

HARTNELL COMMUNITY COLLEGE DISTRICT

AP 6250 Budget Management

**Reference:** Title 5, Sections 58305, 58307, 58308

Budget management shall be in accordance with adopted policies and shall meet the following criteria:

Total amounts budgeted as the proposed expenditure for each major classification of expenditures shall be the maximum expended for that classification for the school year, except as specifically authorized by the Board.

Transfers may be made from the reserve for contingencies to any expenditure classification by written resolution of the Board, and must be approved by a two-thirds vote of the members of the Board.

Transfers may be made between expenditure classifications by written resolution of the Board, and may be approved by a majority of the members of the Board.

Excess funds must be added to the general reserve of the District, and are not available for appropriation except by resolution of the Board setting forth the need according to major classification.

See Board Policy 6250

Approved by Superintendent/President: February 25, 2014

**HARTNELL COMMUNITY COLLEGE DISTRICT**

**AP 6307 Debt Issuance and Management**

**References:** Government Code Section 8855; Title 4 Sections 6000 et seq.

**Article I**

**Purpose and Goals**

This Policy provides a framework for debt management and capital planning by the District. This Policy has been developed to meet the following goals:

- (1) Identifying the purposes for which the debt proceeds may be used.
- (2) Identifying the types of debt that may be issued.
- (3) Describing the relationship of the debt to, and integration with, the District's capital improvement program.
- (4) Establishing policy goals related to the District's planning goals and objectives.
- (5) Implementing internal control procedures to ensure that the proceeds of the proposed debt issuance will be directed to the intended use upon completion of the issuance.

**Article II**

**Purposes for Which Debt Proceeds May be Used:**

**Section 2.01. Authority and Purposes of the Issuance of Debt**

The laws of the State of California (the "State") authorize the District to incur debt to make lease payments, contract debt, borrow money, and issue bonds for school improvement projects. The District is authorized to contract debt to acquire, construct, reconstruct, rehabilitate, replace, improve, extend, enlarge, and equip such projects; to refund existing debt; or to provide for cash flow needs.

**Section 2.02. State Law**

Section 18 of Article XVI of the State Constitution contains the "debt limitation" formula applicable to the District.

There are a number of State laws that govern the issuance of general obligation bonds ("GO Bonds") by community college districts. Sections 1(b)(2) (Proposition 46) and 1(b)(3) of Article XIII, A (Proposition 39) of the State Constitution allow the District to issue GO Bonds. The statutory authority for issuing GO Bonds is contained in Education Code Section 15000 *et seq.* Additional provisions applicable only to Proposition 39 GO Bonds are contained in Education Code Section 15264 *et seq.* An alternative procedure for issuing GO Bonds is also available in Government Code Section 53506 *et seq.*

The statutory authority for issuing Tax and Revenue Anticipation Notes ("TRANs") is contained in Government Code Section 53850 *et seq.* Authority for lease financings is found in Education Code Section 17455 *et seq.* and additional authority is contained in Education Code Sections 17400 *et seq.*, 17430 *et seq.* and 17450 *et seq.* The District may also issue Mello-Roos bonds pursuant to Government Code Section 53311 *et seq.*

#### **Section 2.03. Debt Issued to Finance Operating Costs**

The District may deem it necessary to finance cash flow requirements under certain conditions. Such cash flow borrowing must be payable from taxes, income, revenue, cash receipts and other moneys attributable to the fiscal year in which the debt is issued. General operating costs include, but are not limited to, those items normally funded in the District's annual operating budget.

The superintendent/president, or Chief Business Officer, will review potential financing methods to determine which method is most prudent for the District. Potential financing sources include tax and revenue anticipation notes, temporary borrowing from the Monterey County Treasurer and Tax Collector, and internal temporary inter-fund borrowing.

### **Article III**

#### **Types of Debt That May be Issued**

##### **Section 3.01. Types of Debt Authorized to be Issued**

- A. Short-Term: The District may issue fixed-rate and/or variable rate short-term debt, which may include TRANs, when such instruments allow the District to meet its cash flow requirements. The District may also issue bond anticipation notes ("BANs") to provide interim financing for bond projects that will ultimately be paid from GO Bonds.
- B. Long-Term: Debt issues may be used to finance essential capital facilities, projects and certain equipment where it is appropriate to spread the cost of the projects over more than one budget year. Long-term debt should not be used to fund District operations. Long term debt in the form of GO Bonds may be issued under Article XIII A of the State Constitution, either under Proposition 46, which requires approval by at least a two-thirds (66.67%) majority of voters, or Proposition 39, which requires approval by at least 55% of voters, subject to certain accountability requirements and additional restrictions. The District may also enter into long-term leases and/or COPs for public facilities, property, and equipment.
- C. Lease Financing: Lease-purchase obligations are a routine and appropriate means of financing capital equipment and certain capital facilities. However, lease obligations may impact on budget flexibility.
- D. Use of General Obligation Bonds: A significant portion of the District's capital projects are projected to be funded by GO Bond proceeds. Projects financed by the GO Bonds

will be determined by the constraints of applicable law and the project list approved by voters.

#### **Article IV**

#### **Relationship of Debt to and Integration with District's Capital Improvement Program or Budget**

##### **Section 4.01. Impact on Operating Budget and District Debt Burden**

In evaluating financing options for capital projects, both short and long-term debt amortization will be evaluated when considering a debt issuance, along with the potential impact of debt service, and additional costs associated with new projects on the operating budget of the District. The cost of debt issued for major capital repairs or replacements may be judged against the potential cost of delaying such repairs.

##### **Section 4.02. Capital Improvement Program**

The Chief Business Officer and the facilities staff have responsibility for the planning and management of the District's capital improvement program subject to review and approval by the Board of Trustees. Staff will, as appropriate, supplement and revise any applicable Facilities Master Plan in keeping with the District's current needs for the acquisition, development and/or improvement of District's real estate and facilities. Such plans may include a summary of the estimated cost of each project, schedules for the projects, the expected quarterly cash requirements, and annual appropriations, in order for the projects to be completed.

##### **Section 4.03. Refunding and Restructuring Policy**

###### **A. Considerations for Refunding.**

1. District's Best Interest. Whenever deemed to be in the best interest of the District, the District shall consider refunding or restructuring outstanding debt if it will be financially advantageous or beneficial for debt repayment and/or structuring flexibility.
2. Net Present Value Analysis. The Chief Business Officer shall review a net present value analysis of any proposed refunding in order to make a determination regarding the cost-effectiveness of the proposed refunding.
3. Maximization of Expected Net Savings. Another consideration in deciding which debt to refinance and the timing of the refinancing shall be maximization of the District's expected net savings over the life of the bonds.
4. Comply with Existing Legal Requirements. The refunding of any existing debt shall comply with all applicable State and Federal laws governing such issuance.



## **Article V**

### **Policy Goals Related to District's Planning Goals and Objectives**

In following this policy, the District shall pursue the following goals:

1. The District shall strive to fund capital improvements from voter-approved GO Bond issues to preserve the availability of its General Fund for District operating purposes and other purposes that cannot be funded by such bond issues.
2. The District shall endeavor to attain the best possible credit rating for each debt issue in order to reduce interest costs, within the context of preserving financial flexibility and meeting capital funding requirements.
3. The District shall take all practical precautions and proactive measures to avoid any financial decision that will negatively impact current credit ratings on existing or future debt issues.
4. The District shall, with respect to GO Bonds, remain mindful of its statutory debt limit in relation to assessed value growth within the school district and the tax burden needed to meet long-term capital requirements.
5. The District shall consider market conditions and District cash flows when timing the issuance of debt.
6. The District shall determine the amortization (maturity) schedule which will fit best within the overall debt structure of the District at the time the new debt is issued.
7. The District shall match the term of the issue to the useful lives of assets funded by that issue whenever practicable and economic, while considering repair and replacement costs of those assets to be incurred in future.
8. The District shall, when planning for the issuance of new debt, consider the impact of such new debt on overlapping debt of local, state and other governments that overlap with the District.
9. The District shall, when issuing debt, assess financial alternatives to include new and innovative financing approaches, including whenever feasible, categorical grants, revolving loans or other State/federal aid, so as to minimize the encroachment on the District's General Fund.
10. The District shall, when planning for the sizing and timing of debt issuance, consider its ability to expend the funds obtained in a timely, efficient and economical manner.

## Article VI

### Internal Control Procedures for Issuance of Debt to Ensure Intended Use of Proceeds

#### Section 6.01. Structure of Debt Issues

- A. Maturity of Debt: The duration of a debt issue shall be consistent, to the extent possible, with the economic or useful life of the improvement or asset that the issue is financing. Accordingly, the average life of the financing shall not exceed 120% of the average life of the assets being financed. In addition, the District shall consider the overall impact of the current and future debt burden of the financing when determining the duration of the debt issue.
- B. Debt Structure:
1. GO Bonds:
    - a. *New Money Bond Issuances*: For new money bond issuances, the District shall size the bond issuance consistent with the "spend-down" requirements of the Internal Revenue Code and within any limits approved by the District's voters. To the extent possible, the District will also consider credit issues, market factors (e.g. bank qualification) and tax law when sizing the District's bond issuance.
    - b. *Refunding Bond Issuances*: The sizing of refunding bonds will be determined by the amount of money that will be required to cover the principal of, accrued interest (if any) on, and redemption premium for the bonds to be defeased on the call date and to cover appropriate financing costs.
    - c. *Maximum Maturity*: All bonds issued by the District shall mature within the limits set forth in applicable provisions of the Education Code or the Government Code. The final maturity of bonds will also be limited to the average useful life of the assets financed or as otherwise required by tax law.
  2. Lease-Purchase Obligations: The final maturity of equipment or real property lease obligations will be limited to the useful life of the assets to be financed.
- C. Debt Service Structure: The District shall design the financing schedule and repayment of debt so as to take best advantage of market conditions, provide flexibility, and, as practical, to recapture or maximize its debt capacity for future use.

