions of standard individual tasks or standard unit prices for standard individual tasks, then:

1. The contractor has a duty to deliver promptly to each subcontractor invited to bid, a copy of the descriptions and the standard unit prices of all standard individual tasks on which the subcontractor is invited to bid.
2. The contractor has a duty to deliver promptly the following to each subcontractor that has agreed to do any of the work included in any job order, a copy of the description, the number of units and the standard unit price of each standard individual task that is included in the job order.

### 508.6 Confidentiality of Process

Until award and execution of a contract by the District, only the names of each firm or individual on the short list may be made available to the public. All other information received by the District in response to the request for qualifications or contained in the proposals shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing proposers during the selection process. The proposals shall be open to public inspection after the contract is awarded and the District has executed the contract. To the extent that the proposer designates and Purchasing concurs, trade secrets and other proprietary data contained in a proposal shall remain confidential.

### 508.7 Cancellation of Procurement Process

Purchasing may cancel a request for qualifications or a request for proposals or reject in whole or in part any or all submissions of qualifications or proposals as specified in the solicitation if it is in the best interest of the District. Purchasing shall make the reasons for cancellation or rejection part of the purchasing file.

### 508.8 Registrations, Licensure and Project Definition

- A. The successful contractor for construction-manager-at-risk, design-build or job-order-contracting construction services is not required to be registered to perform design services pursuant to Title 32, Chapter 1 of the Arizona Revised Statutes, if the person or firm actually performing the design services on behalf of the contractor is appropriately registered.
- B. The successful contractor for construction-manager-at-risk, design-build or job-order-contracting construction services is not required to be licensed to perform construction pursuant to Title 32, Chapter 10 of the Arizona Revised Statutes, if the firm actually performing the construction on behalf of the contractor is appropriately licensed.
- C. Each project under a design-build construction services contract or a construction-manager-at-risk construction services contract shall be a specific, single project. For the purposes of this paragraph, "specific, single project" means

a project that is constructed at a single location, at a common location or for a common purpose.

#### 508.9 Prohibition against Competing with Private Firms or Contracting with other Agencies for these Services

Notwithstanding anything to the contrary in this procedure, the District shall not:

- A. Enter into a contract as a contractor to provide construction-manager-at-risk construction services, design-build construction services or job-order-contracting construction services to others.
- B. Contract with itself, with another District, with the state or with any other governmental unit of the state or the federal government to provide construction-manager-at-risk construction services, design-build construction services or job-order-contracting construction services for itself.
- C. The prohibitions prescribed in this section do not prohibit the District from providing design or construction services for itself as provided by law.

#### 508.10 Reporting Requirements

On or before December 15 of each year, if the District uses construction-manager-at-risk, design-build or job-order-contracting to procure construction services in a calendar year, District shall transmit to the State Board of Directors for Community Colleges a report on the benefits associated with the use of construction-manager-at-risk, design-build or job-order-contracting to procure construction services. The report shall include the number of projects completed in the preceding calendar year using the procurement methods, the cost and description of each project and an estimate of any cost savings or other benefits realized through the use of the procurement method.

Related Procedures:

[502: Construction Procurement](#)

[506: Architect, Engineer, Land Surveying and Related Services](#)

## 601 Contracts for Supplies and Services Modification and Termination

Contracts for supplies and services are subject to modifications and termination within the guidelines of the specific contract.

The following types of changes may be made to existing contracts:

- A. Fixed-price contracts may be changed within the general scope of the contract in any one or more of the following areas:
  - 1. Date of delivery
  - 2. Location of delivery
  - 3. The method of shipment or packaging
- B. Blanket orders for commodities or services may be amended at agreed upon times and milestones.
  - 1. This may be to adjust price upward to compensate for inflation and other factors that have affected the contract over time; or
  - 2. It may be to adjust pricing downward to compensate for changing market variables.

These requests for changes must be substantiated in writing and agreed upon in advance in the original contract.

Contracts may be terminated for cause and for mutual convenience of both parties.

