STUDENT ALTERNATIVES PROGRAM, INC.

Organizational Purchasing Manual

Version 3

Date Effective

July 1, 2025

STUDENT ALTERNATIVES PROGRAM, INC.

Organizational Purchasing Manual

Version 2

Central Office

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SEC. 1. OVERVIEW

As with every organization, Student Alternatives Program, Inc. (SAPI) strives to provide its personnel with the procedures and forms necessary to facilitate organizational compliance with applicable legal requirements, to minimize the abuse and waste of limited financial resources, and to mitigate the risk of fraudulent conduct.

Sec. 1.1. PURPOSE

With this manual, SAPI endeavors to provide its personnel with a sufficiently informative description of the purchasing process applicable to its use of all charter school funds - local, state, and federal. Accordingly, this manual identifies and describes the procedures applicable to the procurement of goods and services. This manual does not address other requirements (e.g., federal time and effort reporting) that do not directly pertain to the procurement of goods and services. SAPI personnel should consult the appropriate SAPI handbook for guidance and direction. 2 CFR §200.105 stipulates that federal guidance is nonbinding and requires the federal awarding agencies to post any potential legally binding requirements for public notice and comment.

Sec. 1.2. LEGAL REQUIREMENTS

Through this manual SAPI strives to implement the fiscal requirements set forth in the following legal authorities, as applicable.

(a) Code of Federal Regulations, Title 2, Part 200 (2 CFR 200)

(b) Code of Federal Regulations, Title 34

(c) Chapter 12, Subchapter D of the Texas Education Code (Tex. Ed. Code)

(d) Tex. Ed. Code Chapter 44, Subchapter B

(e) Chapter 2269 of the Texas Government Code (Tex. Govt. Code)

(f) Chapter 271, Subchapter B of the Texas Local Government Code

(g) Chapter 100, Subchapter AA of Title 19 of the Texas Administrative Code (19 TAC 100)

(h) Financial Accountability System Resource Guide (FASRG)

(i) Policy PG-5.510: Purchasing and Contracting

Sec. 1.3. MANUAL TO SUPPLEMENT LEGAL REQUIREMENTS

This manual does not supersede and is not in lieu of the legal requirements promulgated in state and federal law and rule (collectively, law), the contract for charter, grants, contracts, and other legal mandates. Instead, these manual supplements existing legal requirements and facilitates corporate and charter school compliance with state and federal law and applicable contracts. In any instance where this manual conflicts with the state and federal law or a contractual or grant clause, the law or clause will govern and control. When in doubt, SAPI personnel are advised to consult legal, accounting and business professionals concerning applicable legal and accounting requirements under state and federal law.

Sec. 1.4. Manual to Implement Board Policy

This manual does not supersede and is not in lieu of the policies adopted by the Board of Directors (Board). Instead, this manual supports and implements Board policy by describing the corporate and charter school purchasing practices and processes. In any instance where this manual conflicts with Board policy, Board policy shall control.

Sec. 1.5. General Applicability

The purchasing policies, procedures and practices described in this manual apply to all charter districts and the use of all charter school funds - local, state, and federal - for the procurement of goods and services.

Sec. 1.6. Applicability for Convenience

In general, the purchasing policies, procedures and practices described in this manual shall not be applied to non-charter school programs, services, functions, and activities (collectively, activities). However, if administratively convenient and cost effective, SAPI may, at its discretion and on a case-by-case basis, apply the purchasing process described in this manual, in whole or in part, to the purchase of goods and services for its non-charter school activities and from non-charter school funds.

Sec. 1.7. Organization of Manual

This manual is organized into sections that are identified with a number. The procedures described in this manual outline the process that the charter districts and corporate office shall follow to demonstrate compliance with applicable law and Board policy.

Sec. 1.8. Responsibility for Development and Maintenance

The Finance Officer is primarily responsible for the development and maintenance of this manual. Charter district and corporate employees, officers and Board members may assist with the development and maintenance of this manual and may make recommendations to the Finance Officer to improve SAPI's purchasing practices.

Sec. 1.9. Version Control

The Finance Officer will ensure that the current version number is identified in Sec. 1.12 below and in the header of this manual.

Sec. 1.10. Amendment of Manual

For administrative expediency, this manual will only be amended during a fiscal year if a new and significant law, policy and/or procedure is adopted and made effective during the fiscal year. Otherwise, this manual will be reviewed and revised annually before the fiscal year ends and prior to the start of the following fiscal year. The Finance Officer will ensure that the header of this manual identifies the date that the manual was amended.

Sec. 1.11. Last Reviewed

This manual was last reviewed during the 2025 fiscal year. The Finance Officer will ensure that the header of this manual identifies the date (year) that the manual was last reviewed.

Sec. 1.12. Effective Date

Version 2 of this manual is effective for fiscal years beginning on July 01, 2025, and thereafter. The Finance Officer will ensure that the effective date is identified in the header of this manual.

Sec. 1.13. Retention of Manual

Version 1 of this manual was superseded on March 5, 2016. Accordingly, Version 1 shall be retained until July 01, 2025 BOARD MEETING DATE PLUS FIVE (5) YEARS.[1]

SEC. 2. ORGANIZATIONAL GUIDING PRINCIPLES

To provide direction and guidance in its purchasing activities, it is important for everyone involved in the SAPI purchasing process to be mindful of the organizational vision, mission, and goals for the charter districts. Corporate and charter district employees must apply these principles to each purchase of goods and services from charter school funds.

Sec. 2.1. Vision

The vision of Triumph Public High Schools (TPHS) is to guide all students to be successful life-long learners, be respectful and responsible citizens who will continue to triumph throughout their lives.

Sec. 2.2. Mission

The mission of Triumph Public High Schools is to provide quality educational programs in a community-based, non-traditional setting in which teachers are free to be creative and innovative, and students are free to explore their full potential.

Sec. 2.3. Organizational Purposes

Pursuant to the provisions of the Texas Non-Profit Corporation Act, the Student Alternatives Program Inc. was incorporated on December 21, 1990, for the following purposes:

(a) To operate and maintain, without profit, facilities and centers to assist young persons, who are considered to be “at risk” and/or have “dropped-out” of public educational institutions, in providing them with educational alternatives which will enhance their ability to achieve higher levels of educational or vocational attainment through remediation and competency-based curriculums and programs which will ultimately prepare them in living successfully in their community;

[1] See Texas State Library and Archives Commission Local Schedule GR, Retention Schedule for Records Common to All Local Governments (Effective April 17, 2016), Record Number GR1000-38 and GR1025-25.

(b) To provide adequate supportive services to such young people in a manner which will effectively enhance their educational and vocational goals;

(c) To work in cooperation with public, private and governmental agencies concerned with the educational and vocational problems of such young people; and

(d) To contract with such entities in furtherance of the above described purposes.

SEC. 3. CODE OF CONDUCT

Sec. 3.1. STANDARDS OF ETHICS[2]

SAPI personnel shall be responsible for adhering to the following standards of ethics when using charter school funds for the purchase of goods and services.

(a) It is a breach of ethics to attempt to realize personal gain through public employment with Triumph Public High Schools by any conduct inconsistent with the proper discharge of the employee's duties.

(b) It is a breach of ethics to attempt to influence any public employee of Triumph Public High Schools to breach the standards of ethics set forth in this Sec. 3.1.

(c) It is a breach of ethics for any employee of Triumph Public High Schools to participate directly or indirectly in a procurement when the employee knows that:

  (1) the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;

  (2) a business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or

  (3) any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

(d) It is a breach of ethics to offer, give, or agree to give any employee or former employee of Triumph Public High Schools, or for any employee or former employee of Triumph Public High Schools to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or

[2] FASRG Module 5 (5.2.2 Common Standards of Ethics)

to any solicitation or proposal therefore pending before Triumph Public High Schools. Acceptance of gratuities may be construed as a criminal offense.

(e) It is a breach of ethics for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract of Triumph Public High Schools, or any person associated therewith, as an inducement for the award of a subcontract or order.

(f) The prohibition against gratuities and kickbacks prescribed above should be conspicuously set forth in every contract and solicitation therefore.

(g) It is a breach of ethics for any employee or former employee of Triumph Public High Schools knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.

Sec. 3.2. INDIVIDUAL CONFLICTS

In accordance with 2 CFR §200.318(c)(1), prior to participating in the selection, award, or administration of a contract supported by a federal award, employees and officers and any agent conducting work on behalf of SAPI must disclose, in writing, any real or apparent conflict of interest. If the employee, officer, or agent has no such conflict, the employee, officer, and agent must provide a written statement to this effect.