#### Section 6.02. Use of Proceeds

The District shall be vigilant in using bond proceeds in accordance with the stated purposes at the time such debt was incurred. In furtherance of the policy, and in connection with the issuance of all GO Bonds:

1. As required by Government Code Section 53410, the District shall only use GO Bond proceeds for the purposes approved by the District's voters; and

2. The Chief Business Officer shall have the responsibility, no less often than annually, to provide to the Board of Trustees a written report which shall contain at least the following information:

- (i) The amount of the debt proceeds received and expended during the applicable reporting period; and
- (ii) The status of the acquisition, construction or financing of the school facility projects, as identified in any applicable bond measure, with the proceeds of the debt.

These reports may be combined with other periodic reports which include the same information, including but not limited to, periodic reports made to the California Debt and Investment Advisory Commission, or continuing disclosure reports or other reports made in connection with the debt. These requirements shall apply only until the earliest of the following: (i) all the debt is redeemed or defeased, but if the debt is refunded, such provisions shall apply until all such refunding bonds are redeemed or defeased, or (ii) all proceeds of the debt, or any investment earnings thereon, are fully expended.

3. The District shall post on the District website the Annual Report of the District's Independent Bond Oversight Committee, which has been given the responsibility to review the expenditure of GO Bond proceeds to assure the community that all GO Bond funds have been used for the construction, renovation, repair, furnishing and equipping of school facilities, and not used for teacher or administrator salaries or other operating expenses.
4. The District shall hire an independent auditor to perform an annual independent financial and performance audit of the expenditure of GO Bond proceeds, and to post such audits on the District website.

See Board Policy 6307

Approved by the Superintendent/President: December 14, 2021

## HARTNELL COMMUNITY COLLEGE DISTRICT

AP 6330 Purchasing

**References:** Education Code Section 81656; Public Contract Code Sections 20650 and 20651

### **Definitions:**

**Bid** - A written agreement prepared by a bidder to enter into a contract to meet all required specifications and requirements of bid documents within an Invitation to Bid (1TB). The bid limit for the purchase of materials, supplies, and services is established by the State of California Public Contract Code (PCC) section 20651 and is subject to change on January 1 of each year. Certain professional services or advice and insurance services are exempt from bidding requirements.

**Budget Officer-A** Budget Officer is the manager responsible for a particular budget account number. Budget Officers have authority to sign Purchase requisitions. A Budget Officer does not have authority to obligate the District by entering into contracts or signing Purchase Orders for goods or services except to the extent granted by the Board of Trustees.

**Chief Executive Officer** -The Chief Executive Officer (CEO) is the superintendent/president of the District and is delegated purchasing authority by the Board of Trustees.

**Goods** -Tangible items such as supplies, materials, and equipment.

**Invitation to Bid** - An Invitation to Bid (1TB) is a written document, advertised in a newspaper of general local circulation, inviting prospective vendors and contractors to submit bid documents to provide materials and/or services. The 1TB includes detailed specifications of product requirements so all respondents have identical information necessary to complete required documents. Bids must be opened at the time and place described in the 1TB

**Micro-purchases** - Micro-purchase means a purchase of supplies or services in which the aggregate dollar amount does not exceed the micro-purchase threshold (\$10,000) set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1.

**Public Projects** - A Public Project is defined as construction, reconstruction, erection, alteration, renovation, improvement, demolition, painting or repainting, and repair work involving any publicly owned, leased, or operated facility (*California Public Contract Code Section 22002*).

**Purchase Order** - A Purchase Order (PO) is a legal document created by the District's Business Services Department after it receives an approved requisition, conducts necessary bidding activities, and selects a vendor. Purchase Orders are created using the Colleague ERP system and online using Mercury Commerce, an approved E-commerce system.

**Purchase Order Splitting-** Splitting is the intentional separation of purchase orders to the same vendor in order to reduce the dollar amounts to be within a single purchase limit. State law prohibits purchase order splitting (*California Public Contract Code Section 10329*).

**Purchase Requisition** - A Purchase Requisition is a request form found in Mercury Commerce that is completed and authorized by a Budget Officer and forwarded to the District Purchasing Department. A Purchasing Requisition includes detailed information including product description, quantity, quality, features, functions, timelines, and other necessary specifications.

**Request for Information** -A Request for Information (RFI) is a standard business process, similar to but less formal than a Request for Qualifications (RFQ). It is used to collect basic, written information about the capabilities of various suppliers, vendors, or contractors.

**Request for Qualifications** - A Request for Qualifications (RFQ) is a document issued early in selection process. It typically describes the project in enough detail to let potential contractors determine if they wish to compete. The request is often used prior to an Invitation to Bid (1TB) or Request for Proposal (RFP) to identify vendors and contractors who meet minimum standards. However, the District may select a vendor or contractor based solely on the results of an RFQ.

**Request for Proposals** - A Request for Proposals (RFP) is a process used to solicit formal proposals to provide goods or services which may not have easily defined specifications. The District may establish criteria to screen proposals, as allowed by the Public Contract Code, and may interview vendors and contracts prior to the selection process.

**Services** - Services are generally performed by professional firms and individuals who are not employees of the District such as consultants, auditors, attorneys, bankers, architects, engineers, and other contractors.

#### I. Introduction

The State of California Education Code, Sections 81655 and 81656, empowers the Board of Trustees to enter into contracts on behalf of the District and to delegate such contractual authority to one or more officers or employees. These procedures have been written to comply with Education Code Sections 81655 and 81656, public bidding requirements mandated by Public Contract Code Section 20651, Generally Accepted Accounting Practices (GAAP), and all other applicable state and federal regulations. These procedures are intended to be a summary only. District Officers and employees with purchasing responsibility should consult the Codes for the most complete detailed requirements.

The District's goal for every purchasing transaction is to obtain the best value possible. Best value is determined by evaluating many factors (such as price, delivery capabilities, quality, quantities, past performance, training, financial stability, service capabilities, ease of



ordering, payment, etc.) and selecting a vendor that offers the best combination of those factors.

The District strives to procure goods and services through contracts with appropriate terms that mitigate risk and safeguard the public interest. When bids are required by policy, they are to be conducted on an open and competitive basis and without favoritism, in order to maximize value to the District. Interested vendors shall receive fair and impartial consideration.

The District's purchasing procedures are intended to be consistent with Generally Accepted Accounting Practices (GAAP), and all applicable state and federal regulations. The Board of Trustees encourages and supports local participation in response to bids, requests for proposals and other procurement processes (Board Resolution 10:13).

## **II. Authority and Responsibility**

Authority to purchase supplies, materials, apparatus, equipment and services are delegated to the CEO and designated District officers by the Board. Purchasing activities include:

- Determine which products and services are required
- Initiate requisitions
- Solicit quotes or bids
- Substantiate purchase using the Sole Source Justification Form when appropriate
- Verify receipt of goods or services prior to payment

Employees involved in the purchasing process take full responsibility for understanding District policies and procedures regarding purchasing and vendor relations. Employees who make an unauthorized purchase on behalf of the District may be subject to disciplinary action, up to and including termination.

Segregation of duties and responsibilities in the purchasing process provides proper controls. As the value and complexity of the purchase increases, so does the level of authority and responsibility required to obligate the District.

## **III. Conflict of Interest**

The District shall not purchase goods or services from any vendor or source in which a requester, an authorized purchasing agent or a member of the Board has any proprietary interest. Any proposed exception must be reviewed by the Chief Business Officer or Chief Executive Officer and approved by the Board. Employees and Board members are prohibited from accepting gratuities, in any form, the value of which could compromise their objectivity in selecting vendors or awarding purchase contracts.

The District values its suppliers and vendors. Tokens or displays of appreciation from vendors are discouraged. All vendors are expected to comply with District and state ethical

standards by not offering incentives, gifts, or services to individual employees or Board members.

#### **IV. Code of Conduct**

Hartnell employees deal with a variety of business partners and organizations including customers, suppliers, community, government representatives, contractors, and other vendors. These relationships are based on honesty and fairness. Employees shall be truthful and transparent in representing the District and ensure that their actions protect the District's ethical reputation.

#### **V. Requirement to File Statement of Economic Interests**

District trustees, employees, officials, or consultants who substantially influence the award of contracts, exercise contractual authority, or otherwise make or assist in making decisions that have material effect on the financial interests of the District are required to file an annual Statement of Economic Interests Form 700 in accordance with the California Code of Regulations, Title 2, Section 18730.

#### **VI. Limits on Contract Duration**

Pursuant to Education Code Section 81644, contracts for services or equipment shall not exceed five years duration and contracts for materials or supplies shall not exceed three years duration.

#### **VII. Types of Purchases**

The District primarily purchases goods and services. (1) Goods include tangible items such as supplies, materials and equipment. (2) Services are generally performed by professional firms and individuals who are not employees of the District such as consultants, auditors, attorneys, bankers, architects, engineers, and other contractors. Transactions for (3) public projects (construction) have different rules and procedures and will be addressed separately.

##### **A. Goods, Supplies, Materials, Equipment, and Maintenance Services**

This section is applicable to the purchase of tangible goods and maintenance services. Maintenance services is defined in Public Contract Code Section 20656 as "routine, recurring, and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility for its intended purposes in a safe and continually usable condition for which it was designed, improved, constructed, altered or repaired."

Most purchases of goods, supplies, and equipment are initiated with a requisition in the District E-commerce system (Mercury Commerce). This step typically occurs at the time the product needs to be ordered, not when payment is due. The requester must first be assured that sufficient budgeted funds are available to pay for the transaction. Information on the requisition provides guidance to the Purchasing Department as to the requester's preference regarding vendor, specifications, etc.

The requisition passes through the Mercury Commerce workflow system for approval. Certain administrators have been delegated authority to review the request, make vendor recommendations, monitor budgets, ensure compliance with District policies and procedures, and approve the purchase.

Once a requisition has been approved by the appropriate budgeter, it is routed to the Purchasing Department for final review, approval, and processing. The Purchasing Department shall determine if it meets established procedures, standards, and laws, and verify the availability of funds. Once finalized, the requisition becomes an official Purchase Order (PO) and funds are encumbered. A PO is a legal document that governs the transaction and properly protects the District. It specifies the terms and conditions of the agreement. The official PO is then issued to the vendor.

