

**Business Office Code of Ethics**

Endeavor to obtain the greatest value for every District dollar expended by conducting business in a manner consistent with exemplary business practices and legal statutes.

Give prompt and courteous reception to all District staff and legitimate business representatives.

Provide support to the District's schools and departments charged with the responsibility of creating an educational environment of excellence.

Insure 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.

Always consider the interests of the District and the enhancement of its educational programs first.

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.

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.

Never accept gifts or favors which might influence, or be construed to influence, the purchase of goods and services.

**Purchasing Authority**

Brazosport ISD Board Policy Manual lists the following under CH (LEGAL) and CH (LOCAL):

- 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 to be taken by the District by Education Code Chapter 44, Subchapter B to a designated person, representative, or committee.
- 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.
- The Board delegates to the Superintendent or designee the authority to make budgeted purchases for goods or services. However, a single, budgeted purchase of goods or services that costs \$25,000 or more, regardless of whether the goods or services are competitively purchased, shall require the Board approval before a transaction may take place.

- The Board shall assume responsibility for debts incurred in the name of the District so long as those debts are for purchases made in accordance with adopted Board policy and current administrative procedures. The Board shall not be responsible for debts incurred by persons or organizations not directly under Board control; **persons making unauthorized purchases shall assume full responsibility for all such debts.**
- All purchase commitments shall be made by the Superintendent or designee on a properly drawn and issued purchase order, in accordance with administrative procedures.

Accordingly the District has established the Business Office under the direction of the Superintendent to assist the Board in the procurement function, and to assure such function is within compliance of all applicable statutes, Board policies, and Administrative Regulations.

See Board Policies CV, CVA, CVB, CVC, CVD, CVE and CVF for facilities construction requirements.

### **Competitive Procurement Options**

Texas Education Code 44.031(a) states that all contracts, except contracts for the purchase of produce or vehicle fuel, 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. The law enumerates several options for competitive procurement that are available; these options include:

- Competitive Bidding
- Competitive Sealed Proposals
- A Request for Proposals, for Services other than Construction Services
- An Interlocal Contract
- A Design/Build Contract
- A Contract to Construct, Rehabilitate, Alter, or Repair Facilities that involves the use of a Construction Manager
- A Job Order Contract for the Minor Construction, Repair, Rehabilitation, or Alteration of a Facility
- The Reverse Auction Procedure Defined in Government Code, Section 2155.062(d)

- The Formation of a Political Subdivision Corporation under Local Government Code, Section 304.001.

### **Exceptions to Competitive Procurement**

- Produce and Fuel
  - There is an exception for produce and fuel that allows the District to use any method listed above or those in School Code, 44.033 for these purchases.
- Cooperative Purchase Programs
  - To conserve and coordinate the use of public funds, school districts may enter into agreements for the cooperative purchase of goods and services between itself and other local governments or agencies (interlocal agreement).
  - All items and services available through the Board approved cooperative have satisfied all procurement regulations for competitive procurement. These items or services do not require further bidding before being procured. Purchases under these contracts can expedite the procurement process for District departments and schools.
  - A list of current participating cooperative links can be found on the BISD website, [www.brazosportisd.net](http://www.brazosportisd.net). For additional information regarding available commodities or services, please contact the Business Office.
  - In compliance with Education Code, Section 44.0331, the Business Office submits annually, the amount, purpose, and disposition of any cooperative contract related fee in a written report as an agenda item at an open meeting of the board of trustees.
- Professional Services
  - An additional exception applies to professional services as defined under Government Code, Section 2254.003. These services include, but are not limited to, professionals such as attorneys, architects, fiscal agents, or licensed medical professionals. Contracts for professional services are not procured through competitive bids. Rather such services are chosen through a process of selection involving the review of professional qualifications.

### **Purchasing Categories**

***Repealed by Acts 2009 81<sup>st</sup> Leg., ch. 1266 § 15, effective June 19, 2009***

**Price Quotations**

Per directed in Education Code, Section 44.033, for purchases of personal property or services totaling less than \$50,000 in the aggregate for the fiscal year, schools and departments will be allowed to purchase using the Best Value criteria for the individual transaction. The Business Office has set the following guidelines:

- Purchases under \$500 may be made in the most expeditious manner possible in order to meet the needs of the schools and departments. Although encouraged to utilize vendors within the system, new vendors may be entered as needed.
- For purchases \$500 to \$2,499, schools and departments must obtain verbal or written quotation for the requisition. Documentation should be maintained with the purchase requisition form on the campus or within the department.
- Purchases \$2,500 to \$24,999, three written quotes must be submitted to the Business Office before the purchase order/direct payment will be approved and processed.
- Purchases \$25,000 to \$49,999 requires Board approval and three written quotes must be submitted to the Business Office.

Failure to follow these guidelines could result in a delay in processing your request. For assistance in this process, please contact the Business Office

**Sole Source**

As allowed under School Code, 44.031, the District is allowed to purchase items available from a single source without complying with the competitive procurement provisions.

