

Subject: Public Procurement

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1. Purpose

This policy is established to ensure that all Tidewater Community College (TCC) procurements are conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to public business, and that no provider of goods or services is arbitrarily or capriciously excluded.

2. Policy

Tidewater Community College shall conduct all purchasing for the college in accordance with the *Virginia Public Procurement Act* (VPPA) and the regulations set forth in the Department of General Services/Division of Purchases and Supply's (DGS/DPS) *Agency Procurement and Surplus Property Manual* (APSPM) and *Vendors Manual*.

2.1 Public Procurement Requirements

These regulations and manuals direct that:

- competition be sought to the maximum degree feasible;
- procurement procedures involve openness and administrative efficiency;
- rules governing contract awards be made clear in advance of the competition;
- specifications reflect the procurement needs rather than being drawn to favor a particular vendor; and
- the college and vendors freely exchange information concerning what is sought to be procured and what is offered.

2.2. Application of Policy

This policy shall apply regardless of the source of funds used to pay for any goods or services. It shall also apply whether or not the purchase will result in monetary consideration for either party. Additional federal procurement regulations will be applied to contracts as required by the grantor agency.

The TCC Educational Foundation, Inc. and the TCC Real Estate Foundation, Inc. may use the services and expertise of the college's Office of Materiel Management & Procurement Services for purchases estimated to exceed \$10,000.

2.3. Procurement Officials Standard of Conduct

The laws of the Commonwealth of Virginia dictate a higher standard of conduct for procurement officials than for public employees in general. Procurement officials shall be cognizant of these laws which include the *Virginia Public Procurement Act*, the *State and Local Government Conflict of Interests Act*, and the *Virginia Governmental Frauds Act*. All college employees having official responsibility for procurement transactions shall conduct business with vendors in a manner above reproach in every respect.

2.4. Purchasing Authority

DGS/DPS has delegated unlimited purchasing authority to Tidewater Community College to issue contracts (which include agency purchase orders) for all goods and services, with the exception of printing services estimated to cost over \$50,000. Print services in excess of \$50,000 shall be submitted by the Office of Materiel Management & Procurement Services to DGS/DPS for review and approval.

No college employee, other than those in the positions indicated in the following paragraph, is authorized to sign purchase contracts for the college or to make purchases on behalf of the college without the benefit of an approved purchase order. Employees violating this policy may be held personally liable for purchases and subject to sanctions.

- Positions having unlimited purchasing authority for goods and services are:
 - President
 - Vice President for Finance
 - Director of Materiel Management & Procurement Services
- Positions having purchasing authority for goods and services up to \$100,000 are:
 - Associate Director of Procurement Services

- Positions having purchasing authority for goods and services up to \$50,000 are:
 - Contracting Officers in the Office of Materiel Management & Procurement Services.
- Each Campus Business Manager has delegated purchasing authority for goods and services up to \$5,000.
- Certain individuals throughout the college have received delegated authority to participate in the Small Purchase Charge Card Program (SPCC). Details concerning this program are in [SPCC Policy 4302](#).

2.5. Mandatory Sources

The following are mandatory sources for goods and services and shall be used before any other supplier.

- State term mandatory contracts established by the Commonwealth's DGS/DPS – A comprehensive list of items on contract is located at <https://logi.epro.cgipdc.com/External/rdPage.aspx?rdReport=Public.Reports.Report9008.Data>.
- Virginia Correctional Enterprises (VCE) – Includes certain goods and services such as office furniture, modular furniture, data entry, printing (CORPRINT) binders, sign products, etc. A comprehensive list of items available through VCE is located at <http://www.govce.net/store/splashvce.aspx>.
- Department for the Blind and Vision Impaired (DBVI) – Includes certain goods and services such as pens, markers, mop heads and handles, mattresses, pillows, and gloves. Additional information may be obtained by calling (434) 295-6034.
- Virginia Distribution Center (VDC) – Includes certain goods such as janitorial, household or paper products, paint, selected foods and food products. A comprehensive list of items available through VDC is located at <http://vdc.dgs.virginia.gov/buy-from-vdc.html>.
- Office of Graphic Communications (OGC) – If services cannot be performed in-house and costs exceed \$750, the Office of Materiel Management & Procurement Services must contact OGC to determine if the requirements can be met by them. OGC offers consultation, project management, design, and production for a wide variety of graphic design projects which include web and print communications.

