

SECTION: 4.0 ADMINISTRATIVE

SUBJECT: PURCHASING

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**Title:** Purchasing

**Background:** The purpose of this policy is to acquaint personnel with the statutes, rules, and processes that govern public purchasing at Lewis-Clark State College (LC State).

**Point of Contact:** Purchasing Director

**Other LC State offices directly involved with implementation of this policy, or significantly affected by the policy:** Finance and Administration

**Date of approval by LC State authority:** February 22, 2024

**Date of State Board Approval:** March 5, 2024

**Date of Most Recent Review:** February 22, 2024

**Summary of Major Changes incorporated in this revision to the policy:** Revised to align to Boise State University Purchasing policy update and formatting update.

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## Policy Overview

The purpose of this policy is to establish policies and procedures governing purchases made with college administered funds.

Idaho state agencies are subject to the State Procurement Act, Idaho Title 67, Chapter 92.

The Administrative Code related to the State Procurement Act is found in the [Rules of the Division of Purchasing 38.05.01](#).

### 1. Policy Statement

- A. Procurement (purchasing) will be overseen by the vice president for Finance and Administration. Daily operations have been delegated to the purchasing director and will be conducted in strict adherence with applicable federal and state laws and regulations and applicable State Board of Education (SBOE) and college policies.
- B. Purchasing activities shall be administered in a manner that provides maximum practicable open competition appropriate to the type of good or service to be provided. Purchases shall support the goals of cost efficiency and good/service quality, and these objectives shall be given consideration in the purchasing process.
- C. Purchasing activities include transactions involving trade-ins, and leased property. Procurements do not include non-exchange transactions such as sponsorships and transactions not involving the expenditure of college funds.
- D. The college owns all property purchased with college funds and all property received by the college as gifts. In addition, except where provided by the terms of a sponsored project by operation of law, the college owns all personal property purchased with funds from a sponsored project. No department, departmental unit, or college employee, may hold proprietary interest in any piece of college property, or property purchased with sponsored project funds which is held by the college. Regardless of which departmental unit ordered the item, the fund cited, or the budget expensed, the principle of college ownership prevails.
- E. This policy has been approved by the State Board of Education. Any changes to the policy shall be submitted in writing to the executive director for approval. The executive director may, in his or her discretion, refer proposed changes to the SBOE for approval.

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**2. Budget Authority**

- A. It shall be the responsibility of the requestor to determine and ensure funds are available and properly budgeted.
- B. Terms may exceed one year provided that they are advantageous to the college and that such contracts contain no penalty to or restriction upon the college in the event cancellation is necessitated by a lack of financing for any such contract or contracts.

**3. Requirements**

- A. Small purchases are those purchases or procurements expected to cost less than two hundred and fifty thousand dollars (\$250,000). Costs are determined based on the following:
  - i. One-time purchases of property
  - ii. Total cost of a contract for services, including renewal or extension periods
- B. To enhance small business bidding opportunities, the college shall seek a minimum of three quotes from vendors having a significant Idaho economic presence as defined in Section 67-2349 Idaho Code. The request for quotation may be written, oral, electronic, telephonic or facsimile.
- C. Large purchases, costing two hundred and fifty thousand dollars (\$250,000) or more are procured through a formal sealed process. The issuance of Invitations to Bid (ITB) or Requests for Proposal (RFP) is the method for solicitation of offers from qualified vendors in a sealed process in order to establish pricing, specification or performance standards, and the terms and conditions for the purchase of goods and services. The college shall ensure adequate ITB's or RFP's are prepared which clearly define the goods and services needed in order for bidders to properly respond to the request. At the place, date, and time set forth in the solicitation, all bids or proposals received in accordance with the submittal requirements in the solicitation shall be publicly opened and read aloud by the buyer to those persons present.
- D. Notice of solicitations of bids or proposals for large purchases may be electronic in nature. The college may apply the use of a variety of techniques, including but not limited to, reverse auction, electronic posting or electronic advertisement of solicitations as appropriate to the buying situation. Large purchase notices, regardless of methodology, are referenced in the vendor section of the college purchasing department's website.
- E. Preference for Idaho suppliers for purchases:
  - i. Reciprocal preference will be given to Idaho vendors in accordance with Section 67-2349 Idaho Code.
  - ii. Printing services will be awarded to local vendors in accordance with Section 60-101-103 Idaho Code.
- F. Where multiple bids and quality of property offered are the same, preference shall be given to property of local and domestic production and manufacture or from bidders having a significant Idaho economic presence.
- G. The college recognizes that an offered low price is not always indicative of the greatest value. Contracts will be awarded by the college pursuant to determination by the purchasing director of the best value to the college based on the criteria outlined in the solicitation. Award of contracts in excess of amounts as proscribed in SBOE policy V.I.3.a require the written approval of the executive director of the SBOE or the SBOE in a public meeting.

