

San Angelo ISD Purchasing Procedures Manual

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Introduction

The Purchasing Department of San Angelo ISD is responsible for the organization and administration of procurement/purchasing for the district in accordance with the authority delegated by the Superintendent, Board of Trustees, and State Purchasing Laws. Our top goals in purchasing: 1) help every employee legally secure the items they need to do their jobs effectively, 2) get the best taxpayer value (which is not just the lowest unit price) for the products and services we purchase, and 3) have an efficient and supportive system for our staff to make the purchases.

It is the responsibility of the SAISD staff to seek purchases from vendors that have been awarded the contracts through the competitive bid/proposal process. Item(s) that are on a bid/proposal but are requisitioned to an unapproved vendor may be denied, or the campus/department may be required to correct the requisition to reflect an approved vendor and correct pricing from that vendor. In the event a proposal does not exist for a particular category, the Purchasing Department will assist in securing the necessary information to develop one.

Bid Laws and Board Policy

Purchasing law is spelled out in the Texas Education Code Section 44.031. Regulations for purchasing all merchandise and/or services are outlined in the school board policies CH (Legal), CH (Local), CHF (Legal), and COA (Legal). Relevant code and policies are located in Appendix 1.

Competitive Procurement Methods

As outlined in TEC 44.031, there are a variety of methods that can be used to procure merchandise and services for the school district. It is the responsibility of the Purchasing Department to identify the appropriate method of procurement for each item. The following table provides a brief explanation of each method.

Purchasing Method	Method Description
Competitive Bidding	Requires that bids be evaluated and awarded based solely upon bid specifications, terms and conditions contained in the request for bids, bid prices offered by suppliers, and pertinent factors affecting contract performance. Forbids negotiation of prices of goods and services after bid opening
Competitive Sealed Proposals	Requires the same terms and conditions as competitive bidding, but allows changes in the nature of a proposal and prices after proposal opening.

Request for Proposals	Generates competitive sealed proposals and involves several key elements, including newspaper advertisement, notice to proposers, standard terms and conditions, special terms and conditions, a scope-of-work statement, an acknowledgement form/response sheet, a felony conviction notice, and a contract clause.
Interlocal Contract	Provides a mechanism for agreements with other local governments, the state or a state agency to perform governmental functions and services. This provides another method to procure items by using co-op bidding.
Design/Build Contract	Outlines a method of project delivery in which the school district contracts with a single entity for both the design and construction of a project.
Job Order Contracts	Provides for the use of a particular type of contract for jobs (manual labor work) involving minor repairs and alterations.
Construction Management Contracts	Outlines the use of a contract to construct, rehabilitate, alter, or repair facilities using a professional construction manager.
Reverse Auction Procedure	Outlines a bidding process that involves submission of bids by multiple suppliers, unknown to each other, in a manner that allows the suppliers to bid against each other.

Source: Texas Education Agency's (TEA) Financial Accountability System Resource Guide and Legislative Briefing Book.

Advertisement of Bids

State law requires bids worth more than \$50,000 aggregate for the year to be advertised at least once a week for two weeks in a newspaper published in the county in which the district is located. The advertisements are to specify the category of property to be purchased and solicit vendors who are interested in doing business with the district. Local board policy has set the bid threshold at \$25,000.

Bid Process

The bid process is as follows:

- Purchasing Department is made aware of a need to bid a category
- Bid proposal packet is developed and posted on our web site (www.saisd.org/bids)

- The Packet contains the following information:
 - Invitation Letter
 - Special Terms & Conditions
 - General Terms & Conditions
 - Bid/Proposal Submission Forms
 - Bid Certification & Felony Conviction Notice
- Advertisement of bid or request for proposal is placed in the newspaper \$25,000+ -- ad must run once a week for two consecutive weeks
- Bids/Proposals are opened on specified date/time.
- Bids/Proposals must be evaluated and approved by the Board of Education and/or the Purchasing Department
- Approved vendor list is provided to campuses/departments and posted on the web site with a bid tabulation

Requisition Process

A requisition is the means by which a campus or department of the district requests the Purchasing Department to initiate a purchase order. It is a request generated through the district's financial software program for the purchase of supplies, services, equipment, etc. Appropriate personnel are trained in the use of the system and staff are always available to help, if needed.

IMPORTANT – Purchases must be made from approved vendors for items/categories that have been bid out or can be found through a board approved purchasing co-op (like Buy Board). The district belongs to multiple co-ops and the complete list is found on the web site.

DUE DILIGENCE AND OBTAINING THE BEST VALUE

Employees are expected to be wise consumers and seek the most cost effective use of taxpayer dollars. Obtaining goods at a fair and reasonable price is always a top priority, however, best value is not always about the lowest per unit cost. You may consider: quantity and quality of products, availability, delivery methods, ease of ordering (phone, online, fax), past relationships, warranties, local service before and after the purchase.

Use of approved vendors is required if there is a bid category for the product. Quotations are not required if purchased from approved vendor list, however, individual items with a per unit cost of \$3,500.00 or more, requires three quotes, if available.

There are a variety of methods departments may use to obtain quotations. Departments must submit and maintain documentation for approval of the requisition.

For items not found in a bid category or through an approved vendor, the following procedures are to be followed (also, see sole source exception).

Purchase Levels	Requirements (If no bid or contract exists)	Approval Requirements
Greater than \$25,000	Formal Sealed Bid/Proposal by the District	<ul style="list-style-type: none"> • User department/ school approvals • Purchasing Director • Board of Trustees
\$3,500 to \$24,999	Quotations from three vendors	<ul style="list-style-type: none"> • User department/ school approvals • Purchasing Director

Since purchasing laws reflect aggregate district-wide amounts, it is imperative to get Purchasing Department approval before completing the transaction. We are committed to help meet your needs in an efficient, timely, and legal manner.

The district does require staff to secure three quotes from approved vendors for any individual item costing more than \$3,500, if available.

Exceptions to the competitive bidding requirements are contracts for professional services rendered including architect, engineer, real estate fees, attorney fees, and fees for fiscal agents and "sole source" purchases. Sole source purchases allow a district to purchase items that are available from only one source. The criteria for "sole source" purchases include:

- The existence of a patent, copyright, secret process, or monopoly;
- A film, manuscript, or book;
- A utility service (electricity, gas, or water; or
- A replacement part or component for equipment that is specific to a particular piece of equipment and not available from more than one vendor.
- Sole source does not apply to mainframe data-processing equipment and peripheral attachments with a single item purchase price in excess of \$15,000.

