



OKLAHOMA CITY COMMUNITY COLLEGE

POLICY NO. 3004 PURCHASING POLICY

- 1.0 Introduction & Scope: The Oklahoma City Community College (OCCC) Purchasing Department procures needed materials, equipment and services on a timely and economical basis within accepted standards of quality in the best interests of OCCC. This document establishes the policy to facilitate OCCC procurement through the Purchasing Department applicable to all OCCC departments. OCCC is exempt from the provisions of the Oklahoma Central Purchasing Act, 74 O.S. § 85.3a, except as may be otherwise provided by law. OCCC's Purchasing Policy complies with the applicable requirements of the Oklahoma State Regents for Higher Education (OSRHE) as contained in the Policies and Procedures Manual, § 4.12.

Scope: This policy applies to all OCCC purchases, except for the following:

- 1.1 In addition to Policy 3004, including Section 7.0 of this policy, purchases made with federal grant funding must also adhere to Policies 3036 and 3038.
 - 1.2 Public construction contracts subject to the Public Competitive Bidding Act of 1974.
 - 1.3 Travel. See Policy 3003.
 - 1.4 Purchasing Objectives:
- 2.0 The prime objective of the Purchasing Department is to procure all necessary supplies, materials, equipment, and services required by the various departments of OCCC from reliable sources, within the required delivery time and at the desired value to OCCC. All decisions concerning the management of OCCC assets will be based solely on the best interest of OCCC.
- 2.1 The Purchasing Department's other objectives are to:
 - 2.1.1 Ensure the supply cycle is accomplished in the most efficient manner.
 - 2.1.2 Make the most cost effective use of public funds.
 - 2.1.3 Establish consistent purchasing practices and procedures.
 - 2.1.4 Assist in establishing requirements for items and develop standard specifications.
 - 2.1.5 Avoid waste, duplication, and obsolescence of materials.
 - 2.1.6 Promote and conserve good vendor relations.

- 2.1.7 Conserve time for other departments by relieving them of time-consuming negotiations.
- 2.1.8 Explore new and better sources of supply, processes and ideas which will better serve the needs of all OCCC departments.
- 2.1.9 Encourage maximum competition on the basis of fair and equal opportunities to qualified businesses interested in selling to OCCC.
- 2.1.10 Establish, enforce and update, as required, the purchasing procedures for the benefit of all departments.

3.0 Making a Purchase:

- 3.1 A requisition must be entered in Colleague to initiate the acquisition process. The process ends when the Purchasing Department issues and approves the purchase order. The purchase order will be provided to the requestor and/or vendor. This includes purchases paid with the PCard, vendor invoice, online orders, registrations, advertising, or any other required purchase.
- 3.2 Any purchase that requires a contract must be executed by the vendor and OCCC. The contract is then submitted to the Purchasing Department for issuance of a purchase order. The purchase order will be provided to the requestor and/or vendor. The Purchasing Department recommends that vendors sign all contracts before OCCC executes.
- 3.3 The procedures for requisition completion are provided on the OCCC Purchasing website at www.occc.edu/purchasing. If training is required, contact the Purchasing Department to schedule.
- 3.4 Reimbursements to Employees
 - 3.4.1 The requisitioning department must prepare a requisition before making any expenditure to be paid for by employee reimbursement so that funds may be encumbered and the expenditure approved before any commitment is made.
- 3.5 Printing Services. Requisitions for services of an outside printer must be approved by the Executive Director of Marketing and Public Relations.
- 3.6 Acquisition of IT Hardware, Software, Services, Computers, and Computer Equipment. In addition to Policy 3004, acquisitions of IT hardware, software and services must adhere to Policy 9003. Requisitions for computer and computer related equipment exceeding \$500.00 must be approved by the Vice President for Information Technology Services in addition to the requisitioning department head. Requisitions for all software purchases must be approved by the Vice

President for Information Technology Services in addition to the department head.

