

Policy Title: **PROCUREMENT**

### **Purpose**

This policy provides direction for the procurement of needed materials and services while ensuring open and free competition and compliance with all relevant laws, statutes, and regulations.

### **Definitions**

- A. Approving Authority—The District employee who has authority to sign procurement agreements and obligate the District.
- B. Federal grant funded—Includes funding directly received from federal agency and federal funding passed through another granting agency.
- C. Invitation for Bid (IFB)—Sealed bid procurement process used when price is the sole criterion that will determine which vendor is selected. IFBs are administered in the Procurement Office.
- D. Procurement—Buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, equipment or construction.
- E. Public construction—All labor and materials used in the framing or assembling of component parts in the erection, installation, enlargement, alteration, repair, conversion, razing, demolition, or removal of any fixed equipment, building, or facility.
- F. Request for Proposal (RFP)—Sealed proposal procurement process used when criteria in addition to price are considered in determining which vendor is selected. All evaluating criteria must be clearly disclosed in the solicitation. RFPs are administered in the Procurement Office.
- G. Total Cost – The total dollar value of the intended purchase, either the total commitment if signing a contract (number of years times annual spend) or the estimated project cost.

### **General Requirements**

- A. Every procurement transaction must be formally processed and approved by the proper approving authority. All procurements require a requisition and purchase order to be approved and issued before the procurement is initiated, except for procurement card purchases.
- B. When all other factors are equal, the District will patronize local businesses. If both businesses are in district, then the District will do a coin flip to determine the awardee.
- C. Procurement contracts may be awarded for periods of up to five years, with the option of additional consecutive one-year extensions up to a maximum total contract length (including extensions) of seven years. Exceptions include audit services (contracts limited to five years total), ERP systems (contracts limited to ten years total), and legal services (annual engagement letter).
- D. The Purchasing Manager and Executive Team are responsible for administering the

District’s procurement policy.

- E. Signed contracts will be maintained by the Purchasing Manager.
- F. The College will document the outsourcing of all services with a written agreement.
- G. The College will review the System of Award Management (SAM) to ensure potential contractors/vendors do not have an active exclusion record.
- H. Per the requirements of Administrative Rule TCS 6.05(2)(k), the Purchasing Manager will have procedures in place to provide oversight over all procurements.

**Procurement Authorization**

Approving authority is based on the total estimated amount of the procurement over the life of the contract. Authority to sign a contract and/or obligate the District is outlined below:

<b>Type of Procurement</b>	<b>Estimated Value</b>	<b>Approving Authority</b>
All	Under \$10,000	Cost Center Manager or Purchasing Manager
All	\$10,000 - \$24,999	Dean, Director, or Purchasing Manager
Non-construction	Greater than or equal to \$25,000	Executive Team Member or Purchasing Manager
Construction Projects	Greater than or equal to \$25,000	District Board Chairperson and Secretary
Memoranda of Understanding (MOU) involving potential procurement obligations	Any	President or Executive Team Member
Property Rental and Leases that require WTCS State Board approval	Any	President

All federal procurement contracts shall contain contract provisions in accordance with 2 CFR Part 200 Appendix II. All non-federal procurement contracts in excess of \$50,000 shall contain:

1. Provisions for termination by the District
2. Conditions under which the contract may be terminated for default
3. Conditions under which the contract may be terminated for circumstances beyond the control of the contractor
4. Provisions for administrative, contractual, or legal remedies when contractors violate or breach contract terms
5. A provision requiring compliance with Executive Order 11246, entitled “Equal Employment Opportunity” as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60). For public construction contracts, the threshold for compliance with this provision is \$10,000.

## Code of Conduct

Employees must adhere to administrative policy *Code of Ethics/Conflicts of Interest*. In addition, employees are prohibited from splitting large procurements into smaller procurements in order to bypass procurement rules.

## Methods of Procurement

As depicted in the flowchart below, the method of procurement for a particular item or service is dependent on multiple factors. Unless one of the exceptions listed below applies, procurements must follow one these processes:

- 1. Micro-purchase Process:** Certain procurements do not require a competitive process. However, an effort should be made to obtain the best possible price by seeking quotes from more than one vendor. Procurements must be made via a procurement card (subject to procurement card guidelines) or by creating a requisition.

