

HCC PROCUREMENT OPERATIONS PROCEDURES MANUAL

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ARTICLE 1. GENERAL PROVISIONS

1.1. Applicability

The following procedure apply to all HCC personnel including but not limited to faculty, staff, administration and Board of Trustees.

1.2. Mission

The Mission of the Procurement Operations Department is to promote transparency in the public procurement process by maximizing competition, ensuring best value and supporting small business participation while meeting the needs of Houston Community College students and client departments.

1.3. Vision

The Procurement Operations Department’s Vision is to bring value to Houston Community College through professionalism, to identify and complete relevant sourcing and revenue opportunities, and to become a world class - model public procurement department.

1.4. Purpose

As the nation’s leading Community College, the Purpose of the Procurement Operations Department is to meet the needs of our client departments in order to ensure the highest quality education and promote student success. Through professionalism and in accordance with governing laws, we shall deliver value and expediency in the services we provide.

These procedures are designed to support and facilitate the educational and public service mission of HCC through the acquisition of goods and services by applying best methods and business practices to promote public confidence in HCC.

A strong purchasing system begins with sound policies implemented through systematic procedures. Internal controls, careful planning, and cost-efficient practices such as bulk purchasing, and price/bid solicitation provide the framework for the efficient procurement of goods and services.

1.5. Non-discrimination

HCC shall not discriminate on the basis of race, gender identity and gender expression, national origin, religion, age, disability, sexual orientation and color in the selection of vendors and shall prohibit vendors from such discrimination in the selection of subcontractors and vendor’s employees. HCC may immediately terminate or disqualify from future contracts any contractor who engages in such discriminatory practices.

1.6. Authority

Unless otherwise specifically delegated or authorized herein, Procurement Operations has the sole authority to negotiate for the purchase of supplies, equipment, and services, subject to final purchasing authority by the person(s) specified in these procedures. HCC is not obligated or liable for any unauthorized procurement not obtained in strict compliance with HCC policy and these procedures.

In all cases, the Department reserves the authority to question and investigate, if necessary, any and all aspects of a Purchasing Requisition so that HCC’s best interests are served.

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1.7. Responsibility

The Department is responsible for the administration of procurement procedures created to implement HCC procurement policies adopted by the HCC Board of Trustees in accordance with local, state and federal law.

The Executive Director of Procurement Operations who functions as the Chief Procurement Officer is responsible for establishing and maintaining procurement procedures in consultation with the Chancellor and General Counsel and ensuring compliance with the procurement procedures and HCC procurement policies.

In addition to the published procedures, the Executive Director of Procurement Operations shall provide additional direction and guidance in the form of Procurement Guidelines, which shall be published online with the Procedures Manual.

All Procurement Operations personnel and other HCC personnel involved in the procurement process are responsible for understanding and complying with these procedures and [HCC Policies](#). Any situation requiring the consideration of an exception or variation from these procedures or HCC policies shall be brought to the attention of the Executive Director of Procurement Operations.

Procurement Operations has been assigned the following responsibilities:

- Procure goods and services for HCC.
- Inform HCC departments of alternative sources of supply and related discounts.
- Assist HCC departments in the procurement process.
- Expedite delivery of urgently needed goods and services when feasible.
- Maintain good vendor relationships.
- Provide accurate and complete information about procurement decisions to the Board of Trustees, the Chancellor and other HCC administrators.

Procurement Operations will from time to time collect and compile internal HCC customer service questionnaires/surveys from HCC departments. All persons involved in the HCC procurement process are encouraged to provide input toward improving the process at any time.

1.8. Rules of Construction

In these procedures, unless the context requires otherwise, words in the singular include the plural and vice versa, and words of a particular gender (or neutral) include any gender. If any provision of these procedures is held invalid, such invalidity shall not affect the other provisions or application of these procedures, which can be given effect without the invalid provision. To the extent any law applicable to any provision herein is amended, such amendment shall be considered incorporated herein for all purposes. HCC reserves the authority to interpret these procedures and HCC procurement policies.

1.9. Definitions

1.9.1. Acquisition

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Obtaining goods and services through best methods and business practices.

1.9.2. Agricultural Products

Includes textiles and other similar products.

1.9.3. Amendment

A document used to change the terms and/or conditions of a Solicitation.

1.9.4. Architect

An individual registered as an architect under Chapter 1051, Texas Occupations Code.

1.9.5. Award

The acceptance of a bid or proposal after all required approvals have been obtained which is then completed by the presentation of a purchase agreement_or written notice of award to the selected vendor.

1.9.6. Best and Final Offers or BAFO

In a competitive negotiation, the final proposal submitted after negotiations are completed that contains the proposer's most favorable terms for price, services and/or products to be delivered. Typically, it is utilized only in the competitive sealed proposal or request for proposal methods.

1.9.7. Best Value Determination

A determination made by HCC before the bid or proposal is advertised of the method of procurement that will be used in a particular procurement or group or type of procurements that will provide the best value to HCC and emphasizes value over price. Any reasonable factors related to value may be considered in determining the best value method, including but not limited to, the total life cycle cost of the item, the time to complete the procurement, cost of the method, anticipated quality of good or services likely obtained by the method, and the limitations of the various methods.

1.9.8. Bid

A statement of price, terms of sale, and description of the supplies, services, construction, or construction related services offered by a bidder in response to an invitation for bids under the competitive bid process or comparable procurement process.

1.9.9. Bidder

One who submits an offer or bid in response to a solicitation.

1.9.10. Blackout Period

The communications prohibition shall be imposed from the day the solicitation is first advertised through thirty (30) days after the contract is executed by the Chancellor or his/her designee, or when a determination is made that the contract will not be awarded. During this period, no HCC Trustee and no vendor shall communicate in any way concerning any pending Solicitation involving the Vendor, subject to the penalties stated herein.

1.9.11. Blanket Purchase Order

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An arrangement in which a vendor agrees to provide goods or services to HCC on a demand basis. Properly prepared, such an arrangement sets a limit on the period of time (typically no more than one year) it is valid and the maximum amount of money, which may be spent at one time, or within a specified period. It also identifies the persons authorized to place orders and/or accept goods under the order.

1.9.12. Business

Any profit or not for profit corporation, partnership, individual, sole proprietorship, joint venture, or any other private legal entity through which commercial activity is conducted.

1.9.13. Buyer

The designated personnel in the Procurement Operations Department on a particular requisition or purchase.

1.9.14. Capital Improvement

Construction or an architectural service as defined herein.

1.9.15. Change Order

A written order signed by the authorized parties (or otherwise authorized by the contract documents) to modify or amend a contract or purchase order. In construction contracts, it relates primarily to changes required by unanticipated circumstances not already covered by the plans, specifications or drawings for the project.

1.9.16. Collusion

An agreement, oral or written, usually secretive, which occurs between two or more persons to limit open competition by deceiving, misleading, or defrauding others to obtain an objective advantage over other bidders and/or over HCC. Examples include, but are not limited to an agreement among two or more firms to divide the market, set prices, limit production, share profits, back out of bids to allow another to win the procurement, or to misrepresent the independence of the relationship between the colluding parties (e.g., "shell entities.").

1.9.17. Commodity

An item of purchase, which may include office goods and materials, food, building materials, and other items needed to support normal operations.

1.9.18. Competitive Bidding

Procurement method for obtaining goods, services and construction services in which bids are submitted in a sealed fashion in response to an Invitation for Bids by bidders competing for a contract, privilege, or right to supply specified services or goods. This method is never available to obtain professional services under the Texas Professional Services Procurement Act.

1.9.19. Competitive Sealed Proposal

Procurement method for obtaining goods, services and construction services in which bids are submitted in a sealed fashion in response to an Invitation for Proposals by offerors competing for a contract, privilege, or right to supply specified services or goods. It differs from the

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competitive bidding method in that after the proposal deadline has passed; discussion and negotiations may be conducted with responsible offerors who submit responsive proposals.

1.9.20. Competitive Solicitation

The purchasing process required by Texas Education Code 44.031.

1.9.21. Component Purchases

Purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

1.9.22. Construction

The process of building, altering, improving, replacing, repairing, demolishing any structure, building, building system, infrastructure, or other improvement to real property, provided however, construction does not include the routine operation, routine repair, or routine maintenance of an existing improvement to real property.

1.9.23. Construction Manager-Agent or CMA

A sole proprietorship, partnership, corporation, or other legal entity that provides consultation to HCC regarding construction, rehabilitation, alteration, or repair of the facility, and in doing so represents HCC in a fiduciary capacity.

1.9.24. Construction Manager-At-Risk or CM at Risk

A sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to HCC regarding construction during and after the design of the facility.

1.9.25. Contract

An agreement entered into by the parties for the acquisition of supplies, commodities, equipment, real or personal property, construction, architectural services, engineering services, or other services, or any combination thereof.

1.9.26. Contract Administration

The management of all facets of a contract to ensure the vendor's total performance is in accordance with the contractual commitments, and the vendor fulfills all obligations under the terms and conditions of the contract are fulfilled.

1.9.27. Contractor

In the context of a contract for the construction, rehabilitation, alteration, or repair of a facility means a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for constructing, rehabilitating, altering, or repairing all or part of the facility at the contracted price.

1.9.28. Contract Modification

Any written alteration in the specifications, delivery point, date of delivery, contract period, price, quantity, or other provisions of an existing contract, whether accomplished in accordance with a

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contract provision, or by mutual agreement of the parties to the contract. It includes change orders, extra work orders, supplemental agreements, contract amendments, or reinstatements.

1.9.29. Cure Notice

A notice either oral or in writing that informs the vendor that he or she is in default and states what the vendor has to do to correct the deficiency and specifies a time period in which to correct the default. If the notice is oral, it shall be confirmed in writing.

1.9.30. Day

A calendar day unless otherwise designated.

1.9.31. Debarment

An action taken by HCC to exclude individuals or vendors from contracting with a public body for particular goods or services for specified periods of time.

1.9.32. Default

Failure of a contractor to comply with the terms and conditions of a contract.

1.9.33. Design-Build Contract

A delivery method for construction projects that combines the architectural, engineering and construction services required for a project into a single contractual agreement with a single point of contact.

1.9.34. Design-Build Firm

A partnership, corporation, or other legal entity or team that includes an engineer and/or architect and builder qualified to engage in building construction in Texas.

1.9.35. Design-Build Method

A method of procurement used for the construction, rehabilitation, alteration, or repair of a facility in which there is a single contract with a design-build firm or team for the project.

1.9.36. Design Criteria Package

A set of documents that provides sufficient information to permit a design-build firm to prepare a response to a request for qualifications and any additional information requested, including criteria for selection. The design criteria package must specify criteria HCC considers necessary to describe the project and may include, as appropriate, the legal description of the site, survey information concerning the site, interior space requirements, special material requirements, material quality standards, conceptual criteria for the project, special equipment requirements, cost or budget estimates, time schedules, quality assurance and quality control requirements, site development requirements, applicable codes and ordinances, provisions for utilities, parking requirements, or any other requirement, as applicable.

1.9.37. Determination

A written procurement decision made by a public official or employee, which is based upon written findings.

1.9.38. Direct Payment

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A method of purchase to expedite certain types of transactions that do not require the use of a purchase order yet does not circumvent the State of Texas procurement requirements.

1.9.39. Electronic Bids/Proposals

Bids or proposals received by HCC through designated electrical, digital, magnetic, optical, electromagnetic, or similar technology in accordance with rules adopted by the HCC Board of Trustees that ensure the identification, security, and confidentiality of electronic bids or proposals and ensures that the electronic bids or proposals remain effectively unopened until the proper time.

1.9.40. Emergency

A sudden and unexpected occurrence which requires immediate action by HCC because of an imminent threat to public health or safety or a reasonably unforeseeable situation, including but not limited to, a circumstance where HCC property, equipment, a college facility, or portion of a college facility is destroyed, severely damaged, or experiences a major unforeseen operational or structural failure, and the HCC Board of Trustees, or designee, determines that the delay posed by using one of the applicable purchasing methods would prevent or substantially impair the conduct of classes or other essential college activities.

1.9.41. Energy Savings Performance Contract

A contract for energy or water conservation measures to reduce energy or water consumption or operating costs of school facilities in which the estimated savings in utility costs resulting from the measures is guaranteed to offset the cost of the measures over a specified period. The term includes a contract for the installation or implementation of:

- 1) insulation of a building structure and systems within the building;
- 2) storm windows or doors, caulking or weather stripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;
- 3) automatic energy control systems, including computer software and technical data licenses;
- 4) heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water consumption;
- 5) lighting fixtures that increase energy efficiency;
- 6) energy recovery systems;
- 7) electric systems improvements;
- 8) water-conserving fixtures, appliances, and equipment or the substitution of non-water-using fixtures, appliances, and equipment;
- 9) water-conserving landscape irrigation equipment;
- 10) landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:
 - a) landscape contouring, including the use of berms, swales, and terraces; and

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- b) the use of soil amendments that increase the water-holding capacity of the soil, including compost;
- 11) rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;
- 12) equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent;
- 13) equipment needed to capture water from nonconventional, alternate sources, including air conditioning condensate or gray water, for non-potable uses;
- 14) metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings; or
- 15) other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.

1.9.42. Engineer

An individual licensed as an engineer under Chapter 1001, Texas Occupations Code.

1.9.43. Evaluation of Bids

The process of examining a bid after opening to determine the bidder’s responsiveness to requirements, responsibility, and other characteristics of the bid relating to selection for award.

1.9.44. Extension

As applied to contracts for the performance of architect/engineer services, an extension is a change in the scope of the services to be performed by the architect/engineer by including in the contract a requirement for the performance of phases of services not previously included.

1.9.45. Facility

Real property, including buildings and associated structures and improved or unimproved land. The term does not include: highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or buildings or structures that are incidental to projects that are primarily civil engineering construction projects.

1.9.46. Fee

In the context of a contract for the construction, rehabilitation, alteration, or repair of a facility means the payment a construction manager receives for its overhead and profit in performing its services.

1.9.47. Fixed Price Contract

A contract that provides for a guaranteed and fixed vendor price under which the vendor bears the full risk of profit or loss.

1.9.48. Fund Availability

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Monies that are currently credited to the System and are contained within the proper object of the expenditure.

1.9.49. General Conditions

In the context of a contract for the construction, rehabilitation, alteration, or repair of a facility means on-site management, administrative personnel, insurance, bonds, equipment, utilities, and incidental work, including minor field labor and materials.

1.9.50. Inspection

Examination and testing of goods or services to determine whether the goods or services proposed or furnished conform to contract requirements.

1.9.51. Instructional Facility

Real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under Texas Education Code Section 28.002.