4.0 OCCC Purchasing Thresholds:

The following purchasing processes and award standards shall be used based on the applicable acquisition amount. The Purchasing Department shall assist departments in choosing the appropriate processes and award standards:

Acquisition Amount	Process	Award Standard
Not exceeding \$5,000.00 (\$0.00 - \$5,000.00)	Market Purchase	Fair and Reasonable
Over \$5,000.00 and not exceeding \$50,000.00 (\$5,000.01 - \$50,000.00)	Informal–Solicit Three Vendor Quotes	Lowest and Best or Best Value
Over \$50,000.00 (\$50,000.01 and up)	Formal–Competitive Bid <ul style="list-style-type: none">• Invitation to Bid (ITB) <i>If exact specifications are known, e.g., commodities</i>• Request for Proposal (RFP) <i>Goal or end result is provided, but exact specifications are not known or are to be developed in the vendor proposal</i>	Lowest and Best or Best Value

4.1 Award Criteria Definitions

- 4.1.1 Best Value – Includes, but is not limited to evaluation of: a) operational cost; b) quality or technical competency; c) reliability of delivery and implementation; d) facilitation of data transfer and systems integration; e) any warranties, guarantees, or return policies; f) bidder financial stability; g) consistency with OCCC strategic planning; h) experience and past successful performance; i) user group acceptance; and j) proven methodology leading to quality results.
- 4.1.2 Lowest and Best – Includes, but is not limited to evaluation of a) lowest total purchase price; b) quality and reliability; and c) consistency with OCCC strategic planning.
- 4.1.3 The value of a purchase equals the cost of an individual item or the cost of a bulk purchase of similar items from a vendor or multiple items that are part of one similar project. Regarding services, the value of a purchase for services equals the cost of services to complete a discrete assigned project or the cost to complete a series of similar assigned projects within the scope of services offered by the provider.

4.2 Purchases Exempt from Competition

4.2.1 State or Federal contracts

4.2.2 Purchasing Consortia

4.2.3 Existing contracts by public colleges or universities in Oklahoma

4.2.4 Emergency purchases. See section 5.4.

4.2.5 Memberships and subscriptions

4.2.6 Professional Services. "Professional services" is defined as services which are predominantly mental or intellectual in character, rather than physical or manual and which do not involve the supplying of products. Professional services require special, usually advanced education and skills such as architectural, engineering, legal or consulting services.

4.2.7 Sole Source Purchases. A "sole source purchase" is a contract for a particular service or item which, by the specifications for the item or qualifications needed by an agency, restricts the bidders to one person to one business entity, or to one brand name. If a sole source purchase is necessary, a Sole Source Certificate must be submitted with the requisition in lieu of competitive bids. The Sole Source Certificate must include an explanation of why the purchase is being sole sourced and what efforts have been made to solicit bids for the services or products to be purchased. The Sole Source Certificate is located on the employee home page under electronic forms.

4.2.8 Training

4.2.9 Resale items purchased for the Bookstore, Cafeteria, or other OCCC-operated entities.

4.2.10 Utilities

4.3 Split purchasing for the purpose of evading the competitive bidding requirement is prohibited.

5.0 Additional Purchasing Requirements:

5.1 The Purchasing Department may increase purchase orders upon written approval from department. Increases in purchase orders for purpose of evading the competitive bidding requirements are prohibited. Increases to purchase orders that cause the total dollar amount to exceed the dollar threshold amount requiring competition will require additional quotes to be obtained, formal competition to be issued, or provide justification as an exception to competition before increase to the purchase order will be processed.

- 5.2 Purchases that provide a trade-in value or discount to reduce the cost of a single item shall not be a consideration factor in the total purchase cost to avoid adhering to competitive bidding requirements.
- 5.3 Purchases for specific student meals or ticketed events purchased require documentation indicating the relevant purpose of the expense and the estimated number of attendees eating the meal and/or attending the event to be submitted to Purchasing upon entry of requisition. After the event or meal, an official signed roster must be provided to the Purchasing Department. Meals and/or ticketed events for faculty/staff business or college related meetings will require a written agenda documenting the relevant purpose of the business and/or college activity to be submitted to Purchasing upon entry of requisition.
- 5.4 Emergency Purchases:
 - 5.4.1 An emergency purchase is defined as a purchase in a circumstance in which an unforeseen condition is believed to place human life or safety in imminent danger or threaten significant property interests with imminent destruction.
 - 5.4.2 The department head must prepare and submit to the Purchasing Department a written explanation specifying the facts and circumstances of the emergency purchase.
 - 5.4.3 Emergency purchases not exceeding \$25,000.00 must be approved by the Vice President for the area affected and the Chief Financial Officer.
 - 5.4.4 Emergency purchases exceeding \$25,000.00 must be approved by the President.
- 5.5 Product Recalls/Hazards:
 - 5.5.1 To ensure proper actions are taken and documentation is maintained, the department receiving a manufacturer's recall or hazard notice must send a copy of the letter to the Purchasing Department. The Purchasing department maintains documentation as to:
 - 5.5.1.1 Department notified.
 - 5.5.1.2 Actions taken, if any.
 - 5.5.1.3 Lot numbers returned to company, if any.
 - 5.5.1.4 Notifications to appropriate personnel.

