



PURCHASING PROCEDURES MANUAL

All district purchases shall be in accordance with Katy ISD Board Policies (including CB, CBB, and CH) and this Purchasing Procedures Manual. All district purchasing procedures shall comply with local, state, and federal procurement laws, including the Texas Department of Agriculture's Administrator's Reference Manual (ARM) and the Education Department General Administrative Regulations (EDGAR).

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1. Overview

The Purchasing Department of Katy Independent School District (“Katy ISD” or “District”) is responsible for the organization and administration of the District’s purchasing and procurement functions in accordance with the authority delegated by the Superintendent and Board of Trustees (“Board”).

The primary function of the Purchasing Department is to meet the product and service needs of the District by:

1. Obtaining the best product at the lowest cost to the taxpayer while complying with all local, state, and federal laws, as well as District policies and guidelines.
2. Achieving a reliable and timely delivery for the requesting school or department.
3. Promoting competition among bidders.
4. Ensuring an equal opportunity for all vendors to secure District business.
5. Educating and informing all vendors on the District’s rules, regulations, and methodology that form the basis for bid awards.

As a branch of the Financial Services Division, Purchasing shares with other fiscal offices the responsibility of safeguarding the public trust and expending District funds in a manner that meets the public purchasing requirements of state, federal, and District procurement regulations.

Purchasing will function in a manner consistent with applicable laws, District policies, the Uniform Commercial Code, and other sound business practices.

Effective purchasing is a cooperative venture between Purchasing and the District. The purpose of this manual is to provide guidance and procedures for District staff involved in the various purchasing processes.

Situations will undoubtedly arise which are not fully covered by these procedures. Purchasing is available to discuss and aid in finding a solution in the best interest of the District.

The purchasing procedures contained in this document are intended to comply with all applicable laws, policies, and procedures. In the event of conflict, the appropriate law or policy shall prevail.

2. General Standards and Ethics

There are certain common standards of ethics which govern the conduct of employees involved in the purchasing function. Katy ISD's fundamental standards for purchasing processes are:

1. It is a breach of ethics to attempt to realize personal gain through employment with a public school district by any conduct inconsistent with the proper discharge of the employee's duties.
2. It is a breach of ethics to attempt to influence any public employee of a district to breach the standards of ethical conduct set forth in this code.
3. It is a breach of ethics for any employee of a district to participate directly or indirectly in a procurement when the employee knows:
 - a. The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement.
 - b. A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or
 - c. Any other person business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

Ethics relating to conflicts of interest, financial interests in firms conducting business with the district, kickbacks and gratuities, and improper use of a position or confidential information are clearly communicated to the District in Katy ISD's Employee Handbook and Board Policies.

District personnel should also be aware that there are penalties for violation of purchasing laws which can include criminal prosecution, loss of employment opportunities, and loss of funds under the Texas Education Code, Chapter 44 and other state and federal statutes regarding the expenditure of public and federal grant funds.

3. Integrity

Fairness and impartiality in all phases of the procurement process are an essential part of any transaction in public purchasing. Katy ISD does not discriminate on the basis of sex, race, disability, color or national origin in its business practices. The District's dealings with vendors and peers must be open, honest, and objective.

4. Purchasing Department Code of Ethics

Purchasing promotes positive vendor relationships through courtesy and impartiality by providing equal access and opportunity to competitive bidding and not providing any special considerations, or even the perception of such, to vendors. The Purchasing Department's Code of Ethics are as follows:

1. Endeavor to obtain the greatest value for every District dollar expended by conducting business in a manner consistent with exemplary business practices, district policies, and legal statutes.
2. Give prompt and courteous reception to all District staff and legitimate business representatives.
3. Provide support to the District's schools and departments charged with the responsibility of creating an educational environment of excellence.
4. Ensure that all responsible bidders receive equal consideration and the assurance of unbiased judgment in determining whether their products meet the educational and/or operational needs of the District.
5. Always consider the interests of the District and the enhancement of its educational programs first.
6. Strive for a thorough knowledge and understanding of the District's equipment and supplies in order to assist in the best value evaluation for the products and services purchased.
7. Work to identify and implement strategies and techniques that will preserve the integrity of the department while enhancing the level of service provided by the department.
8. Never accept gifts or favors which might influence, or be construed to influence, the purchase of goods

and services.

5. Purchasing Authority

As provided in Texas Education Code, Chapter 44:

- The Board may adopt rules and procedures for the acquisition of goods and services. *Education Code 44.031(d)*.
- The Board may delegate its authority regarding an action authorized or required by Education Code Chapter 44, Subchapter B to be taken by the District to a designated person, representative, or committee. *Education Code 44.0312(a)*.
- 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. *Education Code 44.0312(b)*.

In furtherance of the authority granted in the Texas Education Code, the District has adopted the following in its CH(Local):

- The Board delegates to the Superintendent the authority to determine the method of purchasing, in accordance with CH(Legal) or CBB(Legal), as appropriate, and to make budgeted purchases for goods or services approved by the Board as part of the general fund budget, special revenue fund budget, and capital project fund budget for the fiscal year or funded from activity funds.
- Any single purchase that costs \$250,000 or more than the amount included in one of the approved budgets for that item shall require Board approval before a transaction may take place, unless the funds are reallocated within the same function by an individual department.
- Authorized District employees in charge of a department or school budget may purchase items included in their approved budget, in accordance with administrative procedures.
- 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 the adopted budget, state law, Board policy, and the District's purchasing procedures. [See CE]
- 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.
- All purchase commitments shall be made by the Superintendent or designee on a properly drawn and issued purchase order, in accordance with administrative procedures.
- District employees shall not be permitted to make purchases for personal use through the District's business office.

Accordingly, Katy ISD's Superintendent of Schools has established the Purchasing Department, under the direction of the Chief Financial Officer, as the designee for the procurement function and to ensure such function is within compliance of local, state, and federal law, Board Policies, and Administrative Regulations.

6. Purchasing Process

Texas Education Code Section 44.031 defines the procurement methods the District shall use for all contracts, other than produce or fuel, **valued at \$50,000 or more in the aggregate for a twelve-month period**. All expenditures are looked at in the **aggregate**, that is, all locations in the District are considered as one unit.

Katy ISD's twelve-month annual aggregate limits are established by tracking commodity code expenditures for the fiscal year for different categories of purchases including personal property, services, maintenance, construction, and real property.

- Personal property includes, but is not limited to, any item or thing that can be typically moved from one

location to another or is consumable and does not include real property such as land, buildings, and repair or renovations to buildings. This category includes food products such as bread, milk, produce, and ready-to-serve foods, supplies, and equipment utilized in the District's Child Nutrition Programs.

- Services can include both professional and non-professional services. Professional services are generally defined as those for which a special qualifications or licensing is required.
- Maintenance is the act of keeping an existing building, facility, or equipment in proper working order.
- Construction can mean both new facilities and buildings or it can apply to renovations of existing facilities. Basically, if the services being applied to an existing facility are not **LIKE FOR LIKE**, the project will be considered construction under the public works statutes.
- Real property procurements are the purchase of land and/or buildings by the District. These procurements are extremely specialized and require legal assistance.