If any of the goods or services provided by a mandatory source cannot meet the needs of the college, the requestor shall forward a written justification to the Office of Materiel Management & Procurement Services. If the justification is appropriate, the Office of Materiel Management & Procurement Services will send a written request for release to the issuing contracting agency.

2.6. TCC Warehouse Catalog

An online catalog of many of the commonly used supplies is maintained by the District Warehouse. This catalog shall serve as a first source for obtaining supplies before utilizing any other means of procurement. The online catalog is available at:

<http://web.tcc.edu/welcome/collegeadmin/financial/MManagement/services/warehouse.htm>.

2.7. Electronic Procurement System (eVA)

Goods and services shall be procured through the Commonwealth's electronic procurement system (eVA) using eVA registered vendors. Exceptions include items such as travel expenses, advertisements, and membership fees. In situations where there is an immediate need, an over-the-counter charge card purchase may be made at the site of the sale and picked up by the individual cardholder. A comprehensive list of eVA exclusions is available online at <https://insidetcc.tcc.edu/finance/documents/eVAExclusions4-08.pdf>.

eVA users separating from the college, permanently or for an extended period of leave such as disability, medical, etc., shall notify the Financial Information System Manager or his/her designee of the date of their separation and shall complete the [eVA Security Form](#) marked for removal. The completed form shall be submitted to the Financial Information System Manager or his/her designee prior to separation from the college.

2.8. Small, Women, and Minority Business Participation

The college shall support the objective of increasing procurement opportunities for small, women-owned, and minority-owned (SWAM) businesses as directed by the Commonwealth of Virginia, Executive Order #20. To be considered a SWAM business, the vendor must be certified as such by the Department of Small Business and Supplier Diversity (DSBSD). Additional information about the SWAM program may be found at <http://www.dmbv.virginia.gov/faq.html>.

2.8.1. Small Business Enhancement Set-aside Award Priority

For purchases under \$10,000, the award of a contract shall be made to the lowest priced or highest ranked DSBSD-certified micro business if fully qualified and pricing is fair and reasonable. If there are no micro businesses that are fully qualified with fair and reasonable pricing, the award shall be made to the lowest priced or highest ranked DSBSD-certified small business if fully qualified and pricing is fair and reasonable. If there are no reasonably priced bids or offers meeting the above criteria received from certified micro or small businesses, an award may be made to the lowest priced bidder or highest ranked offeror of any size if fully qualified with fair and reasonable pricing.

For purchases from \$10,000 to \$100,000, the award of a contract shall be made to the lowest priced or highest ranked DSBSD-certified micro or small business if fully qualified and pricing is fair and reasonable. If there are no reasonably priced bids or offers meeting the above criteria received from certified micro or small businesses, an award may be made to the lowest priced bidder or highest ranked offeror of any size if fully qualified with fair and reasonable pricing.

2.9. Order Splitting

Requestors shall not split orders for the purpose of avoiding using the appropriate method of procurement or to remain within the delegated small purchase charge card purchasing authority.

2.10. Tax Exemption

Agencies of the Commonwealth of Virginia are generally exempt from paying Virginia sales taxes on purchases of tangible personal property for their use or consumption. Requestors shall request a Tax Exemption Certificate (Form ST-12) or tax exemption number from the Office of Materiel Management & Procurement Services if required by the contractor. Catered meals, lodging, and conference facility rentals are not tax exempt.

2.11. Penalties for Violation of Procurement Policies and Procedures

Employees who knowingly violate procurement policies and procedures shall be subject to sanctions in accordance with the severity of the violation. Additionally, employees may be held responsible for payment of unauthorized goods and/or services.

