

PURCHASING AND ACQUISITION

CH
(LOCAL)

Purchasing Authority

The Board delegates to the Superintendent, the chief financial officer (CFO), and their designees the authority to make budgeted purchases for goods or services.

Authority to Sign Contracts

No employee other than the Superintendent, the CFO, and their designees shall be authorized to sign contracts that obligate the District. Specific authority shall be specified in CH(EXHIBIT) and delegated in writing to any designee.

Contracts that obligate the District for more than one year shall be approved by the Superintendent or the CFO.

Board Approval

Contracts above
\$100,000

Exemptions from
Board Approval

Contracts above \$100,000 shall require approval by the Board, unless exempted by this policy.

The following contracts shall be permitted without Board approval:

1. Contracts approved by the Texas Education Agency and any of the Education Service Centers;
2. Contracts approved by the state of Texas;
3. Purchases made pursuant to interlocal agreements previously approved by the Board, including, but not limited to, purchases made through a cooperative purchasing program;
4. Contracts from vendors pre-approved by the Board;
5. Contracts that were previously authorized by the Board;
6. Contract amendments and change orders to the extent permitted by law and policy;
7. Contracts for items to replace stolen items or items damaged by natural causes or vandalism; and
8. Patented or copyright-protected items that are only available from one source may be purchased without securing Board approval if no other like items are available that would serve the same purpose or function.

Emergency Purchases

The Board delegates to the Superintendent authority for approving emergency purchases and/or repairs, provided that any such items are presented to the Board at its next regular scheduled meeting for ratification.

Purchasing Method

The Board delegates to the Superintendent, the CFO, and their designees the authority to determine the method of purchasing in accordance with CH(LEGAL) or CBB(LEGAL), as appropriate.

The following shall apply to methods of purchasing:

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1. The Superintendent, CFO, or their designees shall prepare the bid specifications or requests for proposals and/or specifications for items to be purchased.
2. All bids and proposals shall be in accordance with administrative regulations.
3. Bids and proposals may be withdrawn prior to the scheduled time for opening.
4. Bids and proposals received after the specified time shall not be considered.
5. The public and all proposers shall be invited to attend the bid or proposal opening. Competitive sealed proposals shall be opened at the time specified.
6. For proposals only, changes in the content and price may be negotiated after proposals are opened.
7. The District may reject any and all bids and proposals in accordance with state or federal law, as applicable.

Electronic Bids or Proposals

Bids or proposals that the District has chosen to accept through electronic transmission shall be administered in accordance with Board-adopted rules. Such rules shall safeguard the integrity of the competitive procurement process; ensure the identification, security, and confidentiality of electronic bids or proposals; and ensure that the electronic bids or proposals remain effectively unopened until the proper time.

Responsibility for Debts

The Board shall assume responsibility for debts incurred in the name of the District so long as those debts are for purchases made in accordance with the adopted budget, state law, Board policy, and the District's purchasing procedures. [See CE] The Board shall not be responsible for debts incurred by persons or organizations not directly under Board control. Persons making unauthorized purchases shall assume full responsibility for all such debts.

Purchase Commitments

All purchase commitments shall be made by the Superintendent, the CFO, or their designees in accordance with administrative procedures, including the District's purchasing procedures.

Personal Purchases

District employees shall not be permitted to make purchases for personal use through the District's business office.

Encouragement of Small, Local, and HUB Firms' Participation

The District shall attempt to include and encourage bids from small and local firms, as well as firms owned or operated by minorities or women. The District shall also promote and encourage race and gender neutral measures to ensure equal opportunity in contracting.

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Historically
Underutilized
Business (HUB)

A Historically Underutilized Business (HUB) shall be defined as a business in which at least 51 percent of the ownership and management is by minority group members or women, or in the case of a publicly owned business, at least 51 percent of the stock is owned and managed by minority group members or women.

The District encourages full participation in all phases of procurement activities and shall afford a full and fair opportunity to all vendors to compete for District contracts. The purposes and objectives of the District's HUB program are as follows:

1. To ensure that the District is not a passive participant in a discriminatory marketplace;
2. To ensure that the HUB program is narrowly tailored;
3. To provide opportunities for HUB firms to broaden and enhance their capacities to do business with the District; and
4. To administer the HUB program in a manner consistent with applicable federal and state laws.