The Purchasing Department has developed a grouping of commodity categories based on those listed in Texas Education Agency's Financial Accountability System Resource Guide (FASRG). By using commodity categories, Purchasing can ensure that the District receives the best value for its budget expenditures and that all purchases comply with the competitive procurement statutes, policies, and procedures. A complete listing of all commodity groupings and current Katy ISD awarded contracts is posted on the PURINFO - Awarded Vendor List in Katy 1Source. These commodities include, but are not limited to:

- Athletic Supplies
- Awards
- Bread
- Disposable Food Service Items
- Ready-to-Serve Food Products
- Teaching and Instructional Materials
- Musical and Performing Arts Equipment and Supplies
- Staff Development Services and Materials
- Restaurant Services – Prepared Meals

All District procurements must be classified within a designated commodity code. Procurements not covered under current commodity groupings and competitively procured contracts may be delayed to satisfy these requirements. Schools and departments are encouraged to purchase from Katy ISD awarded contracts to prevent such delay.

7. Competitive Procurement Methods

As directed in Education Code, Section 44.031, Subchapter A, with the exception of produce or fuel, all District contracts valued at \$50,000 or more in the aggregate for the 12-month period must be procured by one of the following methods:

- 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.

8. Competitive Procurement Exceptions

A. Produce and Fuel

Education Code Section 44.031 provides an exception for produce and fuel contracts which allows the District to use any procurement method, including those listed in 44.031, for these purchases. However, Texas Department of Agriculture's Administrator's Reference Manual (ARM) provides that when procuring fresh fruit and vegetables, the District may use any type of procurement method or contract allowed *for child nutrition programs*. The District must follow the most restrictive rule.

B. Professional Services

As provided in Government Code Chapter 2254, the District may not select a provider of professional services or a group or association of providers or award a contract for the services through competitive bids. The selection and award of a contract for professional services shall be made based on the professional's demonstrated competence and qualifications to perform the services and for a fair and reasonable price.

Professional services include those within the scope of the practice of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, professional nursing, and forensic science. The 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. Schools and departments requesting services under this category shall be required to provide proper justification as to why the proposed service qualifies as a professional service.

C. Sole Source Exception with State & Local Funding

As provided in Education Code Section 44.031(j), the District may purchase items available from a single source without complying with the competitive procurement provisions.

Sole source items are defined as:

- i. An item for which competition is precluded because of the existence of a patent, copyright, secret process, or monopoly;
- ii. A film, manuscript, or book;
- iii. A utility service, including electricity, gas, water (if available through a single source) or;
- iv. A captive replacement part of component for equipment.

These exceptions do not apply to main-frame data-processing equipment and peripheral attachments with a single-item purchase price of \$15,000 or more.

Sole source purchases with state and local funds must be approved by the Purchasing Department. Vendors claiming sole source status will be asked to provide a written and signed Sole Source Affidavit along with proof of and/or an explanation why they should be considered sole source. The vendor must cite that it not only owns the rights to the product but that there is only one distribution source for the product. If the product is available from multiple suppliers, it does not qualify as a sole source.

Purchasing reserves the right to decide if a vendor is indeed a qualified sole source vendor for the District. Departments or schools may also be requested to document the reason why the product is required to meet the needs specified.

D. Emergency Damage or Destruction

If school equipment, a school facility, or a portion 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 or its designee determines the delay posed by the methods for procurement listed in Education Code Chapter 44.031 would prevent or substantially impair the District's ability to conduct classes or other essential school activities, then other procurement methods may be utilized as needed.

E. School Bus Purchases

Any contract for the purchase or lease of one or more school buses must be submitted to competitive bidding when the contract is valued at \$20,000 or more. A competitively awarded contract through a purchasing cooperative will satisfy this requirement.

F. Leases & Rentals

Any leases or rentals of personal property or services are subject to the procurement procedures outlined in this document. An exception may be made for the lease of real property where sole-source limitations might apply due to location or building requirements.

It is mandatory that any contracts for such transactions contain the time period for the contract, stating both the beginning and ending date. If the ending date extends past the current fiscal year ending date, a cancellation clause must be contained in the contract allowing cancellation for non-appropriation as listed in Local Government Code Subchapter Z, Section 271.903.

9. Competitive Procurement Process

A competitive procurement is a multistep process that requires collaboration between the Purchasing Department and the requesting school and/or department. The main goal of a competitive procurement is to obtain the best value for the District.

Specifications: If it is determined that the personal property or service needed will require a competitive procurement, the requesting school/department will be responsible for providing specifications for the products or services needed and a general timeline based on the Board approval date, if applicable, and the anticipated contract start date. Specifications cannot preclude competition in the marketplace on comparable items or services. The use of any brand name or manufacturer's reference should be descriptive, not restrictive, and should merely indicate the type and quality of the items desired. Detailed specifications are desired, but, at the least, all specifications should include the minimum acceptable requirements or features. Alternate bids may be considered for award if in the best interest of the District. The Purchasing Department staff is available to assist in this area as needed.

Creating and Publishing the Solicitation: The Purchasing Department will determine the appropriate procurement method based on the project scope and complexity and prepare the solicitation documents. Purchasing will combine the solicitation elements required by law and the specifications into a formal solicitation document and publish it in Katy ISD's electronic bidding system, Bonfire. Interested vendors must register in Bonfire at <https://katyisd.bonfirehub.com/portal/?tab=login> to download and respond to the solicitation.

Advertising: As required by Texas Education Code 44.031(g), notices of the time and place when the solicitation will be received and opened shall be published once (1) a week for at least two (2) weeks before the deadline for the receipt of responses. This notice must include a description of where the solicitation shall be opened as well as the date and time the responses are due. Such notice will be published in the county where the District's administrative office is located, Fort Bend County, Texas. Purchasing will also use Bonfire to notify potential vendors of the solicitation and the deadline for responses.

Opening and Evaluation: The Purchasing Department will open the solicitation in a public meeting, open to the general public or any interested party, on the date and time identified in the solicitation and the advertisement. All responses that conform to the solicitation requirements will be tabulated and provided to an evaluation committee consisting of Katy ISD administrators. The evaluation committee will be asked to evaluate each response, score the results, and provide a written recommendation for contract award.

Contract Negotiations: Once the evaluation committee has provided a recommendation, Purchasing will begin contract negotiations with the selected vendor(s). Contract negotiations are rarely required and occur when a vendor's terms differ or nullify the District's terms or requirements. **NOTE:** The District will not sign or agree to any contract that does not meet the best interests of the District.

Contract Award: A contract is awarded through administrative or Board action. The Purchasing Department will initiate the award once the terms and conditions and/or contract are agreed upon by both parties. If the contract value exceeds \$250,000 annually of unbudgeted funds, the Purchasing Department will prepare and submit an agenda item to the Board of Trustees for consideration. Nevertheless, once a contract is awarded, the Purchasing Department will notify the requesting school or department and all vendors involved in the process.

10. Best Value

In evaluating procurement decisions, the District shall consider the best value criteria from Education Code 44.031(b). When seeking a competitively procured contract, Purchasing will state in the solicitation document the best value criteria listed below as well as any additional criteria to be considered.

The **best value criteria** to be considered shall include:

- 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 and 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 it principal place of business in this state; or
 - B. Employs at least 500 persons in this state.
- 9) Any other relevant factor specifically listed in the request for bids or proposals.

The evaluation committee will be asked to provide information on all criteria included in the solicitation document. All such evaluations will be maintained in the Purchasing Department files and may be presented to the Board with the contract award recommendation.

11. Contract Time Period

Katy ISD staff may only use funds appropriated by the Board in the approved budgets. Therefore, staff does not have the authority to commit funds in future budgets. While contracts may be issued for any time period as agreed to by the District and the vendor, if the contract extends beyond the end of the current fiscal year, **it must contain a non-appropriation clause as defined by Local Government Code, Section 271.903.** This clause permits the district to cancel, without penalty, any contract for which the Board does not allocate funding in the sequential year's budget.