1.9.52. Interlocal Agreement

An interlocal agreement is a contract authorized by Texas Local Government Code §791.001 et seq. (the "Interlocal Cooperation Act") between two or local governments (including a federally recognized Indian tribe in Texas listed under 25 USC §479a-1) to either study the feasibility of the performance of a governmental function or service by interlocal agreement, or to provide a governmental function or service that each party to the agreement is authorized to perform individually. In other words, it allows HCC to enter into an interlocal agreement with another local government (or Indian tribe) to perform governmental functions and services for example, sharing or "piggy-backing" competitive solicitations issued by another local government.

The HCC Board of Trustee has authorized the Chancellor to approve cooperative contracts in accordance with the current HCC policy [Purchasing and Acquisition Regulation \(CF\)](#) – Contract Signature Authority.

Interlocal agreements entered into by HCC and other local governments must state the purpose, terms, rights, and duties of the contracting parties; and specify that each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

The contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract. An interlocal contract may have a specified term of years and may be renewed. Interlocal contracts between a governmental entity and a purchasing cooperative may not be used to purchase engineering or architectural services

1.9.53. Invitation For Bids or IFB

Any documents, whether attached or incorporated by reference, used for soliciting bids by the competitive bidding procurement method.

1.9.54. Invitation For Proposals or CSP

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Any documents, whether attached or incorporated by reference, used for soliciting proposals by the competitive sealed proposal procurement method.

1.9.55. Invoice

A contractor's/vendor's written request for payment for supplies, goods, commodities, services, maintenance, construction or other similar services performed or provided.

1.9.56. Late Bid or Proposal

A bid or proposal received at the place designated in the solicitation after the deadline established in the solicitation.

1.9.57. Lease

A contract for the use of personal property for a period of time in return for a specified compensation

1.9.58. Library Goods and Services

As used in Texas Education Code, Chapter 44, for purposes of excepting out "library goods and services" from the requirements of Chapter 44, the term means:

- a) Serial and journal subscriptions, including electronic databases, digital content, and information products;
- b) Other library materials and resources, including books, e-books, and media not available under a statewide contract and papers;
- c) Library services, including periodical jobber and binding services not available under a statewide contract;
- d) Equipment and supplies specific to the storage and access of library content; and
- e) Library or resource-sharing programs operated by the Texas State Library and Archives Commission.

1.9.59. Maintenance

Any work necessary for the continued operation or upkeep of a facility, structure, building, grounds, or building system, not included within the definition of construction.

1.9.60. May

Denote the permissive.

1.9.61. Multiple Award

The award of contracts to more than one vendor when the terms and conditions of solicitation allow for such an award.

1.9.62. Negotiation

A bargaining process between two or more parties to reach a mutually satisfactory agreement, contract or settlement.

1.9.63. Notice of Award

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A notification that a contract has been awarded.

1.9.64. Option

The unilateral right of HCC under a contract to: extend the contract for an additional period of time; purchase delineated additional goods or labor; or to purchase materials or facilities that have been leased.

1.9.65. Payment Bond

A bond required from a contractor before beginning the work in a situation where HCC makes a public work contract for constructing, altering, demolishing or repairing a public building and the contract amount is in excess of \$25,000. The purpose of the payment bond is to ensure fulfillment of the contractor’s obligation to pay all persons supplying labor or materials in the performance of the work provided for in the contract, and it shall be executed in the amount of the contract solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material. A payment bond is not required for, and may not provide coverage for, the portion of a design-build contract that includes design services only. The bond shall be executed by a corporate surety in accordance with Insurance Code 7.19-1 and shall comply with all requirements of Texas Government Code §§ 2253.021 *et seq.* (commonly referred to as “The MacGregor Act”).

1.9.66. Performance Bond

A bond required from a contractor before beginning the work for the full amount of the contract conditioned on the faithful performance of the work according to the plans, specifications, and contract documents in a situation where HCC makes a public work contract for constructing, altering, demolishing or repairing a public building and the contract amount is in excess of \$100,000. The bond is solely for the protection of HCC. The purpose of the bond is to protect HCC from loss due to a contractor’s inability to complete the contract in accordance with its terms and conditions. A performance bond is not required for, and may not provide coverage for, the portion of a design-build contract that includes design services only. The bond shall be executed by a corporate surety in accordance with Insurance Code 7.19-1 and shall comply with all requirements of Texas Government Code §§ 2253.021 *et seq.* (commonly referred to as “The MacGregor Act”).

1.9.67. Person

Includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with the school district requiring approval by the board.

1.9.68. Pre-Proposal Conference

A conference conducted by Procurement Operations for the benefit of those wishing to submit a bid or proposal for services or supplies required by HCC held in order to allow bidders/proposers to ask questions about the proposed contract and particularly the contract specifications.

1.9.69. Price Analysis

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An examination of a vendor's price by comparison to other prices for like goods or services or comparison to other price benchmarks.

1.9.70. Processed

Canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form.

1.9.71. Procurement

All functions that pertain to the process of buying, leasing as lessee, purchasing, or otherwise obtaining any supplies, goods, services, construction, architectural services, engineering services, or services provided under an energy performance contract, including description of requirements, selection criteria, and solicitation of sources, preparation and award of contract, an all phases of contract administration.

1.9.72. Proposal

A written response to a request for proposals issued by Procurement Operations to obtain goods or services.

1.9.73. Proprietary Information

Information in bids or proposals to which a vendor claims ownership or exclusive rights and which is protected from disclosure in accordance with the Texas Public Information Act as determined by the Attorney General of Texas.

1.9.74. Protest

A formal written complaint relating to the solicitation or award of a procurement contract.

1.9.75. Public Notice

A written notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened, which is published in the county in which HCC's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications, provided that in a two-step procurement process, the time and place where the second step bids, proposals, or responses will be received are not required to be published separately.

1.9.76. Purchase

The act of buying, or that, which has been bought.

1.9.77. Purchase Order or PO

A document issued by HCC authorizing a procurement from a vendor. If issued in acceptance of a bid or proposal, the document is an "acceptance" and forms a contract upon issuance. If not issued in acceptance of a bid or proposal, a contract is formed upon acceptance by the vendor. Acceptance is evidenced by any reasonable manner in light of the circumstances including prompt shipment or prompt promise to ship or definite expression or written confirmation sent by the vendor within a reasonable time.

1.9.78. Purchasing Laws

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The laws that govern HCC purchasing include the following:

- f) Purchase of Goods and Services Under Contract, (TEX. EDUC. CODE, ch. 44, subch. B)
- g) Purchasing and Contracting Authority, (TEX. LOC. GOV'T CODE , ch. 271) (to the extent applicable)
- h) Competitive Bid Method in a Construction Contract (in addition to other applicable statutes, TEX. LOC. GOV'T CODE § 271.026, 271.027 and 271.0275)
- i) Contracting and Delivery Procedures for Construction. TEX GOV'T CODE ch. 2269.
- j) Public Property Finance Act, (TEX. LOC. GOV'T CODE ANN., ch. 271, subch. A)
- k) State Contract, (TEX. LOC. GOV'T CODE ANN., § 271.081-3)
- l) Multiple Award Contract Schedule, (TEX. GOV'T CODE ANN., ch. 2157, subch. l)
- m) State Catalogue, (TEX. GOV'T CODE ANN., ch. 2157)
- n) Services and Products of Severely Disabled, (TEX. HUM. RES. CODE ANN., § 122.014)
- o) Interagency Cooperation Act, (TEX. GOV'T CODE ANN., ch. 771)
- p) Interlocal Cooperation Agreement, (TEX. GOV'T CODE ANN., ch. 791)
- q) Prompt Payment Act, (TEX. GOV'T CODE ANN., ch. 2251)
- r) Bidders from other States and 5% Retainage, (TEX. GOV'T CODE ANN., ch. 2252)
- s) Public Works Performance and Payment Bonds, (TEX. GOV'T CODE ANN., ch. 2253)
- t) Professional Services Procurement Act, (TEX. GOV'T CODE ANN., ch. 2254, subch. A)
- u) Required Nepotism Disclosures, (TEX. GOV'T CODE ANN., § 2262.004)
- v) Disclosure of Certain Relationships with Local Government Officers, (TEX. LOC. GOV'T CODE ANN., ch. 176)
- w) Wage Rate for Construction Projects, (TEX. REV. CIV. STAT. ANN., Art. 5159a)
- x) Sales Tax Exemption for Governmental Entities (TEX. TAX CODE ANN. § 151.309)
- y) Preference for Recycled Products (TEX. HEALTH & SAFTY CODE § 361.426)
- z) Imported Milk (TEX. HEALTH & SAFTY CODE ch. 435, subch. B)
- aa) Purchase of Imported Beef by State Agencies and Political Subdivisions (TEX. AG. CODE ch. 150, subch. B)

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bb) Worker's Compensation Compliance (Workers Compensation Rule 110.110)

1.9.79. Request For Proposals or RFP

A method of procurement used for soliciting written proposals for services, other than construction services (except that RFP may be used when selecting a construction manager-at-risk in a one-step process and for job order contracts).

1.9.80. Request for Qualifications or RFQ

A document that requests details about the qualifications of professionals whose services must be obtained in compliance with the Professional Services Procurement Act and for other professionals if HCC chooses to use the RFQ process to procure their services.

1.9.81. Requestor

The HCC department or office requesting that certain items be purchased through the Procurement Operations Department.

1.9.82. Responsible Bidder

A vendor who is fully capable of meeting all requirements of the solicitation and subsequent contract, and who possesses the full capability (including financial and technical) to perform as contractually required.

1.9.83. Responsive

A bid or proposal submitted in response to an invitation for bids/proposals that conforms in all material respects to the requirements contained in the solicitation.

1.9.84. Separate Purchases

Purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

1.9.85. Sequential Purchases

Purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

1.9.86. Services

The rendering of time, effort, or work, rather than the furnishing of a specific physical product other than reports incidental to the required performance. It includes, but is not limited to the professional, personal, and or contractual services provided by architects, engineers, attorneys, accountants, physicians, consultants, appraisers, land surveyors, and where the work provided is associated with the provision of expertise or labor, or both.

1.9.87. Shall

Denotes the imperative.

1.9.88. Signature

A manual or electronic unique identifier or the electronic result of an authentication technique attached to or logically associated with a record that is intended by the person using it to have the same force and effect as a manual signature.

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1.9.89. Small Business

A business that is independently owned and operated and which is not dominant in its field of operation and which meets size standard set forth in 13 CFR, Part 121, and as further defined in the Houston Community College System – [HCC SBDP Procedures Manual](#) as published on the HCC website.

1.9.90. Sole Source Item or Service

An item that is available from only one source, including: an item for which competition is precluded because of the existence of a patent, copyright, secret process, or monopoly; a film, manuscript, or book; a utility service, including electricity, gas, or water; and a captive replacement part or component for equipment. However, an item is not a sole source item if it is mainframe data-processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

1.9.91. Solicitation

Invitation for Bids, Invitation for Proposals, Request for Proposals, or any other method or instrument used to communicate to potential bidders/offerors that HCC has a particular procurement need.

1.9.92. Specifications

A concise description of a good or service that an entity seeks to buy and the requirements the vendor must meet in order to be considered for the award. A specification may include requirements for testing, inspection, or preparing any item for delivery, or preparing or installing it for use. The specification is the total description of the item or services to be purchased.

1.9.93. Standard Terms and Conditions

Standard clauses and requirements incorporated into all solicitations and resulting contracts which are derived from law, regulation, ordinance, and/or HCC policy and/or administrative procedures.

1.9.94. State Contract

A method of procurement established in accordance with Local Government Code Chapter 271 Subchapter D, State Cooperation in Local Purchasing Programs, whereby HCC may, through the adoption of a resolution by the HCC Board of Trustees, participate in procurements for goods made through the State of Texas via the Texas Building and Procurement Commission (TBPC). State Cooperating in Local Purchasing Programs is compliant with state law requiring HCC to seek competitive bids for the purchase of an item.

1.9.95. Substitution

An item of equipment, material, or supply for which the quality, design, and/or performance characteristics are less than fully equal to an item specified in a solicitation. Whether a substitution will be accepted as “equal” is determined by the Executive Director of Procurement Operations.

1.9.96. Vendor

A person or business who desires to enter into a contract with HCC.

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1.10. Public Access to Procurement Information

Procurement information shall be a public record, but only to the extent provided in the Texas Public Information Act, Government Code 552.001 *et seq.* (“TPIA”). Requests for procurement information will be handled in accordance with, and subject to, the TPIA.

1.11. Small Business Development Program

1.11.1. SBDP Procedures

Please reference the [HCC SBDP Procedures Manual](#) as published on the HCC website.

1.12. Green Procurement

HCC will strive to procure environmentally preferable products and services where criteria have been established by governmental or other widely recognized authorities (e.g., Energy Star, EPA Eco Purchasing Guidelines).

HCC will integrate environmental factors into HCC’s buying decisions where external authorities have not established criteria. Examples:

- replacing disposables with reusable or recyclables;
- supporting eco-labeling practices by buying products bearing such labels in preference to others, where they are available and provide value for money;
- taking into account life cycle costs and benefits;
- evaluating, as appropriate, the environmental performance of vendors in providing products and services;

HCC will raise staff awareness on the environmental issues affecting procurement by providing relevant information and training.

HCC will encourage suppliers and contractors to offer environmentally preferable products and services at competitive prices.

HCC will encourage providers of services to consider environmental impacts of service delivery.

HCC will comply with all environmental legislative and regulatory requirements in the procurement of products and services.

Nothing in these guidelines shall be construed as requiring HCC, a department, agency or contractor to procure products that do not perform adequately for their intended use or are not available at a reasonable price in a reasonable period of time.

For any federally funded purchases see Article titled Grant Purchases below.

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ARTICLE 2. PROCUREMENT STANDARDS

2.1. Ethics

It is imperative that the HCC family (trustees and employees) refrain from directly or indirectly accepting for themselves, or for another, any gift, favor, or item (tangible or intangible) that provides a personal benefit from a person, or firm that does business, or seeks to do business with HCC that exceeds \$50 in value. It is highly recommended that the HCC family follow the principals and standards of ethical supply management defined by the Institute of Supply Management (formally known as the National Association of Purchasing Management). The principles are as follows:

- 1) Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.
- 2) Demonstrate loyalty to the employer by diligently following the lawful instructions of the employer, using reasonable care and granted authority.
- 3) Avoid any personal business or professional activity that would create a conflict between personal interests and the interests of the employer.
- 4) Avoid soliciting or accepting money, loans, credits, or preferential discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence, or appear to influence supply management decisions.
- 5) Handle confidential or proprietary information with due care and proper consideration of ethical, legal ramifications, and governmental regulations.
- 6) Promote positive supplier relationships through courtesy and impartiality.
- 7) Avoid improper reciprocal agreements.
- 8) Know and obey the letter and spirit of laws applicable to supply management.
- 9) Encourage support for small, disadvantaged, and minority-owned businesses.
- 10) Acquire and maintain professional competence.