Sec. 3.2.1. WRITTEN STATEMENT

Employees, officers, and agents may provide the required written statement via electronic mail using their SAPI or other employer issued e-mail address. In their statement, employees, officers, and agents must declare as follows:

> I, [Name], have reviewed Sec. 3.2 of the Purchasing Manual relating to individual conflicts and the conflicts of interest policy adopted by the Board of Directors and, after consulting with management have identified the following conflict(s) of interest:
>
> [Identify conflicted party and provide a sufficiently detailed, but brief, description of the conflict of interest.]
>
> I hereby certify and attest that, to the best of my knowledge and belief, the conflict(s) of interest enumerated and described above, are my only such conflicts and I further certify and attest that, also to the best of my knowledge and belief, I do not have any real or apparent conflict of interest with any current or prospective vendor for the invitation for bids or request for proposals, No. [IFB/RFP ID], or solicitation for quotes for which this certification is provided.

or

> I, [Name], have reviewed Sec. 3.2 of the Purchasing Manual relating to individual conflicts and the conflicts of interest policy adopted by the Board of Directors and hereby certify and attest that, to the best of my knowledge and belief, I do not have any real or apparent conflict of interest with any prospective vendor for the

invitation for bids or request for proposals, No. [IFB/RFP ID], or solicitation for quotes for which this certification is provided.

Sec. 3.2.2. Circumstances Resulting in a Conflict of Interest

A conflict of interest would arise when an employee, officer, or agent, has a financial or other interest in or a tangible personal benefit from an organization that is being considered for a contract. Moreover, a conflict of interest would also arise if any member of said employee's, officer's, or agent's immediate family, partner, or an organization which employs or is about to employ any of the parties indicated herein has a financial or other interest in or a tangible personal benefit from an organization that is being considered for a contract. In addition to the requirement set forth in this section, employees and officers must consider the requirements set forth in the policy adopted by the Board of Directors, PG-1.6 Ethics, Conflict of Interest, and Nepotism.

Sec. 3.2.3. Participation

For purposes of this section, participation means any involvement, be it direct or indirect, in the process for selecting and awarding a contract and the subsequent administration of said contract, including monitoring contractor performance with the terms and conditions of the contract and any require evaluation of contractor performance.

Sec. 3.2.4. Apparent

For purposes of this section, apparent means both clearly visible or understood (i.e., obvious) and seemingly real or true but not necessarily so.

Sec. 3.2.5. Participation Prohibited

If an employee, officer, or agent has a real or apparent conflict of interest, the employee, officer, or agent shall not participate in the selection, award, or administration of a contract supported by a Federal award.

Sec. 3.2.6. Exclusion of Conflicted Agents

In accordance with 2 CFR §200.319(b), SAPI's agents that develop or draft specifications, requirements, statements of work, invitations for bids, requests for proposals, or solicitations for quotes must be excluded from competing for such procurements.

Sec. 3.3. Organizational Conflicts

As set forth in 2 CFR §200.318(c)(2), an organizational conflict of interest may result when SAPI conducts a business transaction with an affiliate or subsidiary organization and, because of this relationship, SAPI is unable or appears to be unable to be impartial in conducting a procurement action involving its affiliate or subsidiary. Generally, because of its relationship with an affiliate or subsidiary, SAPI may encounter one or more of the following types of organizational conflicts of interest.

(a) Unequal access to information.

(b) Biased ground rules.

(c) Impaired objectivity.

Thus, when using federal funds to procure goods and services from an affiliate or subsidiary organization, the Board and SAPI officers and employees are to avoid and take other actions to mitigate the potential for significant organizational conflicts of interest that may result in an unfair competitive advantage to an affiliate or subsidiary. If SAPI personnel identify an organizational conflict of interest, the employee must prepare a memorandum to the Charter Division Superintendent/CEO (Superintendent) identifying the proposed procurement, the conflicted entity, and the circumstances giving rise to the conflict. Upon review, the Superintendent must submit the memorandum and a proposed remedy to the Board for consideration and approval.

Sec. 3.4. GIFTS

No employee shall accept or solicit any gifts, favor, services, or other benefit that could reasonably be construed to influence the employee's discharge of assigned duties and responsibilities or could be perceived as having been offered because of an existing or potential business relationship. Employees shall disclose any gifts, favors, services, or benefits received with an aggregate value of one hundred dollars ($100.00) or more from any one individual over the course of one (1) fiscal year to the Finance Officer. This includes items of food, lodging, transportation, tickets, or business entertainment accepted as a guest. When the employee is in doubt of the value of the gift, he or she should report it to the Finance Officer. If an employee has any questions regarding acceptable conduct or the interpretation of this policy, or if he or she is in doubt about the best course of action in a particular situation, the employee must seek clarification from his or her supervisor or the Finance Officer. Failure by an employee to disclose gifts pursuant to this policy could result in adverse personnel action against the employee, up to and including termination of employment.

Sec. 3.5. FAILURE TO ADHERE TO CODE OF CONDUCT

The Finance Officer or designee will investigate any alleged failure by an employee to adhere to the Code of Conduct, as set forth in this section, including the disclosure of gifts. If the alleged misconduct is found to be substantiated, SAPI shall, in accordance with the policies adopted by the Board, apply an adverse personnel action against the employee that is appropriate to the infraction identified, including, but not limited to, termination of employment and referral to the proper law enforcement authorities.

Sec. 3.6. ABUSE, WASTE AND FRAUD

The Board of Directors and Superintendent are committed to the ethical and lawful operation of each charter district and the use of public funds, public property and other resources. To this end and to provide employees and other individuals with a venue by which to express their concerns, the Board of Directors and Superintendent have established the Fraud, Waste or Abuse Anonymous Reporting Hotline to provide for the anonymous and confidential reporting of suspected fraud, financial impropriety, and other unlawful, unethical or otherwise unauthorized or prohibited conduct. SAPI employees should report any suspected abuse, waste or fraud to the anonymous reporting hotline. For more information, SAPI employees should refer to https://www.triumphpublicschools.org/required-postings/accountability/.

Sec. 3.7. CONFLICTED, INTERESTED AND RELATED PARTY TRANSACTIONS

Sec. 3.7.1. As established under Sec. 5.4 of Policy PG-5.510, the Superintendent or Finance Officer must present to the Board any contract, purchase order, or other transaction between the following officers and any person[3] that is a conflicted, interested, or related party.

(a) Chief Executive Officer and Superintendent

(b) Finance Officer

(c) Assistant Superintendent

(d) Principal

(e) Assistant Principal or Designee

Sec. 3.7.2. For purposes of this Sec. 3.7, any apparent conflict of interest, any transaction in which an officer appears to have a financial interest, and any person that may be related to an officer must be initially evaluated to determine if a report to the Board must be provided.

Sec. 3.7.3. If the Superintendent or Finance Officer learn of a contract, purchase order, or other transaction that falls under Sec. 3.7.2 and conclude that a real conflict of interest, interested transaction, or related party exists, the Superintendent or Finance Officer must prepare a written report to the Board.

Sec. 3.7.4. The Board must either approve or disapprove the contract, purchase order, or other transaction.

Sec. 3.7.5. Importantly, neither SAPI nor the charter district may sign a contract, issue a purchase order, or otherwise enter into a business arrangement or conduct a transaction in such a manner as to circumvent the requirements of this Sec. 3.7.

Sec. 3.7.6. If approved by the Board, the Finance Officer must prepare and maintain a discrete and clear record of the conflicted, interested or related party transaction in the charter district's accounting, budgeting, and other records.

SEC. 4. GENERAL PURCHASING PROCEDURES

Sec. 4 is based upon Policy PG-5.510, Purchasing and Contracting, and provides purchasing procedures applicable to all procurements, regardless of fund source.

Sec. 4.1. BENEFIT OF THE STUDENTS

As set forth in Sec. 5.2 of Policy PG-5.510, the Superintendent and the designees identified in Sec. 4.2 of this manual must ensure that any use of public funds for the acquisition of goods and

[3] "Person" means an individual or a corporation, partnership, limited liability company, business trust, trust, association, or other organization, estate, government or governmental subdivision or agency, or other legal entity.

services will be for the benefit of the charter district's students. Moreover, the Superintendent and designees must ensure that all purchases provide best value to the students.

Sec. 4.2. Delegate's Designees

As established under Sec. 3.2 and 4.1 of Policy PG-5.001 and Sec. 5.1.1 of Policy PG-5.510, the Superintendent hereby appoints the personnel employed in the following positions as designees for purposes of Sec. 4.3 of this manual.

(a) Finance Officer

(b) Central administration directors

(c) Charter district directors

(d) Campus Principals

Sec. 4.3. Designee's Purchasing Authority

In accordance with Sec. 5.1.1 of Policy PG-5.510, the designees are authorized to make budgeted purchases or other purchases authorized by the Board subject to the following thresholds.

(a) Purchases from petty cash are limited to $100.