If a competitive procurement process is utilized, the contract time period must be clearly defined.

12. Job Order Contracting

Job order contracting (JOC) is a procurement method used for maintenance, repair, alteration, renovation,

remediation, or minor construction of a facility when the work is of a recurring nature but the delivery times, type, and quantities of work required are indefinite and orders are awarded substantially on the basis of predescribed and prepriced tasks. The Board must approve each JOC job, task, or purchase order that exceeds \$500,000. The base term may not exceed two years; however, the District may renew the contract annually for not more than three additional years.

JOC applies only to a facility that is a building, the design and construction of which is governed by accepted building codes, or a structure of land, whether improved or unimproved, that is associated with a building.

To procure JOCs, the District may use:

1. the Competitive Sealed Proposal method under Government Code Chapter 2269, Subchapter D, or
2. a cooperative contract provided that the procurement was done in compliance with Government Code Chapter 2269.

When using a JOC, the district must issue individual job orders (Katy ISD’s Minor Facilities Contract), signed by both parties, stating the scope and price of the assigned tasks. The order may be a fixed price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities; or a unit price order based on the quantities and line items delivered.

To establish the contractual unit prices, the District may:

1. specify one or more published construction unit price books and the applicable divisions or line items; or
2. provide a list of work items and require the offerors to propose one or more coefficients or multipliers to be applied to the price book or prepriced work items as the price proposal.

Additionally, the District must obtain any required bonds – both performance and payment, and certify that the project meets the requirements for any design or engineering services required.

13. Cooperative Purchasing and Purchasing Alliance Contracts

To conserve and coordinate the use of public funds, the District may enter into interlocal agreements with other local governments or agencies for the cooperative purchase of goods and services. The interlocal agreement must be authorized by the governing body of each contracting party. Such contracts, if competitively procured by the cooperative administration or a purchasing alliance member, satisfy the requirements under Education Code, Section 44.031 and Government Code, Subchapter I. Job Order Contracts Method. Using cooperative contracts can help expedite the procurement process for the District.

Unless the item or service is specifically identified in the awarded contract, the department or school is encouraged to obtain multiple quotes from awarded cooperative or purchasing alliance vendors. If the item or service is identified as having been competitively awarded, the unit of measurement is typically “one”. For purchases of any quantity or level of service over the base unit, every effort should be made to negotiate a volume price.

NOTE: An interlocal contract between the District and a purchasing cooperative may not be used to purchase engineering or architectural services.

Katy ISD is an active member in the following cooperatives and/or alliances:


COOPERATIVE/ALLIANCE NAME	ABBREVIATION
1. Central Texas Purchasing Alliance	CTPA
2. Harris County Department of Education (HCDE) Choice Partners Cooperative	HCDE CHOICE PARTNERS

COOPERATIVE/ALLIANCE NAME	ABBREVIATION
3. Houston-Galveston Area Council	HGAC
4. OMNIA Partners (formerly TCPN and US Communities)	OMNIA
5. Region 11 Multi-Regional Purchasing Cooperative	MRPC
6. Region 19 Allied States Cooperative	ASC
7. Region 3 Purchasing Cooperative of America	PCA
8. Region 5 Southeast Texas Purchasing Cooperative	REGV
9. Region 8 The Interlocal Purchasing System	TIPS
10. Sourcewell	SOURCEWELL
11. Texas A & M University	TAMU
12. Texas Department of Information Resources	DIR
13. Texas Procurement and Support Services	TPASS
14. The Brazos Valley Council of Governments Purchasing Solutions Alliance	PSA
15. The National Cooperative Purchasing Alliance through Region XIV	NCPA
16. The Texas Association of School Boards (TASB) BuyBoard Cooperative	BUYBOARD
17. U.S. General Services Administrations (Schedules 35 and 70 only)	GSA

Before federal funds can be used for a purchase through a cooperative or alliance member’s contract, Purchasing must verify that the contract was procured in accordance with state and/or federal law (i.e., EDGAR, ARM, best value criteria, etc.). Additionally, the vendor must submit any documentation or certifications required by the District including criminal history, debarment, insurance, etc.

14. State and Local Fund Purchase Limits

Schools and departments will be allowed to purchase using the best value criteria for the individual transaction, with the following guidelines:

	Procurement Authority	Amount	Supporting Documentation	Additional
State / Local Funds	Katy ISD Awarded Vendor	*Any*	Quote w/ RFP# (some exceptions)	N/A
	Cooperative	*Any*	Quote w/ Contract# (some exceptions)	N/A
	Job Order Contract (JOC) Cooperative	\$0 - \$500,000.00 <i>*per project*</i>	(1) Written Proposal - Minor Facilities Contract - Certificate of Insurance	N/A
	Job Order Contract (JOC) Cooperative	> \$500,000.00 <i>*per project*</i>	(1) Written Proposal - Minor Facilities Contract - Certificate of Insurance	Board Approval
	Non-Award Vendor	\$0 - \$49,999.99 <i>*aggregate by commodity*</i>	(1) Quote (some exceptions)	at discretion of Purchasing Dept (contact Buyer prior to quote)
	Non-Award Vendor	≥ \$50,000.00	 Formal Bid/ RFP Required	Contact appropriate Buyer
	Sole Source	*Any*	Sole Source Affidavit	Contact appropriate Buyer

Under all circumstances, Katy ISD awarded vendors take precedence over vendors on a contract with a Board approved purchasing cooperative or alliance. Purchasing maintains a list of Katy ISD awarded vendors and approved purchasing cooperatives. The use of non-awarded vendors may be allowed in limited circumstances provided that the commodity or service is not available from an awarded vendor. Schools and departments should contact the appropriate Buyer for authorization prior to obtaining a written quote for a non-awarded vendor.

For any purchases of commodities or services over \$50,000 in the aggregate for the fiscal year, the Purchasing Department should be contacted so that a formal competitive procurement process can be followed. Purchasing will assist the school or department in following the statute requirements for competitive procurements and identifying any potential problems or pitfalls that might occur with the procurement. Additionally, Purchasing will assist in preparing the contract award recommendations for Board consideration if the total contract exceeds \$250,000.

15. Impermissible Practices

Texas Education Code 44.032 prohibits separate, sequential, or component purchases to avoid the purchasing limit requirements as set forth in this document. Violations of this or other provisions of the procurement statutes can result in criminal charges, removal from office, and/or termination of employment.

16. Exceptions to the Purchase Limits

The following exceptions to the Purchase Limits referenced above apply:

- a. **Purchases Funded with Federal Grant Awards:** Purchases for goods and/or services to be funded with federal grant awards require compliance with the administrative requirements imposed by the respective federal awarding agency. For example, the U.S. Department of Education (USDE) or the U.S. Department of Agriculture (USDA). Refer to [Appendix A: Federal Procurement Guidelines](#) for procedures and guidance on making purchases in compliance with federal grant awards.
- b. **Purchases Funded by Student Activity Funds:** Purchases for goods or services funded by Student Activity Funds (Budget Fund Code 865) are not considered District funds, so they are exempt from all public procurement requirements and both federal and state procurement rules and regulations. However, purchases for goods or services with funds derived from student activities (i.e., fundraisers) that are deposited into a District-controlled activity account (e.g., Budget Code 461) or General Operating Fund account (e.g., Fund Account 199) must comply with all applicable procurement requirements.
- c. **Purchases for Registrations to Events and Conferences:** Purchases for registrations to events and conferences offered by industry related organizations (e.g. TASBO, TASB, etc.) where staff will be attending for either professional development or to keep up with industry or job-related information **are exempt from the Purchase Limits requirements, unless federal grant awards are used to fund the expenditure**, in which case the applicable federal grant requirements must be complied with in their entirety.
- d. **Purchases for Student or Staff Related Activities at Public Organizations:** Purchases for District-organized activities at unique public organizations (e.g., Houston Zoo, etc.) **are exempt from the Purchase Limits requirements, unless federal grant awards are used to fund the expenditure**, in which case the applicable federal grant requirements must be complied with in their entirety.
- e. **Exceptions Authorized by the Director of Purchasing:** In some instances, and depending on the circumstances, the Director of Purchasing shall have the right to waive the standard purchasing procedures referenced in this manual, under the condition that any applicable federal, state, or local rules and regulations are still complied with in their entirety. Circumstances leading to waiving such standard purchasing procedures may involve situations including but not limited to time sensitive procurements where standard procurement procedures would cause a disadvantage to the District (i.e., emergency situations, lack of known qualified vendors, etc.).