#### *Approval*

The Chief Executive Officer (CEO) delegates authority to District administrators to approve purchasing transactions. As the value and complexity of the purchase increases, so does the level of authority and responsibility required to obligate the District.

Purchase Amount	\$0 to \$4,999	\$5,000-\$9,999	\$10,000-\$96,700	\$96,701* and Above
Approved By	Department Head or Program Administrator	Vice President	President or Designee	Board of Trustees

\*The Board delegates authority to the CEO to approve purchases above this amount when an emergency exists. An emergency purchase is defined as a circumstance in which an immediate purchase transaction or decision is necessary to prevent a serious delay which could reasonably result in a danger to life, damage to property, escalated cost, or suspension of an essential service. Emergency purchases shall be ratified by the Board. The \$96,700 amount is set by the Board of Governors and adjusted annually or periodically to reflect changes in the Consumer Price Index. The policy and procedure will be kept current with the amount set by the Board of Governors.

#### *Documentation*

The documentation required for each transaction depends on the amount of the obligation. There may be exceptions to these general rules. For example, certain departments within the federal government may have more strict documentation and limit standards. Those who manage federal grants have responsibility to coordinate with the District Grant Manager and to fully understand grant rules and requirements. \$0 - \$5,000 - A purchase of less than \$5,000 requires one documented quote (two is recommended). This includes micro-purchases as defined above. A written quote must contain vendor contact information and a clear description of goods being offered. If no written quote is available from the vendor, the Purchasing Department shall create a

memo to file with the obtained quote detailing the date, vendor name and persons contacted, telephone numbers, and explanation of why the chosen vendor was selected.

\$5,001 - \$20,000 - The purchase of goods with a value between \$5,001 and \$20,000 requires two written quotes (unless sole source justification exists). In accordance with federal and state procurement requirements, at least two quotes must be obtained, preferably in writing. A written quote must contain vendor contact information and a clear description of goods being offered. If no written quote is available from the vendor, the Purchasing Department shall create a memo to file with the obtained quotes detailing the date, vendor name and persons contacted, telephone numbers, and explanation of why the chosen vendor was selected.

\$20,001 - \$96,700 - The purchase of goods with a value between \$20,001 and \$96,700 requires an informal RFQ and three written quotes (unless sole source justification exists). Written request for services with clear description must be provided to vendors. Written response from vendors must be received, dated, and signed. This process could take two to four weeks.

\$96,701 or more - A purchase of \$96,700 (as of January 2021) or more requires a formal Invitation to Bid (1TB) or Request for Proposals (RFP). An 1TB or RFQ may be preceded by a Request for Information (RFI) or a Request for Qualifications (RFQ). See Solicitation of Formal Bids on page 9.

**B. Independent Contracts including Professional Services and Insurance Services**

Any contract to purchase the services of a person, business, or corporation who is not an employee of the District is an independent contract. Independent contracts should not be used to hire contractors to perform facility construction, modification, renovation, demolition, or repair or to make other purchases which are subject to competitive bid requirements of the Education Code or the Public Contract Code. The CEO is delegated authority, pursuant to Education Code 81656, to enter into contracts with independent contractors in an amount not to exceed \$50,000. All contracts must be in written format.

Less than \$50,000 - An Independent Contract of less than \$50,000 requires a Purchase Order and a written agreement which includes precise expectations including scope of work, beginning and ending dates, fee schedules, terms of payment and a maximum total cost. Before work begins, the contractor must complete a Vendor Information Sheet and an Independent Contractor Pre-hire Worksheet. The information sheet and worksheet are submitted to the Business Office for review and approval. Upon approval, the information is forwarded to the CEO for budget coding and authorization. After services are satisfactorily completed, the CEO authorizes payment on the invoice. The invoiced amount cannot exceed the contract amount. Progress payments, if specified in the agreement, must be authorized in writing by the CEO.



\$50,000 and greater - Any Independent Contract amount of \$50,000 or greater must be presented to the Board of Trustees for approval prior to contract commencement. The Board delegates authority to the CEO to approve purchases above this amount when an emergency exists. An emergency purchase is defined as a circumstance in which an immediate purchase transaction or decision is necessary to prevent a serious delay which could reasonably result in a danger to life, damage to property, escalated cost, or suspension of an essential service. Emergency purchases shall be ratified by the Board within 60 days of commencement.

It is often not feasible to create detailed specifications to describe objective service requirements necessary for bidding. Therefore the District may advertise a Request for Proposals (RFP) or Request for Qualifications (RFQ) to create a competitive process. The RFP or RFQ shall be advertised, received, opened, screened, and awarded in a similar manner to that of formal bids. Selection criteria shall be clearly stated in the Request documents.

#### C. Public Projects

California Public Contract Code Section 22002 defines "Public Project" as construction, reconstruction, erection, alteration, renovation, improvement, demolition, painting and repair work involving any publicly owned, leased, or operated facility. The installation of voice or data cabling is defined as a public project. Public Project contractors must pay prevailing wages to their workers in accordance with California Labor Code (Sections 1720-1815) and the California Code of regulations, Title 8.

1. Public Projects require review and approval by the District Facilities Department.
2. The requester shall submit to the Purchasing Department a Requisition that has been signed by an authorized Budgeter (see Approval Section on page 5).
3. The following competitive selection processes are required:

Less than \$1,000 - A purchase of less than \$1,000 requires at least one price quotation obtained from a licensed contractor by the District Facilities Department in conjunction with approved specifications. In accordance with the Public Contract Code Section 20657, all contractors included on the District pre qualified informal bidding list shall be given notice of all requests for quotations in any manner as the district deems appropriate.

\$1,000 to \$14,999 - A purchase with a total cost of \$1,000 to \$14,999 requires at least two written price quotations under the direction of the District Facilities Department.

\$15,000 or more - Projects (labor and materials) with a cost of \$15,000 or more require formal bids (Public Contract Code Sections 2011(b) and 20651 (b)). The District Facilities Director, in consultation with project management shall approve all specifications. The bid shall be advertised, received, opened, screened, and awarded in the same manner as previously described. Also, some



construction project bids are typically announced to local trade associations and shared through their trade publications and other means as appropriate.

#### *Bond and Surety Requirements*

All bidders shall be required to provide a Bid Bond. Successful bidders and contractors may be required to provide the following also:

- 100% Performance Bond
- 100% Payment Bond (mandatory for projects over \$25,000)
- Proof of public liability insurance with endorsements
- Proof of Workers' Compensation insurance
- Liability insurance certificate
- IRS W-9 form
- An active and valid California contractor license.

*Specific requirements will be described in each advertised bid or contract.*

#### *Noncollusion Affidavit*

In addition to other bid documents, bidders on public works projects are required by Public Contract Code Section 7106 to submit a certification form that they have not colluded with another bidder.

#### *Change Orders*

A change order is a procedure that is defined in the contract to provide for modifications of the contract scope of work. Change orders can increase the cost of the work, reduce the cost of the work, or have no cost impact. The project schedule may change due to the change order, or other reasons. Such changes must be documented. *(Please refer to Board Change Order Policy.)*

The need for a change order usually arises from one of the following reasons:

- Error in or omission from the contract documents;
- Unforeseeable job site conditions such as rock, expansive soil, unrecorded utility lines or similar circumstances;
- Change in the requirements of a regulatory agency, such as revisions in building codes, fire, safety or health regulations;
- A change originated by the Campus;
- Changes in specified work due to the unavailability of specified materials.

#### *Emergency*

When an emergency necessitates repair or replacement, contracts shall be awarded pursuant to the procedures described in Public Contract Code sections 22035 and 22050.

#### **VIII. Solicitation of Formal Bids**

Rules, regulations and bid limits are governed by the State of California Public Contract Code 20651. The bid limit for the purchase of materials, supplies and equipment is subject to change periodically, and is currently set at \$96,700. The bid limit for Public Projects is \$15,000.

The amount subject to the bid limit requirements is the total contract value over the term of the written agreement including all costs (taxes, fees, etc.) for all years of the contract. If the total contract value is below the bid limit then a formal Invitation to Bid (1TB) is not required; however informal bids or quotes are required (see above). Informal bidding promotes free and open competition among sellers for public dollars and can substantially reduce acquisition costs. A project may not be split or divided to avoid bid requirements.

Expenditures that exceed the limit require a formal bid obtained by the District Purchasing Department. It may take several weeks or months for this process to be completed. The Purchasing Department will collaborate with the requestor to establish a schedule and formalize specifications.

#### *Duration*

Pursuant to Education Code Section 81644, contract for equipment shall not exceed five years duration and contracts for materials and supplies shall not exceed three years duration.

#### *Advertisements*

All bids shall be advertised in a newspaper of general circulation within Monterey County. Bid announcements are generally published once a week for two consecutive weeks, usually in the legal section. Vendors may also be contacted directly.

#### *No Contact*

Individuals, firms and business seeking an award of a Hartnell Community College District contract may not initiate or continue any verbal or written communications regarding a solicitation with any District officer, elected official, employee or other District representative without permission of the purchasing associate named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award by the Board of Trustees. Violations will be reviewed by the **Chief Business Officer**. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm or business may be disqualified from consideration for award.

#### *Receipt of Bids*

All formal advertised bids shall be received only in the location designated in the bid documents, generally the District Purchasing Department. The bid shall be submitted in a sealed envelope identified with the bid name/number prior to the date and time specified

in the bid instructions. The electric date stamp shall determine the official time of receipt. Bids received after the scheduled time shall be returned unopened to the bidder.

#### *Bid Opening*

The bid opening shall be conducted by the **Chief Business Officer** or designee. Presence at bid openings is not required although vendors are welcome to attend.

#### *Award*

The purchase of goods shall be let to the lowest responsible and responsive bidder. The evaluation of responses for award may be based upon price, terms and conditions of the invitation for bids, specifications, past performance of supplier, compatibility of items with existing equipment, and delivery time. Per Education Code Section 81645 contracts for electronic data processing systems and equipment, electronic telecommunications equipment, supporting software and related materials, goods, and services may be left to one of the three lowest responsible proposals or bids.

After bids have been reviewed and analyzed, a recommendation shall be made to the governing board at the next possible board meeting. Bids shall be available for public review in the Administrative Services Division within three days of opening.

