

#### 4.14 Purchasing Policy

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##### Introduction

The Westmoreland County Community College Purchasing Department is responsible for the procurement and contracting for all equipment, materials, supplies, and services necessary for the operation of the College. The Board of Trustees represents the final authority concerning major procurement awards. This Purchasing Policy is intended to comply with all applicable Federal, State, and Local procurement regulations, specifically those outlined in Chapter 35 of the Pennsylvania Code and the Community College Act of 1961.

##### Objective

The Purchasing Department objective is to maintain an “open door” policy that provides opportunity for all suppliers, regardless of race, color, creed, or sex to compete for the operating needs of the College. The department will work to promote amiable supplier relations, show concern for our supporting community, and promote fair competition for the needs of the College.

##### Authority to Purchase

The Purchasing Department (or the President or designee) is the principle agency authorized by the Board of Trustees to make commitments for supplies, equipment, and contracted services necessary for the operation of the College and is entrusted to comply with all guidelines, policies, procedures, and regulations (Federal, State, and Local) pertaining to the purchase of materials.

##### Code of Ethics

The Purchasing Department has adopted and adheres to the Codes of Ethics of the National Association of Educational Buyers as listed below:

- Give first consideration to the objectives and policies of my institution.
- Strive to obtain the maximum value for each dollar of expenditure.
- Decline all personal gifts and gratuities.
- Grant all competitive suppliers' equal consideration on so far as state or federal statute and institutional policy permit.
- Conduct business with potential and current suppliers in an atmosphere of good faith, devoid of intentional misrepresentation.
- Demand honesty in sales representation whether offered through the medium of verbal or written statement, an advertisement, or a sample of the product.
- Receive consent of the originator of proprietary ideas and designs before using them for competitive bidding purposes.
- Make every reasonable effort to negotiate an equitable and mutually agreeable settlement of any controversy with a supplier; and / or be willing to submit any major controversies to arbitration or other third-party review, in so far as policies of my institution permit.
- Accord a prompt and courteous reception in so far as conditions permit to all that call on legitimate business missions.
- Cooperate with trade, industrial, and professional associations, and with governmental and private agencies for the purpose of promoting and developing sound business methods.
- Foster fair, ethical, and legal trade practices.
- Counsel and cooperate with NAEP members and promote a spirit of unity and a keen interest in professional growth among them.

*(National Association of Educational Buyers - 1988)*

## Financial

### Conflict of Interest

All Purchasing Department employees shall perform his or her duties in an impartial manner, free from bias caused by their own personal or financial interests. It is also a conflict of interest and prohibited to approve any purchase of goods and / or services from any employee or relative of an employee for any amount under any circumstance. All Purchasing Department employees shall act in the best interest of the College. See Westmoreland County Community College – Employee Policy – Employees’ Ethics Conflict of Interest.

### Unauthorized Purchases

No individual has the authority to enter into purchase contracts unless specifically authorized by the Board of Trustees or the President. Any such purchases are considered unauthorized and become a personal obligation to the vendor by the individual making the purchase, unless approved in writing by the President.

### Competitive Bidding / Quotes

The securing of bids and price quotations (other than for budgetary purposes), receiving of bids and quotations, and the negotiation of terms and conditions of purchases are the sole responsibility of the Purchasing Department or the designees of the College President.

### Contracts for Personal Property, Equipment, Supplies, and Services

- If a contract is \$30,000 or greater, the College shall, with public notice, solicit competitive bids and shall award the contract to the lowest responsible bidder, meeting specification, after approval by the Board of Trustees. A minimum of three (3) responsible bids must be received or a written explanation as to why it was not possible to obtain three (3) bids. Note: When it is deemed that there are not a sufficient number of suppliers, in the distribution area of the public bid notification, to supply responsible bids, the Purchasing Department, with concurrence of the Solicitor and written approval of the President or designee shall solicit competitive bids without public notice.
- If a contract is \$5,000 or greater but less than \$30,000, the College shall solicit written competitive quotes from a minimum of three (3) responsible suppliers and shall award the contract to the lowest responsible supplier, meeting specification, after approval by the College President or designee. (See Westmoreland County Community College – Authorized Signature Procedure)
- If the contract is less than \$5,000, the College may award the contract without soliciting competitive quotes with the approval of the College President or designee. (See Westmoreland County Community College – Authorized Signature Procedure)