17. Independent Contractors

The term “independent contractor” is used to denote Non-District personnel performing services or programs on

District property or on behalf of the District. Depending on the value of the services or program to be provided, the award of such contract may be subject to competitive procurement procedures. As soon as the requirement for the desired services or program is identified, the school or department should contact the Purchasing Department to determine the proper procurement procedure.

All independent contractors will be required to sign a Katy ISD Standard Contract (Contract for Independent Contractors or Contract for Goods or Services) and either provide proof of insurance at the levels recommended by the District or a Bodily Injury and Property Damage Waiver. Additionally, independent contractors who will have direct contact with students, as defined by Katy ISD, are required by Texas Education Code Chapter 22 to provide a Criminal History Certification by Independent Contractor/Subcontractor affidavit certifying that the statute requirements have been met.

These procedures are detailed in the Katy ISD Administrative Regulation CJ.

18. Contract Approval

It must be established that the District's best interests are being met and the District is not bound to anything illegal or contrary to Board Policy **prior to the District entering any contractual relationship**. This is facilitated through the District's contract approval process using the KatyContracts Contract Management System. The District will not agree to or sign any contract that does not meet the best interests of the District.

Contract approval is required before a contract is signed and/or a requisition is entered for:

- Vendors who have signed a Katy ISD Standard Contract and the cost is \$3K or more.
- ALL vendor proposed contracts and agreements (regardless of the amount) including those submitted with a Building/Landscape Modification Form.
- Vendor quotes that include the vendor's terms and conditions or require a Katy ISD signature.

NOTE: Some contracts require additional approvals **before** they can be sent to KatyContracts for central office approval including Fine Arts programs, Elementary and Secondary Curriculum & Instruction contracts, and contracts funded by Federal Programs and External Funding. Please consult with these departments before submitting a contract to KatyContracts.

To expedite the contract approval process, vendors should be encouraged to:

1. sign one of Katy ISD's Standard Contracts (i.e., Contract for Independent Contractors or Contract for Goods or Services), or
2. add to their Quote/Contract: This Quote/Contract is governed by Katy ISD's Standard Terms and Conditions located at: <http://www.katyisd.org/dept/purchasing/Pages/default.aspx>. In the event of a conflict, Katy ISD's Standard Terms and Conditions shall govern.

Approval Process

The requesting school/department should email a completed and signed Contract/Agreement Approval Request Form to KatyContracts@katyisd.org. If utilizing a vendor's proposed contract/agreement, the vendor must provide a MS Word version of the proposed contract so that modification requests can be done in the MS Word Track Changes mode.

Upon receipt, Purchasing will review the contract documents and, if necessary, request contract modifications in accordance with General Counsel's instructions. If agreeable terms cannot be reached, Purchasing will notify the requesting school/department via email that the contract is not approved.

If agreeable terms can be reached, Purchasing will email the requesting school/department a signed copy of the Contract/Agreement Approval Request Form.

- If a purchase order is needed, the requesting school/department must obtain all contract signatures, including the vendor's signature. A signed copy of both the Contract/Agreement Approval Request Form and the contract documents should be attached to the requisition when it is entered in Munis. Failure to provide this documentation with the requisition may result in delays in converting it to a purchase order.
- If no purchase order is needed, the requesting school/department should send a fully executed copy of the contract (signed by both Katy ISD and the vendor) to KatyContracts@katyisd.org for filing.

Katy ISD's contract forms and approval procedures are located on the Contract Approvals page in Katy 1Source at <https://help.katyisd.org/help/contract-approvals>.

19. Criminal History Review for Vendors/Contractors

Texas Education Code Chapter 22 (the "Statute") requires entities that contract with school districts ("Contractors" and their "Subcontractors") to obtain criminal history records on Covered Employees, as defined herein. Covered Employees with disqualifying criminal histories are prohibited from performing services at a school district.

Definitions

Covered Employees: Employees of a contractor who have or will have continuing duties related to the contracted service(s) to be performed at a school district and have or will have the opportunity for direct contact with students. Katy ISD will be the final arbiter of what constitutes continuing duties and direct contact with students.

Pursuant to Texas Education Code §22.08341(c), the fingerprinting requirement does not apply to a contractor that performs construction, alteration, or repair of an instructional facility if the contractor uses separate sanitary facilities, installs a barrier fence, and has a policy that employees may not interact with students or enter areas used by students.

Disqualifying Criminal History: A felony or misdemeanor offense that would prevent a person from being employed under Texas Education Code § 22.085(a); that is, if at the time of the offense, the victim was under 18 or was enrolled in a public school including:

- (a) a felony offense under Title 5, Texas Penal Code;
- (b) an offense on conviction for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or
- (c) an offense under federal law or the laws of another state that is equivalent to (a) or (b).

Before the services are provided to the district, Katy ISD shall fingerprint a contractor and/or contractor's employees who are considered "covered employees" using the Local Education Entity (LEE) Fast Pass. Katy ISD will be able to view individuals printed with the LEE pass, and create subscriptions in the Clearinghouse under the authority of TGC 411.097/Public Law 92-544. The contractor, however, will not be able to view the results through the Clearinghouse.

Katy ISD will maintain access to the criminal history information of a contractor or a contractor's employees; but only for the time in which he/she will be providing services to the district. Federal and state protocols require access to a contractor's information to be disabled within 72 hours of the end of service.

Questions regarding the criminal history process can be directed to Katy ISD's Human Resources Department. Additional information about the requirements for school district contractors from the Texas Education Agency is

available at: <https://tea.texas.gov/texas-educators/investigations/fingerprinting/requirements-for-school-district-contractors>

20. Insurance Requirements

State law requires that any contractor entering into a construction contract must certify in writing that he provides worker's compensation insurance coverage for each employee of the contractor employed on the public project. This extends to any subcontractors. All certificates must be on file with the District before work commences.

The District has chosen to extend this requirement to any contractor of the District. Additionally, general liability and automobile coverage is required for any contractor performing services on District property. Insurance certificates listing Katy ISD as an additional insured should be on file with the District before work commences.

Failure to produce proof of satisfactory insurance coverage will be a consideration for non-award or contract termination.

21. Bonding

In order to protect the District's investment in public work projects, the District will require performance or payment bonds as required under Texas law. Government Code Chapter 2253 requires performance bonds for any public works projects \$100,000 or more in value, and payment bonds for any public works projects \$25,000 or more in value.

The District also has the right to request a bid bond. This is typically used for high value contracts with complex bidding processes. The vendor is required to provide a bond of 5% of the project value to guarantee that it is ready to contract with the District upon award and this is a responsible bidder.

22. Conflict of Interest

Local Government Code Chapter 176 provides information regarding conflict of interest statements to be filed by vendors and certain school district employees.