2.11.1. General Violations

These violations generally include, but are not limited to, an employee's failure to adhere to procurement regulations pertaining to use of state contracts, eVA and/or eVA registered vendors, micro/small businesses certified with DSBSD, and acquisition of required price quotes.

2.11.2. General Violation Sanctions

- 2.11.2.1. The first violation results in a warning with explanation of policy and/or procedure that was violated.
- 2.11.2.2. Two violations within a 12-month period shall result in rescission of the employee's authority to purchase and, if applicable, use of the SPCC for a period of ninety (90) days.
- 2.11.2.3. Three violations within a 24-month period shall result in rescission of the employee's authority to purchase and, if applicable, use of the SPCC.

2.11.2.4. All such communications shall be forwarded to the employee and copied to the employee's supervisor, the supervising Executive Staff member, and the Vice President for Finance. Notifications shall be kept on file in the Office of Materiel Management and Procurement Services.

2.11.3. Severe Violations

2.11.3.1. Procurement authority including use of the SPCC shall be immediately rescinded for severe violations. These violations generally include, but are not limited to, an employee's failure to adhere to procurement regulations such as exceeding procurement authority, use of college resources (including but not limited to the SPCC) to procure personal items, use of the SPCC for cash advances, and the unauthorized purchase of gift cards and/or gift certificates.

2.11.3.2. The employee may be subject to appropriate sanctions, up to and including dismissal, in the event of a severe violation.

3. Responsibilities

The Vice President for Finance shall develop and maintain procedures that are consistent with this policy and that comply with applicable policies and procedures of the Commonwealth of Virginia.

4. Procedures

The following procedures will be used in implementing procurement activities on behalf of the college.

4.1 Methods of Procurement

The nature of the procurement will determine the appropriate method.

4.1.1. Procurements up to \$5,000

Requestors must first check established contracts for goods or services and, if available, input the requisition in eVA. If not available through an established contract, the requestor must obtain and document a minimum of one (1) written or telephone (oral) quotation from a DSBSD-certified micro business; a listing of DSBSD-certified micro/small businesses may be found at <http://www.dmbv.virginia.gov/SWaMSearchSub.html>. The requestor must input the requisition in eVA and a record of the quotation must be kept with the requisition either by attaching the quotation or documenting the same information in the eVA comments field. If a DSBSD-certified micro business is not available, requestors must obtain and document a second written or telephone (oral) quotation from a DSBSD-certified small business. If a DSBSD-certified micro or small

business is not available, requestors must document their findings and the Office of Materiel Management & Procurement Services will conduct additional research.

4.1.2. Procurements between \$5,001 and \$100,000

Requestors must first check established contracts for goods and services and, if available, input the requisition in eVA. If not available through an established contract, the requestor must input the requisition in eVA and include detailed specifications for each item or service. The Office of Materiel Management & Procurement Services will issue a Quick Quote through eVA or an informal Request for Proposal.

4.1.3. Procurements over \$100,000

Competitive sealed bidding is the preferred method for acquiring goods and services when the estimated cost is over \$100,000. Requestors must first check established contracts for purchases of goods and services and, if available, input the requisition in eVA. If not available through an established contract, the requestor must input the requisition in eVA and include detailed specifications for each item or service. The Office of Materiel Management & Procurement Services will work with the requestor and issue a formal solicitation.

4.1.4. Sole Source Procurements

A sole source procurement may be authorized when there is only one source practicably available for the good or service required. A written quotation must be obtained from the vendor for any sole source procurement exceeding \$5,000.

For all sole source procurements, the requestor must explain:

- why this is the only product or service that can meet the needs of the purchasing agency;
- why this vendor is the only practicably available source from which to obtain this product or service;
- why the price is considered reasonable; and
- the efforts that were made to obtain the best possible price.

All non-technology sole source procurements exceeding \$50,000 must be submitted by the Office of Materiel Management & Procurement Services to DGS/DPS for review and approval.