Requests for terminations for cause must be documented and approved by the Purchasing Manager. Terminations for mutual convenience by both the supplier and the District also must be approved by the Purchasing Manager in advance.



701	This section is not currently used
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**801      Delegation of Authority**

The Surplus Property Manager is delegated the responsibility to act on behalf of the district on all matters relating to the disposition of excess and surplus materials.

This responsibility is delegated from the Chancellor through the Vice Chancellor for Business Services and the Chief Procurement Officer to the Surplus Property Manager.

No college, center, or unit shall transfer, sell, trade-in, donate or otherwise dispose of materials owned by the District without written authorization of the responsible Dean or Department Head assigned that responsibility. These approvals must be received prior to acceptance of the request by the Surplus Property Manager.

## 802 Disposition of Surplus Materials

Colleges, centers, and units shall notify the Surplus Property Manager of all excess and surplus property and shall use the appropriate procedures and forms for its transfer and disposal.

The Surplus Property Manager shall determine the fair market value of excess and surplus property. Methods used for determining value may include quotations, estimates, use of reference guides and other publications, as well as market indexes.

The Surplus Property Manager shall facilitate the transfer of excess or surplus materials to or between colleges and eligible non-profit educational institutions. These excess or surplus materials must be offered to the colleges and other district operations prior to offering them to eligible non-profit educational institutions. Eligible non-profit educational institutions receiving surplus materials must sign an agreement stating that they will not sell, dispose, or transfer this equipment for the period of one year.

Surplus materials shall be offered through public auction, competitive sealed bids, established markets, or posted prices. If unusual circumstances render the above methods impractical, the Surplus Property Manager may employ other disposition methods, including appraisal or barter, provided the Surplus Property Manager makes a written determination that such procedure is advantageous to the district.

Methods of disposition of surplus materials:

1. Public auctions may be used to dispose of surplus materials. These auctions shall be advertised at least two (2) times prior to the auction date, the last notice to be no less than six days prior to the auction date. All the terms and conditions of any sale shall be available to the public at least 24 hours prior to the auction date.
2. Competitive sealed bidding may be used to dispose of surplus materials. Notice for sale bids shall be publicly available from the Surplus division at least ten days before the date set for opening bids. Notice of the sale bids shall be posted on the Surplus Department's website. The notice for sale bids shall list the materials offered for sale, their location, availability for inspection, the terms and conditions of sale, and instructions to bidders including the place, date, and time set for bid opening. Bids shall be opened publicly.  
The award shall be made in accordance with the provisions of the notice for sale bids to the highest responsive and responsible bidder, provided that the price offered by such bidder is acceptable to the Surplus Property Manager. If the Surplus Property Manager determines that the bid is not advantageous to the district, the Manager may reject the bids in whole or in part and may re-solicit bids; or the Manager may negotiate the sale, provided that the negotiated sale price is higher than the highest responsive and responsible bidder's price.
3. Trade-in options may be used to dispose of surplus materials. Before surplus materials are disposed of by trade-in to a vendor for credit on an acquisition, the

Surplus Property Manager and Chief Procurement Officer or designee shall approve such disposal. The Surplus Property Manager shall base this determination on whether the trade-in value is expected to exceed the value realized through the sale or other disposition of such materials.

**Definitions:**

**Excess or Surplus Property:** Any goods, equipment, supplies or materials, including scrap and building materials.

**Eligible non-profit educational institution:** An institution sponsored by the Arizona State Board of Education, the Arizona State Board for Charter Schools, or an Arizona school district.



**803 Employee Participation in Surplus Property Sale**

An employee of the owning or disposing college, center, or operating unit shall not directly or indirectly purchase or agree with another person to purchase surplus property if said employee is, or has been, directly or indirectly involved in the purchase, disposal, maintenance, or preparation for sale of the surplus material.

**804 Surplus Material Acquisition Programs**

The District may acquire surplus materials from the United States government and the State of Arizona as well as any other governmental sub-division allowing the transfer or sale of surplus to similar organizations, and may distribute surplus materials as may be usable and necessary for public purposes to a college, center, or operating unit of the District.