Sole source items are defined as follows:

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

Vendors claiming sole source status will be asked to provide written and signed documentation stating the reason. Departments or schools may be requested to document the reason why the particular product is required.

**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 determines the delay posed by the methods for procurement listed School 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.

**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.

**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 lease of real property where sole-source limitations might apply due to location or building requirements.

However, 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 nonappropriation.

**Competitive Bidding Process**

If it is determined that the personal property or service needed will require either a Request for Bids or Request for Proposal process on the open market, the Business Office will assist the requesting department in preparing the bid documents to comply with Section 44.031 of the Education Code.

The requesting department will be responsible for providing specifications of the products or services needed. Upon conclusion of the bidding process, the Business Office will open, tabulate, and provide the school or department with written documentation of the results. The school or department will be asked to evaluate and score the results, and provide a written recommendation for award.

The Business Office will review and prepare an Agenda Item for Board approval and submit it for consideration. If approved and awarded by the Board, the Business Office will notify the using school or department as well as all vendors involved in the process.

Notices of the time and place when the bids or proposals or other responses to a request for qualification may be examined must be published once a week for at least two weeks before the deadline for receipt. This notice must include the notice as to where the bids shall be opened as well as the date and time due. Such notice must be published in the county where the District's administrative office is located.

Bids or Proposals will be opened in the Business Department. All such openings are open to the general public or any interested party.

### **Specifications**

The District's end user or department is responsible for the development of specifications for the items or services needed. Specifications cannot be used that 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 Business Office is available to assist in this area as needed.

### **General Terms and Conditions**

The Business Office will be responsible for providing the general terms and conditions for each bid/proposal packet. Please contact the Business Office for assistance.

### **Contract Term**

Brazosport ISD staff may only use funds appropriated by the Board in the approved budgets. Therefore the 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 cancellation clause as defined by Local Government Code 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 such as a Request for Bid (RFB) or Request for Proposal (RFP) the contract time period must be clearly defined.

**Best Value**

In evaluating procurement decisions the District will always apply best business practices. In doing so, the District will always consider the Best Value criteria as listed below. When seeking a competitively procured contract, the District will state the Best Value criteria listed below as well as any additional criteria to be considered within the bid or proposal document.

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 that is not for goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner has its principal place of business in this state or employs at least 500 persons in this state.
- 9) Any other relevant factor specifically listed in the request for bids or proposals.

Schools or departments will be asked to provide evaluation on all criteria included in the bid documents. All such evaluations will be maintained in the Business Office files and may be presented to the Board with the contract award recommendation.

**Vendor's Criminal History**

Effective January 1, 2008, Texas Education Code Chapter 22, Subchapter C requires service contractors of school districts in Texas to obtain criminal history record information regarding covered employees and to certify to school districts that they have done so. Covered employees with disqualifying convictions are prohibited from serving at a school district. As defined by Texas Education Code, Chapter 22, disqualifying convictions include any of the following, if at the time of the offense, the victim was

under 18 or enrolled in a public school:

- A felony offense under Title 5, Texas Penal Code;
- An offense for which a defendant is required to register as a sex offender under Chapter 62, Texas code of Criminal Procedure; or
- An equivalent offense under federal law or the laws of another state.

Service contractors must obtain the criminal history record information on all new or existing employees who will have continuing duties relating to the contract and will have direct contact with students.

Covered employees employed by a contractor before January 1, 2008, are subject to name-based criminal history reviews and contractors must obtain the criminal history record information as soon as practicable. Covered employees employed by a contractor employed on or after January 1, 2008, are subject to fingerprint-based criminal history reviews and contractors must obtain the criminal history record information before or immediately after securing the services of the covered employees.

Contractors must contact the Texas Department of Public Safety (DPS) directly to establish an account to obtain criminal histories. Instructions for establishing and account with DPS are enclosed. Fingerprints are conducted through the DPS vendor, Integrated Biometric Technology. The contractor must certify to the school district that it has performed the required criminal history reviews.

### **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 regards to a business transaction or real property transaction. For more information, please review the information provided on the Texas Ethics Commission website, [www.ethics.state.tx.us](http://www.ethics.state.tx.us).

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 expenditures the rules state that 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 involved in the procurement transaction involving federal funds.



**Insurance Requirements**

State law requires that any contractor entering a building or 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 at 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 listed Brazosport ISD as an additional insured should be on file at the District before work commences.

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

**Bonding**

In order to protect the District's investment in public work projects, the District will require performance or payment bonds as required under current State law. State law requires that the school district require performance bonds for any public works projects \$100,000 or more in value, and requires 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. This insures that the District receives responsible bids.

Bonding requirements are outlined in Texas Government Code, Chapter 2253.

**Impermissible Practices**

School Code 44.031 prohibits the 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.

**Fundraising Vendors**

The campus/department is responsible for selecting fundraising vendors that best meets their needs. 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 receive or organizations receive a commission from the sales.