All technology sole source procurements over \$5,000 and software sole source procurements over \$30,000 must be submitted by the Office of Materiel Management & Procurement Services to the Virginia Community

College System (VCCS) Office of Information Technology Services (ITS) for approval.

Once final written approval has been received by DGS/DPS or the VCCS ITS, the Office of Materiel Management & Procurement Services will negotiate the contract without competitive sealed bidding or competitive negotiation. Price reasonableness will be established for all sole source procurements regardless of dollar value.

4.1.5. Emergency Procurements

An emergency procurement may only be justified because of a serious and urgent occurrence that demands immediate action. Emergency procurements may be used to purchase only that which is necessary to cover the requirements of the emergency.

It is appropriate to use emergency procedures under the following conditions.

- Purchase is required to protect personal safety, health, or property. Competition must be sought as much as is practicable under the circumstances.
- For other types of emergencies, competition must be sought to the maximum extent practicable.

The Director of Materiel Management & Procurement Services must be notified of the emergency and for assistance with order placement and documentation.

4.1.6. Used Equipment

Purchases of used equipment (that which has been previously owned, used, and/or offered for sale under "where is, as is" conditions), may be negotiated by the Office of Materiel Management & Procurement Services.

The requestor must submit an eVA requisition describing the item along with the price being offered in writing from the seller. The requestor must be technically knowledgeable of the type of equipment to be purchased and must submit a written statement verifying its condition, its future usefulness, and that its purchase would be in the best interest of the college.

4.2. Change Orders

Cumulative change orders to a purchase order issued for \$50,000 or less must not exceed twenty-five percent (25%) of the original purchase order total without the advanced written approval of the Director of Materiel Management & Procurement Services. No fixed-price contract may be increased by more than

25% of the original amount of the contract or \$50,000, whichever is greater, without the advance written approval of the Governor or his/her designee.

4.3. Order Follow-up and Expediting

The Office of Materiel Management & Procurement Services is responsible for ensuring that services and goods are provided in accordance with the terms of the contract and/or purchase order, and to contact vendors concerning the status of all orders. However, staff who choose to render purchase orders within the parameters of their delegated procurement authority are strongly encouraged to follow up on those orders with the vendors.

4.4. Vendor Complaints

Complaints and/or discrepancies concerning vendor performance must be reported immediately to the Office of Materiel Management & Procurement Services.

4.5. Construction

Construction is defined as building, altering, repairing, improving, or demolishing any structure, building, or highway, and any draining, dredging, excavation, grading, or similar work upon real property (*Code of Virginia*, § 2.2-4301).

4.5.1. Capital Projects

The procurement of construction for Capital projects is handled by the VCCS System Office. "Capital project" means the acquisition of any interest in land, including improvements on the acquired land at the time of acquisition, new construction, and improvements or renovations when the total project cost exceeds \$500,000. The term shall not include any capital lease. (VCCS Policy Manual, 10.0.0.1.b)

4.5.2. Non-Capital Outlay

The procurement of construction for Non-Capital projects is processed by the VCCS System Office or the college's Office of Materiel Management & Procurement Services and is procured using the procedures and contract provisions of the "*Construction and Professional Services Manual*," issued by the Department of General Services, Division of Engineering and Buildings.

4.6. Contractor's Insurance Requirements

Whenever work is to be performed on state owned or leased facilities, contractors are required to have Workers' Compensation, Employer's Liability, Commercial General Liability, Automobile Liability, and in certain types of programs Professional Liability/Errors and Omissions insurance coverage. For construction contracts, all subcontractors are required to have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 *et seq.* of

the *Code of Virginia*. A certificate of insurance must be obtained prior to commencement of work and maintained during the entire term of the contract.

4.7. Contractor's License Requirements

State statutes and regulatory agencies require that some contractors be properly registered and licensed, or hold a permit, prior to performing specific types of services. Some of these services are construction, pesticide application, asbestos service, security service, and the treatment, storage, handling, transportation, or disposal of hazardous waste or hazardous radioactive material. The Office of Materiel Management & Procurement Services must be consulted for licensing permit requirements for other similar services.