The district is responsible for obtaining and retaining documentation from the vendor that clearly states the reasons the purchase must be made on a sole source basis. The district will also require a sole source affidavit from the vendor. The Sole Source Affidavit is found in Attachment 1 of this document. This form must be sent to any vendor qualifying as a sole source provider. This document (or another approved form) must be complete and on hand in the purchasing department before a purchase will be made.

Requisitions should include the following items:

- Description of the item to be purchased (be specific)
For example:
 - 1) File cabinets: color, number of drawers, letter or legal, with or without lock, lateral or regular, catalog number/model number
 - 2) Chairs: color, shell or two piece, height of chair, catalog/model number
 - 3) Desk: single or double pedestal, color of wood/metal and top, catalog/model number
 - 4) Office equipment: description of equipment, brand, model number
- Catalog or item number
- Quantity needed (unit of measure)
- Vendor (from the district's approved vendor list)
- Bid number (if applicable)
- Unit cost and total cost
- Budget code charged
- Date required
- Designate if order is to be faxed and the fax number (in the text box)
- Notations of "Prepayment Required" – send necessary documentation (registration forms, membership application, magazine subscription) to Purchasing with the requisition number on it. Note - very few items are approved for prepayment
- Special handling instructions

Requisitions having incomplete information could be delayed until the information is provided.

Approvals

Level 2 approval – Campus/Department

- Requisitions are entered at the campus/department level and submitted to the principal/department head or designee. No further action can be taken without approval at this level.
- Vendors are verified as approved for the items ordered.
- REMEMBER - Purchases may be made only from approved vendors. A vendor in the eFinancePlus vendor listing does not necessarily mean it is an approved vendor.

Level 1 approval -- Purchasing Department

- Print approval report for Purchasing
- Approve/deny requisitions as indicated by Purchasing on report and notify campuses/departments of corrections needed (i.e.: budget code corrections, price corrections, shipping code errors, notations needed in text box).

- Technology Director must approve those requisitions for technology software and equipment with account codes 6395XXXX, 6396XXXX, and 6398XXXX.

Requisitions are converted to purchase orders after level 1 approval. Our goal is to provide a 24-hour turnaround on all properly executed purchase requests.

Some Companies Do Not Deliver

Use the following procedures:

- Enter your requisition for the merchandise to be purchased.
- The Ship Code should be the campus/department code or "888" for direct pick-up
- Make a note in the text box "Send White Copy of the purchase order to _____ (person's name) for direct pick up from vendor."
- The requisition will be converted to a purchase order after all levels of approvals have been completed and the vendor copy of the purchase order (white copy) will be sent to the person indicated in the text box to make the purchase.
- The vendor copy of the purchase order should be left with the vendor when the purchase has been made.

Ordering on Approval

This should be done through the requisition/purchase order process only.

- Make a note in the text box "Ordering on Approval"
- If you return the item, do so in such a way (return receipt, insured, etc.) that the merchandise can be tracked. If you are to receive a full credit (including shipping/handling charges), notify purchasing that the item is being returned and the purchase order needs to be canceled.

When a vendor calls requesting you to preview an item, the following is required:

- Obtain a name, telephone number, and fax number for the vendor calling. Do not verbally authorize the vendor to send the product. This constitutes expenditures without a purchase order, and it will become the responsibility of the authorizing person to pay for the item.
- Process a requisition with all the required information concerning the preview item. Make a note in the text box stating "for preview and possible purchase." Indicate on the requisition the number of days given by the vendor to preview the item. Vendor must be on the approved vendor list.

Purchasing at a Conference/Convention

Prior to departing for the conference/convention, enter a requisition to the company/companies from which you may wish to order. In the description portion of the requisition, make the notation "Order not to exceed or Do not exceed" and put the amount in the proper location on the requisition. Obtain the proper campus/department approval. The requisition will be reviewed for the following information before approval at level 1 and conversion to a purchase order:

- Is the vendor an SAISD approved vendor?
- Does the Purchasing Department have a proposal for this category of items being requisitioned?
- What is the dollar amount being requisitioned?

NOTE: If a SAISD employee obligates funds at a conference or convention without a purchase order, the burden for payment is with the individual. There was not a contract between the district and the vendor. Reimbursement purchases made will not be granted.

Procurement Cards

Procurement cards are currently used for purchases from SAM's, and HEB through their corporate cards. SAISD has a Master Card that may be used in accordance with the Procurement Card training manual for travel and travel related purchases as well as other approved items. The regular requisition process must be followed to secure the use of these cards. In addition to a PO, the user must have attended a short training session explaining rules and procedures for using the cards. All cards are issued from the purchasing department and must be returned within 48 hours from the date it is used, or from the return of a trip.

Purchase Orders

Purchase orders are a formal order for goods, materials, and/or services from a vendor. A purchase order, once approved, is a binding commitment for the district to remit payment to the vendor after the district receives the item(s) and an invoice.

A purchase order is also an important document to the Accounting Department. The purchase order is used in the accounts payable process as it documents that an order has been received and accepted by the user so that payment can be made to the vendor.

District employees shall not contact vendors to place orders without a purchase order. This could result in payment for the merchandise by the individual when the items are

invoiced. A purchase order is the contract that the district will use to remit payment to a vendor.

Purchase orders are printed, separated, and distributed as follows:

- **Vendor's Copy** (white) – mailed, faxed, or taken to company for purchase
- **Warrant Copy** (yellow) – sent to Accounting Department
- **Requestor Copy** (blue) – sent to campus/department for files
- **Reference Copy** (green) – Purchasing Department file copy
- **Inventory Copy** (goldenrod) – Fixed Asset Clerk receives these for inventory confirmation
- Receiving must be done in eFinancePlus by the campus/department receiving the order

You are allowed to purchase only the items listed on the initial request. Substitutions may be made only with prior approval from Purchasing.

PO Supplements

Send ALL supplements for purchase orders to Purchasing. This could include items such as registration forms, specific order forms, book lists, etc. that need to accompany your purchase order.