The HUB program shall sunset on December 31, 2021, unless the Board affirmatively extends the program.

Applicability

Although the District encourages use of certified firms wherever possible, the HUB program shall apply to a solicitation that is valued at \$50,000 or more, consists of two or more scopes of work, and in which at least a minimum of three HUBs are available to perform the work described in the solicitation.

The HUB program shall apply to those professional services, non-professional services, commodities, and construction contracts defined in CH(EXHIBIT).

HUB Eligibility

The HUB program shall accept a firm certified as a HUB by the state of Texas, and to a firm certified by the City of Austin as a Minority-Owned Business Enterprise (MBE) and Woman-Owned Business Enterprise (WBE).

*HUB Program
Administration
and Goals*

The Board shall establish narrowly tailored program goals based on current evidence of utilization and availability. [See CH(EXHIBIT)]

The District shall review these aspirational goals on an annual basis as part of assessing its progress toward eliminating discrimination in contracting activities in the marketplace, and may adjust the goals based on the relative HUB availability data collected by the District.

Aspirational goals are intended to serve as a benchmark against which to measure the overall effectiveness of the program. As such, aspirational goals shall be stated only in those solicitations that do not contain contract-specific participation goals for HUBs.

*Program
Responsibilities*

Administration

The Board delegates to the Superintendent or designee the overall responsibility to interpret, administer, and enforce HUB program policies, standards, definitions, criteria, and procedures in a manner to achieve its stated objectives and purposes.

Reporting

The Superintendent or designee shall report to the Board on an annual basis, or as directed, regarding the District's progress toward satisfying the HUB program policy objectives, and to make recommendations for any necessary adjustments or amendments to the policy and administration of the program to fully effectuate its purposes.

*Right to Protest
(File a Complaint)*

Any bidder or proposer who is aggrieved in connection with a procurement decision or HUB program policy decision may file a protest with the CFO or designee. The protest shall be submitted in writing within 15 business days after the facts or occurrence giving rise to the complaint. [See GF]

*Procurements
after Protest*

In the event of a timely protest, the responsible office shall not proceed further with the procurement unless the CFO or designee makes a determination that the award of the contract is necessary to protect substantial interests of the District.

*Authority to
Resolve Protests*

The CFO or designee shall have the authority to take any action reasonably necessary to resolve a protest of an aggrieved bidder or proposer concerning a procurement decision.

*Determination
and Appeal*

The CFO or designee shall promptly issue a determination relating to the protest. The determination shall:

1. State the reasons for the action taken; and
2. Inform the protesting party of the right to appeal the determination to the Board within 15 days of receipt of the notice of the determination in accordance with policy GF(LOCAL), beginning at Level Three.

A copy of the determination shall be provided to the protesting party.

**Certification by
Contractor or Vendor**

Consistent with the financial oversight requirements of policy CAA(LOCAL), in order to be considered, competitive bids and proposals submitted to the District shall contain the signed certification set out at CH(EXHIBIT).

Employee Conflict of Interest

The District shall not purchase goods or services from employees or their immediate family members, as defined in DEC(LOCAL), without prior approval from the Superintendent or designee. [See DBD]

The District may purchase services or equipment from a business owned in whole or in part by a person related to a District employee by blood (consanguinity) within the third degree, or by marriage (affinity) within the second degree, that results in the employee receiving compensation directly or indirectly only in the following circumstances:

1. The District employee does not exercise discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions related to the services or equipment supplied by the business. The business shall not be permitted to sell services or equipment to the District employee's department and department affiliates or campus and campus feeder pattern, as applicable, for as long as the employee continues in the department or campus position;
2. The business transaction has been approved by the Superintendent; and
3. The purchase of services and equipment has been contracted through a documented competitive process.

Annual Policy Review

The CFO shall be responsible for reviewing the District's purchasing policy and procedures each year and recommending to the Superintendent and the Board any policy changes.