(b) Purchases through purchase requisitions resulting in the expenditure of up to $9,999 in funds require approval by the Finance Officer.

(c) Purchases through purchase requisitions resulting in the expenditure of $10,000 or more in funds require approval from the Superintendent.

(d) The Superintendent may authorize purchases resulting in the expenditure of up to $350,000 in funds provided that the Board is notified of the purchases. The Board will review and ratify (or censure) these purchases at the next regularly scheduled meeting of the Board.

(e) Purchases resulting in the expenditure of more than $350,000 in funds require Board approval.

(f) Purchases through a corporate charge or credit account by an authorized cardholder in excess of $10,000 require the Superintendent's prior written approval.

(g) Purchases with personal cash or personal charge or credit cards are limited to the same purposes as petty cash and are limited to $100, unless prior written approval of the Superintendent or Finance Officer has been obtained.

Sec. 4.4. Board Approval Required

In accordance with Sec. 5.3 of Policy PG-5.510, the Board must approve any contract for the purchase of goods and services before it may be signed by the authorized SAPI representative. Alternatively, the Board must review and ratify (or censure) a contract at the next regularly scheduled meeting. In this event, the Superintendent or Finance Officer must provide the Board an explanation as to why the contract was not presented to the Board for prior approval.

Sec. 4.5. CONTRACT REQUIRED

Under Sec. 5.5 of Policy PG-5.510, SAPI and the charter districts may only purchase goods or services with a cost or value of $350,000 or more through a contract that has been signed by all parties and after it has been reviewed by legal counsel and approved by the Board. Importantly, the Superintendent and Finance Officer must ensure that SAPI's and the charter districts' interests are appropriately safeguarded and that the contract conforms with applicable law.

Sec. 4.6. SIGNATURE AUTHORITY

Pursuant to Sec. 5.14 of Policy PG-5.510, only the Superintendent or designee may sign contracts with a cost or value of less than $350,000 on behalf of SAPI and a charter district. If a contract has a cost or value of $350,000 or more, the Board may delegate signature authority to a designee, as documented in the minutes to the meeting of the Board or on the Board's resolution.

Sec. 4.7. SEGREGATION OF DUTIES

Consistent with Sec. 5.12 of Policy PG-5.510 and recognizing that the segregation of duties mitigates the risk of erroneous and inappropriate actions in the procurement of goods and services, the Superintendent and Finance Officer shall ensure an appropriate degree of separation between duties that could facilitate such actions. Accordingly, the Superintendent and Finance Officer will ensure that a singular employee, acting alone, is not able to perform multiple duties or functions, including the following:

(a) Preparation of purchase requisitions and purchase orders;

(b) Solicitation of quotes or preparation of requests for bids, proposals or qualifications;

(c) Receipt, review, evaluation, selection and recommendation of responses to solicitations for award of contract;

(d) Receipt of personal property and/or services and preparation of receiving report attesting to receipt of purchased property;

(e) Receipt of invoices and reconciliation of invoices to receiving reports and purchase orders;

(f) Preparation of payment requests;

(g) Accounting for purchases; and

(h) Approval for all of the above.

If these activities cannot be separated, the Superintendent and Finance Officer must perform a detailed supervisory review of related activities as a compensating control activity. In this manner, SAPI may implement an appropriate degree of segregation of duties as a deterrent to fraud.

Specific examples of an appropriate segregation of duties include:

- The employee who requisitions the purchase of goods or services does not also approve the purchase.
- The employee who approves the purchase of goods or services does not also reconcile the monthly financial reports.
- The employee who approves the purchase of goods or services is not also the custodian, preparer, or issuer of checks.
- The employee who maintains and reconciles the accounting records is not also the custodian, preparer, or issuer of checks.

This section of the manual addresses the segregation of duties with respect to the purchase of goods and services. SAPI personnel should consult the appropriate SAPI handbook for guidance and direction regarding the segregation of duties for other business activities.

Sec. 4.8. Types of Procurements and Related Requirements

SAPI and the charter districts may purchase the following types of goods and services pursuant to the authorized method of procurement.

Sec. 4.8.1. General Goods and Services

For the purchase of general goods and services, all charter district procurements shall be made through the authorized methods of procurement described in Sec. 6 of this manual.

Sec. 4.8.2. Real Property Improvements

For real property improvements[4] valued at $50,000 or more in the aggregate for a 12-month period, the charter district shall adhere to the procurement process described in Sec. 6 of this manual. For real property improvements valued at less than $50,000 in the aggregate for a 12-month period, the district shall adhere to the requirements pertaining to the job order contracting method under Tex. Govt. Code Chapter 2269.

Sec. 4.8.3. Professional Services

Contracts for professional services, as defined under Sec. 7.1 of this manual, are exempt from the bidding process. These contracts can be procured in a manner provided by Tex. Govt. Code §2254.003, that is, based on demonstrated competence and qualifications to perform the services, and for a fair and reasonable price. Refer to the Sec. 7 of this manual.

Sec. 4.8.4. Food, Commodities and Non-Food Goods/Services

For the purchase of food, commodities, and non-food goods and/or services associated with the federal child nutrition programs administered by the Texas Department of Agriculture, the charter district shall adhere to the procurement process described in Sec. 5 and 6.3 of this manual.

[4] Real property improvements are defined as the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property.

Sec. 4.9. COMPONENT, SEPARATE AND SEQUENTIAL PURCHASES PROHIBITED[5]

Unless otherwise allowed, SAPI and the charter districts shall apply the purchasing procedures described in this manual based on the aggregate value of the goods and services purchased during a twelve-month period. Thus, component, separate, and sequential purchases are prohibited and not allowed.

Sec. 4.9.1. COMPONENT PURCHASES DEFINED[6]

"Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

Sec. 4.9.2. SEPARATE PURCHASES DEFINED[7]

"Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

Sec. 4.9.3. SEQUENTIAL PURCHASES DEFINED[8]

"Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

Sec. 4.10. PUBLICATION OF SOLICITATION FOR BIDS

Where a method of competitive procurement is utilized (and not including real property improvements requiring the expenditure of more than $50,000 in public funds), notice of when and where bids, proposals, or responses to a request for qualifications will be received and opened must be published, in the manner required by law (where applicable), but otherwise in the county where the charter district's central administrative office is located, and/or in the county where the charter district is based, at least once, prior to the deadline for receiving bids, proposals, or responses to a request for proposal or qualifications. If there is no newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the district's central administrative office is located.

Sec. 4.11. QUALIFIED VENDORS[9]

(a) To facilitate the purchasing process and minimize the administrative cost of the purchasing function, the Finance Officer will develop, maintain and update a listing of qualified vendors.[10]

(b) For purposes of this section, a qualified vendor is a responsible individual or entity that possesses the ability to perform successfully under the terms and conditions of a proposed purchase,[11] routinely provides the goods or services sought to consumers at large, has any credentials required under applicable law (e.g., licensed specialist in school psychology), and is

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[5] Policy PG-5.510, Sec. 5.13
[6] Policy PG-5.510, Sec. 4.1
[7] Policy PG-5.510, Sec. 4.8
[8] Policy PG-5.510, Sec. 4.9
[9] Policy PG-5.510, Sec. 5.10
[10] Policy PG-5.510, Sec. 5.10.4
[11] Policy PG-5.510, Sec. 5.10.2

not indebted to SAPI. If a vendor has previously done business with SAPI, the vendor must have a favorable review(s) on file. In this latter regard, the Superintendent or designee may prepare or cause to be prepared a written review for a vendor with prior experience with SAPI.

(c) The Finance Officer may qualify a vendor and include the vendor on the listing based on the following criteria.

1. Contractor integrity.

2. Extent to which the vendor's goods or services meet SAPI's and the charter districts needs for commonly ordered goods and services.

3. Vendor's financial and technical ability to provide goods and/or services.

4. Quality of the vendor’s goods or services.

5. Record of past performance, including:

A. Reputation of the vendor and of the vendor’s goods or services.

B. Vendor’s past relationship with the charter district and other public schools.[12]

(d) Generally, the Finance Officer should only include vendors for each category of good (e.g., classroom supplies, library books, laptops) or service (e.g., diagnostic services for special education, plumbing, electrical) commonly procured by the charter districts that meet the criteria listed above.

Sec. 4.12. AUTHORIZED MODES OF PAYMENT

The Superintendent or designee and other district employees are authorized to use the following methods of payment when purchasing goods and services.

Sec. 4.12.1. CHECK

Districts/schools are required to purchase goods and services with a value exceeding $100 through a purchase requisition. Subsequently, SAPI will issue payment to vendors via check drawn from the district's bank account. SAPI will issue checks for payment of invoices, reimbursements to employees, reimbursements of the petty cash fund, etc.