The Texas conflict of interest statutes apply to the District's officers and elected officials. There are specific rules regarding what constitutes a conflict of interest in regard to a business transaction or real property transaction.

For more information, please review the information provided on the Texas Ethics Commission website, <https://www.ethics.state.tx.us/>

23. Certificate of Interested Parties

Effective January 1, 2016 the 2015 Texas Legislature enacted House Bill 1295 ("HB 1295"). HB 1295 is codified in the Texas Government Code Section 2252.908. HB 1295 applies to contracts:

- with business entities that have a value of at least \$1,000,000,
- require a vote of the governing body of the governmental entity, or
- is for services that would require a person to register as a lobbyist under Chapter 305.

To comply with this provision Katy ISD will notify vendors of the disclosure requirement and certify the receipt of the disclosure to the Texas Ethics Commission. Disclosure forms must be filed even if no conflicts exist within the contract. The forms required to file the disclosure can be found at: <https://www.ethics.state.tx.us/filinginfo/1295/>

24. Vendor Certifications

Federal and state law mandates that vendors/contractors certify and verify their compliance with several provisions, contained in the Vendor Certifications Addendum, including:

- Required Contract Provisions for Non-Federal Entity Contracts under Federal Awards Appendix II to 2 CFR Part 200
- Record Retention Requirements for Contracts Involving Federal Funds under 2 CFR § 200.333
- Certification of Compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18)
- Certification of Equal Employment Statement
- Certification of Compliance with Buy America Provisions
- Certification of Access to Records under 2 C.F.R. § 200.336
- Certification of Applicability to Subcontractors
- Texas HB 89 - Certification Regarding Boycotting of Israel
- Texas SB 252 - Certification Regarding Terrorist Organizations
- Texas SB 13 - Certification Regarding Boycotting Certain Energy Companies
- Texas SB 19 - Certification Prohibiting Discrimination Against Firearm and Ammunition Industries
- Texas SB 2116 - Certification Regarding Certain Foreign-Owned Companies in Connection with Critical Infrastructure

By signing the Vendor Certifications Addendum, the vendor agrees to comply with the applicable federal, state, and local laws, rules, regulations, and ordinances noted in the Addendum.

25. Tax Exempt Status

The District is a political subdivision of the State of Texas and as such is exempt from state sales tax under Chapter 20, Title 122A, Revised Statutes of Texas.

Items or services purchased for which tax exemption status is claimed must be used within the performance of the District's business. It is a criminal offense to utilize the District's tax-exempt status for any other purpose.

26. Vendor Registration

To receive payment, vendors must be registered in Katy ISD's Vendor Self Service (VSS) system. Vendors can register themselves into the system by accessing the registration hyperlink located on the Information for Vendors page on Purchasing's website.

Vendors must submit a current W-9, debarment form, and HB 89 and SB 252 Certification Addendum before they will be added. These documents can be scanned directly into the VSS system.

27. Vendor Relations

Katy ISD is committed to maintaining an open and equitable opportunity to all interested vendors. **Katy ISD does not discriminate on the basis of sex, race, disability, color or national origin in its business practices.**

Katy ISD will seek to competitively procure goods and services whenever possible or as required by policies or statutes. Vendors awarded contracts by Katy ISD are placed on the awarded vendor list maintained by the Purchasing Department, known as PURINFO. PURINFO is available on Katy 1Source and includes the names and contact information for all vendors currently awarded on a Katy ISD contract.

Additionally, Katy ISD will maintain a potential vendor list of all interested vendors. Vendors will be solicited for

quotes as well as formal bids or proposals in their area of interest as opportunities are developed.

A. HUB Vendors

A Historically Underutilized Business (HUB) is a for-profit business that is owned at a level not less than 51% by one or more persons who are members of the following groups:

- African American
- Asian Pacific – Americans
- Hispanic Americans
- Native Americans
- Service-Disabled Veterans
- Women

HUB Businesses certify their compliance with the state standards by registering and receiving certification from the State of Texas Comptroller's Office.

Katy ISD does not currently have a HUB program that requires expenditures at any mandatory dollar level or percentage. However, HUB certification is accepted and recorded into the vendor database. Reports on HUB level expenditures can be generated upon request. Refer to VII. Affirmative Steps in Appendix A: Federal Procurement Guidelines for HUB requirements for federal grant awards.

B. On-Site or Telephone Sales Calls

Vendors and their representatives are strictly prohibited from contacting, either in person or by telephone, instructional or support personnel during instructional periods, without the prior approval of the principal or department director.

All vendors calling on school buildings are required to follow the proper check-in procedures for each location. This includes the presentation of a picture identification card. Vendors cleared for entry into the school will receive a visitor's badge which must be worn while on the premises. Vendors may make appointments with the Purchasing Department to discuss opportunities with Katy ISD.

C. Gifts from Vendors

Vendors are prohibited from offering gifts or favors that could influence or be perceived to influence, purchases utilizing District funds. Any such offers should be refused by the employee and immediately reported to their principal or department director. The principal or department director should then report such activity directly to the Purchasing Department.

Such gifts could include meals, trips, tickets for entertainment, or electronics. Employees should note that acceptance of such gifts can be a violation of state or federal statutes, and a basis for criminal prosecution and may require the completion of a Form CIS (Local Government Officer Conflicts Disclosure Statement) as stated in Local Government Code Chapter 176.

It is permissible to accept small incidental advertising items with a value of less than \$10 retail. These items must be clearly identified as marketing items with the company's name or logo clearly displayed. Such items may be accepted by staff or distributed to school staff, as desired. These items include, but are not restricted to, coffee mugs, calendars, notepads, pens, and pencils. Care should be taken that the display of such items is not done in such a manner that would give the perception of vendor preference.

D. Complaints Regarding Vendors and Evaluations

When problems are encountered with a vendor regarding products or service, it is important that the problem be

documented. All pertinent information should be noted – date, time, location, problem details. The vendor should then be contacted by phone or in writing and notified of the problem and the resolution desired. A record of all such communications should be kept. If the problem cannot be resolved or continues, the Purchasing Department should be notified. All details of the problem should be provided, including the history of all previous communication regarding the problem.

If you wish to file an official complaint about a vendor regarding service, quality of product, deliveries, substitutions, unjustified price increases, etc., please complete the Vendor Complaint form on MyKaty under Online Forms and send it to the Buyer.

The Purchasing Department will then take appropriate action which may include written notification to the vendor outlining the problem and the potential breach of contract. All record of the problem and action taken will be kept on file and used in future vendor evaluations.

E. Fundraising Vendors

The Purchasing Department has the responsibility of reviewing and approving all fundraising vendors used by Katy ISD schools and departments. Fundraising vendors are those who provide a product(s) directly to the students, parents, or patrons, through a catalog or order form sale. Vendors are paid directly for the goods and the schools or organizations receive a commission from the sales.

Vendors interested in providing this type of program to be used by the schools or organizations for fundraising activities must submit an application with background information for the District’s review. Once approved, the vendor is placed on the Fundraising Vendor List for the current fiscal year. All applications must be renewed annually.

28. Standardization

The District has standardized on certain equipment and materials to maintain the integrity of the District’s network operations and instructional processes. For computer related items, the Technology Department maintains a Technology Standards List on Katy 1Source at <https://help.katyisd.org/help/technology-pricing>. Standardization regarding instructional items will be communicated to the District from the Curriculum & Instruction Department.

Items meeting the District’s standards will be processed upon receipt by the Purchasing Department. Any items requested that are not on the approved standards list will require review by the Purchasing, Technology, and/or Curriculum Departments before being processed.