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- H. No vendor or related party, or subsidiary, or affiliate of a vendor may submit a bid to obtain a contract to provide property to the college, if the vendor or related party, or affiliate or subsidiary was paid for services utilized in preparing the bid specifications or if the services influenced the procurement process.
- I. No property to be acquired shall be accepted which does not meet the minimum bid specifications.
- J. If funding for the purchase of goods or services includes sponsored project funding, federal requirements must be followed. Idaho preference, waivers and exemptions from bidding could be restricted based on terms and conditions of specific award documents and or funding agency requirements. For sponsored project funding, adherence to Uniform Guidance §200.319 “Competition” must be followed.

**4. Waiver of Competitive Bidding (Sole Source)**

The determination to waive the competitive bid process may be made only by the purchasing director. Any request by a department to restrict a purchase to one potential supplier must be accompanied by an explanation as to why no other item is suitable or that no other vendors exist to meet the need. A requirement for a particular proprietary item does not justify a sole source purchase if there is more than one potential source for that item. The college purchasing department shall conduct negotiations, as appropriate, to determine price, availability, and terms.

**5. Exemptions from Bidding**

- A. Purchases under \$20,000
- B. Bulk Contract purchasing
  - i. State Open Contracts
    - a) Certain commodities are procured through open contracts by the State of Idaho Division of Purchasing in order to obtain the lowest possible pricing for all agencies.
    - b) No officer or employee shall fail to utilize an open contract without justifiable cause for such action. Justifiable cause shall be determined by the vice president for Finance and Administration. Approved deviations from open contract use will be administered by the purchasing director.
  - ii. Purchases from General Services Administration Federal Supply Contractors are allowed when the acquisition is advantageous to the college with approval from the purchasing director.
  - iii. Where no state open contract exists, state institutions of higher education (as defined in 67-9203(16) Idaho Code) operating under the SBOE approved model purchasing policy, may collaborate with each other or the University of Idaho on solicitations where the combined volume of multiple institutions will provide the best value.
- C. Use of contracts issued by cooperative purchasing programs established by any association that offers its goods or services as a result of competitive solicitation processes is allowed with approval from the purchasing director. Purchases made through the use of a cooperative purchasing program shall be subject to confirmation that such program’s competitive solicitation process meets the minimum criteria for competitive solicitations and resulting purchases set forth in college policies.

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D. Government and Agency acquisitions include:

- i. rehabilitation agency acquisitions;
- ii. correctional industries acquisitions;
- iii. federal government acquisitions including federal surplus; and
- iv. interagency contracts, including contracts with other institutions of higher education.
- v. The college may contract with any one or more other public agencies or institutions of higher education to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform, including, but not limited to joint contracting for services, supplies and capital equipment, provided that such contract shall be authorized by the governing body of each party to the contract.

E. Situational acquisitions:

- i. legal advertising, publication or placement of advertisements directly with media sources
- ii. contracts for legal services or bond related services
- iii. professional, consultant and information related technology services costing less than \$250,000
- iv. college employee education, training and related travel expenses costing less than \$250,000
- v. purchases with special educational discounts offered by vendors exclusively to schools, colleges, universities, and other educational institutions where the property is for the express purpose of educating students
- vi. concession services where there is no expenditure of college funds
- vii. goods or services for which competitive solicitation procedures are impractical
- viii. medical director and medical professional services
- ix. property held for resale, such as bookstore inventory
- x. purchase of copyrighted materials available primarily from the publisher
- xi. membership dues and subscriptions where competitive solicitations are impractical
- xii. goods that are in used condition
- xiii. preventative maintenance and repair of scientific equipment, when the services are only available from a single supplier
- xiv. ongoing maintenance, upgrades, support, or additional licenses for software or other information technology solutions, including a change in the manner of solution delivery; which software or solution was originally acquired in compliance with the purchasing laws in effect at the time of acquisition
- xv. ongoing maintenance, upgrades and support for existing equipment

F. Emergency Purchases

- i. The purchasing director, or designee, may authorize emergency purchases of goods and services when determined necessary and in the best interest of the college. Examples of circumstances that could necessitate an emergency purchase include:

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- a) Unforeseen or beyond the control of the college or constituting a force majeure
  - b) Present a real, immediate or extreme threat to the proper performance of essential college functions
  - c) May reasonably be expected to result in excessive loss or damage to property or other resources, and/or bodily injury or loss of life
- ii. Any affected department may make an emergency purchase in the open market at the best attainable price when a documented emergency condition exists and the need cannot be met through the college's normal procurement method, provided that:
- a) Funds are available for the purchase
  - b) Verbal authorization is obtained from the vice president for Finance and Administration
  - c) Competition to the fullest extent practicable under existing circumstances is obtained and documented
  - d) The cost of the purchase does not exceed the amount requiring SBOE executive director approval as prescribed in SBOE policy V.I.3.a.
- iii. A fully signed explanation of the circumstances surrounding the emergency and the necessity for the purchase is filed by the requester with the purchasing director within two working days after such purchase or cessation of emergency conditions, whichever is later.