5.6 Blanket Orders:

5.6.1 The Purchasing Department uses two types of blanket purchase orders.

5.6.2 PO/blanket order – This type of blanket order is issued with local vendors (Walmart, Crest, Hobby Lobby, Lowes, etc.) to ensure a source for small miscellaneous items pick up by the requestor that are needed. These items along with the signed original receipt are to be taken to the Receiving area to be received into the system.

5.6.3 BPO/blanket order – This type of blanket order is used primarily for contract services, professional services, memberships, subscriptions, reimbursements, etc. These generally do not go through the Receiving department.

5.6.4 Blanket purchase orders are not allowed for purchases through online retail vendors (Amazon, Staples, etc.) and is required that a requisition be entered per individual order placed.

5.7 Contract Approvals

5.7.1 Bids and proposals are analyzed by OCCC staff to determine the best value or lowest and best proposal or bid in the best interests of the OCCC. All contracts for products and services must be approved by the Executive Leadership Team member or Vice President of the department requiring product and/or service.

5.7.2 The Office of General Counsel must review and approve all RFPs, ITBs, and contracts awarded for acquisitions exceeding \$50,000.00, at both the solicitation stage and contract award stage.

5.8 Vendors:

5.8.1 Vendors wishing to be added to the Oklahoma City Community College vendor list should contact the Purchasing department. The vendor must complete a vendor registration form and provide a signed W9.

5.8.2 The Purchasing Department may remove any vendor from the list of vendors, at its own discretion or based on a complaint from a department, based on facts supporting one or more of the following:

5.8.2.1 Unethical behavior

5.8.2.2 Poor quality of provided products and/or service

5.8.2.3 Exorbitant pricing

5.8.2.4 Serious and/or repeated delivery problems

5.8.2.5 Failure to stand behind the provided product and/or service

5.8.2.6 Serious or repeated violations of safety, health, environmental or security procedures

5.8.2.7 Repeated failure to follow the proper purchasing, delivery, billing and substitution policies

5.8.3 Vendors working at OCCC are required to provide proof of insurance as a condition of any Contract for Services. Vendors may not commence performance until proof of insurance is provided, as follows: Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death), and property damage, including coverage for contractual liability; Automobile Liability Insurance; and Workers' Compensation and Employer's Liability Insurance, as required by applicable law. If the vendor contracts for provision of services or goods related to information technology or data privacy or confidentiality, such vendor must provide Security and Privacy Liability Insurance, including coverage for failure to protect confidential information and failure of the security of vendor's computer systems resulting in unauthorized access to OCCC data; and Directors and Officers Insurance, including Employment Practices Liability as well as Consultants' Computer Errors and Omissions Coverage. The coverages and limits required in connection with a particular contract shall be reviewed and approved by the Office of General Counsel. Additional coverage may be required in connection with a particular acquisition, to be set forth in the solicitation. Vendor shall ensure each insurance policy required includes OCCC as a certificate holder for purposes of notices of cancellation, renewals, amendments or other changes to insurance coverages.

5.8.4 Contract Negotiations. All bid negotiations and correspondence with vendors relating to specifications, procurement, price, terms, delivery, changes, cancellation, etc., shall originate from the Purchasing Department. When technical detail makes it necessary for the requisitioner to communicate directly with the vendor, copies of all correspondence must be forwarded to the Purchasing Department. Changes or revisions will be written as an addendum to the existing or awarded contract.

5.8.5 Due to confidentiality and attorney client privilege, professional services contracts for legal services are exempt from this requirement.

5.9 Purchases Exceeding \$50,000.00:


5.9.1 Any E&G, Auxiliary expenditure exceeding \$50,000.00 must be approved by the Department or Division Director and the Vice President of Budgetary Unit.