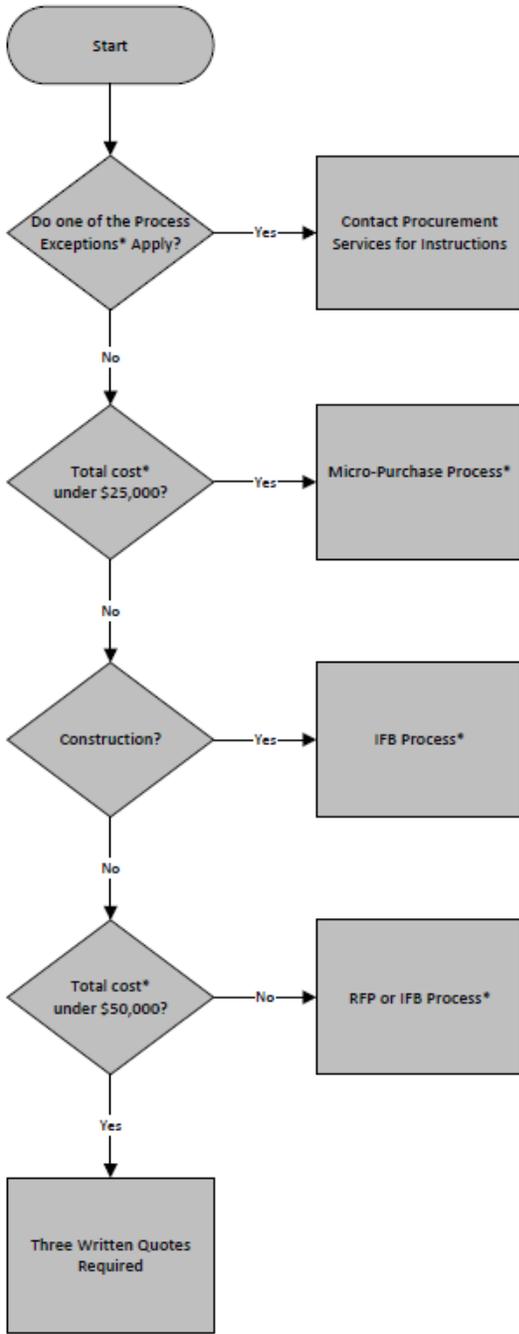
To the extent practicable, procurements should be distributed among qualified suppliers or a competitive selection process may still be required based on total spend with a single vendor over the course of the year. See *Annual Review of Procurements* section for more information.

- 2. Written Quotes Required:** Procurements that fall into this category shall be based on written quotations from at least three vendors.
- 3. RFP or IFB Process:** All RFPs and IFBs must be administered through the Procurement office. The Purchasing Manager and the College's Executive Team are responsible for ensuring that the bid process complies with all applicable laws and regulations including the requirements of the WTCS Financial and Administrative Manual (FAM).

**Process Exceptions:** The following are allowable exceptions to the competitive requirements listed above. Procurements made via an exception process must still follow all procurement authorization guidelines.

- A. Cooperative Purchasing:** Procurements from state and government contracts and other contracts approved by the Wisconsin Technical College System (WTCS) provided the vendor was selected through a competitive process by the contracting agency.
- B. Used Equipment** (with pre-approval from granting agency if grant funded)
- C. Resale Items:** Items purchased with the intent of reselling to students and/or staff.
- D. Emergency Procurement:** Procurement necessitated by a threat to the continued operation of the District or to the health, safety, or welfare of students, staff or guests.
- E. Outside Legal Counsel:** While competitive bidding is not required, an annual letter of engagement is required.
- F. Sole Source:** The item is only available from a single source (e.g., utilities)
- G. Written Approval from a Granting Agency**

**Procurement Method Flowchart:**



\* See policy for definitions of terms.

**Brand Name Specific**

Specifications for bids or quotes should not be brand name specific, except under the following circumstances.

- Instructional equipment: Letters from key employers or advisory committee minutes

- specify that they need their employees trained on a specific brand of equipment.
- Non-instructional equipment: The equipment interfaces with existing District equipment and the function of the existing equipment will be impaired if a different brand is used OR the equipment is incorporated into a piece of existing District equipment that will not function using another brand OR existing District equipment includes a warranty that will be voided if component units are combined/replaced with another brand OR the federal or other granting agency authorizes or requires the use of a specific brand.

### **Grant Funded Procurement**

All grant funded procurements shall be made in accordance with 2 CFR 200 Sections 317-326 as well as any individual grant requirements. These procurements must still follow all procurement authorization guidelines listed above. In cases where the policies conflict, the more restrictive policy must be used unless prior approval is received from the relevant granting agency. Fox Valley Technical College has received approval from our cognizant federal agency (HHS) to use an increased micro-purchase threshold consistent with Wisconsin Administrative Code TCS 6.05(2)(f) and (g) currently set at \$25,000.

### **Recordkeeping**

By law, the Procurement Office will keep the following records for procurements over \$25,000:

1. The rationale for the method of procurement
2. The rationale for selection or rejection of any contractor or proposed contractor
3. The basis for cost or price.

In addition, procurements will follow the Financial Services Records Retention Schedule.

### **Annual Review of Procurements**

Administrative Rule TCS 6.05(2) (h) requires an annual report to the District Board by October 31<sup>st</sup> of each year that aggregates multiple procurements of similar goods and services. Where total procurements for any vendor exceed \$50,000 in a fiscal year, further analysis is conducted to determine if these procurements were made under an existing bid, quote or other contract with the respective vendor. The Purchasing Manager is responsible for evaluating these situations to determine if a more competitive procurement process should be used in the future with respect to procurements of similar goods, supplies, and services.

*Adopted: 12/18/1984*

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*Revised: 11/01/2022*