#### *Relief of Bidders*

A vendor or contractor may be relieved of a bid in which a mistake was made in filling out the bid form and which was not due to an error in judgment or to carelessness in reading product specifications. The vendor must provide a detailed written notice of the mistake to the Administrative Services Department within five (5) days of the bid opening. A bidder who is relieved of a bid shall be prohibited from participating in further bidding on the purchase (Public Contract Code Section 5103).

#### *Notice*

The Director of Purchasing or designee shall announce the Intent to Award to all bidders in writing.

#### *Hazardous Products*

Vendors are required to provide Materials Safety Data Sheets (MSDS) from the manufacturer for all hazardous products as defined by Title 8, California Code of Regulations. Vendors or contractors transporting hazardous materials on campus shall provide an approved manifest to the Director of Facilities.

#### *Exceptions to Bidding Requirements*

Certain goods are exempt from bidding requirements as provided in state code; supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, periodicals, perishable foodstuffs, surplus federal property, energy service, conservation contracts, purchases through other public agencies, and emergency repair contracts.

Special services and advice under Government Code section 53060 are also excluded from bidding requirements. Such services include; financial, economics, accounting, engineering, legal or administrative matters if such persons are specially trained, experienced and qualified to perform the special services required.

Although such goods and services are exempt, the District may still choose to request qualifications or proposals from potential vendors and follow a selection process in whole or part as described above.

The Chief Executive Officer or designee is authorized to make purchases from vendors holding current pricing agreements with other state public agencies without calling for bids when it appears to be in the best interest of the District.

#### **IX. Other Types of Purchases**

##### **A. Sole Source**

There may be occasions when products/services must be purchased from one specific source or manufacturer. If a request is made to purchase a product produced by only one supplier, yet several sources can provide a similar product, the request will be subject to the normal process. Should a request be made to purchase products/services from a sole source, it must meet one of the criteria shown below. The request must include a completed Sole Source Justification Form. The four most commonly accepted sole source justifications are outlined below. Such justifications have been accepted with proper supporting documentation.

##### **1. Compatibility with Existing Equipment**

This justification may be used if your products or services are being purchased to directly interface with or attach to equipment of the same manufacturer and no other manufacturer's products will correctly interface with existing equipment.

##### **2. Compatibility for Instructional Purposes**

This justification may be used if the products are being purchased to supplement existing equipment in a classroom. The product must exactly match the existing equipment and is being purchased to provide uniformity for instructional purposes.

##### **3. Compatibility for Research**

This justification may be used if the main purpose for acquiring equipment or supplies is to replicate specific experiments, using exact products that produced the original results. You may also use this justification if you are collaborating with another researcher and can show that identical products are required to fulfill your part of the agreement.

##### **4. Only One Supplier Can Be Identified**

In rare cases, only one supplier may exist to provide a particular product or service. When providing a justification based on the availability of one supplier, the product or service must be defined in generic terms. Specifying patented



products or processes, when not necessary to meet functional requirements, is not acceptable as a sole source justification. Justifications can be accepted more readily by providing information regarding attempts to locate other suppliers, such as letters, informal quotations, or telephone contacts.

A Sole Source Justification Form should be included with the requisition and forwarded to the Purchasing Department referencing the order. Final determination as to whether products/services will be purchased on a sole source basis will be made by the Purchasing Department, in consultation with the requester. The form shall remain on file as part of the official procurement documents and may be subject to audit or review by interested parties.

#### **B. Lease**

A comparison of lease and purchasing costs should be prepared by the acquiring department as the first step in the procurement cycle to determine the appropriate acquisition strategy. When developing the cost comparison, factors such as the following should be documented:

- Length of time the equipment is to be used and the extent of its use, including the possibility of use by another District Department.
- Financial, technical, and other advantages of types and makes of the required equipment available for lease/purchase.
- Lease cost and purchase options.
- Cost of equipment purchase and installation.
- Imminent technological improvements.
- Other factors related to function's performance or cost of equipment, including maintenance cost.
- Lease equipment: If the College is already using leased equipment, consideration shall be given to the advantage and feasibility of purchasing it or new equipment to perform the required function.
- Cost Comparison and Methods of Acquisition: The cost comparison shall be completed to provide a basis for estimating the point at which cost of leasing will exceed cost of purchase. The method used shall at least compare the cost of purchasing and maintaining equipment against the cumulative cost of leasing. Factors such as interest rates, technological life, and trade-in value may also be considered.
- Purchase method shall be used when there is a cost advantage over leasing, provided the equipment will be used beyond the point in time at which the cumulative leasing cost exceeds purchase cost.
- Lease with option to purchase shall be used when it is necessary or advantageous to defer purchase.
- Lease without option to purchase may be used if it is the only way to acquire essential equipment which meets program or system requirements but does not meet conditions for purchase.



## **IX. Adding a Vendor**

### Definition of a New Vendor

Any company or individual that Hartnell intends to do business with for the first time is a new vendor. Hartnell needs to obtain required information about new vendors prior to doing business with them. This includes check request vendors as well as Purchase Order vendors. If you are not sure whether a vendor is new or not, please contact the Purchasing Department

#### *\*Note regarding Mercury Commerce*

If you do not find a vendor you are looking for, the vendor may not necessarily be new. Only a core of frequently used vendors were uploaded from Colleague, so some were unavoidably missed. Please contact the Purchasing Department to determine if a vendor is new before sending any forms.

### Required Documentation

New vendors shall submit the following to the District Purchasing Department:

- Vendor Information Sheet (all vendors)
- Copy of business license (service vendors)
- Certificate of Insurance with \$1,000,000 minimum (service vendors)

Only after the documents are received by Purchasing and reviewed for completeness will a vendor be added to our system. Purchase Orders and payments cannot and will not be made to the vendor until their profile is created.

## **X. Special Requisition Types**

Blanket Purchase Orders. Blanket Purchase Orders are primarily used to make payments for services that are provided on a regular and consistent basis, and in some cases for the regular delivery of a consistent quantity of product. Examples include: utilities, maintenance agreements, routine maintenance supplies, etc. All Blanket Purchase Order requests shall be prepared by the Purchasing Department and approved by the Chief Business Officer or designee. Blanket Purchase Orders with a list of employees authorized to use the Order shall be sent to the vendor so they can include the PO number on all invoices. Blanket Purchase Orders are not to be used as an open line of credit or to facilitate informal orders (open account that provides no detail regarding individual purchases). All changes to Blanket Purchase Orders shall be approved by the CBO or designee. Blanket Purchase Orders shall terminate no later than the end of the current fiscal year.

Check Request. The Check Request Form is designed to expedite certain transactions such as recurring membership dues and subscriptions, conference registration, reimbursement and guest presenter compensation. The form must include written approval from the appropriate administrator. A completed form with full documentation is submitted to the Accounting Department to initiate an immediate payment.

Petty Cash Reimbursement. In rare instances an employee may be reimbursed for small pre-authorized purchases after completing a Petty Cash Reimbursement Form. This form must include written approval from the appropriate administrator. A completed form with all documenting receipts is submitted to the District Cashier for reimbursement.

Travel. A Travel Authorization Form must be completed and approved prior to travel. If a check is needed in advance for transportation, lodging, meals, or registration, the traveler must complete a Check Request Form and attach supporting documentation for the payment. An accounting reconciliation of actual expenses is completed on a Travel Expense Claim Form following the trip.

#### **XI. Receiving**

A receipt is the department's way of indicating to Accounts Payable that the product has been received or the service has been provided and therefore the Purchase Order is approved for payment.

#### **XII. Payment**

A purchase transaction is complete only after the goods or services have been received and the supplier has been paid. When a Purchase Order is issued, the department assumes responsibility to make sure the vendor is paid within an appropriate period of time. By issuing a Purchase Order through the Mercury Commerce in advance of the purchase, funds are properly encumbered to pay these obligations. The encumbrance is not a contract, but ensures that the required funding is available. Accounts Payable pays invoices for the District including those for external vendor purchases, employee reimbursements, and payments to U.S. independent contractors.

Vendors are instructed to send invoices directly to Accounts Payable for processing. This helps ensure timely payment. The preferred method for receiving invoices is mail; however they may also be faxed. All District expenditures should be charged to the proper source of funds within 90 days of occurrence.

See Board Policy 6330

Approved by the Superintendent/President: December 14, 2021

## HARTNELL COMMUNITY COLLEGE DISTRICT

AP 6330

Purchasing

**References:** Education Code Section 81656; Public Contract Code Sections 20650 and 20651

### **Definitions:**

**Bid -A** written agreement prepared by a bidder to enter into a contract to meet all required specifications and requirements of bid documents within an Invitation to Bid (1TB). The bid limit for the purchase of materials, supplies, and services is established by the State of California Public Contract Code (PCC) section 20651 and is subject to change on January 1 of each year. Certain professional services or advice and insurance services are exempt from bidding requirements.

**Budget Officer -A** Budget Officer is the manager responsible for a particular budget account number. Budget Officers have authority to sign Purchase requisitions. A Budget Officer does not have authority to obligate the District by entering into contracts or signing Purchase Orders for goods or services except to the extent granted by the Board of Trustees.

**Chief Executive Officer -The** Chief Executive Officer (CEO) is the superintendent/president of the District and is delegated purchasing authority by the Board of Trustees.

**Goods -Tangible** items such as supplies, materials, and equipment.

**Invitation to Bid -An** Invitation to Bid (1TB) is a written document, advertised in a newspaper of general local circulation, inviting prospective vendors and contractors to submit bid documents to provide materials and/or services. The 1TB includes detailed specifications of product requirements so all respondents have identical information necessary to complete required documents. Bids must be opened at the time and place described in the 1TB

**Micro-purchases -** Micro-purchase means a purchase of supplies or services in which the aggregate dollar amount does not exceed the micro-purchase threshold (\$10,000) set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1.

**Public Projects -** A Public Project is defined as construction, reconstruction, erection, alteration, renovation, improvement, demolition, painting or repainting, and repair work involving any publicly owned, leased, or operated facility (*California Public Contract Code Section 22002*).