If you are aware of any ethical violations as it relates to Procurement, Contracting, or Vendor Relationships, please notify the HCC Office of the General Counsel – [Ethics and Compliance Hotline](#) at 855-811-6284.

2.2. Conflict of Interest

HCC [Board Policy](#) regarding Conflict of Interest and disclosure requirements for “local government officers” involved in the selection, evaluation or management of HCC contracts, as set forth in Texas Local Gov’t Code Chapter 176 shall be complied with. This requirement includes the obligation to complete and turn in a form CIS.

No HCC employee shall accept or solicit, directly or indirectly, for themselves, or for another, any gift, favor, or item (tangible or intangible) that provides a personal benefit from a person, or firm that does business, or seeks to do business with HCC that exceeds \$100 in value.

Employees who exercise discretion in the procurement process shall recuse themselves from any matter involving an entity in which the employee or a person to whom the HCC employee is

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related within the first degree of consanguinity or the first degree of affinity holds a “substantial interest.”

For purposes of this procedure, a person has a “substantial interest” in a business entity if any of the following is the case:

- 1) The person owns at least:
 - a. ten percent of the voting stock or shares of the business entity; or
 - b. either ten percent or \$15,000 of the fair market value of the business entity.
- 2) Funds received by the person from the business entity exceed ten percent of the person’s gross income for the previous year.

For purposes of this procedure, a person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

2.3. Blackout Periods

No HCC Trustee and no Vendor shall communicate in any way concerning any Solicitation that is pending from the day it is first advertised through thirty (30) days after the contract is executed by the Chancellor or his/her designee, or when a determination is made that the contract will not be awarded. This period is the “Blackout Period.” Violation of the Blackout Period is considered unethical conduct and will be handled as such with regard to a Trustee and all applicable federal and state laws and regulations, local ordinances, board policies and these procedures with respect to their conduct as public officials involved in the procurement process. With regard to a vendor, violation of the Blackout Period is grounds for disqualification from a pending Solicitation and from any future Solicitations with HCC.

2.4. Violation of Ethical Standards

2.4.1. HCC Board of Trustees

The HCC Board of Trustees is subject to all federal and state laws and regulations, local ordinances, board policies and these procedures with respect to their conduct as public officials involved in the procurement process. Each Trustee is individually responsible for adhering to such laws, regulations, ordinances, policies and procedures. If HCC has, reasonable suspicion that a crime may have been committed related to procurement, HCC shall report the evidence to the appropriate law enforcement agency or agencies for investigation and prosecution.

2.4.2. HCC Employees

Any HCC employee who violates any of the ethical standards stated in these procedures is subject to disciplinary action up to and including termination of employment. If HCC has, reasonable suspicion that a crime may have been committed related to procurement, HCC shall report the evidence to the appropriate law enforcement agency or agencies for investigation and prosecution.

2.4.3. Vendors

Any Vendor who violates any of the ethical standards stated in these procedures is subject to disbarment and is subject to disqualification from future procurement solicitations. If HCC has, reasonable suspicion that a crime may have been committed related to procurement, HCC shall

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report the evidence to the appropriate law enforcement agency or agencies for investigation and prosecution.

2.4.4. Collusion

Collusion is unethical and is expressly prohibited. Any HCC employee who suspects collusion shall report the suspicion to the Executive Director of Procurement Operations, who will investigate the matter. If HCC has reasonable suspicion that a crime may have been committed, HCC shall report the evidence to the appropriate law enforcement agency or agencies for investigation and prosecution. All HCC employees shall be mindful of the possibility of collusion and should be familiar with and use the following guidelines to detect collusion in procurement at HCC:

2.4.4.1. Checklist for Possible Collusion

The following is a list of red flags. None of these indicators, individually or in combination, proves collusion. Rather, they identify situations, which may justify further inquiry to discover whether collusion has occurred.

1) Conditions Favorable to Collusion

Certain market conditions increase the likelihood of collusion. Pay close attention to bids and bidding patterns under the following market conditions:

- a. A small number of vendors dominate the market. Fewer vendors make it easier for the vendors to collude.
- b. Tight specifications mandate no easy substitution of product. Fewer products make it easier for the vendors to coordinate.
- c. The bids are for a standardized product. Fewer variables in terms of design, quality or service, make it easier to reach a common pricing scheme.
- d. There are frequent, repetitive bids for specific goods. The more frequent the bids the more opportunity the vendors have to become familiar with each other.
- e. Competitors regularly socialize with each other, through personal connections or trade associations.
- f. Competitors regularly get together in the vicinity of procurement offices shortly before filing deadlines.
- g. There is industry-wide resale price maintenance. Each manufacturer sets the price at which all of its distributors or resellers must sell the product to their customers. This could help manufacturers enforce collusion at the manufacturing level.

2) Suspicious Statements or Behavior

Sometimes vendors' behavior or the circumstances under which bids are submitted can create suspicion of collusion. Pay close attention to bids and bidding patterns if you see any of the following:

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- a. There are irregularities (e.g., identical calculation errors) in the physical appearance of the proposals or in the method of their submission (e.g., use of identical forms or stationery), suggesting that competitors had copied, discussed, or planned one another's bids or proposals. If the bids are obtained by mail, there are similarities of postmark or post metering machine marks.
- b. A vendor requests a bid package for itself and a competitor, or submits both its bid and that of a competitor.
- c. Two or more competitors file a "joint bid," even though at least one of the competitors could have bid on its own.
- d. A vendor submits a bid when it is incapable of successfully performing the contract (This is likely a complimentary bid).
- e. A vendor brings multiple bids to a bid opening and submits its bid only after determining (or trying to determine) who else is bidding.
- f. A bidder or salesperson makes a suspicious statement, such as:
 - i. A reference to industry-wide price schedules;
 - ii. A comment indicating advance knowledge of competitor's bid/price;
 - iii. A statement that a particular contract "belongs" to a certain vendor;
 - iv. A reference to a "complementary," "courtesy," "token," or "cover" bid;
 - v. Any other statement indicating competitors may have discussed prices/bids.

3) Suspicious Bidding or Pricing Patterns

Certain bidding or pricing patterns appear inconsistent with operation of the free market and warrant further investigation:

- a. Some bids are much higher than published price lists, previous bids by the same firms, or engineering cost estimates. This could indicate complementary bids.
- b. Vendors who would be expected to submit bids do not do so. This could indicate an agreement to withhold bids.
- c. Certain vendors never bid against each other.
- d. Certain vendors bid frequently but never (or almost never) win.
- e. There is a consistent percent margin (e.g., 10%) between the winning bid and the second bidder.
- f. The same vendor has been the low/high bidder on successive occasions over a period of time without any apparent market advantage/disadvantage to account for the bid.
- g. A certain vendor appears to be bidding substantially higher on some bids than on other bids, with no logical cost difference to account for the difference.

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- h. A bidder uses uniform shipping charges in various bids. Vendors would ordinarily be expected to charge less for shipping locally than to a distant site, absent an agreement.
- i. A local vendor charges more for delivery than a distant vendor does. This is counter-intuitive and could indicate that the local vendor has submitted a complimentary bid.
- j. An apparent pattern of low bids appears, such as corporation “X” always winning a bid in a certain geographic area for a particular service, or in a fixed rotation with other bidders.
- k. A successful bidder subcontracts to:
 - i. a vendor that won the bid but then withdrew,
 - ii. vendor(s) that could/should have bid (e.g., picked up packets) but did not, or
 - iii. vendor(s) that repeatedly submitted higher bids.
- l. Competitors submit identical bids or frequently change prices at about the same time and to the same extent.
- m. Bid prices appear to drop whenever a new or infrequent bidder submits a bid.

2.5. Procurement Process Generally

For the process to work smoothly, coordination among many HCC departments and offices is necessary. To avoid delays in the process and comply with HCC policy, procedures, and the law, user departments should consider the following:

2.5.1. Illegal Strategies

Do not use purchasing strategies to avoid competition. Strategies that are prohibited by law include: component purchases (purchasing components that would normally be purchased as a whole); separate purchases (purchasing items separately in a series of purchases that normally would be purchased as a single purchase); and sequential purchases (purchases made over a period of time, or from different funding sources that normally would be one purchase). According to Texas Education Code §44.032, making any one of these three types of purchases may be a Class B or C Misdemeanor and subjects employees to disciplinary action, up to and including termination of employment.

2.5.2. Unethical Conduct/Conflict of Interest

Avoid activities and behaviors that are unethical and create a conflict of interest or the perception of a conflict of interest. Examples of activities that are inappropriate include: soliciting or accepting gratuities of any kind (e.g. money, loans, gifts, favors) that exceed \$50 from present or potential contractors which might influence or appear to influence a purchasing decision; failing to disclose in writing to the Executive Director of Procurement Operations a potential conflict of interest and not removing yourself from the procurement process when there is a conflict; and disclosing confidential proprietary information from solicitations to other vendors or using the information for personal gain.

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2.5.3. Available Funds

Ensure funding is available before submitting a requisition. The law does not allow expenditures that exceed budgets. Procurement Operations will not process requisitions for which there is not adequate funding.

2.5.4. Proper Planning

Plan purchases to minimize the use of emergency and expedited purchases. Rush purchases are generally more expensive and they delay other requisitions already in the system. Vendors may attempt to charge premium prices for goods and services when there is insufficient time allowed to explore alternatives.

2.5.5. Procurement Training

Ensure that purchasing policies and procedures are understood before ordering. Colleges and departments must assure that all employees responsible for making purchase requests have read and understand the purchasing procedures in this manual. Colleges and departments should also ensure that those employees attend training provided by the Department.

2.5.6. Coordinate with Procurement Operations

Coordinate with Procurement Operations on receipt of goods and services. Since HCC does not have centralized receiving on all purchases, each College or department is responsible for individually receiving goods and services in some circumstances. Colleges and departments should call or e-mail the buyer listed on the purchase order to make Procurement Operations aware of vendor performance issues such as shortages, late delivery or damaged merchandise.

2.5.7. Use of Supplier in Development of Requirements or Scope

A person shall not be eligible for award of a contract as either a prime contractor or subcontractor if the person assisted in the development of the solicitation or any part of the solicitation or if the person participated in a project related to the solicitation when such participation would give the person special knowledge that would give that person or a prime contractor an unfair advantage over other proposers.

2.6. Unauthorized Purchase or Transactions

2.6.1. Purpose

An "Unauthorized Purchase" is one where a purchase is made on behalf of the System without the appropriate approvals being secured first, including the issuance of a valid purchase order. These purchases can adversely affect department budgets and result in delayed payments, which could negatively affect the Systems standing with the supplier and restrict future business. In addition, payment of the invoice for these goods or services is a potential violation of Board Policy CF (Local) and, depending on the amount, may also be a violation of state law.

Procuring any goods or services, prior to obtaining proper authorization through the requisition process, is considered to be a Unauthorized Purchase or Transaction. This type of transaction directly violates established HCC purchasing procedures. Any employee who places an order for goods and/or services without following the appropriate requisition process violates HCC purchasing procedures. HCC employees, who generate financial liability exposure for HCC

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without proper authority, will be subject to disciplinary action up to and including termination of employment.

Any vendor who accepts an unauthorized order will be advised of this procedure and may jeopardize the ability to do future business with HCC.

2.6.2. Responsibility

It is the responsibility of any requesting department and budget authority to ensure compliance with this Procedures Manual in order to prevent anyone from initiating an unauthorized purchase.

Procurement Operations is the only authorized department within HCC to issue Purchase Orders. All purchases shall be made in compliance with the provisions listed in this Procedures Manual.

The best option to prevent an unauthorized purchase is to contact the Procurement Department to discuss the specific goods or services you need to purchase. Below is a summary 4-step basic procurement process that should be followed:

1. Define your requirements for the purchase in the form of a specification or scope of services;
2. Process a PeopleSoft requisition that includes your detailed requirements;
3. Ensure your requisition is properly approved through your department workflow; and
4. Communicate with Procurement regarding any special requirements or delivery details.

2.6.3. Requests

If an unauthorized purchase is inadvertently made, the person responsible for the purchase will need to pay for it personally or initiate an Unauthorized Purchase Approval Request form to explain what transpired and secure the necessary approvals before HCC can honor payment of the invoice.

The Unauthorized Purchase Approval Request will document the following:

1. Explain why the process was not followed and a requisition was not completed;
2. Define the process used to select the supplier to provide the goods or services based on the procedures required for the dollar value of the purchase;
3. Describe what factors were considered in the evaluation to determine the purchase was best value; and
4. Describe what steps have been taken to prevent the recurrence of an unauthorized purchase.

The Unauthorized Purchase Approval Request must be completed and approved by the Budget Authority for the area that committed the infraction. In addition, the Unauthorized Purchase Approval Request shall be reviewed and approved by the Chancellor's Executive Cabinet member responsible for the business unit and submitted to the Executive Director of Procurement Operations via email. Additional quotes or supporting documentation, including a contract when required, should be attached to the request.

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If approved for payment, the invoice will be directly paid versus entering a requisition and dispatching a PO as the supplier has already provided the goods or service. In the event the request is not approved, the employee will be responsible for the unauthorized purchase in accordance with CF (Local) policy.

2.7. Standards for Certain Specific Purchases

2.7.1. Professional Services

There are two types of services that constitute “professional services” under the law, each with a slightly different consequence as to the procurement method used. One type is professional services under the Professional Services Procurement Act (“PSPA”), Texas Government Code Chapter 2254. The second types are professional services are identified in 44.031(f).

2.7.1.1. PSPA Professional Services

Under Section 2254.002 of the PSPA, “professional services” that must be obtained through that statute is defined as follows:

A service within the scope of the practice, as defined by state law, of:

- 1) accounting;
- 2) architecture;
- 3) landscape architecture;
- 4) land surveying;
- 5) medicine;
- 6) optometry;
- 7) professional engineering;
- 8) real estate appraising; or
- 9) professional nursing; or

Such services provided in connection with the professional employment or practice of a person who is licensed or registered as:

- 10) a certified public accountant;
- 11) an architect;
- 12) a landscape architect;
- 13) a land surveyor;
- 14) a physician, including a surgeon;
- 15) an optometrist;
- 16) a professional engineer;
- 17) a state certified or state licensed real estate appraiser; or
- 18) a registered nurse.