**Authority for Transfer of Material**

The Surplus Property Manager may confer on any employee, authority to secure the transfer of surplus materials from the above listed agencies or organizations. Prior authorization must be granted for each transaction.

**805 Fees and Charges**

The department may make proper charges and assess proper fees for the acquisition, receipt, warehousing, rehabilitation, delivery, distribution, or transfer of excess and surplus materials. Such fees and charges shall be fair and equitable and shall be based on services performed including acquisition, receipt, warehousing, rehabilitation, delivery, distribution, or transfer. A reasonable charge shall be made for maintenance and repair services.

All monies coming into the department derived from surplus materials fees and charges shall be placed in a surplus materials revolving fund. Monies in the fund shall be available for the purpose of carrying out the provisions of these procedures.

**806 Reports**

Monitoring reports shall be provided to the Vice Chancellor for Business Services. These reports shall include lists of employees and relatives of employees purchasing surplus materials. These shall be provided at least quarterly, if an auction or other sales occur during that time.

## 901 Protest and Appeals of Contracts and Awards

### 901.1 Content of Formal Protest and Appeal Letter

Any participating bidder may file a protest of a contract award or proposed contract award. The protest or appeal must be in writing and contain at least the following information:

1. The name, address and telephone number of the protester.
2. The signature of the protester.
3. The bid number and date of bid closing.
4. A statement of the legal and/or factual grounds on which the protest or appeal is based, including copies of information relevant to the bid.
5. The form of relief requested.

### 901.2 Filing Procedure

Protests are to be filed with the Chief Procurement Officer, Maricopa Community College District, within 10 days of award. Failure to timely protest shall be deemed a waiver of all rights to protest.

If a protest is filed before the award of a contract, no award shall be made until the protest has been administratively resolved, unless the Chief Procurement Officer makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the community college district.

A written decision will be made within 10 days after the protest has been filed. The decision shall contain an explanation of the basis of the decision. The Chief Procurement Officer shall furnish a copy of the decision to the protester by certified mail, return receipt requested, or by any other method that provides evidence of receipt.

The time limit for a decision may be extended by the Chief Procurement Officer for a reasonable time not to exceed thirty days. The Chief Procurement Officer shall notify the protester in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.

### 901.3 Remedies

If the Chief Procurement Officer sustains the protest in whole or in part and determines that a solicitation, proposed contract award, or contract award does not comply with District Policies or procedures, the Chief Procurement Officer shall implement an appropriate remedy.

In determining an appropriate remedy, the Chief Procurement Officer shall consider all the circumstances surrounding the procurement or the proposed procurement, including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent of performance, cost to the government, the urgency of the procurement, and the impact of relief on the district's mission.

An appropriate remedy may include one or more of the following:

Decline to exercise an option to renew under the contract; terminate the contract; reissue the solicitation; issue a new solicitation; award a contract consistent with this District Policy and procedures; reject all bids or proposals without further actions; or such other relief as determined necessary to ensure compliance with this District Policy or procedures.

#### **901.4 Appeals**

Appeals are to be filed with the Chief Procurement Officer within 5 days of the receipt of the decision. The notice of appeal shall contain:

The information from the original protest letter, a copy of the decision of the Chief Procurement Officer, and the basis for the appeal.

The procurement officer shall immediately give written notice of the pending appeal to the successful contractor if award has been made or, if no award has been made, to interested parties. Any party so notified shall, upon request, be furnished with a copy of the notice of appeal filed in the matter.

The Chief Procurement Officer shall notify the Governing Board or its designee of the appeal. Any hearing or appeal shall be conducted by the Governing Board or its designee as hearing officer. A written decision will be made within 14 days after the appeal has been filed.

The time limit for a decision may be extended by the hearing officer for a reasonable time not to exceed thirty days. The hearing officer shall notify the protester in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.