Sec. 4.12.2. PETTY CASH

Sec. 4.12.2.1. General Policy

Purchases may be made using the school's petty cash fund for items needed in an emergency basis, or where time constraints necessitate, but not to exceed $100. Such purchases must be approved by the Superintendent or designee. Reconciliation and reimbursement of the petty cash

[12] Policy PG-5.510, Sec. 5.10.3

fund will be done monthly using the Board approved Petty Cash Reimbursement Form. Failure to adhere to the petty cash guidelines will suspend all petty cash privileges.

Sec. 4.12.2.2. Administrative Regulation

At their discretion Campus Principals may establish a petty cash fund for the cash purchase of small miscellaneous items. A petty cash account cannot exceed $300.00. Campus Principals are responsible for ensuring the maximum protection of the petty cash funds. Unless previously authorized by the Academy Director, disbursements from petty cash should not exceed $25 for an individual purchase.

Sec. 4.12.2.3. Operating Procedures

The petty cash account is established at the beginning of each year by issuing a check in the desired amount payable to petty cash followed by the name of the Academy Director. For example: Petty Cash - Jane Doe. The Academy Director shall then endorse the check and cash It at the bank.

Cash disbursements may be made from the petty cash account not to exceed $100. Original invoices or other suitable documentation must be obtained for all petty cash expenditures.

Replenishment of the petty cash account shall be made once the cash balance falls below a manageable level such as $10. A check is written to increase the cash to the amount originally approved and set up.

Example:	Actual cash on hand	$	10
	Amount to be replenished	$	90
	Original petty cash amount	$	100

The original invoices or other suitable documentation supporting the petty cash disbursements (totaling $90 per the above example) should be attached to the Petty Cash Reimbursement Form to be completed authorizing the issuance of the check.

When recording the petty cash disbursement in the Petty Cash Reimbursement Form, proper accounting codes should be entered to attribute the expense to the proper funding source.

At the close of each school year, the petty cash on hand should be receipted and returned to the Business Office. The receipt is coded to the Petty Cash account, which should be -0- after closing.

Sec. 4.12.3. Corporate Credit

Employees authorized to use the corporate credit account(s) may do so pursuant to the following thresholds.

a. The Superintendent may purchase goods and/or services through the corporate credit account(s) for individual transactions not exceeding $350,000.

b. Finance Officer may purchase goods and/or services through the corporate credit account(s) for individual transactions not exceeding $9,999.

c. Campus principals and other employees may purchase goods and/or services through the corporate credit account(s) for individual transactions not exceeding $1,000.

Sec. 4.12.4. Personal Cash and Credit

District/school employees may use personal cash or personal credit cards for the same purpose as using petty cash. Employee purchases using personal cash and credit are limited to $100 unless prior approval of the Superintendent or designee has been obtained. Employees shall submit a request for reimbursement for such purchases on a bi-monthly basis (with every pay period) using the Board approved Reimbursement Form.

The school may open credit accounts, with the approval of the Superintendent, or designee, with vendors dealing in school related supplies and equipment. Purchases made with the school's credit card should be billed directly to the finance office for payment.

Sec. 4.13. Other Purchases

Only an employee in an administrative position may make purchases with personal cash or personal credit cards for the same purpose as using petty cash. These purchases are also limited to $100 unless prior approval of the Superintendent or designee has been obtained. Reimbursement for such purchases will be done on a bimonthly basis (with every pay period) using the Board approved Reimbursement Form.

The school may open credit accounts, with the approval of the Superintendent or designee, with vendors dealing in school related supplies and equipment. Purchases made with the school's credit card should be billed directly to the finance office for payment.

Sec. 4.14. Employee Purchases Prohibited[13]

SAPI and charter district employees shall not be permitted to purchase services, supplies, equipment or other property for personal use through the business office. Additionally, district employees are prohibited from purchasing goods and services unless such purchases conform to the requirements of Policy PG-5.510 and this manual. If an employee fails to follow applicable Board policy and the requirements of this manual, the employee will be financially responsible for any expenses incurred regardless of the benefit to the charter district and its students.

SEC. 5. FEDERAL PURCHASING PROCEDURES

Sec. 5.1. Oversight of Contractors[14]

On the purchase order or other record, the Superintendent or Finance Officer will identify the employee responsible for maintaining oversight of a contractor to ensure that the contractor performs in accordance with the terms, conditions, and specifications of their contract or purchase order. The designated employee must maintain a written record such as a formal letter,

[13] Policy PG-5.510, Sec. 5.7
[14] 2 CFR §200.318(b)

memorandum, email, receiving report, or activity log documenting the date(s) when the contractor provided the purchased goods and services and if any concerns or issues were observed.

Sec. 5.2. Written Standards of Conduct[15]

Refer to Sec. 3 of this manual.

Sec. 5.3. Unnecessary or Duplicative Purchases[16]

To avoid the purchase of unnecessary or duplicative goods and services, SAPI and the charter districts must consider consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

Sec. 5.4. Cost-Effective Use of Shared Services[17]

See Sec. 5.11 of this manual.

Sec. 5.5. Responsible Contractors[18]

Sec. 5.5.1. SAPI and the charter districts must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Refer to Sec. 4.11 of this manual. SAPI and the charter districts may not procure goods or services from a contractor that has been debarred, suspended, or otherwise excluded from or ineligible for a Federally funded contract or purchase order. The Finance Officer or procuring employee must obtain documentary evidence that the contractor has not been debarred or suspended from the SAM.gov website.

Sec. 5.5.2. The Finance Officer must not include vendors owned by some foreign entities or governments that are considered a risk to the United States of America. As established in Federal law, SAPI may not procure:

(a) Telecommunications equipment produced by or services provided by Huawei Technologies Company or ZTE Corporation, or any subsidiary or affiliate of these entities.

(b) Video surveillance and telecommunications equipment produced by or services provided by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company, or any subsidiary or affiliate of these entities.

(c) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

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[15] 2 CFR §200.318(c)
[16] 2 CFR §200.318(d)
[17] 2 CFR §200.318(e)
[18] 2 CFR §§ 200.216 and 200.318(h)

Sec. 5.5.3. The Finance Officer or procuring employee must obtain documentary evidence that the contractor is not subject to the prohibition under Sec. 5.5.2 of this manual.

Sec. 5.6. HISTORY OF PROCUREMENT REQUIRED[19]

To ensure that sufficient records are maintained to detail the history of any procurement with Federal funds, SAPI and the charter districts must obtain and retain on file the following records:

(a) Record of identified need and planned activity disclosed in instructional or other plan.

(b) Purchase requisition, including statement of work or other specifications.

(c) Determination of appropriate procurement method and rationale for method selected.

(d) Justification for other than full and open competition. Attached TEA approved noncompetitive procurement form.

(e) Determination of appropriate contract type (i.e., fixed price, cost reimbursement) and rationale for type selected.

(f) Record of evaluation committee members, including documentation concerning conflicted, interested and related party transaction certification.[20]

(g) Independent estimate prior to soliciting bids, proposals, qualifications or quotes. See Sec. 5.11 of this manual.

(h) Invitation (request) for bids, request for proposals, request for qualifications, or other written solicitation (collectively, solicitation) conforming to Sec. 5.8 of this manual.

(i) List of vendors invited to respond to solicitation (if any). See Sec. 5.9 of this manual.

(j) Technical evaluation memorandum addressing evaluation of bids, proposals, qualifications, and, if appropriate and necessary, quotes.

(k) Published advertisement(s) of solicitation.

(l) Record of conference prior to submission of responsive bids or proposals.

(m) Errata or addenda to solicitation.

(n) All correspondence with interested vendors, respondents, and successful vendor(s).

(o) Responses to solicitations.

[19] 2 CFR §200.319(i)

[20] Pursuant to 2 CFR §200.318(c)(1), the appearance of a conflict of interest may call the procurement into question if an employee with a conflict of interest, interest in the procurement, or related party participates in the selection, award, or administration of a contract supported with Federal funds. Accordingly, a record disclosing potential conflicts of every employee involved in the procurement process should be maintained. See TEA potential conflict of interest disclosure form.

(p) List of respondents to solicitation and/or public opening of responses log.

(q) Evaluations of individual bids, proposals, qualifications and quotes.

(r) Tabulation of responses.

(s) Cost and price analysis, including determination of price reasonableness. See Sec. 5.11 of this manual.

(t) Evaluation summary.

(u) Suspension and debarment review and certification. See Sec. 5.5 of this manual.

(v) Board of Directors approval of contract awarded to selected vendor(s).

(w) Legal review of any deviations or exceptions requested by successful respondent(s).

(x) Contract award notification letter to vendor(s), including approved purchase order.[21]

(y) Documentation of oversight of contractor, including evaluations of contractor performance. See Sec. 5.1 of this manual.