If a procurement of \$1,000 or more involves construction, removal, repair or improvement of any building or structure permanently annexed to real property or any other improvement to such real property, the contractor must possess one of the following licenses issued by the State Board for Contractors for the type of work involved (*Code of Virginia*, §§ 54.1-1103 and 54.1-1115):

- **Contractor License A** - If the contract is \$120,000 or more, or if the contractor does \$750,000 or more in business within a 12-month period.
- **Contractor License B** – If the contract is between \$7,500 and \$120,000, or if the contractor does between \$150,000 and \$750,000 in business within a 12-month period.
- **Contractor License C** – If the contract is between \$1,000 and \$7,500, or if the contractor does less than \$150,000 in business in a 12-month period. Note: The State Board for Contractors requires a master tradesmen license as a condition of licensure for electrical, plumbing, and heating, ventilation and air conditioning contractors.

4.8. Contract Administration

To ensure proper oversight for continuous or term contracts, the Office of Materiel Management & Procurement Services will assign responsibility for contract administration in writing to specific employees. The designation letter will highlight important aspects of the contract and distinguish between the contract administrator's authority and that which must remain a function of the Office of Materiel Management & Procurement Services.

The contract administrator must notify the Office of Materiel Management & Procurement Services immediately of any contract discrepancies so that appropriate corrective action can be taken.

5. Definitions

VPPA – *Virginia Public Procurement Act* states the public policies pertaining to governmental procurement from nongovernmental sources.

DGS/DPS – The Department of General Services, Division of Purchases & Supply. DGS/DPS is the State's centralized purchasing agency for materials, equipment, supplies, nonprofessional services and printing, and prescribes the rules and regulations for the purchase of these goods and services (*Code of Virginia*, § 2.2-1109 *et seq.*).

APSPM – *Agency Procurement and Surplus Property Manual*. Manual published by DGS/DPS under the authority of Section 2.2-1111 of the *Code of Virginia* which establishes the policies and procedures to be followed by State agencies and institutions in fulfilling procurement and related logistical responsibilities within their delegated limits.

DSBSD – Department of Small Business and Supplier Diversity. DSBSD is the state agency dedicated to enhancing the participation of the Commonwealth's micro, small, women- and minority-owned businesses in Virginia's procurement process.

Official Responsibility – Administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove, or otherwise affect a procurement transaction, or any claim resulting therefrom.

6. References

- [Virginia Public Procurement Act](#)
- [DGS/DPS Agency Procurement and Surplus Property Manual](#)
- [State and Local Government Conflict of Interests Act](#)
- [Virginia Governmental Frauds Act](#)
- [Construction and Professional Services Manual](#)

7. Review Periodicity and Responsibility

The Vice President for Finance shall review this policy annually on the anniversary of its approval and, if necessary, recommend revisions. The policy shall also be reviewed when changes to the relevant laws, regulations, policies, and procedures are made.

8. Effective Date and Approval

This policy is effective upon its approval by the College President on January 22, 2015.

Policy Approved:

Procedure Developed:

Edna V. Baehre-Kolovani, Ph.D.
President

Phyllis F. Milloy
Vice President for Finance

9. Review and Revision History

The initial version of this policy was approved June 28, 2012.

- Revision 1

- Section 2.2 Application of Policy

- Inserted language regarding the application of federal procurement regulations to contracts.

- Approved August 8, 2013 by President Edna V. Baehre-Kolovani, Ph.D.

- Revision 2

- Modified to change department name to Office of Materiel Management & Procurement Services.
 - Modified to change name of the Department of Minority Business Enterprise (DMBE) to the Department of Small Business and Supplier Diversity.
 - Modified to incorporate Executive Order #20.
 - Modified to include micro businesses.

- Approved January 22, 2015 by President Edna V. Baehre-Kolovani, Ph.D.