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PSPA professional services shall be procured by RFQ as follows:

A Request for Qualifications (RFQ) is a solicitation that seeks a vendor based on qualifications that meet the overall criteria and specifications for the particular project. The selection and award must be based on demonstrated competence and qualifications to perform the services for a fair and reasonable price. A RFQ for PSPA professional services will be solicited in a two-tier format:

- 1) Step 1 - Qualification Process
- 2) Step 2 - Submittal of cost/pricing information by the most highly qualified vendor.

The RFQ is a negotiated method of procurement. It is a Qualifications-based selection process. Price is not an evaluation factor and is considered only in Step 2. After selecting the most highly qualified firm, price negotiations occur with the top ranked firm only. If unable to negotiate a fair and reasonable price with the top ranked firm, negotiations are terminated and price negotiations begin with the next ranked firm. The process continues until fair and reasonable price is negotiated or the list is exhausted.

2.7.2. Certain Food Purchases

2.7.2.1. Food or Refreshments from Operating Funds (Fund 1)

These funds can be used for serving light meals or refreshments to the following:

1. Community groups such as advisory councils, community focus groups or other meetings in which the community is being asked to give of its time to the College.
2. Student meetings or receptions that are held in order to foster student success by involving parents or community groups. (Example: reception with parents and success teams)
3. Faculty or staff meetings that must be held during people's personal time (Examples: after work hours or during lunch). This includes workshops and orientation for part-time faculty.
4. Departmental and instructional activities for students may utilize the department's budget.

These funds can be used for serving light refreshments (cookies, cake, coffee, sodas, and similar items) to the following:

1. Important internal meetings held during regular working hours and lasting over a period of several hours.
2. Students who are involved in college activities (Examples: popcorn at registration, or cookies at success seminars that are held outside of regular class schedules).
3. Student club or organization refreshments (student activity funds should be used for this purpose)

2.7.2.2. Other Events (Including Retirement Parties, Holiday Parties, Personal Receptions)

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HCC will sponsor a system-wide retirement party held periodically (in December, May, or August), excluding retirement of Chancellor, Vice Chancellor and Presidents. They will be handled separately.

In the case of birthday parties, baby showers and personal receptions, these events must be funded with personal contributions. No HCC funds can be used toward these events. They must occur during lunch periods or after normal working hours.

Holiday parties will be funded with personal contributions and the use of Auxiliary-Other Official Function Fund* (Fund 3)

2.7.3. Cell Phones

2.7.3.1. Issuance of HCC-owned Cell Phones

HCC-owned cell phones may be issued only to those employees assigned to the following departments: Facilities Maintenance & Building Operations, Security/Police, and Mail Center.

2.7.3.2. Usage Guidelines

HCC-owned cell phones shall be used for HCC business calls only and shall not be used for personal calls.

The Internal Audit department will audit cell phone records to verify exclusive HCC business use. Violators will be requested to pay for personal calls and could be subject to disciplinary action up to and including termination.

2.7.3.3. Acquisition

All employees requiring cell phones must submit an approved purchase requisition to the Procurement Operations Department. The purchase requisition must be approved by the appropriate Vice Chancellor, President, Associate Vice Chancellor, or the HCC Chief of Police.

All cell phones shall be returned to their supervisor when either the employee's employment with HCC ends, or if the employee no longer has a need for cell phone service, as determined by the supervisor.

2.7.4. Furniture

HCC Furniture, Fixtures, and Equipment (FFE) Specifications Standards were created to use as the guide to space allocation and Furniture Options. The [FFE Furniture Guidelines and Standards](#) were created so that interior professionals will successfully specify furniture in keeping with the HCC minimum standards.

The FFE Specifications Standards contain typical layouts and furnishings, which will fit into suggested space allocations, as well as approved manufacturers and specifications, which support the standard specifications for each of the areas.

Pictures included are suggestions for style and type of FFE and not necessarily the literal piece of furniture for each application.

2.7.5. Preference for Certain Agriculture and Landscaping Products

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In accordance with Texas Education Code §44.042, if HCC purchases agricultural products, it shall give preference to those produced, processed, or grown in Texas if the cost to HCC is equal and the quality is equal.

If agricultural products produced, processed, or grown in Texas are not equal in cost and quality to other products, HCC shall give preference to agricultural products produced, processed, or grown in other states of the United States over foreign products if the cost to HCC is equal and the quality is equal.

If HCC purchases vegetation for landscaping purposes, including plants, it shall give preference to Texas vegetation if the cost to HCC is equal and the quality is not inferior.

In any event, HCC shall not adopt product-purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in Texas.

2.8. Standards for Quality Assurance and Specifications

2.8.1. Purpose

This section establishes guidelines for the development and use of specifications for any persons preparing product/service specifications (except for construction services) for HCC.

2.8.2. Special Definitions

For purposes of this section, the following special definitions apply:

2.8.2.1. Brand Name Specification

A specification that is limited to one or more items by manufacturers' names and/or catalog numbers.

2.8.2.2. Brand Name or Equal Specification

A specification that uses one or more manufacturers' names or catalog numbers to describe the standard of quality, performance and other characteristics needed to meet HCC requirements and which provides for the submission of equivalent or equal supplies.

2.8.2.3. Purchase Description

The words used in a solicitation to describe the supplies or services to be purchased, including any performance, physical or technical requirements. Purchase descriptions and specifications may be used interchangeably.

2.8.2.4. Qualified Products List

An approved list of supplies or services described by model or catalog number, which, prior to competitive solicitation, HCC has determined will meet applicable specifications and requirements.

2.8.2.5. Specification

A description of the physical, functional, or performance characteristics or nature of a supply or service. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply or service for delivery. The purpose of a specification is to serve as a basis for obtaining a supply or service that will provide the best value to HCC.

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2.8.3. General Responsibilities

Purchasing Operations should maintain a library of current specifications for supplies and services.

The requesting department or college will prepare technical specifications for supplies and services. Terms, conditions and contractual provisions are the responsibility of Purchasing Operations.

The Executive Director of Operations, or designee, may modify, alter or change specifications to increase competition to improve quality or to ensure that specifications are accurate, clear, unambiguous and non-restrictive.

2.8.4. Guidelines in Drafting Specifications

2.8.4.1. Functional or Performance Description

Specifications should, to the extent practicable, emphasize functional or performance criteria while limiting design or other physical descriptions to those necessary to meet the needs of HCC. To facilitate the use of such criteria, requesting departments should endeavor to include as part of their purchase requests the principal functional or performance need(s) to be met.

2.8.4.2. Commercially Available Products

It is the general policy of HCC to purchase standard commercial products whenever practicable. In developing specifications, accepted commercial standards should be used, and unique requirements should be avoided to the extent practicable.

2.8.4.3. Purchase Description or Specification

The purchase description or specification should include the essential physical and functional characteristics necessary to express the minimum requirements of HCC, such as: (a) common nomenclature; (b) kind of material (type, grade, class, alternatives, and the like); (c) electrical data, if necessary; (d) dimensions; (e) size or capacity; (f) principles of operation; (g) environmental conditions; (h) intended use, including location, operating conditions and acceptable product levels within the range of products available in the commercial marketplace; (i) equipment with which the item is to be used; and (j) other pertinent information that further describes the supply or service required.

2.8.4.4. Alternate Specification

A specification may provide an alternate description of supplies or services where two or more design, functional, or performance criteria will satisfactorily meet HCC's requirements.

2.8.4.5. Contractual Terms - Not to be Included

Specifications must not include any solicitation or contractual terms or conditions, such as the time or place for the bid opening, time of delivery, payment, liquidated damages, or qualification of bidders. These clauses should be included in the appropriate sections of the bid package (instructions to bidders and terms and conditions).

2.8.4.6. Use of Existing Specifications

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If a specification for a common or general use item has been developed, or if a qualified products list has been developed for a particular supply or service, it must be used unless the Executive Director of Procurement Operations or the director of the requesting department makes a determination that it is not in HCC's best interest and that other specifications should be used.

2.8.4.7. Brand Name or Equal

Brand name or equal specifications may be used when it is determined that:

- no other design or performance specification or qualified products list is available;
- time does not permit the preparation of another form of purchase description not including a brand name;
- the nature of the product or the nature of HCC's requirements makes use of the brand name or equal specification suitable for the procurement;
- the use of brand name or equal specifications is in HCC's best interest.

2.8.4.8. Designation of Several Brands

Brand name or equal specifications should designate three, or as many different brands as are practicable, as "or equal" references and must state that substantially equivalent products to those designated will be considered for award.

2.8.4.9. Qualified Products List

A qualified products list may be developed when testing or examination of supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy HCC's requirements.

When developing a qualified products list, a representative group of potential suppliers must be solicited in writing to submit products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer his product for consideration.

Inclusion on a qualified products list must be based on results of tests or examinations conducted in accordance with prior published requirements.

2.9. Standards for Handling Mistakes in Bids/Proposals

2.9.1. General

Throughout this section, the terms "bid," "proposal," and "qualifications statement" are synonymous. Minor informalities are insignificant omissions or nonjudgmental mistakes that are matters of form rather than substance, evident from the bid or proposal document, with a negligible effect on price, quantity, quality, delivery, or contractual conditions that can be waived or corrected without prejudice to other bidders or offerors. Correction or withdrawal of a bid because of an inadvertent, nonjudgmental mistake or minor informality in the bid requires careful consideration to protect the integrity of the competitive bidding system and to ensure fairness. Bid correction or withdrawal by reason of a nonjudgmental mistake is permissible, but only to the extent it is not contrary to the interests of HCC and the fairness of the process and other bidders. If the mistake is attributable to an error in judgment, the bid may not be waived or

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corrected. An example of an error in judgment would be failure to consider all requirements of the solicitation and submitting an inaccurate price.

2.9.2. Mistakes Discovered Before Opening

A bidder may correct mistakes discovered before the time and date set for bid opening by withdrawing or correcting the bid.

2.9.3. Confirmation of Bid

When the Buyer or Requestor knows or has reason to conclude that a bidder has made a mistake, he or she should request that the bidder confirm the bid or proposal. The Buyer or Requestor is not required to request all other bidders to confirm their bid or proposal. Failure to request all bidders confirm their bid or proposal shall not void the procurement of goods or services. Situations in which confirmation should be requested include obvious, apparent errors on the face of the bid or a bid unreasonably lower than the other bids submitted. If the bidder alleges mistake, the bid may be corrected or withdrawn if the conditions set forth in the Subsections, which follow: Mistakes Discovered After Opening but Before Award and Mistakes Discovered After Award are met.

2.9.4. Mistakes Discovered After Opening but Before Award

Mistakes in bids discovered after the time and date set for bid opening but before award shall be handled in the following manner:

2.9.4.1. Minor Informalities

Minor informalities are matters of form rather than substance evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, the effect on price, quantity, quality, delivery, or contractual conditions is negligible. A request to withdraw a bid after the bid opening must be made within three (3) business days after bid opening, and supported in writing. The Executive Director of Procurement Operations shall waive such informalities or allow the bidder to correct them, depending on what is in the best interest of HCC.

Examples include the failure of a bidder to:

- return the number of signed bids required by the invitation for bids;
- sign the bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intent to be bound; or
- acknowledge receipt of an addendum to the invitation for bids, but only if:
 - it is clear from the bid that the bidder received the addendum and intended to be bound by its terms; or
 - the addendum involved had a negligible effect on price, quantity, quality or delivery.

2.9.4.2. Mistakes Where Intended Correct Bid is Evident

If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors and mathematical errors, unit prices placed in the extended amount column, and failure to return an addendum provided there is evidence

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that the addendum was received. When an error is made in extending total prices, the unit bid price will govern. Under no circumstances will a unit bid price be altered or corrected unless it is obvious that a unit price is submitted in a different unit of measure than shown on the bid form and the bidder's extended total verifies that the unit bid price was submitted using a wrong unit of measure, then the unit price may be changed to correspond with the correct unit of measure.

2.9.4.3. Mistakes Where Intended Correct Bid is Not Evident

A bidder may be permitted to withdraw a low bid if:

- a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
- the bidder submits proof of evidentiary value, which clearly and convincingly demonstrates that a mistake was made.

2.9.5. Mistakes Discovered After Award

Mistakes shall not be corrected after award of the contract except where the Executive Director of Procurement Operations makes a written determination that it would be unconscionable not to allow the mistake to be corrected. A mistake in a bid or proposal discovered after the award does not relieve the contractor from performance in accordance with the contract award. The bidder or offeror must submit evidentiary proof of value, which clearly and unequivocally substantiates a mistake, has been made. If the terms of the contract permit modification of the contract price, no correction may be permitted which would cause the contract price to exceed the next low bid or, result in another proposal being determined to be the most advantageous.

2.9.6. Determinations Required

When a bid or proposal is corrected or withdrawn, or a correction or withdrawal is denied, the Executive Director of Procurement Operations will prepare a written determination showing what relief was granted or denied in accordance with these rules and deliver the written determination to the bidder.

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ARTICLE 3. PURCHASE REQUISITION PROCESSING

3.1. General Requirements

3.1.1. Purpose

To establish and maintain procedures for the initiation, authorization, and processing of purchase requisitions to procure goods and services.

3.1.2. Scope

The provisions of this procedure apply to all employees of HCC authorized to initiate, approve and process requisitions.

3.1.3. Responsibility

The initiator of the requisition is responsible for providing all pertinent information about the items or services to be procured. Budget authorities are responsible for ensuring budget availability prior to creating purchase requisitions.

Procurement Operations will be responsible for acquiring goods and services per specifications and information referenced in the purchase requisition. If a purchase requisition is of an urgent nature, please notify Procurement Operations immediately.

All supporting information shall be included as an attachment to the requisition in PeopleSoft.

3.1.4. PeopleSoft Requisition Approval Workflow

Requisitions will be processed through the PeopleSoft Financial System (via Workflow) and forwarded to Procurement Operations for placement of an order. All requisitions will be processed and verified by requestor, ensuring that the required approvals and accounting codes are included. The HCC website has instructions on creating Purchase Requisitions. The PeopleSoft Finance Team is responsible for training any HCC staff member that may have finance or purchasing related functions.

3.2. Purchase Orders

Purchase Orders are generated by Procurement Operations through the automated PeopleSoft Financial System.

3.2.1. Types of Purchase Orders

Types of orders are listed below:

3.2.1.1. Regular Purchase Orders

This type of purchase order is issued according to the information provided in the online requisition created by the requestor. At the conclusion of the pricing process, a purchase order is generated, printed, and signed by the authorized Buyer and/or the Executive Director, Procurement Operations. Purchase orders are printed and the original is submitted to the supplier. All terms and conditions stated on the purchase order and the Procurement Operations Procedures Manual apply.