Sec. 5.7. FULL AND OPEN COMPETITION[22]

The Board and Superintendent must maximize the use of district funds to purchase goods and services and to limit such purchases to the furtherance of the SAPI's mission and the implementation of each charter program. To attain this goal, the Superintendent, Finance Officer, and SAPI personnel will promote full and open competition in all district purchases through the implementation of the procedures described in this manual. The Superintendent and Finance Officer will be primarily responsibility for ensuring that SAPI personnel adhere to these procedures, especially when using federal funds to procure goods and services.

Sec. 5.7.1. CONFLICTED VENDORS[23]

If a vendor develops or drafts specifications, requirements, statements of work, and invitations for bids or requests for proposals, SAPI and the charter districts must exclude the vendor from consideration for the purchase in question.

Sec. 5.7.2. RESTRICTIONS TO COMPETITION[24]

SAPI and the charter districts may not place restrictions on competition including, but not limited to:

[21] A properly structured solicitation will not require a separate contract because the solicitation, respondent's response, and award notification letter will constitute the contract. A purchase order is issued to encumber the contracted amount (i.e., obligate Federal funds and make the monies unavailable for other use).
[22] 2 CFR §220.319(a)
[23] 2 CFR §200.319(b)
[24] *Id*.

(a) Placing unreasonable requirements on vendors for them to qualify to do business.

(b) Requiring unnecessary experience and excessive bonding.

(c) Noncompetitive pricing practices between vendors or between affiliated companies.

(d) Noncompetitive contracts to consultants that are on retainer contracts.

(e) Organizational conflicts of interest.

(f) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and

(g) Any arbitrary action in the procurement process.

Sec. 5.7.3. Geographical Preferences[25]

Generally, SAPI and the charter districts will not restrict purchases to vendors based upon geographical preference. However, when contracting for architectural, engineering, appraisal or surveying services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract. Additionally, SAPI may use geographical preferences when the Board or Superintendent determines doing so will be a benefit for and/or in the best interest of SAPI.

Sec. 5.8. Solicitations[26]

SAPI and the charter districts must include the following disclosures in any solicitation for a purchase of goods and/or services with an aggregate value of $350,000 or more for each twelve-month period.[27]

(a) Description of Technical Requirements. Solicitations must provide a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated.

[25] 2 CFR §200.319(c)
[26] 2 CFR §200.319(d)
[27] For purchases from federal child nutrition programs administered by the Texas Department of Agriculture, this threshold is $50,000. Refer to Section 17, Procurement, of the Administrator 's Reference Manual.

(b) Disclosure of All Requirements. Solicitations must identify all requirements which the prospective vendors must fulfill and all other factors to be used in evaluating bids or proposals.

Sec. 5.9. PREQUALIFIED VENDORS

See Sec. 4.11 of this manual. Additionally, SAPI must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, SAPI and the charter districts must not preclude potential bidders or offerors from qualifying during the solicitation period.

Sec. 5.10. DOMESTIC PREFERENCES[28]

As appropriate and to the extent consistent with law, SAPI should, to the greatest extent practicable under a Federal grant, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The requirements of this section must be included in all contracts and purchase orders for work or products.

Sec. 5.11. COST OR PRICE ANALYSIS[29]

For any acquisition of goods and/or services for more than $350,000, including contract modifications, SAPI will perform a cost or price analysis pursuant to the procedure set forth in this section.

Sec. 5.11.1. PRICE ANALYSIS DEFINED[30]

Price analysis is the process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit. Price analysis should be used to verify that the overall price offered is fair and reasonable.

Sec. 5.11.2. COST ANALYSIS DEFINED[31]

Cost analysis is the review and evaluation of any separate cost elements and profit or fee in an offerors or contractor’s proposal, as needed to determine a fair and reasonable price or to determine cost realism, and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency. If a cost analysis is performed, SAPI must negotiate profit as a separate element of the price of the contract.[32]

Sec. 5.11.3. INDEPENDENT ESTIMATES[33]

Before receiving bids or proposals under Sec. 6.3.3, 6.3.4, or 6.3.5 of this manual or considering purchases through a cooperative under Sec. 6.4 of this manual or approving contract

[28] 2 CFR §200.322
[29] 2 CFR §200.324
[30] Federal Acquisition Regulation (FAR) 15.404-1(a)(3), (b)(1)
[31] FAR 15.404-1(c)(1)
[32] 2 CFR §200.324(b)
[33] 2 CFR §200.324(a)

modifications (aka, change orders), SAPI must make independent estimates of what it considers to be a fair and reasonable price or cost for the goods and/or services to be acquired.

Sec. 5.11.4. Negotiation of Profit[34]

If a contract is awarded under Sec. 6.3.5 of this manual or under a circumstance in which there is no price competition, SAPI must negotiate profit as a separate element of the price of the contract. To establish a fair and reasonable profit, SAPI may consider the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of contractor's record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Sec. 5.11.5. Price Analysis Methods

The Finance Officer should consider the following methods for determining if the price(s) offered by a bidder or offeror is fair and reasonable. SAPI will use the most suitable method based upon the factual information pertaining to the acquisition.

(a) *Adequate Price Competition*.[35] Under this method, a price is based on adequate competition when two (2) or more responsible bidders or offerors, competing independently, submit priced bids, proposals or quotes that satisfy the requirements set forth in the solicitation. If this condition is met, SAPI must compare the price submitted by each vendor, as disclosed on the bids, proposals or quotes received. If the bid, proposal or quote with the lowest price is selected, the price of the selected bid, proposal or proposal may be deemed to be fair and reasonable.

(b) *Historical Prices*.[36] Under this method, the proposed price(s) are compared to historical prices paid by SAPI or other schools for the same or similar items. However, if there has been a significant time lapse between the last acquisition and the present one, if the terms and conditions of the acquisition are significantly different, or if the reasonableness of the prior price is uncertain, then the prior price may not be a valid basis for comparison. This method may be applied to a situation when only one bid, proposal of quote is received.

(c) *Catalog or Established Price List*.[37] Under this method, the proposed price(s) are compared to the prices disclosed on published catalogs, competitive published price lists, published market prices of commodities, and other similar indices. This method may be applied to a situation when only one bid, proposal or quote is received, and the sole bidder or offeror has a published or established price list or catalog that is current and that it makes generally available to the public.

(d) *Market Prices*.[38] Under this method, the proposed price(s) are compared to prices obtained through market research for the same or similar items.

[34] 2 CFR §200.324(b)
[35] FAR 15.404-1(b)(2)(i) and 15.403-1(c)(1)
[36] FAR 15.404-1(b)(2)(ii)
[37] FAR 15.404-1(b)(2)(iv)
[38] FAR 15.404-1(b)(2)(vi)

Sec. 5.12. CONTRACTING WITH CERTAIN VENDORS[39]

SAPI and the charter districts must take the following affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists.

(b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.

(d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.

(e) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(f) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

Sec. 5.13. CONTRACT PROVISIONS[40]

With respect to the use of federal funds for the procurement of goods and services, SAPI must include the following provisions in any contract supported with Federal funds.

(a) Remedies for Contract Breach or Violations. Contracts for more than $350,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.

(b) Termination for Cause and Convenience. All contracts in excess of $10,000 must address termination for cause and for convenience by SAPI and the charter district including how it will be affected and the basis for settlement.

(c) Equal Employment Opportunity. Except as otherwise provided under 41 CFR 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

[39] 2 CFR §200.321
[40] 2 CFR §200.327 and Appendix II to Part 200

(d) Davis-Bacon Act. When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by SAPI and the charter districts must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. SAPI and the charter districts must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. SAPI and the charter districts must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. SAPI and the charter districts must report all suspected or reported violations to the Federal awarding agency.

(e) Contract Work Hours and Safety Standards Act. Where applicable, all contracts awarded by SAPI and the charter districts in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(f) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement “under 37 CFR 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(g) Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(h) Debarment and Suspension (Executive Orders 12549 and 12689). A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the 0MB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(i) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award of $100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to SAPI and the charter district.

(j) Procurement of Recovered Materials. SAPI, the charter districts and their contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(k) Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. See Sec. 5.5.2 of this manual.

(l) Domestic Preferences for Procurements. See Sec. 5.10 of this manual.

SEC. 6. AUTHORIZED PROCUREMENT METHODS

Sec. 6.1. PURCHASES WITH LOCAL FUNDS[41]

Sec. 6.1.1. NO METHOD REQUIRED

The Superintendent or designee may procure goods and/or services that result in the expenditure of less than $350,000 in local funds through the most expedient manner available.

Sec. 6.1.2. QUOTES.

The Superintendent or designee must procure goods and/or services that result in the aggregate expenditure of $350,000 or more in local funds through the solicitation of two (2) or more written quotes from qualified vendors. See Sec. 4.11, Qualified Vendors.