Supplements to be sent to the vendor with the PO should be sent to the Purchasing Department.

Supplements that are to be sent with a check and PO to the vendor (i.e. registration forms, membership forms, subscriptions, travel information) should be sent to the Accounting Department with the requisition number noted on the supplement.

Emergency Purchase Orders

Emergency purchase orders will only be processed with prior permission of the Director of Purchasing or the Superintendent. We will work to eliminate this process.

Cancellation or Changes to Purchase Orders

Any request to modify or cancel a purchase order must be made in writing (memorandum or e-mail) to the Purchasing Department. A purchase order cannot be canceled unilaterally. The company must be contacted and must agree to the cancellation or modification of an existing purchase order.

If both parties agree, the Purchasing Department will cancel the purchase order or make the necessary modifications to the purchase order.

Frequently Asked Questions

How long does it take to issue a purchase order?

Our goal is to provide a 24-hour turnaround on all properly requested orders. If research is required, the turnaround time will be extended.

What copy of the purchase order do I receive?

The campus or department will receive the blue copy of the purchase order. Since all the merchandise is delivered directly to the campus (i.e.: subscriptions) or it is a direct pick-up purchase order, the campus or department is responsible for receiving the shipment directly into eFinancePlus.

May I place an order from the copy returned to me?

No. This could result in a duplication of shipments. The vendor copy (white copy) is mailed to the vendor unless special instructions are noted in the text box.

Could I possibly purchase the items I require and be reimbursed?

Anyone obligating the district's funds without a purchase order will be responsible for paying the vendor. Reimbursement requires prior approval.

May I ask a vendor to hold an item for me in anticipation of a forthcoming purchase order?

Only the purchase order has the authority to obligate the district's funds.

Is it possible to purchase an item without a purchase order?

No. All items must be purchased by an approved purchase order. Anyone obligating the district's funds without a purchase order will be responsible for paying the vendor.

May I preview films, books, or other curriculum materials and then decide to purchase the item?

All preview materials, films, books, and curriculum materials, require a purchase requisition and purchase order prior to receiving the items.

Is it possible to purchase goods from an alternate source, other than the vendor awarded the bid/proposal?

If the awarded vendor (from bid/proposal) sells the item required, the district must purchase it from that vendor or from an approved coop. If the district does not purchase the item from this vendor, the district could be sued for Breach of Contract.

What does "f.o.b." mean?

This term is an acronym for "free on board" which designates the point at which charges for freight begin. FOB destination indicates that the charges begin at the destination; thus there are no charges to the recipient (district). FOB shipping point indicates the charges begin at the point of shipment; thus charges are borne by the

recipient (district). The FOB point also indicates the point at which the district assumes responsibility for the goods/merchandise. If the shipment is FOB destination, the responsibility remains with the vendor/supplier until the merchandise reaches the district. SAISD prefers that FOB destination be used on all orders.

How do I indicate on the requisition that delivery by a specific date is critical?

Indicate it on the requisition by putting a note in the text box. If the specified date is mandatory, clearly state it in the notation. This message will print on the purchase order when it is printed.

Is a requisition also a purchase order that can be sent to the vendor?

No. Requisitions are internal (campus/department generated) and should not be sent to a vendor. The Purchasing Department has the sole authority to issue purchase orders.

May I share bid/quote information with the vendors?

Bid/quotes must not be shared until after an award, and then only by the Purchasing Department.

What is personal property?

The term "personal property" includes related classes or types of items or consumable supplies, such as athletic supplies, automotive supplies, office supplies, cafeteria commodities, books, instructional supplies, insurance, and so forth. This does not include services purchased for construction, legal advice, real estate, etc.

Are brand names allowed in specifications?

Specifications may include brand names. All efforts should be made to describe in a practical or economical manner the item being purchased. The brand names may be used if followed by "or equal." Brand names may not be included in order to prevent certain vendors from responding.

If a brand name is specified, what other information must be included in the specification?

It is recommended that the specification must clearly set forth and convey to prospective vendors the general style, type, character, and quality of the brand desired and that equivalent products will be evaluated.

Must an award of contract for personal property automatically be to the lowest vendor?

For purchases of personal property, there is no requirement to award a contract to the lowest vendor. However, according to the Texas Supreme Court, board members are required "to act faithfully in the exercise of their best judgment so as to best serve the interest of their district". Detailed documentation should be maintained as to why the lowest competitive procurement offer was not the best value to the district. The reason

the lowest competitive procurement offer was not accepted should be documented on the competitive procurement offer evaluation sheet.

Can a vendor offer me a gift?

School district officials and employees cannot accept anything of value (\$25 or more) from a vendor, such as personal gifts or gratuities, which may be construed to have been given to influence the purchasing process. This includes, but is not limited to meals, trips, tickets for entertainment, or gifts of any value. This is a violation of the law. If you have to ask yourself if this is acceptable, then you probably need to refuse the "gift".

NOTE: "Gift to Public Servant" is a Class A misdemeanor offense if the recipient is a government employee who exercises some influence in the purchasing process of the governmental body

APPENDIX

Texas Education Code

Sec. 44.031. PURCHASING CONTRACTS

(a) Except as provided by this subchapter, all school district contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for the district:

- (1) competitive bidding for services other than construction services;
- (2) competitive sealed proposals for services other than construction services;
- (3) a request for proposals, for services other than construction services;
- (4) an interlocal contract;
- (5) a method provided by Chapter 2269, 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.

(b) Except as provided by this subchapter, in determining to whom to award a contract, the district 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 the district's needs;
- (5) the vendor's past relationship with the district;
- (6) the impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses;
- (7) the total long-term cost to the district to acquire the vendor's goods or services;
- (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 owner:
 - (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.

(b-1) In awarding a contract by competitive sealed bid under this section, a school district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the manner provided by Section [271.9051](#), Local Government Code. This subsection does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153.

(c) The state auditor may audit purchases of goods or services by the district.

(d) The board of trustees of the district may adopt rules and procedures for the acquisition of goods or services.

(e) To the extent of any conflict, this subchapter prevails over any other law relating to the purchasing of goods and services except a law relating to contracting with historically underutilized businesses.