Note: Please do not submit a purchase requisition to procurement operations for a purchase order to be issued for services or items previously rendered, ordered or received.

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3.2.1.2. Blanket Purchase Orders

Blanket Purchase Orders increase efficiency and productivity in the purchase of small dollar repetitive items by a requesting department. This type of purchase order may be issued on very limited circumstances to authorized contracted suppliers for supply-type commodities and services only, no single item amount to exceed \$700.

Requestors may order goods and services utilizing the Blanket Purchase Orders. Prices and terms for completion of work must be approved prior to the rendering of services. Requestors must submit applicable delivery documents to the Accounts Payable Department. It is the requesting department’s responsibility to monitor purchases and maintenance of Open Blanket Purchase Orders.

The following are example of allowed blankets: to support the requirements of maintenance, repair, operational services, other purchases of a repetitive nature or when an exact dollar amount is unknown.

Note: This method is to be used only if the supplier does not accept a purchasing card order.

3.2.2. Purchase Order Follow-Up and Return of Goods

3.2.2.1. Responsibility

The requesting department reviews and monitors purchase orders for delivery and receipt of merchandise, including resolution of order discrepancies and/or damages. All Procurement Operations personnel and any departmental personnel that directly or indirectly related with the receiving of merchandise ordered through the use of a purchase order are responsible for monitoring purchase orders for delivery and receipt of merchandise.

3.2.2.2. Cancellation/Modification of Purchase Orders

A purchase order confirms the existence of a contract between HCC and the Vendor. Consequently, a purchase order cannot be modified or canceled unilaterally. Upon receipt of a request to modify or cancel an order, the requesting department should contact Procurement Operations immediately. Generally, a Vendor will agree to a request for cancellation if the item(s) have not been shipped. The requesting department may be held responsible for any material shipped by a vendor or for any costs incurred prior to cancellation. Occasionally, the payment of a restocking fee may be assessed.

3.2.2.3. Return of Goods

Merchandise to be returned to suppliers or manufacturers for adjustment or credit should be coordinated with Procurement Operations. The actual return of the merchandise is the responsibility of the requesting department, as well as, notifying Asset Management and Procurement Operations of any changes to the original purchase order.

Expediting Return of Goods shall be handled as follows:

- 1) Monitor and verify purchase order delivery and receipt of merchandise.
- 2) Identify delivery problems and coordinate solution with requestor and vendor.
- 3) Discrepancies and damages will be identified and resolution shall be coordinated with supplier/vendor and all essential internal departments.

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- 4) Return of Goods shall be coordinated through the requesting department, Procurement Operations and any other essential internal departments affected by the return, for example, Asset Management.

The vendor is under no obligation to accept a return of items shipped according to the purchase order, except if, the item is damaged and the damage is reported within three business days. Agreement from the vendor to accept a return is not automatic and a restocking fee may be incurred. Such fees will be charged to the requesting department.

3.2.3. Purchase Order Agreement

Every purchase order is subject to the most recent revision of the Procurement [Operations Terms and Conditions of Purchase Orders](#) as noted on the Procurement Website.

3.3. Procurement Card (“P-Card”)

Please reference the HCC Travel & Procurement Card Program – [Procurement Card User Guidelines](#) as noted on the MyHCC website.

3.4. Direct Pay Requests and Requisitions

3.4.1. Purpose

Direct Payments are invoices processed for payment by Accounts Payable that are not associated with a purchase order. The Procurement Operations Department owns the policies for Direct Payments; however, the Accounts Payable Department is responsible for Direct Payments processing procedures and enforcing the policies. The purchase types allowed under the Direct Payments process are pre-approved by Procurement Operations, very limited and specifically detailed in the HCC Procurement Operations Procedures Manual (Procurement Manual).

To expedite certain types of transactions that do not require the use of a purchase order, yet does not circumvent the State of Texas procurement guidelines. This transaction is called a Direct Payment or Direct Pay.

3.4.2. Responsibility and Process

HCC has a responsibility to pay for authorized purchases made according to its purchasing policies and procedures approved by the Board of Trustees. Any purchase made in violation of the Board of Trustees’ policies and these procedures is unauthorized, and will become the responsibility of the individual placing the order. An individual placing an unauthorized order will bear the cost of the goods and services received and are subject to disciplinary action up to and including termination of employment.

Purchases processed as Direct Payments do not fit within the normal requisition and purchase order process, yet they are tightly controlled and do not circumvent HCC procurement policies or the State of Texas Education Code. Direct Payments are more difficult to process via the normal requisition/purchase order process and add little value in doing so. These services are contracted in advance, and are billed based on usage, need or other factors that vary. Examples of Direct Payments include insurance premiums, utilities, tax collection services and legal fees.

3.4.3. Requirements

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When requesting a direct payment, the client department shall complete a Direct Pay Request Form, ensuring the same authorized signature(s) are included on the Direct Pay Request Form as when processing a department requisition in PeopleSoft.

Direct payment request must be completed and approved in full and shall include all supporting information as required. Processing will be completed by Accounts Payable who will review for completeness and ensure compliance with HCC policy and procedures. Employees may not request and approve a payment for themselves; the requestor's next level supervisor must approve such request. In addition, all request for reimbursements must be processed through Concur

Note: this process cannot be used for payments that do not conform to the definitions noted below or for processing payments for purchases made without prior authorization, also known as "unauthorized purchases." Such requests shall not be processed and will be returned to the requestor to follow the approved Unauthorized Purchase Approval Request process as noted in this Procedures Manual.

Accounts Payable processes checks every Tuesday. It is the requesting department's responsibility to coordinate with Accounts Payable in a timely manner.

HCC reserves the right to restrict payment and execute the Competitive Bid Process if annual purchase of products or services exceeds \$50,000.

To better serve all clients, the following types of purchases have been determined can be paid for using the direct payment process.

3.4.4. Allowable Direct Payments

General Services

1. **Government Fees** – payment for property taxes, license, permits, inspections, fees, assessments, citations, fines.
2. **Legal Judgment & Settlements** – payments for Office of General Counsel approved judgements or settlements.
3. **Legal Services** – payment for outside legal services as managed and approved by Office of General Counsel.
4. **Utilities** – payments for electrical, water, gas, sewer, steam, chilled water as managed and approved by Facilities Department.
5. **Telecommunications** – payments for telephone, internet, and metro area network recurring fees as managed and approved by Information Technology Department.
6. **Insurance Premiums** – payments for premiums for contracted agent/carriers as managed and approved by Risk Management Department (all lines of coverage).

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7. **Student Insurance** – payment for International Student insurance premiums as managed and approved by Risk Management Department.
8. **Memberships** – payment for professional, technical association, civic, business, institutional and group membership dues.
9. **Individual Professional Memberships** – when related to employee duties and responsibilities, including certification exams and fees (if reimbursement, must be processed through Concur).
10. **Mobile Cellular Services** – payment for approved communication devices for Facilities, Information Technology and Police Departments (ONLY).
11. **Event Fees** – payment for booth space, table or chair at a conference/expo/banquet, event or gala sponsorships.
12. **Real Estate Services** – payment for broker, title, deeds, notary, court stamps, commission, land sale/purchase and related fees.
13. **Royalties** – payments in accordance with approved contract.
14. **Conference, Symposiums & Seminar Registration** – payment for event registration fees.
15. **Postage** – payment for bulk mail, meter and business related US Mail, FedEx, UPS, DHL or similar postage fees.
16. **Courier & Freight** – payment for delivery, transportation and 3rd party freight services.
17. **Lease Payments** – payment for approved recurring property lease payments (real property, equipment).
18. **Credit Card** – payment for monthly recurring procurement and travel card.
19. **Advertisements** – payment for print, television, radio, billboard, movie theaters and online.
20. **Prepayment & Down Payment** – as required by contract.
21. **Contracted Food Services** – payment for America to Go food services under contract.
22. **Candidate Reimbursement** – payment for job candidate interview and travel related expenses.
23. **Student Collection Services** – payment for services in accordance with the contract.

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24. **Accreditations** – payments to an accrediting body for expenses associated with the accreditation process.
25. **Honorariums** – payment for guest speaker, presenters, artist services and reimbursement for related travel expenses.
26. **Subscriptions** – payment for newspaper, magazine, periodical, journal subscriptions (excludes software).
27. **Books & Pre-printed Materials** – payment for print and electronic text/reading book materials from the contracted bookstore service provider.
28. **Professional Examination** – payment for student related tests.
29. **Performers** – payment for individual performers related to student instruction or events.
30. **Child Care Expenses** – payment for related services when allowed by, financial aid, contract or scholarship.
31. **Student Gift Cards** – payment of gift cards in accordance with guidelines.
32. **Student Refunds** – payment to student for reimbursement of travel or mileage.
33. **Affiliation Agreements** – payment for services in accordance with approved contract.
34. **ISD/Higher Education Reimbursement** – payment to independent school district, college or university for training provided in accordance with grant.
35. **Dual Credit** – payment to independent school district in accordance with contract.

Athletic Related Services

36. **Athletic & Intramural Sports** – payment for conference registration, sports and league fees, field guarantees.
37. **Game Officials** – payment for non-HCC employee referee, umpires and other game officials.

3.5. Process for Certain Dollar Thresholds

Purchase for certain dollar thresholds are governed by different rules depending on the dollar value and type of purchase. There are generally three types of purchases: goods and services, construction-related, and professional services. Purchases under \$50,000 are governed by the Board of Trustees' Board Policy Manual. State law requires that purchases \$50,000 or more

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undergo a formal bidding process. The dollar aggregate threshold for all purchases apply to the specific commodity purchased across the System in the 12-month, fiscal year period.

3.5.1. P-Card Purchase below \$3,500

Purchase requests below \$3,500 shall be completed with department assigned Procurement Card(s) (P-Card) and in accordance with Travel & Procurement Card Manual. In the event the recommended suppliers will not accept an HCC issued P-Card, complete a requisition as noted in 3.5.2 below.

3.5.2. \$3,500 to below \$10,000

Purchase requests between \$3,500 to below \$10,000 shall be completed using a PeopleSoft requisition and one (1) supporting quote/proposal from a current HCC supplier. In the event you are recommending a new supplier that is not currently setup in PeopleSoft, client shall provide a fully completed [new supplier request form](#) as an attachment with the PeopleSoft requisition.

3.5.3. \$10,000 to below \$50,000

Purchase requests between \$10,000 to below \$50,000 shall be completed using a PeopleSoft requisition and three (3) supporting quotes/proposals. Client departments shall use the online Request for Quote form and ensure the steps noted on the Request for Quote Checklist are followed and all supporting documents are submitted with the approved requisition. In the event you are recommending a new supplier that is not currently setup in PeopleSoft, client shall provide a fully completed [new supplier request form](#) as an attachment with the PeopleSoft requisition.

3.5.4. \$50,000 or greater

Purchase requests \$50,000 or more shall be completed formally by the Procurement Department. Client departments shall complete a PeopleSoft requisition and provide a description of the goods/services required in the form of a specification or scope. Contract awards shall be made in accordance with Board Policy CF (Legal).

3.6. Procurement Methods in State Law

Under Texas Education Code 44.031, except as otherwise provided in Subchapter B of Chapter 44, Texas Education Code, all HCC contracts, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or greater in the aggregate for each 12-month period shall be made by one of the following methods, that provides the best value to HCC:

- 1) competitive bidding, for services other than construction;
- 2) competitive sealed proposals, for services other than construction;
- 3) a request for proposals, for services other than construction;
- 4) an interlocal contract;
- 5) a method provided by Chapter 2267, Government Code, for construction services;
- 6) the reverse auction procedure as defined by Section 2155.062(d), Government Code; or
- 7) the formation of a political subdivision corporation under Section 304.001, Local Government Code.

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3.7. Required Factors

Under Texas Education Code 44.031, except as otherwise provided in Subchapter B of Chapter 44, Texas Education Code, in determining to whom to award a contract, HCC shall consider:

- 1) the purchase price;
- 2) the reputation of the vendor and of the vendor's goods or services;
- 3) the quality of the vendor's goods or services;
- 4) the extent to which the goods or services meet HCC's needs;
- 5) the vendor's past relationship with HCC;
- 6) the impact on the ability of HCC to comply with laws and rules relating to historically underutilized businesses;
- 7) the total long-term cost to HCC to acquire the vendor's goods or services; and
- 8) for a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority:
 - a. has its principal place of business in this state; or
 - b. employs at least 500 persons in this state; and
- 9) any other relevant factor specifically listed in the request for bids or proposals.

3.8. Formal Solicitation Timetable

Properly completed purchase request that are received within this threshold shall be completed expeditiously in cooperation with the requesting client department. Below is an estimate for the average processing time of a formal solicitation by phase. This estimate assumes a well-written requirements document that does not include extensive clarifications during the solicitation phase; initial evaluation committee reviews shall be completed within one week and negotiations and contracting process to be expeditious in cooperation with client department and Office of General Counsel in the review and approval of the final contract.

Formal Solicitation Phase	Average Processing Time (day)	
Solicitation	20	
Evaluation & Oral Presentations	15	
Negotiate Business Terms	5	
Negotiate Contract Terms	10	
Sub Total	50	
Administrative Award <i>(below \$100K or \$500K cooperative contract)</i>	5	-

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Board of Trustee Approval* (above \$100K or \$500K cooperative contract)	-	30
Average Total Days	55	80

3.8.1. Competitive Bidding

HCC does competitive bidding through an Invitation for Bids or IFB.

3.8.1.1. Development of Specifications

Specifications will be developed and documented by the requesting department. Specifications, both descriptive and technical, will be written in a clear, specific manner, providing as much information as is required for a supplier/vendor to identify the goods and/or services being bid. Requestors may also ask Procurement Operations for assistance in specification development. Specifications should comply with the Standards for Quality Assurance and Specifications.

3.8.1.2. Bid Packet

A Bid packet will be prepared by Procurement Operations. The bid packet shall contain but is not limited to the following sections:

- 1) Invitation for Bid
- 2) General Conditions
- 3) Instructions to Bidders
- 4) Bid Award Form
- 5) Certification and Disclosure Statement
- 6) Specifications
- 7) Bid Sheet for Price and Other Factors

3.8.1.3. Vendor List

The Requestor will supply a list of suggested vendors. All vendors qualified to provide the commodity or service that is being bid are invited to participate in the bid process.

3.8.1.4. Advertisement

Solicitations will be advertised twice in the local newspaper (*The Houston Chronicle*) – once a week for at least two (2) consecutive weeks prior to the bid opening date.