Sec. 6.2. PURCHASES WITH STATE FUNDS[42]

(a) Pursuant to Board policy and applicable law, SAPI and the charter districts shall purchase goods and services by the method, of the following methods, that provides the best value for the charter district. This section applies to the purchase of:

1. General goods and services; and

2. Real property improvements valued at less than $50,000 in the aggregate for a 12-month period.

(b) In utilizing the methods of procurement described in this section, the Superintendent or designee shall adhere to the prohibition on component, separate and sequential purchases established in Sec. 4.9 of this manual.

Sec. 6.2.1. NO METHOD REQUIRED[43]

(a) The Superintendent or designee may procure goods and/or services that result in the expenditure of less than $49,999 in state funds through the most expedient manner available if the Superintendent or designee considers the price to be reasonable.

(b) This method of procurement is most appropriate for the purchase of basic goods and/or services such as, but not necessarily limited to, the following goods and/or services.

1. Building, equipment and furniture maintenance materials and supplies
2. Classroom equipment, furniture materials and supplies
3. Custodial supplies
4. Express courier or delivery services
5. Information technology equipment, materials and supplies
6. Non-routine, minor repairs
7. Office equipment, furniture, materials and supplies
8. Professional association membership

[41] Policy PG-5.510, Sec, 6.1
[42] Policy PG-5.510, Sec, 6.2
[43] Policy PG-5.510, Sec, 6.2.1

9. Professional development (conferences and workshops)
10. Software or media subscriptions
11. Travel, including common carrier or rental car services and lodging

Sec. 6.2.2. Quotes[44]

For expenditures of state funds exceeding $49,999 but less than $350,000 in the aggregate over a twelve-month period, the Superintendent or designee shall procure goods and/or services through the solicitation of two (2) or more written quotes from qualified vendors. See Sec. 4.11, Qualified Vendors.

Sec. 6.2.3. Competitive Bids or Proposals[45]

(a) The Superintendent or designee shall procure goods and/or services that result in the expenditure of $350,000 or more in state funds in the aggregate over a twelve-month period through competitive bids or proposals, as appropriate.

(b) When using this purchasing method, the Superintendent or designee shall prepare bid or proposal specifications. All bids or proposals shall be submitted in sealed envelopes, plainly marked with the name of the bidder and the time of opening. All bidders or offerors shall be invited to attend the bid or proposal opening if a formal opening will occur. Any bid or proposal may be withdrawn prior to the scheduled time for opening. Bids or proposals received after the specified date and time shall not be considered. The charter district may reject any and all bids or proposals or waive any requirements or technicalities it determines is in the best interest of the charter district.

(c) Upon the receipt of a sealed bid or proposal, the Superintendent or designee must record the date, time, method of delivery and receiving the SAPI or charter district employee's name on a *Bid/Proposal Receipt Log*.

(d) Prior to opening the bids or proposals received, the Superintendent or designee shall require all attendees at the bid opening to record their name (legibly), title, business affiliation and signature on a *Bid/Proposal Opening Sign-In Log.*

(e) On the date and at the time of the bid or proposal opening, the Superintendent or designee must open each bid or proposal in the order received as recorded in the *Bid/Proposal Receipt Log*. As each bid or proposal is opened, the Superintendent or designee must announce and record the bidder's name and business address and quoted price on a *Bid/Proposal Quotation Log*. The Superintendent or designee shall notify any bidders or offerors present that each bid or proposal will be reviewed and evaluated for conformance with the bid or proposal specifications.

(f) After the bid or proposal opening, the Superintendent or designee must review and evaluate each bid or proposal to ascertain and ensure that each bidder or offeror satisfactorily addressed the bid or proposal specifications. The Superintendent or designee must award the contract to the bidder or offer whose bid or proposal provides best value, with price and other factors considered.

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[44] Policy PG-5.510, Sec, 6.2.2
[45] Policy PG-5.510, Sec, 6.2.3

(g) In awarding a contract, the charter district shall consider appropriate criteria, which may include, but are not limited to, the following factors:

1. Purchase price.
2. The reputation of the vendor and of the vendor's goods and services.
3. The quality of the vendor's goods and services.
4. The extent to which the goods or services meet the district's needs.
5. The vendor's past relationship with the district.
6. The impact on the ability of the district to comply with laws relating to historically underutilized businesses.
7. The total long-term cost to the district to acquire goods or services; and
8. Any other relevant factor specifically listed in the request for bids or proposals.

Sec. 6.3. PURCHASES WITH FEDERAL FUNDS[46]

(a) Pursuant to Board policy and applicable law and when using federal grant funds and funds received from federal nutrition programs administered by the Texas Department of Agriculture, SAPI and the charter districts shall purchase goods and services by the method, of the following methods, that provides the full and open competition.

(b) In utilizing the methods of procurement described in this section, the Superintendent or designee shall adhere to the prohibition on component, separate and sequential purchases established in Sec. 4.9 of this manual.

Sec. 6.3.1. MICRO-PURCHASES[47]

Pursuant to 2 CFR §§ 200.1, 200.320 and 200.320(a), a charter district's purchase of supplies[48] or services charged to a federal award and valued at less than $49,999, in the aggregate for a fiscal year, shall be classified as a micro- purchase. In accordance with 2 CFR §200.320(c)(1), micro-purchases are deemed noncompetitive procurements and, therefore, do not require the solicitation of competitive price or rate quotations. To the maximum extent practicable, the charter district should distribute micro-purchases equitably among the qualified suppliers identified on the vendor list under Sec. 4.11 of this manual. Although micro-purchases may be awarded without soliciting competitive quotations, the charter district is nonetheless encouraged to obtain at least two (2) quotes of which at least one was obtained from an authorized vendor. If the district does not solicit competitive quotations, the charter district must document its determination that the price offered by the vendor was reasonable. This determination may be based on research (e.g., online searches of vendor websites), purchase history (e.g., purchases documented on purchase orders and invoices), or other information readily available to district staff.

TPHS – Self Certifies a higher micro-purchase threshold of up to $49,999.

[46] 2 CFR §200.320
[47] 2 CFR §200.320(a)(1)
[48] Pursuant to 2 CFR §200.1, "*Supplies* means all tangible personal property other than those described in the definition of *equipment* in this section. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or $10,000, regardless of the length of its useful life."

Sec. 6.3.1.1. Self-Certification[49]

The charter district may self-certify a higher micro-purchase threshold of up to $49,999 if it is a low-risk auditee for their most recent federal audit or if it conducts an annual internal risk assessment to identify, mitigate, and manage financial risk. The charter district must determine the local threshold based on internal controls, risk, and documented procedures. For additional information concerning the self-certification requirement, refer to the Procurement Guidance Handbook (Version 1.0, June 2021) published on the Texas Education Agency (TEA) website at https://tea.texas.gov/finance-and-grants/grants/procurement-guidance-handbook.pdf.

TPHS – Self Certifies a higher micro-purchase threshold of up to $49,999.

Sec. 6.3.1.2. Commodity Codes[50]

In accordance with TEA policy, SAPI defines a like-type of item as a subcategory of a commodity code, as published in the National Institute of Governmental Purchasing (NIGP) Commodity Book.[51] SAPI may use the like-types to determine if it must procure a good or service under Sec. 6.3.2 of this manual.

Sec. 6.3.2. Simplified Acquisition

Pursuant to 2 CFR §§ 200.1 and 200.320(b), a charter district's purchase of property or services charged to a federal award and valued at less than $350,000 in the aggregate for a fiscal year, shall be classified as a small purchase.[52] For purchases from funds received from the federal nutrition programs administered by the Texas Department of Agriculture, the threshold is $49,999.99 for all products and services in. a single procurement transaction.[53] For purchases under this Sec. 6.3.2, the Superintendent or designee shall procure goods and/or services through the solicitation of three (3) or more written quotes from qualified vendors. See Sec. 4.11, Qualified Vendors.

Sec. 6.3.3. Sealed Bids[54]

(a) Pursuant to 2 CFR §§ 200.1 and 200.320(b)(1), a charter district's purchase of property or services charged to a federal award and valued at over $350,000 ($50,000 for purchases from funds received from the federal nutrition programs administered by the Texas Department of Agriculture) shall be made through sealed bids if the following conditions are met:

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[49] 2 CFR §200.320(a)(1)(iii)-(iv)
[50] TEA To The Administrator Addressed Correspondence dated September 25, 2025, regarding New TEA Guidance on Micro-Purchase Flexibility Under EDGAR. Go to Also, https://tea.texas.gov/about-tea/news-and-multimedia/correspondence/taa-letters/federal-grant-threshold-changes see Minimum Required Elements for General Ledgers and Payroll Journals ("Predetermined set of cost categories and commodity codes used for the purpose of calculating aggregate costs") at https://tea.texas.gov/finance-and-grants/grants/federal-fiscal-monitoring/minimum-required-elements-for-general-ledgers-and-payroll-journals.
[51] See https://comptroller.texas.gov/purchasing/nigp/.
[52] 2 CFR §200.320(a)(2)
[53] Administrator's Reference Manual (May 19, 2023), Section 17 (Procurement), Small Purchase Method (page 22 of 76)
[54] 2 CFR §200.320(b)(1)

1. A complete, adequate, and realistic specification or purchase description is available.

2. Two or more responsible bidders are willing and able to compete effectively for the business; and

3. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally based on price.