**Purchase Order- A** Purchase Order (PO) is a legal document created by the District's Business Services Department after it receives an approved requisition, conducts necessary bidding activities, and selects a vendor. Purchase Orders are created using the Colleague ERP system and online using Mercury Commerce, an approved E-commerce system.

**Purchase Order Splitting-** Splitting is the intentional separation of purchase orders to the same vendor in order to reduce the dollar amounts to be within a single purchase limit. State law prohibits purchase order splitting (*California Public Contract Code Section 10329*).

**Purchase Requisition -A** Purchase Requisition is a request form found in Mercury Commerce that is completed and authorized by a Budget Officer and forwarded to the District Purchasing Department. A Purchasing Requisition includes detailed information including product description, quantity, quality, features, functions, timelines, and other necessary specifications.

**Request for Information -** A Request for Information (RFI) is a standard business process, similar to but less formal than a Request for Qualifications (RFQ). It is used to collect basic, written information about the capabilities of various suppliers, vendors, or contractors.

**Request for Qualifications -** A Request for Qualifications (RFQ) is a document issued early in selection process. It typically describes the project in enough detail to let potential contractors determine if they wish to compete. The request is often used prior to an Invitation to Bid (1TB) or Request for Proposal (RFP) to identify vendors and contractors who meet minimum standards. However, the District may select a vendor or contractor based solely on the results of an RFQ.

**Request for Proposals -** A Request for Proposals (RFP) is a process used to solicit formal proposals to provide goods or services which may not have easily defined specifications. The District may establish criteria to screen proposals, as allowed by the Public Contract Code, and may interview vendors and contracts prior to the selection process.

**Services -** Services are generally performed by professional firms and individuals who are not employees of the District such as consultants, auditors, attorneys, bankers, architects, engineers, and other contractors.

#### **I. Introduction**

The State of California Education Code, Sections 81655 and 81656, empowers the Board of Trustees to enter into contracts on behalf of the District and to delegate such contractual authority to one or more officers or employees. These procedures have been written to comply with Education Code Sections 81655 and 81656, public bidding requirements mandated by Public Contract Code Section 20651, Generally Accepted Accounting Practices (GAAP), and all other applicable state and federal regulations. These procedures are intended to be a summary only. District Officers and employees with purchasing responsibility should consult the Codes for the most complete detailed requirements.

The District's goal for every purchasing transaction is to obtain the best value possible. Best value is determined by evaluating many factors (such as price, delivery capabilities, quality, quantities, past performance, training, financial stability, service capabilities, ease of



ordering, payment, etc.) and selecting a vendor that offers the best combination of those factors.

The District strives to procure goods and services through contracts with appropriate terms that mitigate risk and safeguard the public interest. When bids are required by policy, they are to be conducted on an open and competitive basis and without favoritism, in order to maximize value to the District. Interested vendors shall receive fair and impartial consideration.

The District's purchasing procedures are intended to be consistent with Generally Accepted Accounting Practices (GAAP), and all applicable state and federal regulations.

The Board of Trustees encourages and supports local participation in response to bids, requests for proposals and other procurement processes (Board Resolution 10:13).

## **II. Authority and Responsibility**

Authority to purchase supplies, materials, apparatus, equipment and services are delegated to the CEO and designated District officers by the Board. Purchasing activities include:

- Determine which products and services are required
- Initiate requisitions
- Solicit quotes or bids
- Substantiate purchase using the Sole Source Justification Form when appropriate
- Verify receipt of goods or services prior to payment

Employees involved in the purchasing process take full responsibility for understanding District policies and procedures regarding purchasing and vendor relations. Employees who make an unauthorized purchase on behalf of the District may be subject to disciplinary action, up to and including termination.

Segregation of duties and responsibilities in the purchasing process provides proper controls. As the value and complexity of the purchase increases, so does the level of authority and responsibility required to obligate the District.

## **III. Conflict of Interest**

The District shall not purchase goods or services from any vendor or source in which a requester, an authorized purchasing agent or a member of the Board has any proprietary interest. Any proposed exception must be reviewed by the Chief Business Officer or Chief Executive Officer and approved by the Board. Employees and Board members are prohibited from accepting gratuities, in any form, the value of which could compromise their objectivity in selecting vendors or awarding purchase contracts.

The District values its suppliers and vendors. Tokens or displays of appreciation from vendors are discouraged. All vendors are expected to comply with District and state ethical



standards by not offering incentives, gifts, or services to individual employees or Board members.

#### **IV. Code of Conduct**

Hartnell employees deal with a variety of business partners and organizations including customers, suppliers, community, government representatives, contractors, and other vendors. These relationships are based on honesty and fairness. Employees shall be truthful and transparent in representing the District and ensure that their actions protect the District's ethical reputation.

#### **V. Requirement to File Statement of Economic Interests**

District trustees, employees, officials, or consultants who substantially influence the award of contracts, exercise contractual authority, or otherwise make or assist in making decisions that have material effect on the financial interests of the District are required to file an annual Statement of Economic Interests Form 700 in accordance with the California Code of Regulations, Title 2, Section 18730.

#### **VI. Limits on Contract Duration**

Pursuant to Education Code Section 81644, contracts for services or equipment shall not exceed five years duration and contracts for materials or supplies shall not exceed three years duration.

#### **VII. Types of Purchases**

The District primarily purchases goods and services. (1) Goods include tangible items such as supplies, materials and equipment. (2) Services are generally performed by professional firms and individuals who are not employees of the District such as consultants, auditors, attorneys, bankers, architects, engineers, and other contractors. Transactions for (3) public projects (construction) have different rules and procedures and will be addressed separately.

##### **A. Goods, Supplies, Materials, Equipment, and Maintenance Services**

This section is applicable to the purchase of tangible goods and maintenance services. Maintenance services is defined in Public Contract Code Section 20656 as "routine, recurring, and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility for its intended purposes in a safe and continually usable condition for which it was designed, improved, constructed, altered or repaired."

Most purchases of goods, supplies, and equipment are initiated with a requisition in the District E-commerce system (Mercury Commerce). This step typically occurs at the time the product needs to be ordered, not when payment is due. The requester must first be assured that sufficient budgeted funds are available to pay for the transaction. Information on the requisition provides guidance to the Purchasing Department as to the requester's preference regarding vendor, specifications, etc.

The requisition passes through the Mercury Commerce workflow system for approval. Certain administrators have been delegated authority to review the request, make vendor recommendations, monitor budgets, ensure compliance with District policies and procedures, and approve the purchase.

Once a requisition has been approved by the appropriate budgeter, it is routed to the Purchasing Department for final review, approval, and processing. The Purchasing Department shall determine if it meets established procedures, standards, and laws, and verify the availability of funds. Once finalized, the requisition becomes an official Purchase Order (PO) and funds are encumbered. A PO is a legal document that governs the transaction and properly protects the District. It specifies the terms and conditions of the agreement. The official PO is then issued to the vendor.

#### *Approval*

The Chief Executive Officer (CEO) delegates authority to District administrators to approve purchasing transactions. As the value and complexity of the purchase increases, so does the level of authority and responsibility required to obligate the District.

Purchase Amount	\$0 to \$4,999	\$5,000-\$9,999	\$10,000-\$96,700	\$96,701* and Above
Approved By	Department Head or Program Administrator	Vice President	President or Designee	Board of Trustees

\*The Board delegates authority to the CEO to approve purchases above this amount when an emergency exists. An emergency purchase is defined as a circumstance in which an immediate purchase transaction or decision is necessary to prevent a serious delay which could reasonably result in a danger to life, damage to property, escalated cost, or suspension of an essential service. Emergency purchases shall be ratified by the Board. The \$96,700 amount is set by the Board of Governors and adjusted annually or periodically to reflect changes in the Consumer Price Index. The policy and procedure will be kept current with the amount set by the Board of Governors.

#### *Documentation*

The documentation required for each transaction depends on the amount of the obligation. There may be exceptions to these general rules. For example, certain departments within the federal government may have more strict documentation and limit standards. Those who manage federal grants have responsibility to coordinate with the District Grant Manager and to fully understand grant rules and requirements. \$0 - \$5,000 - A purchase of less than \$5,000 requires one documented quote (two is recommended). This includes micro-purchases as defined above. A written quote must contain vendor contact information and a clear description of goods being offered. If no written quote is available from the vendor, the Purchasing Department shall create a

memo to file with the obtained quote detailing the date, vendor name and persons contacted, telephone numbers, and explanation of why the chosen vendor was selected.

\$5,001 - \$20,000 - The purchase of goods with a value between \$5,001 and \$20,000 requires two written quotes (unless sole source justification exists). In accordance with federal and state procurement requirements, at least two quotes must be obtained, preferably in writing. A written quote must contain vendor contact information and a clear description of goods being offered. If no written quote is available from the vendor, the Purchasing Department shall create a memo to file with the obtained quotes detailing the date, vendor name and persons contacted, telephone numbers, and explanation of why the chosen vendor was selected.

\$20,001 - \$96,700 - The purchase of goods with a value between \$20,001 and \$96,700 requires an informal RFQ and three written quotes (unless sole source justification exists). Written request for services with clear description must be provided to vendors. Written response from vendors must be received, dated, and signed. This process could take two to four weeks.

\$96,701 or more - A purchase of \$96,700 (as of January 2021) or more requires a formal Invitation to Bid (1TB) or Request for Proposals (RFP). An 1TB or RFQ may be preceded by a Request for Information (RFI) or a Request for Qualifications (RFQ). See Solicitation of Formal Bids on page 9.

**B. Independent Contracts including Professional Services and Insurance Services**

Any contract to purchase the services of a person, business, or corporation who is not an employee of the District is an independent contract. Independent contracts should not be used to hire contractors to perform facility construction, modification, renovation, demolition, or repair or to make other purchases which are subject to competitive bid requirements of the Education Code or the Public Contract Code. The CEO is delegated authority, pursuant to Education Code 81656, to enter into contracts with independent contractors in an amount not to exceed \$50,000. All contracts must be in written format.

less than \$50,000 - An Independent Contract of less than \$50,000 requires a Purchase Order and a written agreement which includes precise expectations including scope of work, beginning and ending dates, fee schedules, terms of payment and a maximum total cost. Before work begins, the contractor must complete a Vendor Information Sheet and an Independent Contractor Pre-hire Worksheet. The information sheet and worksheet are submitted to the Business Office for review and approval. Upon approval, the information is forwarded to the CEO for budget coding and authorization. After services are satisfactorily completed, the CEO authorizes payment on the invoice. The invoiced amount cannot exceed the contract amount. Progress payments, if specified in the agreement, must be authorized in writing by the CEO.