3.8.1.5. Pre-Bid Conference

Unless otherwise stated in the solicitation document, attendance of prospective bidders at a pre-bid conference is not mandatory.

3.8.1.6. Bid Due Date

Bids will be due on the deadline and location specified in the solicitation. Any bid, request for withdrawal, or modification of a bid that is not received at the designated location, time, and

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date set forth in the bid documents will be considered late and will not be considered. Delivery of the bid to the specified location is the sole responsibility of the bidder.

3.8.1.7. Receipt and Tabulation of Bid

Upon receipt, sealed bids will be date stamped and logged by Procurement Operations on or before the deadline specified in the solicitation. The bid opening shall be attended by a minimum of two (2) employees of Procurement Operations, and the representative(s) of the requesting department. Vendors may attend as well. Bids will be publicly opened on the date specified in the solicitation, and will be recorded and tabulated by the Buyer.

3.8.1.8. Bid Evaluation and Award

Bid responses will be reviewed by an evaluation team composed of, but not limited to, one (1) representative of the requesting department, and one (1) representative of Procurement Operations. The evaluation team shall always seek award to the vendor offering the best value to HCC in accordance with the factors listed in Texas Education Code, Section 44.031(b). All HCC employees shall conduct evaluations in an ethical and fair manner.

The evaluation of a proposal will be conducted in a reasonable and prudent manner to ensure there is no conflict between an evaluation committee member and a vendor whose proposal is being evaluated. The evaluation committee will perform its due diligence and will review all proposals within the reasonable time necessary and relative for the specific bid in order to ensure a fair and equitable evaluation. Prior to the issuance of an award recommendation, the Executive Director of Procurement Operations will review the work effort of the evaluation committee and if deemed in the best interest of HCC, may refer the procurement back to the evaluation committee for further review and clarification.

When an award requires final approval by either the Chancellor or the Board of Trustees, Procurement Operations will prepare a Summary of Procurement. For Board approvals, the Buyer will prepare a summary of procurement and submit it to the requesting department who will prepare a Board Action Item and submit it to the responsible Buyer. The Buyer will forward both documents to the Executive Director of Procurement Operations for final review and submission to Board Services. Procurement Operations will maintain these documents along with an abstract of bids in the Procurement Operations contract file.

If a procurement is subsequently cancelled because the recommendation was not accepted by the Board of Trustees, HCC may re-solicit the good or service only after a six month waiting period; except to the extent the specification for the good or service is sufficiently modified in-order to meet evolving needs of HCC not contemplated at the time of the original solicitation as to constitute a new request. Only in such instance may a new solicitation be immediately issued.

3.8.1.9. Tie Bids

Tie bids are responsive bids that are identical in price, terms, and conditions and which meet all the requirements and evaluation criteria set forth in the Invitation for Bid. HCC reserves the right to request a best and final offer in order to promote further competition and ensure HCC may obtain the ultimate best value, unless the law requires HCC to give preference to certain bidders in a tie (e.g., Texas product).

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3.8.1.10. Contract Management

Procurement Operations will be responsible for maintaining documentation of supplier performance, as required, utilizing criteria such as terms, price, and quality, delivery, timeliness and service level.

College departments or offices will provide feedback pertaining to the awarded supplier's performance. A supplier/vendor that does not meet the requirements of the awarded contract will be determined to be non-compliant.

Procurement Operations will notify the supplier/vendor, in writing, of any problem requiring immediate corrective action. If no satisfactory corrective action is received, the supplier/vendor will be considered to be in breach of contract and the contract may be terminated, and the vendor may be disqualified from future solicitations.

3.8.1.11. Contract Cancellation

A contract may be terminated in accordance with its terms. If the terms do not specify a basis for termination, the contract may be terminated with or without cause by HCC giving a thirty (30) day prior written notice to the legal address of the contractor. Procurement Operations issue all contract cancellations.

3.8.1.12. Bid Award Cancellation

In the event the selected vendor fails to honor its commitment to enter into a contract, the responsible Buyer shall obtain a written acknowledgment to this effect from the selected vendor. Noncompliance by the vendor will result in forfeiture of the bid bond, if one was required. The award may be given to the next responsible and responsive bidder or HCC may reject all bids and re-bid the procurement.

3.8.1.13. Summary of Procurement

A Summary of Procurement will be provided to the requesting department by Procurement. If Board approval of the solicitation is required, the requesting department will use the Summary of Procurement to create a Board Action Item to assist in the justification of the purchase. The Board Action Item (created by the requesting department) shall be submitted to Procurement Operations prior to agenda review. The required authorizing HCC representatives must sign the Board Action Item. Procurement Operations will submit the Board Action Item to Board Services. Please refer to the Forms section of this manual.

3.8.2. Competitive Sealed Proposal

HCC does competitive sealed proposals through an Invitation for Proposals or CSP. The process is the similar to IFB, with the primary difference being that once the submission deadlines has passed, HCC is allowed to negotiate with each proposer before awarding the contract. While many of the requirements below are the same as IFB, they are repeated for clarity of the CSP process.

3.8.2.1. Development of Specifications

Specifications will be developed and documented by the requesting department. Specifications, both descriptive and technical, will be written in a clear, specific manner, providing as much information as is required for a supplier/vendor to identify the goods and/or services being bid.

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Requestors may also ask Procurement Operations for assistance in specification development. Specifications should comply with the Standards for Quality Assurance and Specifications.

3.8.2.2. Vendor List

The Requestor will supply a list of suggested vendors. All vendors qualified to provide the commodity or service that is being bid are invited to participate in the CSP process.

3.8.2.3. Advertisement

Solicitations will be advertised twice in the local newspaper (*The Houston Chronicle*) – once a week for at least two (2) consecutive weeks prior to the bid opening date.

3.8.2.4. Pre-Proposal Conference

Unless otherwise stated in the solicitation document, attendance of prospective bidders at a pre-bid conference is not mandatory.

3.8.2.5. Proposal Due Date

Proposals will be due on the deadline and location specified in the solicitation. Any proposal, request for withdrawal, or modification of a proposal that is not received at the designated location, time, and date set forth in the solicitation documents will be considered late and will not be considered. Delivery of the proposal to the specified location is the sole responsibility of the proposer.

3.8.2.6. Receipt and Opening of Proposals

Upon receipt, sealed proposals will be date stamped and logged by Procurement Operations on or before the deadline specified in the solicitation. The proposal opening shall be attended by a minimum of two (2) employees of Procurement Operations, and the representative(s) of the requesting department. Proposers may attend as well. The proposal opening will be brief and consist of only a declaration of the name of the proposer. Proposals shall be opened so as to avoid disclosure of contents to competing proposers and be kept secret during the process of negotiation. All proposals that have been submitted shall be available and open for public inspection after the contract is awarded, except for trade secrets and confidential information contained in the proposals and identified as such.

3.8.2.7. Proposal Initial Evaluation

Once the proposal is opened, the Buyer will determine responsiveness and will distribute copies of the proposal to the evaluation team. The evaluation team will be determined by the Executive Director of Procurement Operations. The team will evaluate the proposals based on the CSP and any stated evaluation factors, including the points and/or weights, if given in the CSP. While each CSP may vary in the evaluation factors (although they shall include all the factors listed in Texas Education Code 44.031), other typical evaluation factors could include:

- 1) Price
- 2) Technical Approach
- 3) Management Plan (including work plan and schedule)
- 4) Personnel Qualifications

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5) Demonstrated Corporate Experience and Qualifications

Based on the initial evaluation of the proposals, the Buyer will coordinate with the evaluation team to share the results of the evaluation, coordinate follow-up meetings for negotiations or terminate the process. The evaluation team shall always seek award to the vendor offering the best value to HCC in accordance with the factors listed in Texas Education Code, Section 44.031(b). All HCC employees shall conduct evaluations in an ethical and fair manner. If the evaluation team recommends award without further negotiation, the Buyer will proceed with finalizing the award.

When an award requires final approval by either the Chancellor or the Board of Trustees, Procurement Operations will prepare a Summary of Procurement. For Board approvals, Procurement Operations will prepare a summary of procurement and the requesting department will prepare a Board Action Item and submit it to Procurement Operations. Procurement Operations will forward both documents to Board Services. Procurement Operations will maintain these documents along with an abstract of bids in the Procurement Operations contract file.

3.8.2.8. Negotiations/Best and Final Offer (BAFO)

The Buyer will facilitate all negotiations between the requesting department and the proposer. All proposers will be given fair and equitable treatment with respect to any opportunity for negotiation and revision of proposals, including the submission of a “Best and Final Offer” (BAFO). At the point where negotiations are complete, the Buyer will request qualified proposers to submit a BAFO by a specified date and to a specified location. The BAFO must allow the proposer to:

- 1) modify the initial offer;
- 2) update pricing; and
- 3) include any added inducements that will improve the overall score in accordance with the evaluation.

The Buyer and the evaluation team will review the BAFOs and proceed with finalizing the award.

3.8.2.9. Award

Once the evaluation team determines the award, the Buyer will proceed with finalizing the award. The evaluation team shall always seek award to the vendor offering the best value to HCC in accordance with the factors listed in Texas Education Code, Section 44.031(b). All HCC employees shall conduct evaluations in an ethical and fair manner.

When an award requires final approval by either the Chancellor or the Board of Trustees, Procurement Operations will prepare a Summary of Procurement. For Board approvals, Procurement Operations will prepare a summary of procurement and the requesting department will prepare a Board Action Item and submit it to Procurement Operations. Procurement Operations will forward both documents to Board Services. Procurement Operations will maintain these documents along with an abstract of bids in the Procurement Operations contract file.

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3.8.2.10. Contract Management

Procurement Operations will be responsible for maintaining documentation of vendor performance, as required, utilizing criteria such as terms, price, and quality, delivery, timeliness and service level.

College departments or offices will provide feedback pertaining to the awarded vendor's performance. A vendor that does not meet the requirements of the awarded contract will be determined to be non-compliant.

Procurement Operations will notify the vendor, in writing, of any problem requiring immediate corrective action. If no satisfactory corrective action is received, the vendor will be considered to be in breach of contract and the contract may be terminated, and the vendor may be disqualified from future solicitations.

3.8.2.11. Contract Cancellation

A contract may be terminated in accordance with its terms. If the terms do not specify a basis for termination, the contract may be terminated with or without cause by HCC giving a thirty (30) day prior written notice to the legal address of the contractor. Procurement Operations issue all contract cancellations.

3.8.2.12. CSP Award Cancellation

In the event the awarded vendor fails to honor its contract, the responsible Buyer shall obtain a written acknowledgment to this effect from the awarded vendor. Noncompliance by the vendor will result in forfeiture of the bid bond, if one was required. The award may be given to another proposer through further negotiation or HCC may reject all proposals and re-bid the procurement.

3.8.2.13. Summary of Procurement

A Summary of Procurement will be provided to the requesting department. If Board approval of the solicitation is required, the requesting department will use the Summary of Procurement to create a Board Action Item to assist in the justification of the purchase. The Board Action Item (created by the requesting department) shall be submitted to Board Services prior to agenda review. The Board Action Item must be signed by the required authorizing HCC representatives. Please refer to the Forms section of this manual.

3.8.3. Request for Proposals or RFP

A Request for Proposals is a competitive solicitation that allows for negotiation with the vendor. Construction projects may not be processed using the Request for Proposals process (except in the one-step process of contracting with a construction manager at risk).

3.8.3.1. Development of Specifications

Specifications and evaluation criteria will be developed and documented by the requesting department. Specifications, descriptive and technical, shall be written in a clear and detailed manner. The Buyer will review specifications and add or remove information, as required, with input from the Requestor. Specifications should comply with the Standards for Quality Assurance and Specifications.

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3.8.3.2. RFP Packet

The RFP packet will contain at least the following information:

- 1) General Terms and Conditions
- 2) Instruction to Proposers
- 3) Proposal Form
- 4) Certification and Disclosure Statement
- 5) Specifications
- 6) Evaluation Criteria
- 7) Proposal Sheet for Price and Other Factors

3.8.3.3. Vendor List

Because an RFP is a competitive solicitation of a specialized nature, the requesting department will provide a suggested vendor list. The Buyer of record may utilize the HCC Vendor Database and his/her experience and the particular common and current market trends to include additional vendors.

3.8.3.4. RFP Advertising

The RFP will be advertised twice in the local newspaper (*The Houston Chronicle*) - once a week for at least two weeks prior to the RFP due date.

3.8.3.5. Proposal Due Date

Proposals will be due on the deadline and location specified in the solicitation. Any proposal, request for withdrawal, or modification of a proposal that is not received at the designated location, time, and date set forth in the solicitation documents will be considered late and will not be considered. Delivery of the proposal to the specified location is the sole responsibility of the proposer.

3.8.3.6. Pre-Proposal Conference

Unless otherwise stated in the solicitation document, attendance of prospective proposers at pre-proposal conferences is not mandatory.

3.8.3.7. Receipt and Tabulation of Proposals

The RFP responses will be date stamped and logged by Procurement Operations on or before the deadline specified in the solicitation. Proposals will be evaluated in accordance with the criteria set forth in the solicitation.

3.8.3.8. Proposal Evaluation

Procurement Operations will be responsible for convening an evaluation team composed of at least three (3) representatives. A representative of Procurement Operations will be present to coordinate this evaluation process. The evaluation committee shall always seek award to the vendor offering best value to HCC in accordance with the factors listed in Texas Education Code, Section 44.031(b). The evaluation committee shall conduct evaluations in an ethical and fair manner.

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3.8.3.9. Contract Award

The Buyer will lead the negotiation team, which may include requesting department and other subject matter experts as needed. All proposers will be given fair and equitable treatment with respect to any opportunity for negotiation and revision of proposals.

Once the award is determined by the evaluation team, the Buyer will proceed with finalizing the award. The evaluation team shall always seek award to the vendor offering the best value to HCC in accordance with the factors listed in Texas Education Code, Section 44.031(b). All HCC employees shall conduct evaluations in an ethical and fair manner.

When an award requires final approval by either the Chancellor or the Board of Trustees, Procurement Operations will prepare a Summary of Procurement. For Board approvals, the requesting department will prepare a Board Action Item. Procurement Operations will maintain these documents along with an abstract of bids in the Procurement Operations contract file.

3.8.3.10. Contract Management

Procurement Operations will be responsible for maintaining documentation of supplier performance, as required, utilizing criteria such as; terms, price, quality, delivery, timeliness and service level.

College departments shall provide feedback pertaining to the contractor’s performance. A vendor that does not meet the requirements of the contract will be determined to be non-compliant.