##### **901.4.1 Stay of Procurement During Appeal**

If an appeal is filed before an award of contract and the award of the contract was stayed by the procurement officer, the filing of an appeal shall automatically continue the stay unless the hearing officer conducting the appeal makes a written determination that the

award of the contract without delay is necessary to protect the substantial interest of the District.

#### **901.4.2 Dismissal Before Hearing**

The hearing officer conducting the appeal shall dismiss, upon a written determination, an appeal before scheduling of hearing if the appeal does not state a valid basis for protest; or the appeal is untimely.

#### **901.5 Remedies**

If the hearing officer sustains the protest in whole or in part and determines that a solicitation, proposed contract award, or contract award does not comply with District policies or procedures, the hearing officer shall implement an appropriate remedy. Remedies shall follow those outlined in the previous section on remedies.

## 902 Contract Claims and Dispute Resolution

### 902.1 Applicability

This procedure applies to claims, controversies or disputes between the Maricopa County Community College District and a contractor arising from activities or inactions on a contract between the two. This includes disagreements of any kind, such as claims or disputes asserting breach of contract, mistake, or misrepresentation, contract modification or rescission, and those regarding interpretation of the contract and the parties' responsibilities under it. It is the policy of the Maricopa County Community College District to attempt to resolve claims, disputes or controversies in good faith, engaging the formal process specified in these procedures only where necessary.

### 902.2 Authority

The Purchasing Manager or, for construction and related service contracts, the Director of Facilities Planning and Development, or their designees, ("Contract Administrator") are authorized to settle and resolve contract claims, controversies and disputes, subject to the restrictions and limits of section 902.3 and the procedures of the Capital Development Advisory Council. Appeals of final decisions made by the Contract Administrator on a claim, controversy or dispute may be made to the Director of Strategic Business Support Services ("Chief Procurement Officer") following the format outlined in section 902.4.

### 902.3 Restrictions and Limits

Settlement of a claim is subject, where appropriate, to policies and practices of the Governing Board requiring its approval in certain cases.

### 902.4 Timeliness and Format of the Initial Claim

The Contract Administrator shall initially consider and resolve claims, controversies and disputes according to the procedures and within the times specified in the contract. In any event, any claim, controversy or dispute must be filed with the Contract Administrator within 180 days after the date that the claim, dispute or controversy arose.

The claim, controversy or dispute not resolved according to the contract's procedures shall be subject to the procedures specified below. The contractor must file with the Contract Administrator in writing at least the following information, and any other information specified in the contract:

1. The name, address, and telephone number of the contractor and the person representing the contractor.



2. The signature of the person representing the contractor.
3. The contract number or other reference such as bid or RFP number, which will identify the contract.
4. A statement of the legal and/or factual grounds on which the claim is based, including copies of information relevant to the claim.
5. The form of relief requested.

### **902.5 The Contract Administrator's Decision**

If the claim, controversy or dispute cannot be resolved by mutual agreement, the Contract Administrator shall issue a written decision no later than 60 days after the initial claim, controversy or dispute is filed in writing. This final decision from the Contract Administrator shall include:

- A description of the claim;
- Reference to the pertinent contract provisions;
- A statement of the factual areas of agreement or disagreement;
- A statement of the Contract Administrator's decision with supporting rationale;
- A copy of this procedure, which outlines the appeal process.

A copy of this decision shall be provided to the contractor, by certified mail – return receipt requested, or by any other method that provides evidence of receipt.

### **902.6 Issuance of a Timely Decision by the Contract Administrator**

The Contract Administrator may extend the time limit for a decision for a reasonable time, not to exceed 30 days, but only with the approval of the Chief Procurement Officer. The Contract Administrator shall notify the contractor in writing that the time for issuance of a decision has been extended and the date in which a decision shall be issued. If the Contract Administrator fails to issue a decision within the time allowed, the contractor may proceed as if the Contract Administrator had issued a decision adverse to the contractor.

### **902.7 Appeal of the Decision of the Contract Administrator**

The contractor shall have the right to appeal the decision of the Contract Administrator. It shall file its appeal with the Chief Procurement Officer within five days from the date the decision is received. The appeal shall contain all the information listed in section 902.4 as well as a statement of the precise factual or legal error in the decision of the Contract Administrator from which the appeal is taken.