\$50,000 and greater - Any Independent Contract amount of \$50,000 or greater must be presented to the Board of Trustees for approval prior to contract commencement. The Board delegates authority to the CEO to approve purchases above this amount when an emergency exists. An emergency purchase is defined as a circumstance in which an immediate purchase transaction or decision is necessary to prevent a serious delay which could reasonably result in a danger to life, damage to property, escalated cost, or suspension of an essential service. Emergency purchases shall be ratified by the Board within 60 days of commencement.

It is often not feasible to create detailed specifications to describe objective service requirements necessary for bidding. Therefore the District may advertise a Request for Proposals (RFP) or Request for Qualifications (RFQ) to create a competitive process. The RFP or RFQ shall be advertised, received, opened, screened, and awarded in a similar manner to that of formal bids. Selection criteria shall be clearly stated in the Request documents.

#### C. Public Projects

California Public Contract Code Section 22002 defines "Public Project" as construction, reconstruction, erection, alteration, renovation, improvement, demolition, painting and repair work involving any publicly owned, leased, or operated facility. The installation of voice or data cabling is defined as a public project. Public Project contractors must pay prevailing wages to their workers in accordance with California Labor Code (Sections 1720-1815) and the California Code of regulations, Title 8.

1. Public Projects require review and approval by the District Facilities Department.
2. The requestor shall submit to the Purchasing Department a Requisition that has been signed by an authorized Budgeter (see Approval Section on page 5).
3. The following competitive selection processes are required:

Less than \$1,000 - A purchase of less than \$1,000 requires at least one price quotation obtained from a licensed contractor by the District Facilities Department in conjunction with approved specifications. In accordance with the Public Contract Code Section 20657, all contractors included on the District pre qualified informal bidding list shall be given notice of all requests for quotations in any manner as the district deems appropriate.

\$1,000 to \$14,999 - A purchase with a total cost of \$1,000 to \$14,999 requires at least two written price quotations under the direction of the District Facilities Department.

\$15,000 or more - Projects (labor and materials) with a cost of \$15,000 or more require formal bids (Public Contract Code Sections 2011(b) and 20651 (b)). The District Facilities Director, in consultation with project management shall approve all specifications. The bid shall be advertised, received, opened, screened, and awarded in the same manner as previously described. Also, some



construction project bids are typically announced to local trade associations and shared through their trade publications and other means as appropriate.

#### *Bond and Surety Requirements*

All bidders shall be required to provide a Bid Bond. Successful bidders and contractors may be required to provide the following also:

- 100% Performance Bond
- 100% Payment Bond (mandatory for projects over \$25,000)
- Proof of public liability insurance with endorsements
- Proof of Workers' Compensation insurance
- Liability insurance certificate
- IRS W-9 form
- An active and valid California contractor license.

*Specific requirements will be described in each advertised bid or contract.*

#### *Noncollusion Affidavit*

In addition to other bid documents, bidders on public works projects are required by Public Contract Code Section 7106 to submit a certification form that they have not colluded with another bidder.

#### *Change Orders*

A change order is a procedure that is defined in the contract to provide for modifications of the contract scope of work. Change orders can increase the cost of the work, reduce the cost of the work, or have no cost impact. The project schedule may change due to the change order, or other reasons. Such changes must be documented. *(Please refer to Board Change Order Policy.)*

The need for a change order usually arises from one of the following reasons:

- Error in or omission from the contract documents;
- Unforeseeable job site conditions such as rock, expansive soil, unrecorded utility lines or similar circumstances;
- Change in the requirements of a regulatory agency, such as revisions in building codes, fire, safety or health regulations;
- A change originated by the Campus;
- Changes in specified work due to the unavailability of specified materials.

#### *Emergency*

When an emergency necessitates repair or replacement, contracts shall be awarded pursuant to the procedures described in Public Contract Code sections 22035 and 22050.

#### **VIII. Solicitation of Formal Bids**

Rules, regulations and bid limits are governed by the State of California Public Contract Code 20651. The bid limit for the purchase of materials, supplies and equipment is subject to change periodically, and is currently set at \$96,700. The bid limit for Public Projects is \$15,000.

The amount subject to the bid limit requirements is the total contract value over the term of the written agreement including all costs (taxes, fees, etc.) for all years of the contract. If the total contract value is below the bid limit then a formal Invitation to Bid (1TB) is not required; however informal bids or quotes are required (see above). Informal bidding promotes free and open competition among sellers for public dollars and can substantially reduce acquisition costs. A project may not be split or divided to avoid bid requirements.

Expenditures that exceed the limit require a formal bid obtained by the District Purchasing Department. It may take several weeks or months for this process to be completed. The Purchasing Department will collaborate with the requestor to establish a schedule and formalize specifications.

##### *Duration*

Pursuant to Education Code Section 81644, contract for equipment shall not exceed five years duration and contracts for materials and supplies shall not exceed three years duration.

##### *Advertisements*

All bids shall be advertised in a newspaper of general circulation within Monterey County. Bid announcements are generally published once a week for two consecutive weeks, usually in the legal section. Vendors may also be contacted directly.

##### *No Contact*

Individuals, firms and business seeking an award of a Hartnell Community College District contract may not initiate or continue any verbal or written communications regarding a solicitation with any District officer, elected official, employee or other District representative without permission of the purchasing associate named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award by the Board of Trustees. Violations will be reviewed by the **Chief Business Officer**. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm or business may be disqualified from consideration for award.

##### *Receipt of Bids*

All formal advertised bids shall be received only in the location designated in the bid documents, generally the District Purchasing Department. The bid shall be submitted in a sealed envelope identified with the bid name/number prior to the date and time specified

in the bid instructions. The electric date stamp shall determine the official time of receipt. Bids received after the scheduled time shall be returned unopened to the bidder.

#### *Bid Opening*

The bid opening shall be conducted by the **Chief Business Officer** or designee. Presence at bid openings is not required although vendors are welcome to attend.

#### *Award*

The purchase of goods shall be let to the lowest responsible and responsive bidder. The evaluation of responses for award may be based upon price, terms and conditions of the invitation for bids, specifications, past performance of supplier, compatibility of items with existing equipment, and delivery time. Per Education Code Section 81645 contracts for electronic data processing systems and equipment, electronic telecommunications equipment, supporting software and related materials, goods, and services may be left to one of the three lowest responsible proposals or bids.

After bids have been reviewed and analyzed, a recommendation shall be made to the governing board at the next possible board meeting. Bids shall be available for public review in the Administrative Services Division within three days of opening.

#### *Relief of Bidders*

A vendor or contractor may be relieved of a bid in which a mistake was made in filling out the bid form and which was not due to an error in judgment or to carelessness in reading product specifications. The vendor must provide a detailed written notice of the mistake to the Administrative Services Department within five (5) days of the bid opening. A bidder who is relieved of a bid shall be prohibited from participating in further bidding on the purchase (Public Contract Code Section 5103).

#### *Notice*

The Director of Purchasing or designee shall announce the Intent to Award to all bidders in writing.

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## **IX. Other Types of Purchases**

### **A. Sole Source**

There may be occasions when products/services must be purchased from one specific source or manufacturer. If a request is made to purchase a product produced by only one supplier, yet several sources can provide a similar product, the request will be subject to the normal process. Should a request be made to purchase products/services from a sole source, it must meet one of the criteria shown below. The request must include a completed Sole Source Justification Form. The four most commonly accepted sole source justifications are outlined below. Such justifications have been accepted with proper supporting documentation.

#### **1. *Compatibility with Existing Equipment***

This justification may be used if your products or services are being purchased to directly interface with or attach to equipment of the same manufacturer and no other manufacturer's products will correctly interface with existing equipment.

#### **2. *Compatibility for Instructional Purposes***

This justification may be used if the products are being purchased to supplement existing equipment in a classroom. The product must exactly match the existing equipment and is being purchased to provide uniformity for instructional purposes.

#### **3. *Compatibility for Research***

This justification may be used if the main purpose for acquiring equipment or supplies is to replicate specific experiments, using exact products that produced the original results. You may also use this justification if you are collaborating with another researcher and can show that identical products are required to fulfill your part of the agreement.

#### **4. *Only One Supplier Can Be Identified***

In rare cases, only one supplier may exist to provide a particular product or service. When providing a justification based on the availability of one supplier, the product or service must be defined in generic terms. Specifying patented



products or processes, when not necessary to meet functional requirements, is not acceptable as a sole source justification. Justifications can be accepted more readily by providing information regarding attempts to locate other suppliers, such as letters, informal quotations, or telephone contacts.

A Sole Source Justification Form should be included with the requisition and forwarded to the Purchasing Department referencing the order. Final determination as to whether products/services will be purchased on a sole source basis will be made by the Purchasing Department, in consultation with the requester. The form shall remain on file as part of the official procurement documents and may be subject to audit or review by interested parties.

**B. Lease**

A comparison of lease and purchasing costs should be prepared by the acquiring department as the first step in the procurement cycle to determine the appropriate acquisition strategy. When developing the cost comparison, factors such as the following should be documented:

- Length of time the equipment is to be used and the extent of its use, including the possibility of use by another District Department.
- Financial, technical, and other advantages of types and makes of the required equipment available for lease/purchase.
- Lease cost and purchase options.
- Cost of equipment purchase and installation.
- Imminent technological improvements.
- Other factors related to function's performance or cost of equipment, including maintenance cost.
- Lease equipment: If the College is already using leased equipment, consideration shall be given to the advantage and feasibility of purchasing it or new equipment to perform the required function.
- Cost Comparison and Methods of Acquisition: The cost comparison shall be completed to provide a basis for estimating the point at which cost of leasing will exceed cost of purchase. The method used shall at least compare the cost of purchasing and maintaining equipment against the cumulative cost of leasing. Factors such as interest rates, technological life, and trade-in value may also be considered.
- Purchase method shall be used when there is a cost advantage over leasing, provided the equipment will be used beyond the point in time at which the cumulative leasing cost exceeds purchase cost.
- Lease with option to purchase shall be used when it is necessary or advantageous to defer purchase.
- Lease without option to purchase may be used if it is the only way to acquire essential equipment which meets program or system requirements but does not meet conditions for purchase.