Procurement Operations will notify the vendor in writing, of any problem requiring immediate corrective action. If no satisfactory corrective action is received, the supplier/vendor will be considered to be in breach of contract and the contract may be terminated.

3.8.3.11. Summary of Procurement

A Summary of Procurement will be provided to the requesting department. If Board approval of the solicitation is required, the requesting department will use the Summary of Procurement to create a Board Action Item to assist in the justification of the purchase. The Board Action Item (created by the requesting department) shall be submitted to Board Services prior to agenda review. The required authorizing HCC representatives must sign the Board Action Item. Please refer to the Forms section of this manual.

3.8.4. Request for Qualification or RFQ

A Request for Qualifications (RFQ) is a solicitation that seeks a vendor based on qualifications that meet the overall criteria and specifications for the particular project. The selection and award must be based on demonstrated competence and qualifications to perform the services for a fair and reasonable price. RFQ is used for professional services only.

A RFQ for professional services will be solicited in a two-tier format:

- 1) Step 1 - Qualification Process
- 2) Step 2 - Submittal of cost/pricing information by the most highly qualified vendor.

A Request for Qualifications is a negotiated method of procurement. It is a Qualifications-based selection process. Price is not an evaluation factor and is considered only in Step 2. After

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selecting the most highly qualified firm, price negotiations occur with the top ranked firm only. If unable to negotiate a fair and reasonable price with the top ranked firm, negotiations are terminated and price negotiations begin with the next ranked firm. The process continues until fair and reasonable price is negotiated or the list is exhausted.

3.8.4.1. Development of Specifications

The requesting department shall develop specifications and qualifying criteria. The Buyer will review the information and add/or delete information, as required, with input from the Requestor. Specifications should comply with the Standards for Quality Assurance and Specifications.

3.8.4.2. RFQ Documents

The RFQ packet will contain at least the following information:

- 1) Invitation to Respondents
- 2) Specifications
- 3) Evaluation Criteria

3.8.4.3. Vendor List

A Request for Qualifications represents a solicitation of a specialized nature. Requestors shall provide a suggested vendor list. Procurement Operations may revise the vendor list.

3.8.4.4. RFQ Advertising

While there is no specific legal requirement for advertising in the RFQ process, typically the RFQ is advertised twice in the local newspaper (*The Houston Chronicle*) - once a week for at least two weeks prior to the date set for receiving qualification statements.

3.8.4.5. RFQ Due Date

Qualification Statements will be due on the deadline and location specified in the solicitation. Any statement, request for withdrawal, or modification of a statement that is not received at the designated location, time, and date set forth in the solicitation documents will be considered late and will not be considered. Delivery of the statement to the specified location is the sole responsibility of the Respondent.

3.8.4.6. Receipt and Evaluation of Qualifications

The Qualification Statements will be date stamped and logged by Procurement Operations on or before the deadline specified in the RFQ solicitation document.

Procurement Operations shall convene an evaluation team composed of, but not limited to, three (3) or more representatives of the requesting department. A representative of Procurement Operations will coordinate the evaluation process. The evaluation committee shall always seek award to the most qualified vendor based on demonstrated competence and qualifications to perform the services for a fair and reasonable price. The evaluation team shall conduct evaluations in an ethical and fair manner.

3.8.4.7. Contract Award

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The selection of vendor will be dependent on a consensus among the evaluation committee. The most qualified candidate shall be chosen based on demonstrated competence and qualifications, and the services shall be provided at a fair and reasonable price. With Board approval, Procurement Operations will negotiate with the most qualified vendor. If a satisfactory contract cannot be negotiated, HCC shall end negotiations in writing and enter into negotiations with the next ranked most highly qualified vendor.

3.8.4.8. Contract Management

Procurement Operations will be responsible for maintaining documentation of vendor performance, as required, utilizing criteria such as; terms, price, quality, delivery, timeliness and service level.

College departments or offices shall provide feedback pertaining to the contractor's performance. A vendor that does not meet the requirements of the contract will be determined non-compliant.

Procurement Operations shall notify the vendor in writing, of any problem requiring immediate corrective action. If no satisfactory corrective action is received, the contractor will be considered to be in breach of contract and the contract may be terminated, and the vendor may be disqualified from future procurements.

3.8.4.9. Summary of Procurement

A Summary of Procurement will be provided to the requesting department. If Board approval of the solicitation is required, the requesting department will use the Summary of Procurement to create a Board Action Item to assist in the justification of the purchase. The Board Action Item (created by the requesting department) shall be submitted to Board Services prior to agenda review. The required authorizing HCC representatives must sign the Board Action Item. Please refer to the Forms section of this manual.

3.8.5. Sole Source

Procurement without competition is authorized under limited conditions and subject to written justification documenting the conditions, which preclude the use of a competitive process. An item is considered "sole source" when it is available from only one source, including:

- an item for which competition is precluded because of the existence of a patent, copyright, secret process, or monopoly;
- a film, manuscript, or book;
- a utility service, including electricity, gas, or water; and a captive replacement part or component for equipment.

However, an item is not a sole source item if it is mainframe data-processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

3.8.5.1. Justification of Sole Source

HCC recognizes that there may be instances when sole source purchases must be made, but such purchases must be appropriately justified. Each justification shall contain written sufficient facts and rationale to justify the need for some feature of characteristic (specification) that is

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unique to the requested product or service that cannot be provided by any other vendor's product or service.

A completed Sole Source Purchase Request written justification, signed by the requestor's budget authority and Chancellor's Executive Cabinet member, must be forwarded to Procurement Operations as an attachment to a properly completed and approved requisition in PeopleSoft. All request shall generally include the following elements:

- 1) Purpose of the purchase: Provide a detailed description of the good/service requested, including minimum requirements and benefits of making the purchase.
- 2) Uniqueness of the purchase: Describe how the recommended supplier is uniquely qualified to provide the required features and functions; list any compatibility, training, maintenance and support features that make the recommended supplier a sole source.
- 3) Market research: Describe your market research and findings; list the names of other similar manufacturers/models/service providers, if any, that were evaluated and the reason they were not acceptable for the intended use. Provide copies of any research completed including proposals and pricing information received.
- 4) Define how long the recommended good/service has been used by HCC; when was the last time the request was awarded following a competitive process (RFP/Bid process).
- 5) Explain why the price for the good/service is considered fair and reasonable and what steps, if any, were taken to obtain the best possible price

The written justification is not a justification to purchase. The law does not require that the decision to purchase products and services be justified. It is a justification of the need for something that is unique about the product or service that precludes competition. If there are two or more products that are acceptable, preserving the competitive solicitation environment will help ensure that HCC receives the best value.

If a sole source purchase is justified, the request should be processed accordingly, rather than using a competitive solicitation and then attempting to disqualify bids received on other products. Because purchasing files are subject to the Texas Public Information Act, the use of sole source purchase procedure must withstand critical scrutiny. Justifications must be objective and must avoid statements that cannot be substantiated.

3.8.5.2. Excluded Reasons for Sole Source

The following reasons to justify a sole source purchase will NOT be accepted:

- 1) Price
- 2) competing products are not satisfactory
- 3) Subjective statements regarding product quality

3.8.6. Emergency Purchases

There are two types of emergency purchases:

- 1) The first type is one defined by state law as a procurement that bypasses the procurement process mandated by state law because of the existence of an

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emergency. Accordingly, it is imperative that the details of a claimed emergency are documented because the purchase contract may be declared void if determined not to be an emergency under state law.

- 2) The second type is a situation that requires immediate action that may bypass local procurement requirements, but does not bypass any state requirement.

3.8.6.1. Definition of Emergency

An emergency is a sudden and unexpected occurrence which requires immediate action by HCC because of an imminent threat to public health or safety or a reasonably unforeseeable situation, including but not limited to, a catastrophe or natural disaster that creates a circumstance where HCC property, equipment, a college facility, or portion of a college facility is destroyed, severely damaged, or experiences a major unforeseen operational or structural failure, and the HCC Board of Trustees, or designee, determines that the delay posed by using one of the applicable purchasing methods would prevent or substantially impair the conduct of classes or other essential college activities.

3.8.6.2. Justification of an Emergency

For either type of emergency noted above, any requisition claiming an emergency shall provide detailed information on the goods and/or services needed, and the Requestor must provide justification for the emergency purchase. The requisition may be faxed to Procurement Operations and must be followed by an original requisition. Procurement Operations will issue a confirming order to the Vendor. The Requestor shall obtain a packing list and/or delivery document and will forward it to the receiving department for processing. The Executive Director of Procurement Operations will determine whether an emergency exists unless state law requires that the Board of Trustees make such determination.

3.8.6.3. Board Declaring an Emergency

In accordance with Texas Education Code 44.031(h), the HCC Board of Trustees must make a determination that the delay posed by the purchasing methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities. Once such a declaration is made, HCC may then contract for the replacement or repair of the equipment, school facility, or the part of the school facility by the most expedient method available in the best interest of HCC.

If necessary, in accordance with Texas Education Code 44.0312(c), and notwithstanding any other provision of the Education Code, in the event of an emergency, the board may also delegate to the chancellor or designated person the authority to contract for the replacement, construction, or repair of school equipment or facilities if emergency replacement or repair is necessary for the health and safety of HCC students and staff.

If necessary, the HCC Board of Trustees may bypass the 72-hour notice provisions of the Texas Open Meetings Act, to take such action by posting a notice of a meeting for at least two hours before the meeting is convened. The notice shall clearly identify the emergency for each item in the notice. Additionally, the notice of an emergency meeting must be given to members of the news media not later than one hour before the meeting (if they have previously requested special notice and agreed to reimburse the district for any additional costs).

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**3.8.6.4. Executive Director of Procurement Operations
Declaring an Emergency**

The second type of emergency requires only that the emergency purchase is justified to the Executive Director of Procurement Operations. For example, if windows are broken at a campus by vandals, an immediate need exists to not only secure the building, but also to protect the contents from damage by the elements. This type of emergency purchase requires the immediate acquisition of goods or services to repair damage to the facility to protect property and persons, but there is no specific state law requirement that must be bypassed to meet the urgent need (e.g., not over \$50,000). After purchases of this type are made, a purchase order should be issued after the fact on the next business day. Should a purchase order be issued after the fact, on the next business day, care should be taken that emergency purchases do not result from improper planning rather than from a true emergency. It is important that HCC attempts to eliminate emergency purchases for non-emergency situations as much as possible and requires that all emergency purchases be fully justified.

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ARTICLE 4. COOPERATIVE PROCUREMENT

4.1. Types of Cooperative Procurement

Interlocal Agreement - Texas Government Code Chapter 791 (Interlocal Cooperation Act) allows local governments to purchase goods and services using contracts from other local governments, councils of governments, the state or state agencies that have been competitively procured. This includes the ability to purchase computer-related equipment from the Texas Department of Information Resources (DIR)-contracted vendors.

Several laws allow local governments to purchase goods and services using contracts competed previously by the state or other governments. They include:

- 1) State Contract - Local Government Code Sections 271.081 through 271.083 established a local government-purchasing program through the Texas Building and Procurement Commission (TBPC). The TBPC's procurement program allows local governments such as community colleges to purchase goods and services from vendors with which the state has entered into contracts as a result of competitive bidding procedures. These are referred to as State Contract purchases.
- 2) Interlocal Agreement - Texas Government Code Chapter 791 (Interlocal Cooperation Act) allows local governments to purchase goods and services using contracts from other local governments, councils of governments, the state or state agencies that have been competitively procured. This includes the ability to purchase computer-related equipment from the Texas Department of Information Resources (DIR)-contracted vendors.
- 3) Catalog Purchase - Texas Government Code Section 2151 allows purchasing automated information services from approved vendors based on their catalog prices and negotiations. Automated information services include: (a) the computers on which they are automated; (b) a service related to the automation of information systems or the computers on which they are automated, including computer software, covered by the Information Resources Management Act; or (c) any telecommunications apparatus or device that serves as a component of a voice, data, or video communications network for the purpose of transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on that network.

4.2. Fees Under Cooperative Procurement Contracts

- 1) For any of the above-noted cooperative contracts valued at \$25,000 or greater, HCC is required by Texas Education Code §44.0331 to document any contract-related fee, including any management fee, along with the purpose of the fee. On an annual basis, the amount, purpose, and disposition of any such fee must be presented in a written report, listed as a board meeting agenda item and submitted in an open public meeting to the HCC Board of Trustees.

4.2.1. State Contract - Texas Building and Procurement Commission (TBPC)

A State Contract is a method of procurement established in accordance with Local Government Code Chapter 271 Subchapter D, State Cooperation in Local Purchasing Programs, whereby

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HCC may, through the adoption of a resolution by the HCC Board of Trustees, participate in procurements for goods through the State of Texas via the Texas Building and Procurement Commission (TBPC). State Contract is compliant with state law requiring HCC to seek competitive bids for the purchase of an item.

4.2.2. Interlocal Agreement

An interlocal agreement is a contract authorized by Texas Local Government Code §791.001 et seq. (the “Interlocal Cooperation Act”) between two or local governments (including a federally recognized Indian tribe in Texas listed under 25 USC §479a-1) to either study the feasibility of the performance of a governmental function or service by interlocal agreement, or to provide a governmental function or service that each party to the agreement is authorized to perform individually. In other words, it allows HCC to enter into an interlocal agreement with another local government (or Indian tribe) to perform governmental functions and services for example, sharing or "piggy-backing" competitive solicitations issued by another local government.

The HCC Board of Trustees has authorized the Chancellor to approve of contracts up to \$50,000 necessary and appropriate for the ongoing operations of HCC in accordance with state law. Interlocal agreements entered into by HCC and other local governments must state the purpose, terms, rights, and duties of the contracting parties; and specify that each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

The contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract. An interlocal contract may have a specified term of years and may be renewed. Interlocal contracts between a governmental entity and a purchasing cooperative may not be used to purchase engineering or architectural services

4.2.3. Department of Information Resources (DIR)

In accordance with the authority in Texas Education Code §44.031(i) and Texas Government Code Chapters 2054 and 2157, HCC will acquire computers and computer-related equipment, including computer software and peripherals, through DIR State Catalogue Purchasing Program (commonly referred to as a “catalog purchase”).

HCC is allowed to participate in the DIR purchasing program through the HCC Board of Trustees’ adoption and filing of the same resolution that approved HCC’s participation in State Contracts. This method of procurement is compliant with state law requiring HCC to seek competitive bids for the purchase of an item. See Tex. Atty. Gen Op. DM-350.

A catalogue purchase or lease shall, when possible, be based on an evaluation of a least three catalogue proposals made by qualified information systems vendors. If three proposals are not evaluated, HCC shall document the reasons for making the purchase or lease.