29. Personal Purchases

District employees shall not be permitted to purchase supplies or equipment for personal use with District funds. All items purchased are the property of Katy ISD. Personalized items and items not used in the performance of Katy ISD duties or responsibilities cannot be purchased with District funds.

30. School Store Sales or Direct Sales by Students

Schools and organizations purchasing and selling products direct to their customers (as in a school store) do not have to receive approval for their suppliers. Examples of this would be the produce supplier from whom pumpkins would be purchased for an annual pumpkin patch activity. However, all such supplies should be purchased through awarded contract vendors whenever possible.

31. Donations

The Purchasing Department is responsible for tracking incoming donations to the District. All donations from patrons or outside organizations should be submitted to the Purchasing Department utilizing the Request for Acceptance of Donated Items form. This form is located on Katy 1Source and can be found in Online Forms. Campus and department staff should complete the form as thoroughly as possible and include all applicable information requested on the form. Please do not complete the form typing with all capital letters; use capital letters ONLY when appropriate. Detailed contact information, complete mailing addresses, and accurate spelling of donor names is imperative to the process of the formatting both the donation report and donation acknowledgement letters.

Donations that are entered in the Google Document, "Request for Acceptance of Donated Items Form" are downloaded and reviewed monthly by the Board of Trustees during the Regular Business Meeting. The review is followed by an acknowledgement letter to the donor. Donation acknowledgment letters in the amount of \$250.00 or LESS are generated by the campus or department. Acknowledgement letters for donations of \$250.00 or MORE are processed at the ESC and mailed from the Superintendent to the donor.

If purchasing fixed assets with donated funds (from outside donations or any activity fund donations), the source of the donation should be listed in the printed "General Notes" section of the requisition. Additional instructions on properly recording the donation through a journal voucher and information required to track the donation through the purchasing process can be found in the District's Finance Procedures Manual.

If using the funds to purchase goods or service that will in any way be attached to the building or become a permanent fixture on the grounds, you must include an approved Building Modification form in your requisition backup. This form can be found on Katy1Source under Online Forms. Purchase orders for these types of items or services cannot be processed until all required approvals have been obtained.

Appendix A

Federal Procurement Guidelines

Federal Grants Compliance Notice

All purchases shall be in accordance with the district's Board policies (CBB Legal, CH Legal, and CH Local) and Purchasing Procedures Manual. The district purchasing procedures shall comply with all federal, state, and local procurement laws, including the Education Department General Administrative Regulations (EDGAR).

In some situations, the federal purchasing method requirements are more restrictive than the state requirements. In other situations, the state requirements are more restrictive than the federal requirements. Therefore, when determining what method to use in a particular purchasing situation, the more restrictive method or requirement must be used in each case.

1. State Requirements Related to Purchasing Methods

Unless otherwise more restrictive in federal law for procurement with federal funds, the District complies with the purchasing methods prescribed in Texas law and TEA's [FASRG](#) for all purchases regardless of the funding source (i.e., state, local, or federal).

Texas Education Code § 44.031(a) states that all school district contracts for the purchase of goods and services valued at **\$50,000 or more** in the aggregate, for each 12-month period are to be made by the method that provides the best value to the district. This does not apply to contracts for the purchase of produce or vehicle fuel.

The law enumerates several options for competitive procurement that are available to school districts. One of these options must be used for contracts expected to equal or exceed \$50,000 regardless of the funding source (i.e., state, local, or federal):

- 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.

2. Professional and Consultant Services

Several exceptions to following one of the competitive procurement methods identified in TEC § 44.031 includes a contract for *professional services* rendered (see [8. Competitive Procurement Exceptions, B. Professional Services](#)).

The federal cost principles (specifically in 2 CFR § 200.459) broadly define *professional and consultant services* as those services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the District.

Consulting does not include a routine service/activity that is necessary to the functioning of a school district's programs, such as hiring additional people on contract to supplement present staff. It also does *not* apply to services provided to conduct organized activities (such as training or other similar educational activities.) The District shall use a consultant only if the services of the consultant are necessary to accomplish the objectives of the particular program/project, the fees are reasonable in cost, and the District cannot meet the needs by using an employee. 34 CFR 75.515. For example, an employee may have the knowledge, skills, and capability to provide

the consulting services, but the employee may not have the time in an already-busy schedule to provide the consulting services in the time required.

Under IRS rules, a person cannot work part of the time as an employee, and part of the time as a contractor/consultant. If an employee provides additional services above and beyond his or regular contracted hours and regular job responsibilities, the employee is paid *extra-duty pay* in accordance with the District's employee compensation policy, and not a fee based on contract.

3. Allowable Professional Service Costs

Professional and consultant services are allowable to be purchased with federal funds when reasonable and when the District considers the following factors:

- The nature and scope of the service rendered in relation to the service required;
- The necessity of contracting for the service, considering the District's capability in the particular area;
- The past pattern of such costs, particularly in the years prior to federal awards;
- The impact of federal awards on the District's business (i.e., what new problems have arisen);
- Whether the proportion of federal work to the District's total business is such as to influence the District in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under federal awards;
- Whether the service can be performed more economically by direct employment rather than contracting;
- The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-federally funded activities; and
- The adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

4. Texas Department of Agriculture

The United States Department of Agriculture (USDA) provides critical nutrition assistance through Food and Nutrition Service programs, such as Child Nutrition Programs (CNPs). These programs are administered to the district by the Texas Department of Agriculture (TDA).

The guidance in TDA's [Administrator's Reference Manual \(ARM\)](#) applies to the following school nutrition programs (SNPs):

- National School Lunch Program (NSLP)
- Afterschool Care Program (ASCP)
- Fresh Fruit and Vegetable Program (FFVP)
- Seamless Summer Option (SSO)
- School Breakfast Program (SBP)
- Special Milk Program (SMP)

Thus, when operating CNPs, there are federal, state, and local regulations that govern the district's actions. When there is a conflict between USDA regulations and other regulations (including federal), the district must follow USDA regulations for the use of CNP funds including Section 17 Procurement and Section 18 Food Service Contracts.

If other applicable federal, state, or local regulations do not conflict with USDA regulations, the district should follow the most restrictive other federal, state, or local regulations.

5. Purchasing Goods or Services with Federal Funds

In accordance with [2 CFR Part 200, Subpart E, Cost Principles](#), all purchases made with federal funds, regardless of the method of purchase, must be determined to be:

- *reasonable* in cost (comparable to current fair market value)
- *necessary* to carry out the objectives of the federal program
- *allowable* under the federal cost principles and the terms and conditions of the award
- *allocable* (chargeable or assignable) to the grant program based on the relative benefits received

For each proposed purchase, on each purchase order, purchase requisition, contract, invoice, receipt, travel voucher, or other documentation for obligations, encumbrances, or expenditures, these criteria are met in the following manner regardless of the purchase method used:

The Program Manager/Director assigned to the grant verifies the proposed purchase is necessary to accomplish the objectives of the grant program in that the expenditure is vital or required for the grant program to be successful. Thereafter, the Federal Programs and External Funding and Purchasing Department verifies the proposed purchase is *reasonable in cost* (i.e., comparable to current fair market value).

6. Five Methods for Procuring with Federal Funds

2 CFR § 200.320 establishes the five methods that must be used when making purchases with federal funds. In some cases, these *federal* methods are less restrictive than *state* requirements; in other cases, the *state* requirements are more restrictive than these *federal* methods. Additionally, if *local* requirements are more restrictive than either state or federal, then local requirements must be followed. In all cases, the more restrictive requirements or methods must be followed when making purchases with federal funds.