(f) This section does not apply to a contract for professional services rendered, including services of an architect, attorney, certified public accountant, engineer, or fiscal agent. A school district may, at its option, contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Section [2254.003](#), Government Code, in lieu of the methods provided by this section.

(g) 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 shall be published in the county in which the district'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. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the district's central administrative office is located. 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.

(h) If school equipment, a school facility, or a portion of a school facility is destroyed, severely damaged, or experiences a major unforeseen operational or structural failure, and the board of trustees determines that the delay posed by the contract methods required by this section would prevent or substantially impair the conduct of classes or

other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or portion of the school facility may be made by a method other than the methods required by this section.

(i) A school district may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources under contracts entered into in accordance with Chapter 2054 or 2157, Government Code. Before issuing an invitation for bids, the department shall consult with the agency concerning the computer and computer-related equipment needs of school districts. To the extent possible the resulting contract shall provide for such needs.

(j) Without complying with Subsection (a), a school district may purchase an item that is available from only one source, including:

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

(k) The exceptions provided by Subsection (j) do not apply to mainframe data-processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

(l) Each contract proposed to be made by a school district for the purchase or lease of one or more school buses, including a lease with an option to purchase, must be submitted to competitive bidding when the contract is valued at \$20,000 or more.

Sec. 44.032. ENFORCEMENT OF PURCHASE PROCEDURES: CRIMINAL PENALTIES; REMOVAL; INELIGIBILITY

(a) In this section:

- (1) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.
- (2) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(3) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(b) An officer, employee, or agent of a school district commits an offense if the person with criminal negligence makes or authorizes separate, sequential, or component purchases to avoid the requirements of Section 44.031(a) or (b). An offense under this subsection is a Class B misdemeanor and is an offense involving moral turpitude.

(c) An officer, employee, or agent of a school district commits an offense if the person with criminal negligence violates Section 44.031(a) or (b) other than by conduct described by Subsection (b). An offense under this subsection is a Class B misdemeanor and is an offense involving moral turpitude.

(d) An officer or employee of a school district commits an offense if the officer or employee knowingly violates Section 44.031, other than by conduct described by Subsection (b) or (c). An offense under this subsection is a Class C misdemeanor.

(e) The final conviction of a person other than a trustee of a school district for an offense under Subsection (b) or (c) results in the immediate removal from office or employment of that person

(f) A court may enjoin performance of a contract made in violation of this subchapter. A county attorney, a district attorney, a criminal district attorney, a citizen of the county in which the school district is located, or any interested party may bring an action for an injunction.

Sec. 44.0331. MANAGEMENT FEES UNDER CERTAIN COOPERATIVE PURCHASING CONTRACTS

(a) A school district that enters into a purchasing contract valued at \$25,000 or more under Section 44.031(a)(5), under Subchapter F, Chapter 271, Local Government Code, or under any other cooperative purchasing program authorized for school districts by law shall document any contract-related fee, including any management fee, and the purpose of each fee under the contract.

(b) The amount, purpose, and disposition of any fee described by Subsection (a) must be presented in a written report and submitted annually in an open meeting of the board of trustees of the school district. The written report must appear as an agenda item.

(c) The commissioner may audit the written report described by Subsection (b).

Sec. 44.034. NOTIFICATION OF CRIMINAL HISTORY OF CONTRACTOR

(a) A person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.

(b) A school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.

(c) This section does not apply to a publicly held corporation.

Sec. 44.0351. COMPETITIVE BIDDING

(a) Except to the extent prohibited by other law and to the extent consistent with this subchapter, a school district may use competitive bidding to select a vendor as authorized by Section [44.031\(a\)\(1\)](#).

(b) Except as provided by this subsection, Subchapter B, Chapter 271, Local Government Code, does not apply to a competitive bidding process under this subchapter. Sections [271.026](#), [271.027\(a\)](#), and [271.0275](#), Local Government Code, apply to a competitive bidding process under this subchapter.

(c) A school district shall award a competitively bid contract at the bid amount to the bidder offering the best value for the district. In determining the best value for the district, the district is not restricted to considering price alone but may consider any

other factors stated in the selection criteria. The selection criteria may include the factors listed in Section [44.031\(b\)](#).

Sec. 44.0352. COMPETITIVE SEALED PROPOSALS

(a) In selecting a vendor through competitive sealed proposals as authorized by Section [44.031\(a\)\(2\)](#), a school district shall follow the procedures prescribed by this section.

(b) The district shall prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request. The district shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror.

(c) The district shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date on which the proposals are opened, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria.

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

(e) In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria.

Board Policy CH (Legal)

BOARD AUTHORITY	The Board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i>
DELEGATION OF AUTHORITY	<p>The Board may delegate its authority regarding an action authorized or required to be taken by the District by Education Code Chapter 44, Subchapter B, to a designated person, representative, or committee.</p> <p>The Board may not delegate the authority to act regarding an action authorized or required to be taken by the Board by Education Code Chapter 44, Subchapter B.</p>
DISASTER EXCEPTION	<p>Notwithstanding any other provision of the Education Code, in the event of a catastrophe, emergency, or natural disaster affecting the District, the Board may delegate to the Superintendent or designated person the authority to contract for the replacement or repair of school equipment under Education Code Chapter 44, Subchapter B if emergency replacement or repair is necessary for the health and safety of District students and staff.</p> <p><i>Education Code 44.0312</i></p>
PURCHASES VALUED AT OR ABOVE \$50,000	<p>All District contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for the District:</p> <ol style="list-style-type: none">1. Competitive bidding for services other than construction services.2. Competitive sealed proposals for services other than construction services.3. A request for proposals for services other than construction services.4. An interlocal contract.5. The reverse auction procedure as defined by Government Code 2155.062(d).6. The formation of a political subdivision corporation under Local Government Code 304.001. <p><i>Education Code 44.031(a)</i></p>

Note: Regarding construction of school facilities, see CV generally; CVA for competitive bidding; CVB for competitive sealed proposals; CVC and CVD for contracts using a construction manager; CVE for design/build contracts; and CVF for job order contracts for minor repairs/alterations.