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ARTICLE 5. CONSTRUCTION SERVICES

5.1. General Requirements

Construction contracts and the procurement of construction services have many requirements that vary from ordinary procurements. As such, they are treated separately here.

5.1.1. Facilities Department Review

All solicitations and construction contracts must be submitted to the Facilities Department for review prior to work being performed. All construction contracts will be awarded after completion of the competitive solicitation process. All terms and conditions in the contract shall comply with the terms and conditions of the competitive solicitation.

5.1.2. Method of Construction

In accordance with Government Code Section 2269.056, for any method of construction delivery other than competitive bidding, before advertising, the HCC Board of Trustees must determine the method of construction delivery, which provides the best value to HCC.

5.1.3. Signature Authority

All approvals shall conform to the current HCC [Purchasing and Acquisition Regulation \(CF\)](#) – Contract Signature Authority.

5.1.4. Legal Review

All contracts are subject to legal review by the HCC General Counsel prior to approval by the Board of Trustees. Competitive Solicitations may also require review by either or both the General Counsel and the HCC Small Business Representative/Compliance Officer prior to release, at their respective discretion. Any time such a Competitive Solicitation is proposed, both the HCC General Counsel and the HCC Small Business Representative should be given the opportunity to review.

5.2. Methods of Procurement

All HCC construction contracts shall be made in accordance with [Government Code Chapter 2269](#).

A contract for Construction Services shall be issued upon approval of bid award by the Board of Trustees. The Contract shall specify all terms and conditions as stated in the bid award. Except to the extent prohibited by law, consistent with these policies and procedures, HCC may use competitive bidding to select a contractor to perform construction, rehabilitation, alteration or repair services for a facility.

5.2.1. Procurement of Architect/Engineering/Land Surveying Services (Request For Qualifications)

To the extent that any Construction Services procurement includes the procurement of architect, engineering or land surveying services, such services are considered professional services under the Texas Professional Services Procurement Act, Government Code, Chapter 2254 (“PSPA”) and must be procured in accordance with the PSPA. Such services shall be procured in accordance with this manual. If a qualified HCC employee provides such services, they need not be procured.

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ARTICLE 6. CONTRACTS

6.1. General Requirements

Contracts administered by Procurement Operations include two basic types of contracts – Procurement Contracts and Revenue Generating Contracts, as described below. All such contracts shall adhere to the following general requirements:

- 1) **Multi-Year Contracts** – A multi-year contract is not authorized unless the multi-year term has received specific approval by the Board of Trustees. A solicitation must specify whether or not a multi-year contract may be awarded. A multi-year contract must contain provisions that allow for termination by HCC upon ninety (90) days or less prior written notice at any time or contains a non-appropriations clause that includes a statement that the contract will be paid only from current revenues and that it may be terminated at the end of HCC’s fiscal year for non-appropriation of funds. Additionally, such contracts are subject to an annual administrative review to determine if the contract must be terminated for non-appropriation or other reasons stated in the contract.
- 2) **Modification to Contracts** - Any changes shall be processed through a document known as a "Contract Modification" that specifies: reason for the change, requested by (name), date of request and dollar amount, if applicable. The modification process will be generated through a memorandum and/or a requisition issued by the Requestor and approved by the budget authority of the requesting area. The request shall specify in detail the changes to be integrated into the contract document. Upon review, the contract modification will be issued by Procurement Operations, signed by the contractor and the Executive Director of Procurement Operations or designee. The contract modification document will be attached to the original contract and a copy issued to Accounts Payable, the requesting department, and the contractor.
- 3) **Legal Review** - All contracts are subject to legal review by the HCC General Counsel, at the discretion of the HCC General Counsel, prior to approval by the Board of Trustees. HCC General Counsel and the HCC Small Business Representative prior to release may also review solicitations.
- 4) **Signature Authority** - All approvals shall conform to the current HCC [Purchasing and Acquisition Regulation \(CF\)](#) – Contract Signature Authority.
- 5) **Board Approved Contracts** - A Board Action Item must be prepared by the requesting department through the office of the President or Vice Chancellor of the area prior to the deadline to submit Board Agenda items. The Board of Trustees Committee will review the agenda items prior to approval at the monthly Board meeting. A copy of the Board Action Item shall be provided to Procurement Operations for placement in the contract file. Procurement Operations will prepare a Summary of Procurement as an Action Item attachment.
- 6) **Payment Issues** – Payment issues should be directed to the Accounts Payable Department.

6.1.1. Procurement Contracts

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These are contracts that have been awarded based on some type of procurement process conducted through Procurement Operations, including:

- 1) Commodities
- 2) Services
- 3) Consultants
- 4) Grant Purchases
- 5) Construction Services

6.1.1.1. Commodities/Services Contracts

Contracts for Commodities or Services may vary depending on the type of procurement used to acquire the Commodities (for example: catalog purchases, State Contract, competitive bidding, request for proposals).

6.1.1.2. Consultant Agreements

Contracts for consulting services shall be issued prior to services rendered and must be submitted to Procurement Operations for advance review. In selecting a Consultant, the responsible college president or department head shall base the choice on demonstrated competence, knowledge, qualifications, and on the reasonableness of the proposed fee. All contracts shall specify the nature of the service, dollar amount, and any special payment requirements. The requestor, upon satisfactory completion of the work, will issue an authorization for payment. The Requestor shall contact Procurement Operations to communicate any changes and/or problems during the process of completing the project. Professional services to be performed by independent consultants or contractors must not be employees of HCC.

6.1.1.3. Grant Purchases

Grant purchases follow processing of requisition procedures as well as any specific grant requirements. Deadlines to procure goods and services will be determined by specific grant provisions. Purchases are restricted by grant conditions (i.e., Carl Perkins Grant, purchase equipment for student only, and not administrative applications). Grant administrators shall communicate with the Director of Grants and Contracts prior to submitting a purchase requisition to Procurement Operations.

A federally funded procurement is any purchase that is paid for with federal funds. Such purchases include items covered under the provisions of the Elementary and Secondary Education Act (as amended) Titles I and II, as well as special grant awards that the non-federal entity may have received for programs subsidized by the federal government.

This procedure is applicable to the Houston Community College Procurement Operations Department and is intended to assist Department personnel in achieving compliance with the regulations promulgated by federal grant awarding agencies, including but not limited to the U.S. Department of Education entitled Education Department General Administrative Regulations (“EDGAR”).

See the HCC Procedures for Federally-Funded Procurements for additional information regarding compliance with the Uniform Guidance 2 CFR Part 200 regulations.

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6.1.1.4. Construction Services Contracts

All solicitations and construction contracts must be submitted to the Facilities Department for review prior to work being performed. All construction contracts will be awarded after completion of the applicable Competitive Solicitation process. All terms and conditions in the contract shall comply with the terms and conditions of the Competitive Solicitation. A contract for Construction Services shall be issued upon approval of the award by the Board of Trustees. The Contract shall specify all terms and conditions as stated in award.

6.1.2. Revenue Generating Contracts

These contracts primarily include contracts for instructional services, vending, and food that generate revenue for HCC.

The Requestor must contact the Office of Business Affairs in the Accounting Department prior to negotiating a revenue-generating contract. The Office of Business Affairs will direct Requestor to provide a cost benefit analysis to ensure the College is compensated properly for services to be rendered. In addition, the Office of Business Affairs will assess if the contract requires Board approval. If Board approval is required, the requesting department must submit a Board Action Item for the next Board agenda.

Revenue generating contract documents must be forwarded to Procurement Operations for review prior to being executed. If required, Procurement Operations will forward the contract to the Office of the General Counsel for review. If changes to the contract are required, Procurement Operations will contact the vendor/customer directly and negotiate changes into the contract.

A revised original shall be submitted to Procurement Operations for final review by the Executive Director of Procurement Operations. The Buyer will forward the final contract document to the Chancellor or designee for signature. The Chancellor will sign the agreement and return it to the Office of Business Affairs with a copy to Procurement Operations. The contract will be monitored through a contract number, which will be assigned by Procurement Operations. Any required contract changes shall be submitted to Procurement Operations for review.

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ARTICLE 7. VENDOR REQUIREMENTS

7.1. Debarment and Suspension

HCC shall abide by the Texas Government Code with regard to all disbarments/suspensions of potential vendors. In determining the status of a business or person with regard to debarment/suspension in the State of Texas, HCC shall refer to the Comptroller’s section of the State of Texas website.

7.2. Acknowledgement of Purchasing Policies/Procedures

Prior to an award of a contract, a vendor must acknowledge that the Vendor has read, understands, and agrees to abide by all HCC procurement requirements contained in HCC board policies and these procedures. This requirement is a material term of all contracts between HCC and any Vendor.

7.3. Conflict of Interest Disclosures

All vendors are charged with notice of the Conflicts Disclosure requirements contained in Local Government Code, Chapter 176. To the extent any conflicts exist that requires disclosure, all vendors must comply with Chapter 176. Failure to comply with Chapter 176 is considered a default under a contract with HCC, and HCC may at its sole option declare the contract void or voidable. This requirement is a material term of all contracts between HCC and any Vendor. For ease of compliance, the state-issued conflicts disclosure form.

7.4. Criminal History Information

In accordance with Texas Education Code §44.034, before entering into a contract with HCC, a person or business must give notice to HCC if the person or an owner or operator of the business has been convicted of a felony. HCC may terminate a contract with a person or business if HCC determines that the person or business failed to give such notice or misrepresented the conduct resulting in the conviction. HCC must compensate the person for services performed before the contract terminated.

7.5. No Delinquent Taxes or Other Debt to HCC

In accordance with Texas Education Code §44.044, upon approval by the HCC Board of Trustees by resolution, this procedure shall go into effect by which HCC may refuse to enter into a contract or other transaction (that requires Board approval) with a person indebted to HCC. The term “person” includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with HCC. This requirement is a material term of any contract between HCC and any Vendor that requires Board approval.

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ARTICLE 8. VENDOR DISPUTES

8.1. Purpose

To provide guidelines for HCC employees in the event a vendor dispute should arise as a result of an award of a contract.

8.2. Vendor Complaint

Any actual or prospective bidder, offeror, proposer, or contractor (Vendor) who is aggrieved in connection with the solicitation, evaluation, or award of a contract may formally protest such grievances.

Disputes with respect to a solicitation shall be submitted in writing at least two (2) days prior to the opening of bids. In the event a Vendor wishes to contest a contract awarded under these procedures, a Vendor may initiate a written document stating the reason(s) for the dispute within fourteen (14) days of the contract award. Written disputes shall be sent to the Executive Director of Procurement Operations shall respond within three (3) days of receiving the vendor dispute.

A formal written dispute must be in the form of a **notarized affidavit** (Appendix 1 and must contain:

- 1) a specific identification of the HCC policy or state law that the action complained of is alleged to have violated;
- 2) a specific description of each act alleged to have violated the HCC policy or state law identified in paragraph (1) of this subsection;
- 3) a precise statement of the relevant facts;
- 4) an identification of the issue or issues to be resolved; and
- 5) argument and authorities in support of the dispute.
- 6) the remedy sought by the Vendor.

The Vendor must also provide all supporting documents or other evidence.

The authorized HCC representative shall schedule a meeting with the Vendor representative, after the procurement process at issue has been concluded or abated at HCC’s discretion. Whenever possible, a resolution agreed upon by both parties shall be reached at this stage. If no agreement is reached, the Vendor shall contact the next level in the HCC institutional hierarchy within three (3) days of determining that no agreement can be reached until all levels have been exhausted. Only then may a Vendor file any type of suit in law or in equity against HCC or an individual regarding the Vendor’s complaint. In the event of timely protest under this section, HCC shall not proceed further with the solicitation or award of a contract until the Executive Director of Procurement Operations, after consultation with the Chancellor, makes a

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determination in writing that the award of the contract without delay is necessary to protect the substantial interests of HCC.

If there is a determination that a violation of the rules or statutes has occurred in a case where a contract has been awarded, the Executive Director of Procurement Operations shall so inform the protesting party and the using department by letter which sets forth the reasons for the determination and the appropriate remedial action, which may include declaring the contract void.

The authorized HCC representative(s) may include, but are not limited to, Requestor, Buyer responsible for the procurement, Executive Director of Procurement Operations, Sr. Vice Chancellor Finance & Administration and the Chancellor.

8.3. Vendor Performance

HCC has a vendor performance evaluation process in place. The Buyer and Requestor shall complete a vendor evaluation report prior to exercising a contract renewal option and/or upon completion of each contract. Any performance-related issues may be grounds for debarment or suspension of the contractor.

8.4. Vendor Payment

HCC will not pay a vendor unless an invoice is received for the goods or services provided and a delivery confirmation substantiating satisfactory receipt of goods or performance of service is submitted from the employee acting on behalf of HCC.

8.5. Contract Closeout

All contracts will be closed out in a timely manner. Upon completion of a contract, the following actions must be taken:

- 1) Vendor evaluation forms completed by the contract manager and buyer.
- 2) Contract/Project Close-Out Forms completed and signed by the appropriate parties.
- 3) All documentation filed accordingly in the contract file.
- 4) Give contract file to the Contract Administration Group to close-out in the contract log and PeopleSoft
- 5) Contract file moved to closed file drawer in the file room and stored/destroyed according to records retention schedule.

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ARTICLE 9. SALE OF HCC PROPERTY

The disposition of surplus and obsolete personal property shall be handled as follows:

- 1) Transfer of surplus property from HCC departments to inventory control. Inventory Control Department will transfer property to other departments, as required.
- 2) Obsolete surplus property will be placed on public sale list to be sold through sealed bids or auction. Inventory Control shall be responsible for the effective disposition of all surplus or outmoded property and Inventory Control Department shall administer the transfer of equipment between operating departments.

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Appendix 1 - VENDOR DISPUTE AFFIDAVIT

STATE OF _____
COUNTY OF _____

I _____, am a resident of _____ County, Texas. I am over 21 years of age and I am duly competent and qualified in all respects to make this statement and Affidavit upon oath and affirmation upon personal knowledge that the following matters, facts and information set forth are true and correct:

(1) The HCC policy or state law that has been violated is

_____.

(2) The specific violation(s) of the aforementioned HCC policy or state law is

_____.

(3) The relevant facts are

_____.

(4) The issue(s) that need to be resolved are

_____.

(5) The argument or authorities in support of my dispute are

_____.

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Appendix 1 - VENDOR DISPUTE AFFIDAVIT (cont.)

(6) The remedy I seek is

DATED this the ___ day of _____, 20__

Signature of Affiant

SWORN to subscribed before me, this ___ day _____, 20__

NOTARY PUBLIC

My Commission Expires:

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