## IX. Adding a Vendor

### Definition of a New Vendor

Any company or individual that Hartnell intends to do business with for the first time is a new vendor. Hartnell needs to obtain required information about new vendors prior to doing business with them. This includes check request vendors as well as Purchase Order vendors. If you are not sure whether a vendor is new or not, please contact the Purchasing Department

### *\*Note regarding Mercury Commerce*

If you do not find a vendor you are looking for, the vendor may not necessarily be new. Only a core of frequently used vendors were uploaded from Colleague, so some were unavoidably missed. Please contact the Purchasing Department to determine if a vendor is new before sending any forms.

### Required Documentation

New vendors shall submit the following to the District Purchasing Department:

- Vendor Information Sheet (all vendors)
- Copy of business license (service vendors)
- Certificate of Insurance with \$1,000,000 minimum (service vendors)

Only after the documents are received by Purchasing and reviewed for completeness will a vendor be added to our system. Purchase Orders and payments cannot and will not be made to the vendor until their profile is created.

## X. Special Requisition Types

Blanket Purchase Orders. Blanket Purchase Orders are primarily used to make payments for services that are provided on a regular and consistent basis, and in some cases for the regular delivery of a consistent quantity of product. Examples include; utilities, maintenance agreements, routine maintenance supplies, etc. All Blanket Purchase Order requests shall be prepared by the Purchasing Department and approved by the Chief Business Officer or designee. Blanket Purchase Orders with a list of employees authorized to use the Order shall be sent to the vendor so they can include the PO number on all invoices. Blanket Purchase Orders are not to be used as an open line of credit or to facilitate informal orders (open account that provides no detail regarding individual purchases). All changes to Blanket Purchase Orders shall be approved by the CBO or designee. Blanket Purchase Orders shall terminate no later than the end of the current fiscal year.

Check Request. The Check Request Form is designed to expedite certain transactions such as recurring membership dues and subscriptions, conference registration, reimbursement and guest presenter compensation. The form must include written approval from the appropriate administrator. A completed form with full documentation is submitted to the Accounting Department to initiate an immediate payment.

Petty Cash Reimbursement. In rare instances an employee may be reimbursed for small pre-authorized purchases after completing a Petty Cash Reimbursement Form. This form must include written approval from the appropriate administrator. A completed form with all documenting receipts is submitted to the District Cashier for reimbursement.

Travel. A Travel Authorization Form must be completed and approved prior to travel. If a check is needed in advance for transportation, lodging, meals, or registration, the traveler must complete a Check Request Form and attach supporting documentation for the payment. An accounting reconciliation of actual expenses is completed on a Travel Expense Claim Form following the trip.

#### **XI. Receiving**

A receipt is the department's way of indicating to Accounts Payable that the product has been received or the service has been provided and therefore the Purchase Order is approved for payment.

#### **XII. Payment**

A purchase transaction is complete only after the goods or services have been received and the supplier has been paid. When a Purchase Order is issued, the department assumes responsibility to make sure the vendor is paid within an appropriate period of time. By issuing a Purchase Order through the Mercury Commerce in advance of the purchase, funds are properly encumbered to pay these obligations. The encumbrance is not a contract, but ensures that the required funding is available. Accounts Payable pays invoices for the District including those for external vendor purchases, employee reimbursements, and payments to U.S. independent contractors.

Vendors are instructed to send invoices directly to Accounts Payable for processing. This helps ensure timely payment. The preferred method for receiving invoices is mail; however they may also be faxed. All District expenditures should be charged to the proper source of funds within 90 days of occurrence.

See Board Policy 6330

Approved by the Superintendent/President: December 14, 2021

**HARTNELL COMMUNITY COLLEGE DISTRICT**

**AP 6341 Selection of Contractor Based Upon Best Value**

**References:** Pub. Cont. Code§ 20651.7

The Board has determined that for certain services and procurement of materials, equipment and supplies, it can expect long-term savings through the use of life-cycle cost methodology, the use of more sustainable goods and materials, and reduced administrative costs by selecting the lowest responsible bidder on the basis of best value.

Best value means the most advantageous balance of price, quality, services, performance, and other elements and determined by objective performance criteria that may include price, features, long-term functionality, life-cycle costs, overall sustainability, and required services.

Any contract award based on best value shall be awarded based upon criteria set forth in a request for proposal that objectively evaluates, as applicable to the particular services or project:

- (1) Price and service levels that reduce the District's overall operating costs, including end-of-life expenditure and impact or other costs unique to the services proposed.
- (2) Equipment, services, supplies, and materials standards that support the District's strategic acquisition and management program direction.
- (3) The total cost to the District of its purchase, use, and consumption of equipment, supplies, and materials.
- (4) The operational cost or benefit incurred by the District as a result of a contract award.
- (S) The added value to the District of vendor-added services.
- (6) The quality and effectiveness of equipment, supplies, materials, and services.
- (7) The reliability of delivery and installation schedules.
- (8) The vendor's quality assurance program.
- (9) The vendor's experience with the provisions of equipment, supplies, materials, and services within the institutional marketplace.
- (10) The terms and conditions of product warranties and vendor guarantees.
- (11) The consistency of the vendor's proposed equipment, supplies, materials, and services with the District's overall supplies and material procurement program.
- (12) The environmental benefits to the local community.

Prior to award, the District shall issue a written notice of intent to award, setting forth, in detail, the basis for the award, based upon the best value criteria stated in the request for proposal. Any unsuccessful bidder may file a written protest to the intent to award within



three (3) days of the written notice of intent to award. The District's Board, or its designee, shall evaluate any timely filed written protest and make a determination regarding the merits of the protest prior to final award of the contract. The final determination shall be provided in writing to the protesting bidder. The District maintains full discretion to revise its intent to award any time prior to award of the contract. The District further maintains full discretion to reject all responses to the request for proposal.

The Board shall award the contract at an open public meeting, identifying the bidder to which the award is made, the price proposal of the contractor awarded the contract, and the overall combined rating on the request for proposal evaluation factors. The announcement shall also include the ranking of the contractor awarded the contract in relation to all other responsive bidders and their respective price proposals and summary of the rationale for the contract award.

See Board Policy 6341

Approved by Superintendent/President: July 1, 2014

**HARTNELL COMMUNITY COLLEGE DISTRICT**

**AP 6360      Contracts - Electronic Systems and Materials**

**Reference:**      Education Code Sections 81641 et seq., and 81651; Public Contracts Code  
Section 20651 et seq.

The District may contract with any vendor who has submitted one of the three lowest responsible competitive proposals or competitive bids for the purchase or maintenance of electronic data-processing systems and equipment, electronic telecommunication equipment, supporting software, and related material, goods, and services.

Except as otherwise stated here, bids shall be solicited and contracts shall be awarded in accordance with AP 6340 titled Bids and Contracts.

Criteria to determine what constitutes a responsive bid shall be established by Chief Business Officer and Vice President of Information and Technology Resources.

Sale and leaseback of data-processing equipment or another major item of equipment is permissible if the purchaser agrees to lease the item back to the district for use by the district following the sale. The governing board shall first adopt a resolution finding that the sale or leaseback is the most economical means for providing electronic data-processing equipment or other major items of equipment to the District.

See Board Policy/Administrative Procedure 6300

Approved by the Superintendent/President: November 25, 2014

HARTNELL COMMUNITY COLLEGE DISTRICT

AP 6365

Accessibility of Information Technology

**References:** Section 508 of the Rehabilitation Act of 1973 (29 U.S. Code Section 794d); 36 Code of Federal Regulations Sections 1194.1 et seq.; Government Code Section 11135; Title 5 Sections 59300 et seq.

Whenever the District enters into a contract for the purchase, development, procurement, maintenance or use of any electronic or information technology, the vendor shall certify that it complies with the requirements of Section 508 of the Rehabilitation Act of 1973 and its related regulations. This requirement shall apply to all electronic or information technology, including, but not limited to, software applications, operating systems, web-based intranet and internet information and applications, telecommunications products, video or multimedia products, self-contained closed products such as copiers, and desktop and portable computers.

Each contract with such a vendor shall contain the following provision:

"The vendor hereby warrants that the products or services to be provided under this agreement comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, and its implementing regulations. Vendor agrees to respond promptly to and resolve any complaints regarding accessibility of its products or services that are brought to its attention. Vendor further agrees to indemnify and hold harmless the District from and against any claim arising out of its failure to comply with these requirements. Failure to comply with these requirements shall constitute a breach and be grounds for termination of this agreement."

See Board Policy 6365

Approved by Superintendent/President: 9/23/14

HARTNELL COMMUNITY COLLEGE DISTRICT

AP 6370 Contracts - Agreement for Services

**References:** Government Code Section 53060; Education Code Section 88003.1

The District may enter into personal services contracts to achieve cost savings when each of the following conditions is met:

- It can be clearly demonstrated that the proposed contract will result in actual overall cost savings to the District;
- The contractor's wages are at the industry's level and do not undercut District pay rates;
- The contract does not cause the displacement of district employees;
- The savings are large enough to ensure that employees will not be eliminated by private sector and District cost fluctuations that could normally be expected during the contracting period;
- The amount of savings clearly justifies the size and duration of the contracting agreement;
- The contract is awarded through a publicized, competitive bidding process;
- The contract includes specific provisions pertaining to the qualifications of the staff that will perform the work under the contract, as well as assurance that the contractor's hiring practices meet applicable nondiscrimination standards;
- The potential for future economic risk to the District from potential contractor rate increases is minimal;
- The contract is with a firm; and
- The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by the District.