FACTORS

In awarding a contract, the District shall consider:

1. Purchase price.
2. The reputation of the vendor and of the vendor's goods and services.
3. The quality of the vendor's goods or services.
4. The extent to which the goods or services meet the District's needs.
5. The vendor's past relationship with the District.
6. The impact on the ability of the District to comply with laws relating to historically underutilized businesses.
7. The total long-term cost to the District to acquire the goods or services.
8. For a contract that is not for 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 owner has its principal place of business in this state or employs at least 500 persons in this state.
9. Any other relevant factor specifically listed in the request for bids or proposals.

Education Code 44.031(b)

In awarding a contract by competitive sealed bid under Education Code 44.031, a district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the manner provided by Local Government Code 271.9051. This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153. *Education Code 44.031(b-1)*

The factors listed above are the only criteria that may be considered by the District in its decision to award a contract. *R.G.V. Vending v. Weslaco Indep. Sch. Dist., 995 S.W.2d 897 (Tex. App.—Corpus Christi 1999, no pet.)*.

OUT-OF-STATE
BIDDERS

The Board shall not award a contract for services or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located, or a state in which a majority of the manufacturing relating to the contract will be performed. *Gov't Code 2252.001-.002*

This requirement shall not apply to a contract involving federal funds. The District shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. *Gov't Code 2252.003-.004*

CONTRACT WITH
PERSON INDEBTED
TO DISTRICT

The Board may, by resolution, establish regulations permitting the District to refuse to enter into a contract or other transaction with a person indebted to the District. The District may refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the District.

The term "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that seeks to enter into a contract or other transaction with the District requiring Board approval.

Education Code 44.044

NOTICE
PUBLICATION

Notice of when and where bids or proposals or the responses to a request for qualifications will be received and opened shall be published in the county where the District's central administrative office is located, once a week for at least two weeks prior to the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is no newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the District's central administrative office is located. 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. *Education Code 44.031(g)*

ELECTRONIC BIDS
OR PROPOSALS

The District may receive bids or proposals through electronic transmission if the Board adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

An electronic bid or proposal is not required to be sealed. A provision of Education Code Chapter 44 that applies to a sealed bid or proposal applies

to a bid or proposal received through electronic transmission in accordance with the rules adopted by the Board.

Education Code 44.0313

PROFESSIONAL SERVICES

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect, attorney, certified public accountant, engineer, or fiscal agent.

The District may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031.

Education Code 44.031(f)

Competitive bids shall not be solicited for professional services of any licensed or registered certified public accountant, architect, landscape architect, land surveyor, physician, optometrist, professional engineer, state-certified or state-licensed real estate appraiser, or registered nurse. Contracts for these professional services shall be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. *Gov't Code 2254.002, .003(a)*

An interlocal contract between the District and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*

[See also CV]

EMERGENCY DAMAGE OR DESTRUCTION

If school equipment, a school facility, or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the Board determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*

COMPUTERS

The District may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources (DIR) under contracts with the DIR in accordance with Government Code Chapter 2054 or 2157. *Education Code 44.031(i)*

AUTOMATED INFORMATION SYSTEM

The District may purchase an automated information system using the purchasing method described by Government Code 2157.068 for commodity items or a purchasing method designated by the comptroller

to obtain the best value for the state, including a request for offers method. A district that purchases an item using a method listed above satisfies any state law requiring the district to seek competitive bids for the purchase of the item. *Gov't Code 2157.006; 34 TAC 20.391*

AUTOMATED
EXTERNAL
DEFIBRILLATORS

A school that purchases or leases an automated external defibrillator, as defined by Health and Safety Code 779.001, shall ensure that the defibrillator meets standards established by the federal Food and Drug Administration. *Education Code 44.047*

SOLE SOURCE

Compliance with Education Code 44.031 is not required for purchases that are available from only one source, including:

1. An item for which competition is precluded because of a patent, copyright, secret process, or monopoly.
2. A film, manuscript, or book.
3. A utility service, including electricity, gas, or water.
4. A captive replacement part or component for equipment.

The sole source exception shall not apply to mainframe data processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

Education Code 44.031(j)–(k)

INSURANCE

A contract for the purchase of insurance is a contract for the purchase of personal property and shall be made in accordance with Education Code 44.031. *Education Code 44.031; Atty. Gen. Op. DM-347 (1995)*

MULTIYEAR
CONTRACTS

The District may execute an insurance contract for a period longer than 12 months, if the contract contains either or both of the provisions described at COMMITMENT OF CURRENT REVENUE, below. If the District executes a multiyear insurance contract, it need not advertise for insurance vendors until the 12-month period during which the District will be executing a new insurance contract. *Atty. Gen. Op. DM-418 (1996)*

COMPETITIVE
BIDDING

Except to the extent prohibited by other law and to the extent consistent with Education Code Chapter 44, Subchapter B, the District may use competitive bidding to select a vendor as authorized by Education Code 44.031(a)(1).

The District shall award a competitively bid contract at the bid amount to the bidder offering the best value for the District. In determining the best value for the District, the District is not restricted to considering price alone but may consider any other factors stated in the selection criteria. The selection criteria may include the factors listed in Education Code 44.031(b) [see FACTORS, above].

Except as provided below, Local Government Code Chapter 271, Subchapter B does not apply to a competitive bidding process under this policy.

Education Code 44.0351

OPENING BIDS

Bids may be opened only by the Board at a public meeting or by an officer or employee of the District at or in an office of the District. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. *Local Gov't Code 271.026*

The Board shall have the right to reject any and all bids. *Local Gov't Code 271.027(a)*

SAFETY RECORD

In determining who is a responsible bidder, the Board may take into account the safety record of the bidder; of the firm, corporation, partnership, or institution represented by the bidder; or of anyone acting for such firm, corporation, partnership, or institution, provided that:

1. The Board has adopted a written definition and criteria for accurately determining the safety record of the bidder.
2. The Board has given notice in the bid specifications that the safety record of a bidder may be considered in determining the bidder's responsibility.
3. The determinations are not arbitrary and capricious.

Local Gov't Code 271.0275

IDENTICAL BIDS

If the District receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, it shall select only one bidder from the identical bids.

If only one of the bidders submitting identical bids is a resident of the District, that bidder shall be selected. If two or more such bidders are residents of the District, one shall be selected by the casting of lots. In all other cases, one of the identical bids shall be selected by the casting of lots.