- 5.9.2 If an expenditure exceeds the amount available in the E&G or Auxiliary budget, the department must work with their Executive Leadership team member or Vice President and the Chief Financial Officer to request a transfer from contingency funds. All contingency fund transfers must be approved by the President.
 - 5.10 Contracts. Contracts and service agreements requiring a purchase order must be submitted to the Purchasing Department for review prior to entering into the agreement. A copy of the contract is maintained in the Purchasing Department. Each OCCC operational division shall be responsible to enter and maintain all division contracts, and contract documents, such as extensions, amendments and renewals, executed on or after August 1, 2021 in OCCC's contract life cycle management (CLM) application, ContractSafe. Each division will assign at least one person who will be responsible to ensure the contracts and contract documents are entered and maintained in the CLM application. Contact the Office of General Counsel for CLM questions and training needs.
 - 5.11 Capital Equipment. Capital Equipment is any item of equipment that singularly costs \$500.00 or greater. The Shipping/Receiving Department tags all capital equipment for inventory purposes as required by law. If a department receives untagged capital equipment, it shall notify Shipping/Receiving.
- 6.0 Purchase Card Program:
- 6.1 Program Description. The Purchase Card ("P-Card") Program is designed to facilitate the acquisition of certain designated goods required for the operation of OCCC business. The Chief Financial Officer shall have final approval of employees ("Cardholders") to whom a P-Card shall be assigned.
 - 6.2 Terms of Use
 - 6.2.1 Obtaining a P-Card – The employee must complete a P-Card application signed by the requesting cardholder and supervisor and forwarded for final approval by the Director of Purchasing and Chief Financial Officer.
 - 6.2.2 Only the Cardholder whose name appears on the P-Card may conduct transactions using the P-Card. The Cardholder shall not allow any other person to use the P-Card.
 - 6.2.3 The P-Card shall not be used as a tool to circumvent existing policy or state regulations.
 - 6.2.4 The Cardholder is responsible for and accountable to OCCC for all charges made with the P-Card.
 - 6.2.5 The P-Card may be used for official OCCC purchase of designated goods only. The P-Card shall not be used for any service, personal purchases or

cash withdrawal.

- 6.2.6 Single transaction limits should not exceed limits in OCCC policy. The Director of Purchasing will establish the P-Card monthly single transaction expenditure limit.
- 6.2.8 Entry and approval of a requisition and purchase order processed by Purchasing is required for all P-Card transactions.
- 6.2.9 Cardholders are required to print a monthly P-Card Transaction Statement by accessing credit card company transaction system. The monthly transaction statement and detailed receipts for the current applied charges must be reviewed and signed by the cardholder. The monthly statement must be approved and signed by the cardholder's immediate supervisor. The monthly statement, detailed receipts and any additional documentation regarding the transactions should be scanned and emailed or sent through campus mail to the Director of Purchasing for final reconciliation by the due date requested by the Purchasing department at the beginning of each month.
- 6.2.10 Termination/Cancellation, Transfer/FTE Change, Lost/Stolen P-Card -
A cardholder must surrender all cards associated with the P-Card program upon termination of employment (i.e. retirement or voluntary/involuntary termination). Upon termination, no further use of the card is authorized. The Director of Purchasing will close the account with the credit card company and will indicate cancellation date on the cardholder P-Card application upon receipt of surrendered P-Card.
- 6.2.11 A cardholder must surrender all cards associated with the P-Card program upon transfer to another OCCC department or a change in FTE. Once transfer or FTE change becomes applicable, no further use of the card is authorized. The cardholder will be required to complete a new P-Card application for purchases for the department transferred, if applicable.

A cardholder must immediately notify the credit card company and the Director of Purchasing if a card is lost or stolen. The P-Card account will be immediately closed and a new account and P-Card will be issued to the cardholder.
- 6.2.12 Violations of P-Card Program or Terms of Use -
Unauthorized use of a P-Card for purchases not authorized by this procedure or by a person not authorized by the Chief Financial Officer may result in disciplinary action up to and including termination of employment.
- 6.2.13 Deliberate unauthorized use of a P-Card will result in disciplinary action and legal action and may result in criminal charges.
- 6.2.14 The Director of Purchasing will review all monthly statements and receipts



of all cardholder monthly transactions. The cardholder will be immediately notified of any statement discrepancies or missing documentation and will be required to provide to the Director of Purchasing immediately upon request.

6.2.15 Recurrent issues with cardholder P-Card transactions, monthly statements, etc. may result in the temporary suspension of P-Card and required attendance in P-Card refresher training with the Director of Purchasing. Continued P-Card issues may result in the cardholder being barred from the P-Card program.

6.2.16 Cardholders will be provided by email communication an annual refresher of the P-Card procedures at the beginning of each fiscal year (July 1). Individual cardholder training will be scheduled at the discretion of the Director of Purchasing on an as needed basis.