Personal service contracts are also permissible when any one of the following conditions is met:

- The contract is for new functions mandated or authorized by Legislature to be performed by independent contractors;
- The services are not available within the District or cannot be satisfactorily performed by District employees;
- The services are incidental to a purchase or lease contract;
- The policy, administrative, or legal goals and purposes of the District cannot be accomplished through the regular or ordinary hiring process;
- The work meets the criteria for emergency appointment;
- Equipment, materials, facilities, or support services could not feasibly be provided by the District; or
- The services are of an urgent, temporary, or occasional nature.

**Professional Experts**

Contracts for the services of persons who qualify as professional experts may be let without competitive bidding. Professional experts are persons specially qualified to provide services



and advise in financial, economic, accounting, engineering, legal, or administrative matters. They must be specially trained, experienced, and competent to perform the services required. Compensation for special services and advice from professional experts may be paid from available funds in the amounts deemed proper for the services rendered.

#### **Independent Contractors**

To be an independent contractor, substantial conformance with the following conditions must exist:

- The contractor controls the way in which work is performed.
- The contractor sets his or her own hours.
- The contractor is not restricted from taking jobs from other businesses at the same time that they are doing work for the District.
- No district employees have duties similar to the independent contractor.
- The District does not provide assistants to the contractor.
- The duration of employment is for a specific job, not for a specified period of time.
- The District does not furnish tools, training, or equipment to the contractor. Contractors should be able to perform their services without the District's facilities (e.g., equipment, office furniture, machinery).
- The contractor's investment in his or her trade must be real, essential, and adequate.
- The contractor has employer identification numbers with the Internal Revenue Service and the California Employment Development Department for reporting employer payroll taxes and employee wages.
- The individual is not presently employed by the District to do the same type of work.
- Contractors are hired to provide a result and usually have the right to hire others to do the actual work.
- Contractors are hired for the final result, and therefore should not be asked for progress or interim reports.
- Contractors are generally responsible for their incidental expenses.
- Contractors should be able to make a profit or a loss. Five circumstances show that a profit or loss is possible:
  1. If the contractor hires and pays assistants;
  2. If the contractor has his own office, equipment, materials, or facilities;
  3. If the contractor has continuing and reoccurring liabilities;
  4. If the contractor has agreed to perform specific jobs for prices agreed upon in advance;
  5. If the contractor's services affect his own business reputation.
- Contractors can't be fired so long as they produce a result that meets the contract specifications.
- Contractors are responsible for the satisfactory completion of a job or they may be legally obligated to compensate the hiring firm for failure to complete.

#### **Consultants**

Consulting services contracts refer to all services that:

- Are of an advisory nature,
- Provide a recommended course of action or personal expertise,

- Have an end product which is basically a transmittal of information either written or verbal, and,
- Are obtained by awarding a procurement-type contract, a grant, or any other payment of funds for services of the above type.
- The product may include anything from answers to specific questions to design of a system or plan, and includes workshops, seminars, retreats, and conferences for which paid expertise is retained by contract.

See Board Policy/Administrative Procedure 6300

Approved by the Superintendent/President: November 25, 2014

Formerly BP 5700

HARTNELL COMMUNITY COLLEGE DISTRICT

AP 6400

Financial Audits

**References:** Education Code Sections 84040(b), 84040.5, and 81644; Title 5 Section 59102; ACCJC Accreditation Standard 3

On or before April 1 of the fiscal year, the Board shall approve the selection of an auditor who shall be a certified public accountant licensed by the California State Board of Accountancy.

An auditing firm's contract shall be determined *by the District, (no longer than 5 years)*. The audit shall include all funds under the control or jurisdiction of the District. The audit shall identify all expenditures by source of funds and shall contain:

- A statement that the audit was conducted pursuant to standards and procedures developed in accordance with Education Code Section 84040.5, and
- a summary of audit exceptions and management recommendations.

Audit reports for the preceding fiscal year must be presented to the Board and submitted to the California Community Colleges Chancellor's Office by December 31.

See Board Policy 6400

Approved by the Superintendent/President: December 14, 2021

HARTNELL COMMUNITY COLLEGE DISTRICT

AP 6450 Wireless or Cellular Telephone Use

References: Vehicle Code Sections 12810.3, 23123, and 23124; 26 U.S. Code Sections 274(d)(4) and 280F(d)(4)

The superintendent/president shall determine if it is in the best interests of the District to provide a cellular or wireless telephone at District expense.

Cellular telephones provided by the District for compensatory reasons are classified by the Internal Revenue Service as a fringe benefit, the value of which must be included in an employee's gross income.

The value of a cellular telephone provided by the District primarily for non-compensatory business purposes is excludable from an employee's income. Employees will generally not be required to keep notes of business and personal use of District-issued cellular telephones when the telephones are issued for non-compensatory business reasons.

**NOTE:** *The value of the business use of a District-provided cellular telephone is excludable from an employee's income as a working condition fringe benefit to the extent that, if the employee paid for the use of the cellular telephone themselves, such payment would be allowable as a deduction under Income Tax Regulations Section 162 for the employee. The District will be considered to have provided an employee with a cellular telephone primarily for non-compensatory business purposes if there are substantial reasons relating to the District's business, other than providing compensation to the employee, for providing the employee with a cellular telephone. When the District provides an employee with a cellular telephone primarily for non-compensatory business reasons, the IRS will treat the employee's use of the cellular telephone for reasons related to the employer's trade or business as a working condition fringe benefit, the value of which is excludable from the employee's income and, will treat the value of any personal use of a cellular telephone provided by the employer primarily for non-compensatory business purposes as excludable from the employee's income as a de minimis fringe benefit.*

These rules do not apply to wireless or cellular telephones owned by employees. Any reimbursements to employees for use of their own wireless or cellular telephones may be excluded from wages if the employee accounts for the expense pursuant to the Internal Revenue Service accountable plan.

Motor vehicle drivers may not use wireless or cellular telephones while operating their vehicles without a hands-free listening device. Drivers may use a wireless or cellular telephone to contact a law enforcement agency or public safety entity for emergency purposes. Drivers of motor trucks or truck-tractors, farm vehicles, tow trucks, a listed or described implement of husbandry, or a commercial vehicle, used in commercial agricultural operations may use a digital two-way radio service that utilizes a wireless or cellular telephone.

There is no expectation of privacy in the use of a District-issued cellular telephone.

See Board Policy 6450

Approved by Superintendent/President: December 14, 2021



**HARTNELL COMMUNITY COLLEGE DISTRICT**

**AP 6500**

**Property Management**

**References:** Education Code Sections 70902 and 81300 et seq.

The Chief Business Officer shall be responsible for supervising acquisitions of real property, including appraisals and valuations of real property and improvements; securing title insurance policies; dedications or conveyance of easements; vacation of streets and alleys, street lighting and other special assessments; and the condemnation of real property.

See Board Policy 6500

Approved by the Superintendent/President: December 14, 2021

## HARTNELL COMMUNITY COLLEGE DISTRICT

AP 6540

### Insurance

**References:** Education Code Sections 32221, 70902, 72502, 72506, and 81601 et seq.

The District's risk management program shall be administered through joint powers agencies, whenever possible, appropriate, and fiscally prudent. The following risk coverage will be maintained in effect for the District and related entities.

- Liability insurance for damages for death, injury to person, or damage or loss of property.
- Liability insurance for the personal liability of the members of the Board and of the officers and employees of the District for damages for death, injury to a person, or damage or loss of property caused by the negligent act or omission of the member, officer or employee when acting within the scope of his/her office or employment.
- Fire insurance
- Real property damage
- Personal property loss or damage
- Insurance for District vehicles
- Insurance against "other perils" (Education Code Section 81601)
- Workers compensation insurance
- Student intercollegiate athletic insurance as required by Education Code Section 32221.
- Actuarial evaluation of the future annual costs of health and welfare benefits
- Cybersecurity insurance to protect from damages due to breaches of information systems containing personal information of students, employees and board members, theft of intellectual property or damages due to ransomware and loss of data.

Joint powers agencies conduct necessary investigative, administrative, and claims adjustment services. The District's joint powers agencies may reject, settle, compromise, and approve claims within limits and for amounts specified by its Board including execution and issuing of checks in payment of such claims and may employ counsel.

See Board Policy 6540

Approved by Superintendent/President: December 14, 2021

## HARTNELL COMMUNITY COLLEGE DISTRICT

AP 6600 Capital Construction

**References:** Education Code Sections 81005 and 81820; Title 5 Sections 57150 et seq.

### Capital Outlay Program

The superintendent/president will annually report to the Board and to the California Community Colleges Chancellor's Office a five-year capital outlay program. The program will consist of the plans of the District concerning its future academic and student service programs, and the effects of such programs on construction needs.

Specifically, the five-year capital outlay program will include the following:

- Statement of educational plans
- Statement of energy plans
- Statement of disabled persons' barrier removal plan
- Location of program delivery
- Location of other owned lands
- District-wide priority lists
- District-wide capacity/load ratios
- District-wide supporting detail

### Contracts

Construction contracts will be let in accordance with AP 6350 titled Contracts - Construction and will comply with applicable laws relating to public works.

### Conversion of Buildings

State funds earmarked for capital outlay financing may be used to acquire an existing government-owned or privately-owned building and to pay the necessary costs of converting such a building to community college use if all of the following criteria apply:

- The building was constructed as, and continues to qualify as, a school building, as provided by Education Code Sections 81130 et seq., or the building is determined to have, or is rehabilitated to an extent that it is determined to have, a pupil safety performance standard that is equivalent to that of a building constructed pursuant to Education Code Sections 81130 et seq. The determination of the pupil safety performance standard must meet all of the requirements of Education Code Section 81149(a)(1)&(2).
- The total cost of purchasing and converting the existing building to community college use is not greater than the estimated cost of constructing an equivalent building.
- The land associated with the building will be owned by, or controlled through a long-term lease of at least 50 years by, the District.
- The District has complied with facility site review guideline recommendations of the California Postsecondary Education Commission pursuant to Education Code Section 66904.
- The funding for the purchase and conversion of an existing building does not supersede funding for facilities that have previously been prioritized by the Board of Governors and are awaiting state funding.

See Board Policy 6600

Adopted by Board: December 14, 2021