The Board shall prescribe the manner of casting lots and shall be present when the lots are cast. All qualified bidders or their representatives may be present at the casting of lots.

Local Gov't Code 271.901

COMPETITIVE
SEALED PROPOSALS

In selecting a vendor through competitive sealed proposals as authorized by Education Code 44.031(a)(2), the District shall follow the procedures prescribed below.

REQUEST FOR PROPOSALS

The District shall prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request. The District shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror.

OPENING PROPOSALS

The District shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date on which the proposals are opened, the District shall evaluate and rank each proposal submitted in relation to the published selection criteria.

SELECTION

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

BEST VALUE DETERMINATION

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

Education Code 44.0352

INTERLOCAL AGREEMENTS

To increase efficiency and effectiveness, the District may contract or agree with other local governments and with state agencies, including the comptroller, to perform some of its purchasing functions. *Gov't Code 791.001, .011, .025*

An interlocal contract must be authorized by the Board and the governing body of each contracting party; must state the purpose, terms, rights, and duties of the contracting parties; and must specify that each party paying for the performance of governmental functions or services shall make those payments from current revenues available to the paying party.

An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract. The contract may be renewed and may have a specified term of years.

Gov't Code 791.011(d)-(f), (i)

The District may agree with another local government, including a nonprofit corporation that is created and operated to provide one or more governmental functions and services, or with the state or a state agency,

including the comptroller, to purchase goods and services reasonably required for the installation, operation, or maintenance of the goods. Such an agreement may not, however, apply to services provided by firefighters, police officers, or emergency medical personnel.

A district that purchases goods and services by agreement with another local government or with the state or state agency satisfies the requirement to seek competitive bids for the purchase of goods and services.

Gov't Code 791.025(b)–(c); Atty. Gen. Op. JC-37 (1999)

The District may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than \$50,000 unless a person designated by the District certifies in writing that:

1. The project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Chapter 1001 or 1051, Occupations Code; or
2. The plans and specifications required under Chapters 1001 and 1051, Occupations Code, have been prepared.

“Purchasing cooperative” means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors.

Gov't Code 791.011(j)

STATE PURCHASING PROGRAM

Purchasing services performed for the District by the comptroller shall include:

1. The extension of state contract prices to the District when the comptroller considers it feasible.
2. Solicitation of bids on items desired by the District if the solicitation is considered feasible by the comptroller and is desired by the District.
3. Provision of information and technical assistance to the District about the purchasing program.

The comptroller may charge the District its actual costs in providing purchasing services.

Local Gov't Code 271.082

DISTRICT REQUIREMENTS

The District may participate in the purchasing program, including participation in purchases that use the reverse auction procedure, by filing with the comptroller a resolution adopted by the Board requesting that the

District be allowed to participate on a voluntary basis, to the extent the comptroller deems feasible, and stating that the Board shall:

1. Designate an official to act for the District in all matters relating to the program, including the purchase of items from the vendor under any contract.
2. Direct the decisions of its representative.
3. Be responsible for:
 - a. Submitting requisitions to the commission under contract(s) and for payment directly to the vendor; and
 - b. Electronically sending purchase orders directly to vendors, or complying with procedures governing a reverse auction purchase, and electronically sending the comptroller reports on actual purchases.
4. Be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

A purchase made through participation in this program meets any state requirement to seek competitive bids for the purchase of the item.

Local Gov't Code 271.083

MULTIPLE AWARD
CONTRACT
SCHEDULE

The comptroller shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by the federal government or any other governmental entity in any state.

The District may purchase goods or services directly from a vendor under a contract listed on a schedule. An authorized purchase satisfies any requirement of state law relating to competitive bids or proposals and satisfies any applicable requirements of Government Code 2157.

The price listed for a good or service under a multiple award contract is a maximum price. The District may negotiate a lower price for goods or services under a contract listed on a schedule.

Gov't Code 2155, Subch. 1

COOPERATIVE
PURCHASING
PROGRAM

The District may participate in a cooperative purchasing program with another local government or a local cooperative organization. If the District does so, it may sign an agreement with another participating local government or a local cooperative stating that the District will:

1. Designate a person to act on behalf of the District in all matters relating to the program.

2. Make payments to another participating local government or local cooperative organization or directly under a contract, as provided in the agreement.
3. Be responsible for the vendor's compliance.

If the District participates in a cooperative purchasing program, it satisfies any law requiring it to seek competitive bids.

Local Gov't Code 271.102; Atty. Gen. Op. JC-37 (1999)

CONTRACT-RELATED
FEE

A district that enters into a purchasing contract valued at \$25,000 or more under Education Code 44.031(a)(5) (interlocal contract), under Local Government Code Chapter 271, Subchapter F (cooperative purchasing program), or under any other cooperative purchasing program authorized for school districts by law shall document any contract-related fee, including any management fee, and the purpose of each fee under the contract.

The amount, purpose, and disposition of any fee described above must be presented in a written report and submitted annually in an open meeting of the Board. The written report must appear as an agenda item. The Commissioner may audit the written report.

Education Code 44.0331

STATE COUNCIL ON
COMPETITIVE
GOVERNMENT

As approved by the State Council on Competitive Government, the District may voluntarily participate in a contract awarded by the council or a state agency under Government Code 2162. A district that purchases goods or services under this type of contract is considered to have satisfied any state law requiring competitive purchasing. *Gov't Code 2162.102(d)*

REVERSE AUCTION A district that uses the reverse auction procedure must include in the procedure a notice provision and other provisions necessary to produce a method of purchasing that is advantageous to the District and fair to vendors. *Local Gov't Code 271.906(b)*

Reverse auction procedure means:

1. A real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or
2. A bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous

to each other, submit bids to provide the designated goods or services.

Gov't Code 2155.062(d)

COMMITMENT OF
CURRENT REVENUE

A contract for the acquisition, including lease, of real or personal property is a commitment of the District's current revenue only, provided the contract contains either or both of the following provisions:

1. Retains to the Board the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.
2. Is conditioned on a best efforts attempt by the Board to obtain and appropriate funds for payment of the contract.