### **902.8 Issuance of a Timely Decision by the Chief Procurement Officer**

The Chief Procurement Officer shall have 30 days in which to render a decision on the appeal. The time limit for a decision by the Chief Procurement Officer may be extended

for a reasonable time, not to exceed 30 days, but only upon the approval of the Vice Chancellor for Business Services in consultation with legal counsel. If an extension is granted, the Chief Procurement Officer shall notify the contractor in writing that the time for issuance of a decision has been extended and the date in which a decision shall be issued.

## **902.9 Chief Procurement Officer's Decision**

This final decision from the Chief Procurement Officer shall include:

- A description of the claim;
- Reference to the pertinent contract provisions;
- A statement of the factual areas of agreement or disagreement;
- A summary of the procurement officer's decision;
- A statement of the Chief Procurement Officer's decision with supporting rationale;

A copy of this decision shall be provided to the contractor, by certified mail – return receipt requested, or by any other method that provides evidence of receipt.

## **902.10 Hearing**

The contractor shall make any appeal of the decision of the Chief Procurement Officer within 5 days of the receipt of the decision. The contractor shall file the appeal with the Chief Procurement Officer.

The appeal shall contain all the information listed in section 902.4 as well as a copy of the decision of the Chief Procurement Officer and a statement of the precise factual or legal error in the decision of the Chief Procurement Officer, from which the appeal is taken.

The Chief Procurement Officer shall notify the Governing Board or its designee of the appeal. The Governing Board or its designee shall conduct any hearing on the appeal. The Governing Board or its designee shall issue a written decision within 30 days after the appeal has been filed.

The Governing Board or its designee may extend the time limit for a decision on the appeal for a reasonable time not to exceed 30 days. The Governing Board or its designee shall notify the contractor in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.

## **902.11 Controversies Involving District Claims Against a Contractor**

All claims asserted by the District against a contractor that are not resolved by mutual agreement shall promptly be referred by the Contract Administrator to the Chief



Procurement Officer for a hearing without regard to the procedures outlined above in sections 902.1 through 902.9.

## 903 Unauthorized Purchases

- A. An "Unauthorized Purchase" is an agreement, a commitment, or an order for goods or services, or a change to existing contract by any person who does not have express written delegation of procurement authority to bind MCCCCD. This includes changes under existing contracts that are made by persons who do not have delegated purchasing authority. Unauthorized purchases are not binding on MCCCCD and the vendor may be advised to seek payment from the employee.
- B. Unauthorized Purchases include:
1. Placing an order without an approved Purchase Order.
  2. Placing an order either before or after submitting the requisition on the assumption that a PO has or will be approved.
  3. Over spending the authorized amount of a Blanket Purchase order.
  4. Coercing a vendor to initiate an order on the promise that a PO is forthcoming.
  5. Using personal funds to make a purchase of goods or services that would normally require the involvement of purchasing to secure competition, approve sole source or otherwise comply with MCCCCD policy and procedure with the intent to seek personal reimbursement.

### **Processing an Unauthorized Purchase**

When an unauthorized purchase is identified an "Unauthorized Purchase Letter" will be sent via email to all involved parties. The letter will outline the circumstances surrounding the unauthorized purchase and provide instructions for providing a response. The college president or district vice chancellor will also be copied. Prior to a purchase order being issued or a payment being authorized, Purchasing Department must receive a copy of written acknowledgement and approval from the college president or district vice chancellor.

## **1001 Cooperative and Joint Procurement**

The District is authorized to utilize various cooperative and joint purchase contracts for the procurement of goods, equipment and services.

These agreements are negotiated on the behalf of groups of educational institutions or governmental subdivisions. Some of these groups require membership in order to access these contracts, while others are purely voluntary and are available to all political subdivisions.

It is the intent of the District to support these contracts whenever possible. This includes assisting in the development and bidding phases as well as in reporting compliance with the contracts. The District however, reserves the right to obtain the best possible price and quality even if it means not utilizing these contracts.