### Contracts for Construction, Reconstruction, Maintenance, and Repair Projects

- If a contract is \$20,000 or greater, the College shall, with public notice, solicit competitive bids and shall award the contract to the lowest responsible bidder, meeting specification, after approval by the Board of Trustees. A minimum of three (3) responsible bids must be received or a written explanation as to why it was not possible to obtain three (3) bids. Note: When it is deemed that there are not a sufficient number of suppliers, in the distribution area of the public bid, to supply responsible bids, the Purchasing Department, with concurrence of the Solicitor and written approval of the President or designee shall solicit competitive bids without public notice.
- If a contract is \$5,000 or greater but less than \$20,000, the College shall solicit a minimum of three (3) competitive written quotes and shall award the contract to the lowest responsible supplier, meeting specification, after approval by the Board of Trustees. A minimum of three (3) responsible bids must be received or a written explanation as to why it was not possible to obtain three (3) bids. If the contract is less than \$5,000, the College may award the contract without soliciting competitive quotes with the approval of the College President or designee. (See Westmoreland County Community College – Authorized Signature Procedure)

### Additional Notes on Public Bids

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- The procuring department will provide a completed Purchase Requisition containing a complete listing of requirements or specifications for the requested material or service to assist the Purchasing Department in developing the competitive bid, quote, or proposal request. The requisition must have appropriate financial account codes and approvals.
- All bids under public notice shall be in a written format, delivered to the designated place in an appropriately marked sealed envelope and/or electronic submission, at or before the designated bid due date and time. All bids under public notice will be opened publicly unless otherwise noted in the bid notice.
- A Bid Bond shall accompany bids for construction, reconstruction, maintenance, and repair under public notice for projects over \$20,000, unless otherwise noted in the bid notice or bid package, with corporate surety or certified check in the amount of ten percent (10%) of the amount of the bid. If a bidder, upon award of the contract, fails to comply with the requirements as to a bond guaranteeing the performance of the contract, the bid bond or certified check shall be forfeited.
- The College will not require Bid Bonds for the purchase of personal property, equipment, supplies and services under public notice for bids.
- The bidder to whom a contract is awarded for construction, reconstruction, or repair projects shall furnish a Performance Bond to guarantee the performance of the contract and payment for labor and materials. Bonds shall be in accordance with the Public Works Contractors' Bond Law of 1967. Failure to furnish said bonds shall void the previously awarded contract.
- All bids for construction, reconstruction, and repair projects that are state or federally funded are subject to Pennsylvania Department of Labor and Industry Bureau of Labor Law Compliance Prevailing Wages Project Rates in effect at the time of the Bid package issuance.
- All bids for construction, reconstruction, and repair projects must include proof of insurance meeting the minimum requirements set forth in the Bid Request.
- The College and its Board of Trustees reserve the right to reject any and all bids, or any parts thereof, or items therein, and waive any technicalities or informalities in bidding. The College further reserves the right to award the contract on a split order, lump sum, or individual item basis, or to reissue the solicitation.
- Contracts for Construction, reconstruction, Maintenance, and Repair will contain a contingency, not to exceed ten percent (10%) of the total value of the contract, to cover omissions and changes to scope of work during the course of the contract.
- Contracts will be awarded to the lowest responsive and responsible bidder, kind, quality, and material being equal.
- The Purchasing Department will make every effort to ensure Westmoreland County suppliers are given the opportunity to bid on projects within their capabilities.

## Exceptions to Competitive Bidding

Some materials and services due to unique circumstances necessitate exceptions to the competitive bid / quote requirements. When it is deemed that these circumstances occur, back up documentation and justification are required, to obtain the exemption and are subject to the regular approval process and additional signatures as noted. In all cases the Purchasing Department will research each exception to ensure competitive bidding is not possible. The Purchasing Department with the concurrence of the College Solicitor and the written approval of the President or designee shall proceed with the purchase. The following situations are exempt from competitive bid requirements:

- Goods, equipment, or services needed immediately because of an emergency at the College that creates a threat to public safety or further substantial damage to buildings, the President or designee may waive the requirement for competitive bids.
- Requirements for professional services from attorneys, accountants, auditors, educational consultants, appraisers, insurance agents, architects and designers, etc. However, the Board of Trustees at its discretion may choose to solicit competitive bids for professional services.
- Item(s) to be purchased can only be procured from a single source in a given state or region due to exclusivity by the manufacturer. (Follow Sole Source / Single Source Guidelines)