6.3 Excluded Charges

6.3.1 Splitting Transactions (Split Purchasing). Split purchasing means dividing or failing to consolidate a known quantity of goods or services for the purpose of evading (1) the PCard transaction limit and/or (2) limit(s) established for an individual PCard and/or (3) a quotation/bidding requirement. Splitting transactions to avoid PCard restrictions is not allowed and will result in card suspension or revocation.

6.3.2 Sales Tax. OCCC is exempt from sales tax. PCard users can contact the Purchasing Department to obtain a copy of the tax exemption certificate to provide to vendors. The cardholder/user is responsible for ensuring that sales tax is not charged at the time of purchase. If sales tax is charged by the vendor, it is the cardholder/user's responsibility to get this matter resolved in a timely manner and a credit issued. If it is not resolved in a timely manner, the cardholder/user may be responsible for reimbursing OCCC for the amount of the sales tax.

6.3.3 Personal Items. Personal items such as flowers, candy, haircuts, meals, etc. shall not be purchased with the PCard. Items purchased with the PCard should be for OCCC business or events only.

6.3.4 Cash. Using the PCard for cash advances or automated teller machine (ATM) transactions is prohibited.

6.3.5 Travel Related Meal Expenses. The only exception to this expense is if OCCC employee is traveling with students for a college activity. The PCard can be used for meals if students are involved and a list of each student's full name accompanies the submitted receipts with the cardholder's monthly transaction statement.

6.3.6 Trade-In. PCard cannot be used for payment if purchase involves a trade-in

of college property.

- 6.3.7 Conflict of Interest. As with any purchase made for the college, a cardholder/user shall not purchase goods or services from a member of their immediate family or realize personal gain. The cardholder/user shall inform his/her supervisor in writing of reasonable foreseen potential conflicts of interest.

7.0 Procurement Using Federal Grant Funds/Basic Federal Procurement Information:

7.1 Authority

- 7.1.1 OCCC is a non-Federal entity independent of the State of Oklahoma when procuring goods or services using Federal grant funds. OCCC follows Federal guidelines found in 2 CFR 200 § 200.318 through § 200.323.

7.2 General Procurement Standards

- 7.2.1 OCCC uses its own documented procurement procedures as found in Policy No. 3004 Purchasing Department that reflect applicable state, and local laws and regulations, providing that the procurements conform to applicable Federal law and standards identified in this section.
- 7.2.2 OCCC maintains oversight to ensure that contractors perform in accordance with the terms, conditions and specifications of their contracts or purchase orders.
- 7.2.3 OCCC Standards of Conduct
 - 7.2.3.1 OCCC maintains written standards of conduct covering conflicts of interest and governing the performance of the college's employees engaged in the selection, award, and administration of contracts. No OCCC employee, officer, or agent may participate in the selection, award or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization, which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of OCCC must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, OCCC may set standard for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of the standards by officers, employees, or agents of OCCC.
 - 7.2.3.2 If OCCC has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the college must also maintain written

standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the college is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

- 7.2.4 OCCC's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- 7.2.5 To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, OCCC is encouraged to enter into state and local inter-governmental agreements of inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
- 7.2.6 OCCC is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- 7.2.7 OCCC is encouraged to use value engineering clauses in contracts for construction projects or sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
- 7.2.8 OCCC must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- 7.2.9 OCCC must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- 7.2.10 Time and Materials Contracts
 - 7.2.10.1 OCCC may use time and material type contracts only after the determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and material type contract means a contract whose cost to the college is the sum of:
 - 7.2.10.1.1 The actual cost of materials; and

7.2.10.1.2 Direct labor hours charges at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

7.2.10.2 Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the college awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

7.2.11 OCCC alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the college of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the college unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

7.2.12 Suspension and Debarment

7.2.12.1 OCCC restricts awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. When establishing such relationships related to funding from federal awards or assistance programs, OCCC will take reasonable action to determine if the entity is subject to non-procurement debarment or suspension

7.2.12.1.1 § 200.214 Suspension and Debarment

Non-Federal entities are subject to the non-procurement debarment and suspension regulation implementing Executive Orders 12549 and 12689, 2 CFR part 180. The regulation in 2 CFR part 180 restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

7.2.12.1.2 §180.155 How do I know if a person is excluded?

Check the Government wide System for Award Management Exclusions (SAM Exclusions) to determine whether a person is excluded. The General Services Administration (GSA) maintains the SAM Exclusions and makes it available at website www.sam.gov. When a Federal agency takes action to exclude a person under the non-procurement or procurement debarment and suspension system, the agency enters the information about the excluded person into the SAM Exclusions.