The District also encourages bidding cooperatively to allow other agencies, districts, and governmental sub-divisions to access certain District contracts. The responsibility for placing orders, expediting, problem resolution, and payment shall remain with the organization that accesses the District contract.

## **1100 Supplier Development Program**

### **1100.1 Purpose**

The MCCCCD Supplier Development Program is designed to serve the needs of the District in furthering its vision relating to diversity as well as efficient use of resources. To further this vision, the District is committed to increased business activity with minority and women-owned businesses.

### **1100.2 Responsibility for the Program**

The program as outlined in Governing Board Policy, is the key responsibility of the Chief Procurement Officer as delegated by the Governing Board. Furthermore, all employees of the District are expected to participate in the key components of the plan. The Purchasing Department shall be responsible to perform the following:

#### **1100.2.1 This section is not currently used**

#### **1100.2.2**

Advise, train, and educate District employees of the program. Provide training to suppliers in order to enable them to better understand District processes.

#### **1100.2.3 This section is not currently used**

#### **1100.2.4 This section is not currently used**

#### **1100.2.5**

Maintain involvement in formal minority supplier development activities, through councils as well as community outreach activities.

### **1100.3 Applicability of Funds**

All funds expended by the District are subject to the guidelines of this program. The more restrictive requirements of certain grants or programs administered by the District will be followed.

#### **1100.4 Program Components**

##### **1100.4.1 Education and Training**

The Purchasing Department will coordinate the training and education of District employees to improve the awareness of the Supplier Development Program. Suppliers will be provided training in order to better understand District processes.

##### **1100.4.2 Identification of Resources**

The Purchasing Department will make an active effort to continually update and increase the Supplier Portal with minority and woman-owned businesses. This will include internal efforts as well as alliances with other agencies and organizations to obtain lists of additional suppliers.

##### **1100.4.3 Community Involvement**

The Purchasing Department and other departments and divisions shall retain an active role in a Minority Supplier Development Council. This will include membership as well as participation in trade fairs and other activities. Whenever possible, Purchasing Department representatives shall participate in any other joint efforts with other agencies or councils which will foster increased visibility in the community.

##### **1100.4.4 Procurement Activities**

The Purchasing Department shall continue to offer, evaluate, and award bids or proposals according to District Purchasing Policy. In informal competitive procurement processes (those procurements under the formal bid limit) every effort will be made to ensure participation from minority or women-owned businesses.

##### **1100.4.5 Subcontracting Opportunities**

Construction contracts of \$100,000 or more shall include language encouraging minority subcontractor participation. The general contractor shall be required to report subcontracts and equipment purchases from minority and woman-owned businesses. A final subcontracting report will be required before final payment is released.

**1100.4.6 This section is not currently used**

**1100.5 This section is not currently used**

**1100.5.1 This section is not currently used**

**1100.5.2 This section is not currently used**

**1100.6 This section is not currently used**

**1100.7 Definitions**

**1100.7.1 Competitive Purchases**

Means those purchases of goods or services that can be subjected to a competitive process. Not included would be dollars spent for sole source purchases including such items as utilities, registrations, and memberships.

**1100.7.2 Minority Owned Business**

Means a business that is owned, operated, and controlled at least 51 percent by a minority individual or individuals.

**1100.7.3 Woman-Owned Business**

Means a business that is owned, operated, and controlled at least 51 percent by a woman or women.



## 1201 Code of Ethics

All employees of the Maricopa County Community College District that participate in the procurement process, Purchasing staff as well as other District employees, will follow the following Code of Ethics based upon the Codes of the National Association of Educational Buyers and the National Institute of Governmental Purchasing.