The type of purchase method and procedures required depends on the cost (and type, in some cases) of the item(s) or services being purchased.

- Micro-purchase
- Small purchase procedures
- Sealed bids
- Competitive proposals
- Noncompetitive proposals (sole source)

The following describes the five procurement methods allowed under federal law. While the federal rules provide a basic structure for each procurement method, the District must have documented procurement policies which provide detail on the process by which all purchases are made including:

- Procurement Documents
 - What type of procurement document is used (i.e., is a purchase order or requisition used)?
 - Detail how this procurement documentation is generated. Are the documents pre-numbered? If paper copies, where are those kept and who has access? If electronic, how does the District ensure that only certain people have access?
 - When a purchase is made, what type of information must be included on the requisition and purchase order?
 - A description of the services to be performed or goods to be delivered.
 - A location where the services are to be performed or goods to be delivered.
 - The appropriate dates of service or delivery.
 - Where is the documentation kept once the purchase is made? What other documentation is

maintained with it? Are they recorded in a log?

- Responsibilities
 - If purchase order/requisition, who requests the document?
 - Who completes the requisition and what administrator approves it?
 - If there is a contract, who writes the contract? Approves it?
- Required Number and Types of Quotations
 - How many quotations are required for each purchase threshold?
 - Are these quotations oral or written?
 - How are they received if written?
 - Should these quotations be received *before* a purchase order, requisition, or contract is made?
 - Who is responsible for obtaining the quotations?
 - What documentation is required and where is it maintained?

Note: In addition to these rules, districts must also follow both state and local procurement rules. State and local procurement rules are often stricter than federal requirements. Accordingly, **this section has been revised to account for the appropriate thresholds and purchasing procedures within each threshold amount in accordance with some state procurement rules.** However, if *local* procurement rules are even more restrictive, those must be followed.

I. Micro-Purchases (Purchases up to \$10,00)

Federal methods provide for procurement by *micro-purchase*. *Micro-purchase* is defined in 2 CFR § 200.320(a)(1) as a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed \$10,000. The micro-purchase method is used in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost.

In accordance with federal requirements, micro-purchases may be awarded without soliciting competitive quotations *if the District considers the price to be reasonable*. Also, when using federal funds, to the extent practicable, the District must distribute micro-purchases equitably among qualified suppliers. If this method is utilized, the District shall maintain evidence of this reasonableness in the records of all micro-purchases.

II. Small Purchase Procedures (Purchases between \$10,001 and \$49,999 in the Aggregate)

Small purchase procedures (as defined in 2 CFR § 200.320(a)(2)) may be used in those relatively simple and informal procurement methods for securing nonprofessional services, supplies, or other property that do not cost more than \$50,000.

The *federal* threshold for *small purchase procedures* is \$250,000. However, with some exceptions noted in Texas Education Code § 44.031, the *state* threshold for all school district contracts that do not require competitive bidding is less than \$50,000 in the aggregate. Therefore, the more restrictive *state* threshold of less than \$50,000 must be followed.

If using *federal funds* to purchase goods or services, *price or rate quotations must be obtained* from an adequate number of qualified sources for all purchases between \$10,000 and \$49,999. Such price or rate quotations must be documented in writing, and the District must demonstrate that price or rate quotations were obtained from an adequate number of qualified sources.

III. Purchases \$50,000 or More in the Aggregate

As provided in Texas Education Code 44.031, one of the following competitive methods must be used for purchases of \$50,000 or more in the aggregate over a 12-month period (fiscal year):

- 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.

Each of these competitive methods is described more thoroughly in *Module 5* of [FASRG](#).

In addition, *one of the three following methods must be used*, depending on the circumstance described below, when purchasing with *federal funds*: sealed bids (formal advertising); competitive proposals; or noncompetitive proposals (sole source).

A. Sealed Bids (Formal Advertising)

Bids are publicly solicited, and a *firm fixed-price contract* (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the following conditions apply:

- A complete, adequate, and realistic specification or purchase description is available;
- Two or more responsible bidders are willing and able to compete effectively for the business; and
- The procurement lends itself to a firm fixed-price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids. The invitation for bids must be publicly advertised.
- The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond.
- All bids will be opened at the time and place prescribed in the invitation for bids. The bids must be opened publicly.
- A firm fixed-price contract award must be made in writing to the lowest responsive and responsible bidder.
- Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of. Any or all bids may be rejected if there is a sound documented reason.

B. Competitive Proposals

A competitive proposal is normally used with more than one source submitting an offer, and either a *fixed price* or a *cost-reimbursement* type contract is awarded. (A *cost reimbursement contract* reimburses the contractor for actual costs incurred to carry out the contract.) Competitive proposals are generally used

when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical.
- Proposals must be solicited from an adequate number of qualified sources.
- The District must have a written method for conducting technical evaluations of the proposals received and for selecting recipients.
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

When using federal funds, the District may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

IV. Noncompetitive Proposals (Sole Sourcing)

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used when using federal funds only when one or more of the following circumstances apply:

- The item is available only from a single source and an equivalent cannot be substituted. This must be documented.
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- TEA (or other federal awarding agency) expressly authorizes noncompetitive proposals in response to a written request from the District.
- After solicitation of a number of sources, competition is determined inadequate.

Additionally, *state* requirements related to sole source purchasing are, in some ways, more restrictive. In addition to the federal requirements above, sole source purchases must meet established criteria:

- Identification and confirmation that competition in providing the item or product to be purchased is precluded by 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.

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

In all cases, the District will obtain and retain documentation from the vendor which clearly delineates the reasons which qualify the purchase to be made on a sole source basis.

Departments or schools will be requested to document the reason why the particular product is required to meet the needs specified. Documentation must include the justification as to why this service or


product is unique. However, even once this information is received, the procurement can only proceed when one of the two following provisions is met:


- The Federal awarding agency or pass-through entity (TEA) expressly authorizes the noncompetitive procurement in response to a written request; or
- After solicitation of a number of sources in the public domain is documented, competition is determined inadequate.

7. Federal Purchase Limits

Schools and departments are encouraged to use Katy ISD awarded vendors for all purchases, or a competitively procured contract through a Board approved purchasing cooperative. Purchases through Katy ISD awarded contracts must follow the terms of the awarded contract. If the contract calls for competitive quotes from Katy ISD awarded vendors, then competitive quotes will be required for any expenditure under that contract.

For federal grant fund purchases of personal property or services (**see Exceptions to Purchase Limits**), schools and departments will be allowed to purchase using the best value criteria for the individual transaction, with the following guidelines:

	Procurement Authority	Amount	Supporting Documentation	Additional
Federal Funds	Katy ISD Awarded Vendor or Cooperative Vendor	*Any*	(3) Written Quotes (w/ RFP # or Contract #)	N/A
	Non-Award Vendor	≤ \$49,999.99 *aggregate*	(3) Written Quotes (at Purchasing Director discretion)	Equitable Distribution (Must use various vendors)
	Non-Award Vendor	≥ \$50,000.00	 Formal Bid/ RFP Required	Contact appropriate Buyer
	Sole Source	*Any*	- Quote and - TEA Approval	Contact appropriate Buyer

	Procurement Authority	Amount	Supporting Documentation	Additional
(240) - USDA Funds (242) - TDA Funds	Micro Purchase	≤ \$10,000.00	None; add micro-purchase in the requisition's general description	Equitable Distribution
	Small Purchase	\$10,000.01 - \$49,999.99	(3) Written Quotes	May use cooperatives as quote source; must use multiple
	Formal Purchase	≥ \$50,000.00	 Formal Bid/ RFP Required	Contact appropriate Buyer
	Market Basket (%) Bids Cooperative Contracts	*Any*	(3) Written Quotes	Must use multiple cooperatives to avoid restricting vendor competition
	Sole Source	*Any*	- Quote and - TDA Approval	Contact appropriate Buyer

Under all circumstances, Katy ISD awarded vendors (“Awarded Vendors”) take precedence over vendors on a contract with a Board approved Purchasing Cooperative or Alliance.