(b) If the conditions at (a) above are met, the charter district shall publicly solicit bids in the manner described in Sec. 5.8 and 4.9 of this manual.

(c) When using the sealed bid method of procurement, the charter district must apply the following requirements:

1. Bids must be solicited from an adequate number of qualified vendors, providing them sufficient response time prior to the date set for opening the bids.

2. The invitation for bids must be publicly advertised.

3. The invitation for bids must define the items or services for the bidder to properly respond and include any specifications and pertinent attachments.

4. All bids will be opened at the time and place prescribed in the invitation for bids.

5. The bids must be opened publicly.

6. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest.

7. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

8. Any or all bids may be rejected if there is a sound documented reason.

(d) The charter district shall award a firm fixed price contract (lump sum or unit price) to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price.

(e) To the degree appropriate and feasible, the charter district should consider and utilize the process described in Sec. 6.2.3 of this manual.

Sec. 6.3.4. Competitive Proposals[55]

(a) Pursuant to 2 CFR §§ 200.1 and 200.320(b)(2), a charter district's purchase of property or services charged to a federal award and valued at over $350,000 ($50,000 for purchases from funds received from the federal nutrition programs administered by the Texas Department of

[55] 2 CFR §200.320(b)(2)

Agriculture) shall be made through competitive proposals when conditions are not appropriate for the use of sealed bids.

(b) When using the competitive proposals method of procurement, the charter district must apply following requirements:

1. Requests for proposals must be publicized and identify all evaluation factors and their relative importance.

2. Any response to publicized requests for proposals must be considered to the maximum extent practical.

3. Proposals must be solicited from an adequate number of qualified vendors.

4. More than one vendor must submit an offer.

5. The charter district must have a written method for conducting technical evaluations of the proposals received and for selecting recipients.

6. Either a fixed price or cost-reimbursement type contract must be awarded to the responsible vendor whose proposal is most advantageous to the charter district, with price and other factors considered.

(c) To the degree appropriate and feasible, the charter district should consider and utilize the process described in Sec. 6.2.3 of this manual.

Sec. 6.3.5. NONCOMPETITIVE PROPOSALS[56]

In accordance with 2 CFR §200.320(c), procurement through the solicitation of a proposal from only one source may be used only when one or more of the following circumstances apply:

1. The acquisition of property or service, the aggregate amount of which does not exceed $49,999. Unless TEA approved a higher Self-Certification Threshold.

2. The item is available only from a single source.

3. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation.

4. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from SAPI and the charter district.

5. After solicitation of several sources, competition is determined inadequate.

[56] 2 CFR §200.320(c)

Sec. 6.4. PURCHASES THROUGH COOPERATIVE[57], [58]

(a) SAPI and the charter districts are authorized to engage or join interlocal and governmental purchasing cooperatives organized under Tex. Govt. Code Chapter 791 as deemed beneficial and advantageous to the charter districts.

(b) In lieu of competitive bids, the Superintendent, Finance Officer or designee may procure goods and/or services through a cooperative that provides written assurance of compliance with state purchasing requirements.

(c) When using Federal funds to purchase goods and services, the Superintendent, Finance Officer or designee must ensure that the Federal procurement requirements set forth in Sec. 5 and 6.3 of this manual are followed. To demonstrate compliance with this requirement, the Superintendent, Finance Officer or designee must prepare and maintain a written record that the Federal procurement standards were properly observed. See Sec. 5.6 of this manual for further guidance.

(d) In the event that a participating vendor in the purchasing cooperative program quotes a lower price for the same goods and/or services than the price available through the cooperative, the Superintendent or designee may procure the goods and/or services directly from and using the vendor's direct quote.

(e) The charter district may participate in a cooperative purchasing program with another local government or local cooperative organization. If the district does so, it may sign an agreement with another participating local government or a local cooperative stating that the district will:

1. Designate a person to act on behalf of the district in all matters relating to the program.

2. Make payments to another participating local government or local cooperative organization or directly under a contract, as provided in the agreement.

3. Be responsible for the vendor's compliance.

(f) Shared Service Arrangements. To foster greater economy and efficiency and to promote the cost-effective use of shared services, the charter districts are encouraged to enter into intergovernmental agreements or inter-entity agreements where appropriate for the procurement or use of common or shared goods and services. At a minimum, a shared services agreement must:

1. Establish clear procedures for administering services under the direction and control of the shared services arrangement and for assigning responsibility for all costs and liabilities associated with services provided under the agreement.

2. Establish the duties, responsibilities, and accountability of the fiscal agent and of each member for services provided under the agreement.

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[57] Policy PG-5.510, Sec. 6.4
[58] 2 CFR §200.318(e)

3. Establish clear procedures for withdrawal of a member from the agreement and for the dissolution and winding up of the affairs of the arrangement.

4. If the cooperative may provide special education services, comply with Tex. Ed. Code §29.007 and FASRG Module 1 §1.3.7.1; and

5. Be approved in writing by the commissioner before any services are provided.[59]

SEC. 7. PROCUREMENT OF PROFESSIONAL SERVICES

Pursuant to Tex. Ed. Code §12.1053, SAPI and the charter districts shall adhere to the requirements set forth in Tex. Govt. Code Chapter 2254, Subchapter A (also known as the Professional Services Procurement Act, or PSPA).

Sec. 7.1. APPLICABILITY

(a) In accordance with the PSPA, SAPI and the charter districts will apply the procedures described in this section to the procurement of professional services. Professional services include services, within the scope of the practice, as defined by state law, of:

1. Accounting.
2. Architecture.
3. Landscape architecture.
4. Land surveying.
5. Medicine.
6. Optometry.
7. Professional engineering.
8. Real estate appraising; or
9. Professional nursing.

(b) Typically, the professional services identified above are provided in connection with the professional employment or practice of a person who is licensed or registered as:

1. A certified public accountant.
2. An architect.
3. A landscape architect.
4. A land surveyor.
5. A physician, including a surgeon.
6. An optometrist.
7. A professional engineer.
8. A state certified or state licensed real estate appraiser; or
9. A registered nurse.

(c) Additionally, professional services mean services provided by a person lawfully engaged in interior design, regardless of whether the person is registered as an interior designer.

[59] 19 TAC §100.1001(24)

(d) This section does not apply to the procurement of services not defined as professional services under the PSPA. SAPI personnel should consult the appropriate section of this manual for guidance and direction.

Sec. 7.2. Selection of Provider; Fees

A charter district may not select a provider of professional services or a group or association of providers or award a contract for the services based on competitive bids submitted for the contract or for the services, but shall make the selection and award:

(a) On the basis of demonstrated competence and qualifications to perform the services; and

(b) For a fair and reasonable price.

Sec. 7.3. Professional Fees

The professional fees under the contract may not exceed any maximum provided by law.

Sec. 7.4. Contract for Professional Services of Architect, Engineer or Surveyor

(a) In procuring architectural, engineering, or land surveying services, the charter district shall:

1. First select the most highly qualified provider of those services based on demonstrated competence and qualifications; and

2. Then attempt to negotiate with that provider a contract at a fair and reasonable price.

(b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the charter district shall:

1. Formally end negotiations with that provider.

2. Select the next most highly qualified provider; and

3. Attempt to negotiate a contract with that provider at a fair and reasonable price.

(c) The charter district shall continue the process described in (b) 1 through (b) 3 above to select and negotiate with providers until a contract is entered into.

SEC. 8. PROCUREMENT OF CONSTRUCTION SERVICES

Sec. 8.1. Legal Requirements

Pursuant to Tex. Ed. Code §12.1053 and 19 TAC 100.1006, SAPI adopted the provisions of Tex. Ed. Code Chapter 44, Subchapter B as the charter district process for awarding a contract for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property. Accordingly, pursuant to Tex. Ed. Code §44.031(a)(5), SAPI and the charter districts shall award contracts for construction services valued at $50,000 or more in the aggregate for each twelve-month period be made by a method provided by Chapter 2269, Tex. Govt. Code. Additionally, as set forth in Tex. Govt. Code §2269.106, SAPI and the charter districts shall consider certain statutory requirements of Texas Local Government Code, Chapter 271, Subchapter B.