Local Gov't Code 271.903

CHANGE ORDERS

If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the District may approve change orders making the changes. The District may grant general authority to an administrative official to approve the change orders.

The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Education Code 44.0411

ENERGY OR WATER
CONSERVATION
MEASURES

The District may contract for energy or water conservation measures. Such a contract shall be let according to the procedures established for professional services by Government Code 2254.004.

The Board shall establish a long-range energy plan to reduce the District's annual electric consumption by five percent beginning with the 2008 state fiscal year and consume electricity in subsequent fiscal years in accordance with the District's energy plan.

Education Code 44.901-.902 [See policy CL for legal requirements pertaining to such contracts and plans]

RECYCLED PRODUCTS

The District shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. The District shall regularly review and revise its purchasing procedures and specifications for purchase of goods, supplies, equipment, and materials in order to:

1. Eliminate procedures and specifications that explicitly discriminate against products made of recycled materials.
2. Encourage the use of products made of recycled materials.
3. Ensure to the maximum extent economically feasible that the District purchase products that may be recycled when they have served their intended use.

The District may seek an exemption from compliance if it has a population of less than 5,000 within its geographic boundaries and demonstrates to the Water Commission that compliance would work a hardship on the District.

Health and Safety Code 361.426

AGRICULTURAL PRODUCTS

If the cost and quality are equal, the District shall give preference in purchasing to agricultural products, including textiles and other similar products that are produced, processed, or grown in Texas. "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form. If Texas agricultural products are not equal in cost and quality to other agricultural products, the District shall give preference in purchasing to agricultural products produced, processed, or grown in the United States, if the cost and quality of the U.S. and foreign products are equal.

The District may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in Texas.

VEGETATION FOR LANDSCAPING

If cost is equal and the quality is not inferior, the District shall give preference to Texas vegetation when it purchases vegetation for landscaping purposes.

Education Code 44.042

BUS PURCHASE OR LEASE

Each contract proposed for the purchase or lease of one or more school buses, including a lease with an option to purchase, shall be submitted to competitive bidding when the contract is valued at \$20,000 or more.

Education Code 44.031(l) [See CNB]

RIGHT TO WORK

While engaged in procuring goods and services or awarding a contract, the District:

1. May not consider whether a vendor is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Education Code 44.043

LOBBYING
RESTRICTION:
TOBACCO
EDUCATION GRANT
FUNDS

The District may not spend grant funds it receives from the Permanent Fund for Tobacco Education and Enforcement to pay:

1. Lobbying expenses incurred by the District;
2. A person or entity that is required under Government Code Chapter 305 to register as a lobbyist with the Texas Ethics Commission;
3. Any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity of a registered lobbyist (as described in item 2); or
4. A person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

Gov't Code 403.1067

CRIMINAL HISTORY

For provisions pertaining to criminal history record information on contractors, see CJA(LEGAL).

IMPERMISSIBLE
PRACTICES

A Board member, employee, or agent shall not, with criminal negligence, make or authorize separate, sequential, or component purchases to avoid the purchasing requirements set out in Education Code 44.031. An officer or employee shall not knowingly violate Education Code 44.031 in any other manner.

"Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be made in one purchase. "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be made in one purchase. "Sequential purchases" means purchases, over a period, of items that in normal purchasing practices would be made in one purchase.

Violation of this provision is a Class B misdemeanor and an offense involving moral turpitude, conviction of which shall result in removal from office or dismissal from employment. A Board member who is convicted of a violation of this provision is considered to have committed official misconduct and for four years after the date of final conviction, the removed person is ineligible to be appointed or elected to public office in

Texas, is ineligible to be employed by or act as an agent for the state or a political subdivision, and is ineligible to receive any compensation through a contract with the state or a political subdivision. [See BBC]

Education Code 44.032

INJUNCTION

A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, citizen of the county in which the District is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court. *Education Code 44.032(f)*

BOARD POLICY CH (LOCAL)

**PURCHASING
AUTHORITY**

The Board delegates to the Superintendent or designee the authority to make budgeted purchases for goods or services. However, any single, budgeted purchase of goods or services that costs \$25,000 or more, unless the goods or services are a continuing or periodic purchase under a Board-approved contract or bid, shall require Board approval before a transaction may take place.

**PURCHASING
METHOD**

The Board delegates to the Superintendent or designee the authority to determine the method of purchasing in accordance with CH (LEGAL).

**COMPETITIVE
BIDDING**

If competitive bidding is chosen as the purchasing method, the Superintendent or designee shall prepare bid specifications. All bids shall be submitted in sealed envelopes, plainly marked with the name of the bidder and the time of opening. All bidders shall be invited to attend the bid opening. Any bid may be withdrawn prior to the scheduled time for opening. Bids received after the specified time shall not be considered.

The District may reject any and all bids.

**COMPETITIVE
SEALED
PROPOSALS**

If competitive sealed proposals are chosen as the purchasing method, the Superintendent or designee shall prepare the request for proposals and/or specifications for items to be purchased. All proposals shall be submitted in sealed envelopes, plainly marked with the name of the proposer and the time of opening. Proposals received after the specified time shall not be considered. Proposals shall be opened at the time specified, and all proposers shall be invited to attend the proposal opening. Proposals may be withdrawn prior to the scheduled time of opening. Changes in the content of a proposal, and in prices, may be negotiated after proposals are opened.

The District may reject any and all proposals.

**RESPONSIBILITY
FOR DEBTS**

The Board shall assume responsibility for debts incurred in the name of the District so long as those debts are for purchases made in accordance with adopted Board policy and current administrative procedures. The

Board shall not be responsible for debts incurred by persons or organizations not directly under Board control. Persons making unauthorized purchases shall assume full responsibility for all such debts.

**PURCHASE
COMMITMENTS**

All purchase commitments shall be made by the Superintendent or designee on a properly drawn and issued purchase order, in accordance with administrative procedures.

**PERSONAL
PURCHASES**

District employees shall not be permitted to purchase supplies or equipment for personal use through the District's business office.

**DIRECTOR OF
PURCHASING**

Under the direction of the Superintendent and business administrator, the director of purchasing shall be responsible for purchasing all items including supplies, equipment, and services necessary for the operation of the educational program and the maintenance and operation of the school system. The director of purchasing shall also be responsible for overseeing purchases made by the director of food service for cafeteria operations in keeping with the current approved budget, statutory provisions of the state, and policies of the Board.