The Purchasing Department will assist the school or department in following the statute requirements for competitive procurements and in preparing the contract recommendations for Board consideration if the total

contract award exceeds \$250,000. The Purchasing Department maintains lists of potential vendors or service providers for this purpose. The Purchasing Department can assist the school or department by identifying any potential problems or pitfalls that might occur with the procurement.

8. Cost/Price Analysis for Federal Procurements in Excess of \$250,000

In accordance with the requirements in 2 CFR § 200.324, the District will make independent estimates of the goods or services being procured *before* receiving bids or proposals to get an estimate of how much the goods and services are valued in the current market.

To accomplish this, *after* bids and proposals are received, but *before awarding a contract*, the District conducts either a *price analysis* or a *cost analysis*, depending on the type of contract, in connection with every procurement with federal funds in excess of \$250,000. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the District will come to an independent estimate prior to receiving bids or proposals. 2 CFR § 200.324(a). The *cost analysis* or *price analysis*, as appropriate for the particular situation, will be documented in the procurement files.

Accordingly, the District performs a *cost or price analysis* in connection with every federal procurement action in excess of \$250,000, including contract modifications, as follows:

Cost Analysis → Non-competitive Contracts: A *cost analysis* involves a review of proposed costs by expense category, and the federal cost principles apply, which includes an analysis of whether the costs are allowable, allocable, reasonable, and necessary to carry out the contracted services.

In general,

- A *cost analysis* must be used for all *non-competitive contracts*, including sole source contracts.
- The federal cost principles apply.
- All *non-competitive contracts* must also be awarded and paid on a *cost-reimbursement basis*, and not on a fixed-price basis.
- In a cost-reimbursement contract, the contractor is reimbursed for reasonable actual costs incurred to carry out the contract.
- Profit must be negotiated as a separate element of the price in all cases where there is no competition.

When performing a *cost analysis*, the Federal Programs and External Funding/Purchasing Department negotiates profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. 2 CFR § 200.324(b).

Price Analysis → Competitive Contracts: A *price analysis* determines if the lump sum price is fair and reasonable based on current market value for comparable products or services.

In general,

- A price analysis can only be used with *competitive contracts* and is usually used with fixed-price contracts. It cannot be used with non-competitive contracts.
- Compliance with the federal cost principles is not required for fixed-price contracts, but total costs must be reasonable in comparison to current market value for comparable products or services.
- A competitive contract may be awarded on a fixed-price basis or on a cost-reimbursement basis. If awarded on a cost-reimbursement basis, the federal cost principles apply and costs are approved by

expense category, and not a lump sum.

Costs or prices based on *estimated* costs for contracts are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable costs under the federal cost principles.

9. Use of Federal Excess and Surplus Property and Procurement of Recovered Materials

The District considers the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. 2 CFR § 200.318(f). To search for available Texas Federal Surplus material, visit <http://ams5.incircuit.com/eams3/f?p=1012:1500>.

To purchase material found on the Texas Federal Surplus material list, please contact Nakia Coy or OKina Alford.

Procurement of Recovered Materials: In addition, the District complies with section [6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act](#).

The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR Part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The requirements apply to state and local governments, including school districts, and include the purchase of everyday items such as paper products, non-paper office products, office furniture, floor mats, and awards and plaques, as well as many other items, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000.

Requirements also include:

- procuring solid waste management services in a manner that maximizes energy and resource recovery and
- establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Pursuant to section 6002, the decision *not* to procure recovered materials must be based on a determination that such procurement items:

- a. are not reasonably available within a reasonable period of time;
- b. fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the District; or
- c. are only available at an unreasonable price. Any determination under subparagraph (B) shall be made on the basis of the guidelines of the Bureau of Standards in any case in which the material is covered by the guidelines.

While the procurement of materials with the highest recycled content is always recommended, the Federal Programs and External Funding will monitor federal fund purchase activities to ensure the \$10,000 threshold is adhered to. Please contact the Federal Programs and External Funding Department with any questions.

10. Affirmative Steps

The district must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

2. Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) above.

11. Federal Conflict of Interest

For expenditures from federal funds, District employees should be aware that the rules regarding conflict of interest are more stringent than the state requirements. For federal fund expenditures the rules state that neither an employee administering, directing or authorizing the expenditure of federal funds, nor members of the employee's immediate family, can have a financial interest in a vendor or his company involved in the procurement transaction involving these funds.

District policy on Conflict of Interest and the reporting requirements can be found under **District Board Policy – DBD and CBB**.

12. Vendor Certifications

Federal and state law mandates that vendors/contractors certify and verify their compliance with several provisions including Appendix II to 2 CFR Part 200. By signing Katy ISD's Vendor Certifications Addendum, the vendors are agreeing to comply with the applicable federal, state, and local laws, rules, regulations, and ordinances noted (See [24. Vendor Certifications](#)).

Appendix B

Frequently Asked Questions

Why all the rules? Whose money is it?

School District funding sources include, but are not limited to:

- Local Taxes & Fees
- State Taxes
- Federal & State Grant Funds

As “keepers” of the taxpayers’ money, we have a responsibility to be “fiscally” responsible –to document that we have received good value for the dollars spent.

Why do we have to apply purchasing rules to vending machine funds or the Principal’s Activity fund?

Education Code 44.908 defines these funds as revenue over which the District maintains direct control. Thus these funds are subject to the same laws and rules as all other District funding. The only exception are those funds raised by student activities and controlled by the student organizations – identified as Budget Fund Code 865.

Where are all the rules?

- Texas statutes (Education Code, Government Code, and Local Government Code)
- Federal Regulations (including 2 CFR Part 200 - EDGAR)
- Katy ISD Board Policies and Administrative Procedures
- Texas Education Agency’s Financial Accountability System Resource Guide (FASRG)
- Texas Department of Agriculture’s Administrator’s Reference Manual (ARM)

What does the Purchasing Department do?

Purchasing monitors the District’s spending to ensure compliance with local, state, and federal statutes and policies. Additionally, and of equal importance, we procure goods and services and negotiate contracts to obtain better pricing and services. Our goal is to assist the District in obtaining the best value for its budget dollars.

I can buy these items for much lower prices. Why does the District pay more?

There is a cost to doing business with a school district. Companies must agree to abide by the District’s terms and conditions and must process a large number of documents to become an awarded vendor. Additionally, they must agree to the District’s strict hours of operation, delivery, and billing requirements. All of this can add to a vendor’s costs which is why some vendors refuse to bid to school districts. Unfortunately, when this happens, the District is unable to do business with that vendor. It can also mean that we may pay more to an awarded vendor than we might have paid to another one who is not an approved vendor.

The Purchasing Department works very closely with vendors to obtain the best possible pricing and encourage their participation in our procurement and contracting processes.

How do I know what type of contracts Katy ISD has in place?

Purchasing posts all awarded contracts on the PURINFO list in Katy 1Source under the Purchasing Department tab. This information is accessible to all Katy ISD staff. If you have additional questions, please contact Purchasing at 281-396-6260. We will be happy to guide you to the correct contract or assist with obtaining pricing.