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- Competitive bidding is precluded by the existence of Patent Rights, Copyrights, or similar circumstances. (Follow Sole Source / Single Source Guidelines)
- Procurement of components, replacement parts, warranty services, or technical services in connection with the assembly, installation, servicing, or the instruction of personnel, relating to a particular piece of equipment which can only be provided by a single source. (Follow Sole Source / Single Source Guidelines)
- The procurement is for an item which must be compatible to or match a particular brand, to those items already on the College premises. (Follow Sole Source / Single Source Guidelines)
- Purchase of used, reconditioned, or refurbished equipment from a single known source.
- Items that due to the complexity or technical nature of the item or service to be purchased, it is determined that it is not possible to draft an adequate specification or adequately detailed description of the item or service, for the solicitation of competitive bids.
- Purchase of materials, equipment, or services using PA State Contracts, COSTARS Contracts, PEPPM Contracts or other purchasing consortiums or networks.
- Any good or service competitively bid through use of a Consultant or Broker.

## Sole Source / Single Source Guidelines

By definition, a Sole Source is an item or service that due to its uniqueness or technology can only be purchased from one source, generally the manufacturer. A Single Source item or service is one that can only be purchased from one source due to restrictions of the manufacturer (defined territories, etc.).

Brand preference or Supplier preference does not constitute a Sole Source / Single Source. Both cases will require justification and approval. Each justification must include the following information:

- Department where the item or service will be used.
- Complete description of the item or service and the function it will serve.
- Explanation of the uniqueness of the item or service and why the Manufacturer or Supplier is the only one qualified to supply the item or service at the exclusion of all others. Why is this item or service superior to similar items or services and why are other similar items or services deficient?
- Explanation of what will occur if the purchase requested is not made.
- Describe the research that was completed to determine that no other competitor exists. Provide list of other suppliers / manufacturers investigated
- Provide a list of other suppliers who supply similar but not an identical item or service.
- If Single Source, a letter from the manufacturer must be provided detailing why this is a single source.

All Sole Source / Single Supplier purchase greater than \$30,000 must be approved by the Board of Trustees.

## Public Contracts

The Board of Trustees authorizes the Purchasing Department to recommend purchases from Commonwealth of Pennsylvania, Department of General Services State Contract, COSTARS Contracts, Pennsylvania Education Purchasing Program for Microcomputers (PEPPM) Contracts, and other contracts and consortiums available to institutions of higher education, for items in excess of the Quote or Public Bid amount. Purchases using these contracts do not require advertising, public bids, or quotes. The Purchasing Department shall qualify pricing obtained from these contracts for purchases in excess of \$30,000 to ensure the best pricing for the College. The contract to be used will be researched by the Purchasing Department to ensure the contract is being properly used for the requested materials. These purchases shall be approved by the Board of Trustees in accordance with the Public Bid / Quote guidelines above.

## Licenses, Service Agreements, and Maintenance Contracts

Contracts for Software Licenses, Service Agreements, and Service Contracts will be issued by the Purchasing Department following the purchase of the covered item. These will be approved by the Board of Trustees in accordance with the Bid / Quote Guidelines above. In the case of multiyear contracts, the entire amount for the length of the contract will be taken to the Board of Trustees for approval prior to the first year of the contract.

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Once approved, subsequent years will not be brought back to the Board of Trustees for approval. Multi-year agreements / contracts will be for no longer than three (3) years, with the option for two (2) additional one (1) year options. All extensions to the original contract will be taken to the Board of Trustees for approval.

## Change Orders

Change Orders will be issued to correct any Purchase Order discrepancy, invoice pricing discrepancy, or for partial payment of the Purchase Order total amount.

- Change Orders for Purchase Orders for construction, reconstruction, maintenance, or repair, previously approved by the Board of Trustees, must have approval of the Board if the amount exceeds \$20,000 or is over the contingency amount specified in the original Purchase Order.
- Change Orders for Personal Property, Equipment, Supplies, or Services, not previously approved by the Board of Trustees, must have approval of the Board if the new total amount exceeds \$10,000.