BOARD POLICY CHF (Legal)

PAYMENT DUE

A payment owed by the District based on a contract executed on or after September 1, 1987, is overdue on the 31st day after the date on which the District received the goods under the contract or the date on which the performance of services under the contract was completed, or the date on which the District received the invoice for the goods or services, whichever is later. However, if the Board meets only once a month, the payment is not overdue until the 45th day after the date of receipt of goods, performance of services, or receipt of invoice, whichever is later. The renewal, amendment, or extension of a contract executed on or before September 1, 1993, is considered to be the execution of a new contract. *Gov't Code 2251.021*

INTEREST

A payment begins to accrue interest on the date the payment becomes overdue. The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of one percent and the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

Interest on an overdue payment stops accruing on the date the District or vendor mails or electronically transmits the payment.

The unpaid balance of a partial payment made within the prescribed period accrues interest, unless the balance is in dispute.

Gov't Code 2251.025, 2251.029

The District shall compute and pay interest at the time the payment is made on the principal. Interest payments shall accompany payment of the net amount due for the goods or service. The District may not require a vendor to petition, invoice, bill, or wait additional days to receive the interest due. The District may not require a vendor or subcontractor to agree to waive the vendor's or subcontractor's right to interest as a condition of the contract. *Gov't Code 2251.027*

EARLY PAYMENT
DISCOUNT

The District shall attempt to take advantage of an offer for an early payment discount, but may not take an early payment discount unless it makes a full payment within the discount period. If the District takes an early payment discount later, the unpaid balance accrues interest beginning on the date the discount offer expires. *Gov't Code 2251.030*

EXCEPTIONS

These provisions do not apply to payments made by the District or a vendor if:

5. There is a bona fide dispute between the District and a vendor, contractor, subcontractor, or supplier concerning the goods delivered or the service performed that causes the payment to be late;
6. There is a bona fide dispute between a vendor and a subcontractor or between a subcontractor and its supplier about the goods delivered or the services performed that causes the payment to be late;
7. The terms of a federal contract, grant, regulation, or statute prevent the District from making a timely payment with federal funds; or
8. The invoice is not mailed to the person to whom it is addressed in strict accordance with any instructions on the purchase order relating to the payment.

Gov't Code 2251.002

ALTERNATE VENDOR
REMEDY FOR
NONPAYMENT OF
CONTRACT

A vendor may suspend performance required under a contract with the District if the District does not pay the vendor an undisputed amount within the time limits provided above and the vendor gives the District written notice informing the District that payment has not been received and stating the intent of the vendor to suspend performance for nonpayment.

The vendor may not suspend performance before the tenth day after the date the vendor gives this notice.

A vendor who suspends performance is not required to supply further labor, services, or materials until the vendor is paid the amount provided for under Government Code Section 2251, plus costs for demobilization

and remobilization. The vendor is also not responsible for damages resulting from suspending work if the governmental entity with which the vendor has the contract has not notified the vendor in writing before performance is suspended that payment has been made or that a bona fide dispute for payment exists.

A notification under Government Code 2251.051(c)(2) that a bona fide dispute for payment exists must include a list of the specific reasons for nonpayment. If a reason specified is that labor, services, or materials provided by the vendor or the vendor's subcontractor are not provided in compliance with the contract, the vendor is entitled to a reasonable opportunity to cure the noncompliance of the listed items; or offer a reasonable amount to compensate for listed items for which noncompliance cannot be promptly cured.

Gov't Code Sec. 2251.051

DISPUTED PAYMENT The District shall notify a vendor of an error in an invoice submitted for payment by the vendor not later than the 21st day after the date the District receives the invoice. If a dispute is resolved in favor of the vendor, the vendor shall receive interest on the unpaid balance beginning on the date that the payment for the invoice is overdue. If a dispute is resolved in favor of the District, the vendor shall submit a corrected invoice that shall be paid within 30 days of receipt. The unpaid balance accrues interest if it is not paid by the appropriate date. *Gov't Code 2251.042*

Board Policy COA (Legal)

DAIRY PRODUCTS The Board shall not purchase milk, cream, butter, cheese, or a product consisting largely of one or more of those items that has been imported from outside the United States. However, imported milk powder may be purchased if domestic milk powder is not readily available in the normal course of business. *Health & Safety Code 435.021*

IMPORTED BEEF The District shall not purchase beef or a product consisting substantially of beef that has been imported from outside the United States. *Agriculture Code 150.012*

SOLE SOURCE AFFIDAVIT

San Angelo Independent School District

Before me, the undersigned official, on this day, personally appeared, _____,
a person known to me to be the person whose signature appears below, who after being duly sworn upon his/her oath deposed and said:

1. My name is _____; I am over the age of 18, have never been convicted of a felony and am competent to make this affidavit.

2. I am an authorized representative of the following company or firm:

3. The above named company or firm is the sole source of the following item(s) and no other company or firm in the United States of America sells or distributes the products listed below:

4. Competition in providing the above named item(s) or product(s) is precluded by the existence of a patent, copyright, secret process, or monopoly. Please indicate the status below:

5. There is/are no other like item(s) or product(s) available for purchase that would serve the same purpose or function and there is only one price for the above named item(s) or product(s) because of exclusive distribution or marketing rights.

SUBSCRIBED AND SWORN to before me on this _____ day of _____, 2_____.

Notary Public Signature

(Seal)

Print Name

My Commission Expires

Company: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: () _____ **Fax Number:** () _____

Contact Person: _____

REQUEST FOR QUOTATION

To: _____

FAX Number: _____

From: **Richard Rigdon**, Purchasing Director

Date: _____

Subject: **Request for Quotation**

Number of Pages: _____

Please provide a unit price quotation for the items listed and return by facsimile or e-mail to (325)947-3837 or richard.rigdon@saisd.org.

Thank you.

Item #		Description	Unit Price

SAN ANGELO INDEPENDENT SCHOOL DISTRICT
PURCHASING DEPARTMENT
1621 UNIVERSITY
SAN ANGELO, TX 76904
325.947.3759
FAX: 325.947.3837

richard.rigdon@saisd.org