G. Direct Negotiations

In lieu of competitive bidding, and when not covered by a state open contract, negotiations may be conducted whenever any of the following conditions are applicable and authorized by the purchasing director:

- i. The public good as determined by the purchasing director will not permit the competitive bid process due to time constraints
- ii. No responsive or responsible bids are received at acceptable levels of price, service or terms
- iii. Approved sole source scenarios
- iv. Where there is a particular savings through the use of educational discounts
- v. Acquisition of federal surplus or excess property

**6. Qualification of Vendors**

- A. No vendor shall be allowed to submit a bid unless such vendor is qualified. All vendors are qualified unless disqualified.
- B. Vendors may be disqualified for any of the following reasons:
- i. Failure to perform according to the terms of any agreement
  - ii. Attempts by whatever means to cause acquisition specifications to be drawn so as to favor a specific vendor
  - iii. Actions to obstruct or unreasonably delay acquisitions by the college  
Obstruction is hereby defined as a lack of success in more than fifty percent (50%) of the appeals made in each of three (3) different acquisitions during any twenty-four (24) month period.
  - iv. Perjury in a vendor disqualification hearing

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- v. Debarment, suspension or ineligibility from federal contracting of the vendor, its principals or affiliates
- vi. Any reason in Idaho law that would disqualify a particular vendor for a particular bid
- C. A vendor shall be notified by registered mail within ten (10) days of disqualification and may, within thirty (30) days of the receipt of such notice, challenge the disqualification.
- D. Disqualification or conditions may be imposed for a period of not more than five (5) years.

**7. Appeals**

- A. Elements of a formal sealed bid that are appealable include:
  - i. bid specifications;
  - ii. determination by the college that the bid is nonresponsive and does not comply with the bid invitation and specifications; and
  - iii. award to a successful vendor.
- B. For formal procurements utilizing the sealed bid process, the detailed process for appeals will be referenced within the posted bid information and specification package.
- C. In addition, Sole Source determinations are appealable. The detailed process for appeal will be referenced in the legal notice.
- D. Any appeal will be reviewed and a written decision setting forth reasons for denial will be provided or if upheld an amendment (for a specification or intent to award appeal) to the original bid or sole source determination will be posted.
- E. Submitting a bid to the college constitutes standard acceptance of this policy including the appeals process.
- F. Small purchases or purchases that are exempted from bidding requirements are not appealable.

**8. Ethics Requirements**

- A. All faculty, staff and students at the college are required to adhere to the intent and spirit of these policies and directives. They are designed as a means to acquire the necessary goods and services as effectively and economically as possible, while also maintaining compliance with the laws of the state of Idaho. Employees are subject to penalties as described in Idaho Code, including, but not limited to, those in Section 67-9231.
- B. Employees are prohibited from obtaining goods or services by avoiding the competitive process through such actions as splitting purchases, creating false emergency situations, and purchasing outside open contracts without authorization.
- C. Any effort to circumvent or abuse state and college purchasing regulations and policies or procedures will not be condoned and is subject to disciplinary action up to and including dismissal.
- D. Purchasing Ethics and Vendor Relationships
  - i. All employees are involved in business transacted by the college in one form or another. Especially so are those professional purchasers and other personnel who purchase items and services, including those using the college P-card. Each employee has a personal responsibility to conduct college business in an ethical manner and assure the integrity of the purchasing and procurement processes.

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ii. Conflict of interest:

- a) A conflict of interest occurs when a person's private interests compete with his or her professional obligations to the college to a degree that an independent observer might reasonably question whether the person's professional actions or decisions are materially affected by personal considerations, including but not limited to personal gain, financial or otherwise.
- b) Employees are therefore prohibited from entering into service contracts with or selling goods to the college.

iii. Influencing/conspiring to influence: The college prohibits the influencing or conspiring to influence purchasing decisions and contract awards. Attempts at influence may include kickbacks and bribes, peddling or payment of a fee, back door selling, hard-sell tactics, fraternization, or offering gifts to avoid following published procedures or gain advantages.

iv. Post issuance contract oversight is required to guarantee the college receives all goods and services as per the terms of the agreement. LC State Contract Management policy 4.131 describes roles and responsibilities for contract management.

E. It is the responsibility of the college purchasing director to ensure that procurement staff are properly trained to execute their duties efficiently and in accordance with laws and regulations.

**9. Authority and Responsibilities**

- A. The college purchasing director is responsible for ensuring compliance with this policy.
- B. All college employees are responsible for following this policy when making purchases.

**10. Related Laws and Policies**

- A. Idaho State Board of Education Governing Policies and Procedures, Section I.E.2.a
- B. Idaho Code Section 59-1026
- C. Idaho Code Section 67-9225
- D. Purchasing Procurement Card Policy 4.121
- E. Purchasing Procedures – <https://www.lcsc.edu/purchasing>