As an employee, he/she:

- A. Believes in the dignity and worth of the services rendered by the organization and the social responsibilities assumed as a trusted public servant.
- B. Is governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.
- C. Believes that no employee shall, at any time or under any circumstances, accept directly or indirectly, gifts, gratuities or other things of value from suppliers.
- D. Seeks or dispenses no personal favors. Handles each administrative problem objectively and empathetically without discrimination.
- E. Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.
- F. Obtains maximum ultimate value from each dollar expended for products or services.
- G. Grants equal consideration to all competitive bidders; each transaction is evaluated on its own merit and fair, ethical, and legal trade practices are followed.
- H. Requires honesty from sales representation, whether through verbal or written statement, advertisement, or product sample.
- I. Uses only by consent, those original ideas and designs devised by one vendor for competitive purchasing purposes.
- J. Cooperates with professional and trade organizations and governmental and private agencies engaged in furthering the promotion and development of the Purchasing profession.

## 1202 Conflict of Interest - Employees

### 1202.1 Purpose

All MCCCCD employees must make known any actual or potential conflicts of interest by completing the form entitled, "[Disclosure of Substantial Interest](#)." The responsibility to keep this form updated lies with all MCCCCD employees and elected officials. Notice will be distributed annually, reminding all employees and Governing Board members of their need to complete this form. It is the responsibility of each person to keep the disclosure form current.

### 1202.2 Applicability

All Governing Board-Approved employees shall annually complete and submit a conflict of interest form and shall submit an acknowledgement that they have read and understand the District's Conflict of Interest Policy. Updated disclosures shall be made during the year by the employee as needed if circumstances change. Other employees may also be required by the Vice Chancellor of Business Services to annually complete these forms, given the nature of their job responsibilities and the potential for conflicts of interest.

### 1202.3 Procurement

Any MCCCCD employee who has, or whose relative has a substantial interest in any contract with, sale to, purchase from or service for the District shall refrain from participating in any such contract, sale, procurement, or service. Participation includes initiating, signing, or acting in a decision-making role.

The procurement of supplies, equipment, or services from any employee of the District is not authorized unless it is made through public competitive bidding. The Purchasing Department is not required to request competitive bids for procurement of small dollar value merely to allow District employees to bid.

### 1202.4 Record Keeping, Reporting, and Review

The Purchasing Department shall maintain the listing of disclosure forms and shall refer to it as part of the normal purchasing and contracting procedures. This is done to identify all potential conflicts of interest. All related party transactions shall be recorded in the Purchasing Department. Copies of the records shall be provided to the Controller's Office. Transactions shall be subject to periodic review by the Internal Audit Department.

**1202.5 Basis of Procedure**

The basis for this department procedure is the Governing Board Policy on Procurement Conflict of interest.

**1202.6 Definitions**

*Administrators*-- For this policy, means Chancellor, Vice Chancellors, President and Provosts, Deans, Associate Deans, Assistant Provosts and Administrative Directors.

**1203      Conflict of Interest - Consultants**

No individual or firm, including but not limited to consultants, architects, engineers, designers and other individuals or organizations preparing specifications or plans under contract to MCCCCD, shall receive a benefit, direct or indirect, from the utilization of such specifications or plans.

A similarly worded statement shall be included in all Requests for Proposal or Invitations for Bid that involve the writing or preparation of plans or specifications.

**1204 Purchasing for Employees and Private Individuals**

Purchasing staff will not negotiate or request special pricing or discounts on the behalf of any MCCCCD employee, faculty member, or private individual or conduct any personal purchases.

Any discounts or special programs offered to the faculty or staff by the vendor will be the sole responsibility of the vendor and the faculty and staff, and will not be processed through Purchasing channels. The offer of incentives or discounts by vendors to faculty and staff will not be considered in the award of any contract or agreement.

**1205      Evaluation Committee Member Statement**

Buyers should utilize a form titled, "Evaluation Committee Member Statement," as part of all IFB/RFP review processes.

This form covers the rules on confidentiality of the process prior to award. It includes the need to not contact or communicate with the bidders/ proposers and not to communicate with employees outside of the committee about the process in progress.

Each committee member should sign a copy of the form. The forms should be kept as part of the IFB/RFP file. In addition, any committee member is instructed to disclose any actual or potential conflict of interest relating to the IFB/RFP.