7.3 Competition

- 7.3.1 All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitation for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:
 - 7.3.1.1 Placing unreasonable requirements on firms on order for them to qualify to do business;
 - 7.3.1.2 Requiring unnecessary experience and excessive bonding;
 - 7.3.1.3 Noncompetitive pricing practices between firms or between affiliated companies;
 - 7.3.1.4 Noncompetitive contracts to consultants that are on retainer contracts;
 - 7.3.1.5 Organization conflicts of interest;
 - 7.3.1.6 Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
 - 7.3.1.7 Any arbitrary action in the procurement process.
- 7.3.2 OCCC must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- 7.3.3 OCCC must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
 - 7.3.3.1 Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When

it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of the procurement. The specific features of the named brand which must be met by offers must clearly stated; and

7.3.3.2 Identify all requirements which the offerors’ must fulfill and all other factors to be used in evaluating bids or proposals.

7.3.4 OCCC must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the college must not preclude potential bidders from qualifying during the solicitation period.

7.4 Methods of Procurement to be Followed

7.4.1 Procurement by micro-purchases

Procurement by micro purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase thresholds of \$5,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the college must distribute micro-purchases equitable among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the college considers the price to be reasonable.

7.4.2 Procurement by Small Purchase Procedures

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property the aggregate dollar amount over \$5,000 and which does not exceed \$50,000. If the small purchase procedures are used, price or rate quotations must be obtained from adequate number of qualified sources

7.4.3 Procurement by Sealed Bids (formal advertising)

Bids are publicly solicited for securing services, supplies, or other property the aggregate dollar amount over \$50,000 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 conditions in this section apply.

7.4.3.1 In order for sealed bidding to be feasible, the following conditions should be present:

7.4.3.1.1 A complete, adequate, and realistic specification or purchase description is available;

7.4.3.1.2 Two or more responsible bidders are willing and able to compete effectively for the business; and

7.4.3.1.3 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.

7.4.3.2 If sealed bids are used, the following requirements apply:

7.4.3.2.1 The invitation for bids will be publicly advertised and 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;

7.4.3.2.2 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;

7.4.3.2.3 All bids will be publicly opened at a time and place described in the invitation for bids;

7.4.3.2.4 A firm fixed price contract award will 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; and

7.4.3.2.5 Any or all bids may be rejected if there is sound documented reason.

7.4.4 Procurement by Competitive Proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

7.4.4.1 Request for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals will be considered to the maximum extent practical;

7.4.4.2 Proposals must be solicited from an adequate number of qualified sources;

7.4.4.3 The college must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

7.4.4.4 Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with the price and other factors considered; and

- 7.4.4.5 The college 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 through A/E firms are a potential source to perform the proposed effort.

7.5 Procurement by Noncompetitive Proposals

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

- 7.5.1.1 The item is available only from a single source;
- 7.5.1.2 The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- 7.5.1.3 The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the college; or
- 7.5.1.4 After solicitation of number of sources, competition is determined inadequate.

7.6 Contracting with Small and Minority Business, Women's Business Enterprises, and Labor Surplus Area Firms

- 7.6.1 OCCC will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

7.6.2 Affirmative steps must include:

- 7.6.2.1 Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- 7.6.2.2 Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- 7.6.2.3 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;
- 7.6.2.4 Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's

business enterprises;

7.6.2.5 Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and Minority Business Development Agency of the Department of Commerce; and

7.6.2.6 Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in the paragraphs above in this section.

7.7 Procurement of Recovered Materials

7.7.1 OCCC and its contractors will comply 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, where the purchase price of the item exceeds \$5,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$5,000; 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.

7.8 Contract Cost and Price

7.8.1 OCCC will perform a cost or price analysis in connection with every procurement action in excess of the \$5,000 threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the college will make independent estimates before receiving bids or proposals.

7.8.2 OCCC will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, the college will consider 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.

7.8.3 Cost of prices based on estimated costs for contracts under the Federal award are allowable only to the extent that cost incurred or cost estimates included in negotiated prices would be allowable for the college under Subpart E-Cost Principles of this section. OCCC may reference its own cost principles that comply with the Federal cost principles.

7.8.4 The cost plus a percentage of cost and percentage of construction cost methods of contracting will not be used by OCCC.

- 7.9 Domestic preferences for procurement. As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

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