Sec. 8.2. ADOPTION OF ADMINISTRATIVE REGULATIONS

As provided in Tex. Govt. Code §2269.051, SAPI may adopt rules as necessary to implement the requirements promulgated at Tex. Govt. Code Chapter 2269. This manual and especially this section promulgate such rules. Importantly, this section is based significantly upon the requirements promulgate by the Texas Legislature in Tex. Govt. Code Chapter 2269. Accordingly, the Superintendent or designee should seek legal guidance when amending this section.

Sec. 8.3. AUTHORIZED METHODS OF PROCUREMENT

(a) When considering a construction contract using a method authorized by Tex. Govt. Code Chapter 2269, other than competitive bidding must, the Board (or designee) must determine which method set forth in Sec. 8.3(d) below provides the best possible value for the charter district before it advertises for requests for bids, proposals, or qualifications.[60]

(b) SAPI and the charter districts shall base its selection among offerors on applicable criteria listed for the method used. SAPI and the charter district shall publish in the request for bids, proposals or qualifications the criteria that will be used to evaluate the offerors and the applicable weighted value for each criterion.[61]

(c) SAPI and the charter districts shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.[62]

(d) In accordance with Tex. Govt. Code Chapter 2269, the Board (or designee) may award a contract for construction services using one of the following methods:

1. Competitive bidding,
2. Competitive seal proposal,
3. Construction manager-agent,
4. Construction manager-at-risk,
5. Design-build, or
6. Job order contracts.

(e) Unless determined otherwise by the Board (or designee), SAPI and the charter districts shall procure construction services using the construction manager-agent or construction manager-at-risk method of procurement. See Policy PG-5.510.

(f) In the event that the Board (or designee) determines that another procurement method is in the best interest of SAPI and the charter district, the Board's (or designee's) determination will be documented in the minutes to the pertinent Board or other meeting or on a memorandum bearing the designee's signature.

[60] Tex. Govt. Code §2269.056(a)
[61] Tex. Govt. Code §2269.056(b)
[62] Tex. Govt. Code §§ 2269.056(c), 2269.105

(g) The Superintendent or designee will seek legal and professional advice and counsel regarding the legal and other requirements applicable to the procurement method selected by the Board (or designee).

(h) Refer to Sec. 8.7 for guidance concerning the Board's delegation of duties.

Sec. 8.4. Component, Separate and Sequential Purchases Prohibited[63]

(a) Refer to Sec. 4.9 of this manual.

(b) The final conviction of a person other than a Board member for an offense of applicable state law results in the immediate removal from office or employment of that person.

Sec. 8.5. Selection of Architect or Engineer[64]

Unless SAPI employs an architect or engineer on a full-time basis to oversee the construction project, SAPI and the charter district shall select the architect or engineer based on demonstrated competence and qualifications as provided by Tex. Govt. Code §2254.004. Refer to Sec. 7 of this manual.

Sec. 8.6. Other Professional Services[65]

SAPI and the charter districts shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility. SAPI and the charter districts shall select the services for which it contracts under this section in accordance with Tex. Govt. Code §2254.004. Refer to Sec. 7 of this manual.

Sec. 8.7. Delegation of Authority[66]

(a) The Board may delegate its authority to procure construction services to a designated representative, committee, or other person (thereafter the "designee" as used herein). This delegation shall occur at a duly noticed and conducted open meetings in compliance with the Texas Open Meeting Act and recorded in the minutes or a written resolution.

(b) SAPI and the charter district shall provide notice of the delegation, if any, and the limits of the delegation, and the name or title of each person designated under Sec. 8.7(a) by rule or in the request for bids, proposals, or qualifications or in an addendum to the request.

Sec. 8.8. Right to Work[67]

In engaging in an activity to which this section applies, SAPI and the charter districts:

(a) May not consider whether a person is a member of or has another relationship with any organization; and

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[63] Tex. Ed. Code §44.032
[64] Tex. Govt. Code §2269.057(b)
[65] Tex. Govt. Code §2269.058
[66] Tex. Govt. Code §2269.053
[67] Tex. Govt. Code §2269.054

(b) Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Sec. 8.9. CRITERIA TO CONSIDER[68]

(a) In determining the award of a contract pursuant to this section, SAPI and the charter districts may consider:

1. The price.

2. The offeror's experience and reputation.

3. The quality and reputation of the offeror's goods or services.

4. The extent to which the offeror's goods or services meet the district's needs.

5. The vendor's past relationship with the district.

6. The impact on the ability of SAPI and the charter district to comply with rules relating to historically underutilized businesses.

7. The total long-term cost to the charter district to acquire the offeror's goods or services.

8. Whether the vendor or the vendor's ultimate parent company or majority owner:

   a. Has its principal place of business in this state; or

   b. Employs at least 500 persons in this state.

9. The offeror's safety record.

10. The offeror's proposed personnel.

11. Whether the offeror's financial capability is appropriate to the size and scope of the project; and

12. Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

(b) In determining the award of a contract under this chapter, SAPI and the charter district shall:

1. Consider and apply any existing laws, including any criteria, related to historically underutilized businesses; and

[68] Tex. Govt. Code §2269.055; Tex. Ed. Code §44.031(b)

2. Consider and apply any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

Sec. 8.10. SAFETY RECORD OF BIDDER CONSIDERED[69]

(a) In determining who is a responsible bidder, SAPI and the charter district may consider the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution as set forth in Policy PG-5.510.

(b) Before considering the safety record of the bidder, SAPI and the charter district must give notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder.

(c) In making determinations concerning the safety records of the bidders, the Board, Superintendent, SAPI employees and charter district employees are prohibited from making the determinations in an arbitrary and capricious manner.

(d) In the request for bids, SAPI and the charter district must include a questionnaire and affidavit to be completed by the bidder. The questionnaire must include the following inquiries:

1. Has the "bidder" received any Citations[70] for violations of Occupational Safety & Health Administration OSHA within the past five (5) years?

2. Has the bidder received any Citations for violations of environmental protection laws or regulations within the past five (5) years?

3. Has the bidder ever been convicted, within the past ten (10) years, of a criminal offense or has been subject to a judgment for a negligent act or omission, which resulted in serious bodily injury or death?

(e) If the bidder replies "Yes" to any question at (d) above, the bidder must provide with its bid submission, the following information:

1. Date of Citation or offense.
2. Location where violation or offense occurred.
3. Type of violation or offense
4. Final disposition of violation or offense, if any; and
5. Penalty assessed.

(f) The Superintendent or designee shall provide the responses provided to the bidder as well as a summary report of the information provided by the bidder under (e) above to the Board for its consideration and to facilitate its determination of whether to disqualify the bidder based upon its safety record.

[69] Tex. Govt. Code §2269.106; Tex. Local Govt. Code §271.0275
[70] Policy PG-5.510, Sec. 8.9.2(a)

Sec. 8.11. NOTIFICATION OF CRIMINAL HISTORY OF CONTRACTOR[71]

(a) SAPI and the charter district should ensure that a bidder's response includes an advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.

(b) SAPI and the charter district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Sec. 8.11(a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.

(c) This section does not apply to a publicly held corporation.

Sec. 8.12. CONTRACT WITH PERSON INDEBTED TO CHARTER DISTRICT

(a) The Board may refuse to award a contract to or enter a transaction with an apparent low bidder or successful proposer that is indebted to SAPI and the charter district.[72]

(b) For purposes of implementing this section, "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter a contract or other transaction with SAPI and the charter district requiring approval by the Board.

(c) The Superintendent or designee shall notify the Board of any debt due by an apparent low bidder or successful proposer. In the notice to the Board, the Superintendent or designee must disclose:

1. The amount outstanding.

2. The date(s) of when the bidder or proposer became indebted to SAPI and the charter district.

3. The cause(s) resulting in the bidder's or proposer's indebtedness.

4. Any adverse consequence to SAPI and the charter district resulting from the bidder's or proposer's indebtedness.

5. The date of the last written correspondence to the bidder or proposer requesting the bidder's or proposer's satisfactory settlement of the indebtedness; and

6. The frequency of requests for settlement of the indebtedness.

[71] Tex. Ed. Code §44.034
[72] Tex. Ed. Code §44.044

Sec. 8.13. COMPETITIVE BIDDING METHOD

Sec. 8.13.1. AWARDING OF CONTRACT

(a) In accordance with state law, "competitive bidding" is a procurement method by which SAPI and the charter districts may contract with a contractor for the construction, alteration, rehabilitation, or repair of a facility by awarding the contract to the lowest responsible bidder.[73]

(b) SAPI and the charter districts may contract for the construction, alteration, rehabilitation, or repair of a facility only after they advertise for bids for the contract in a manner prescribed by law, receives competitive bids, and awards the contract to the lowest responsible bidder.[74] Refer to Sec. 5.8 and 4.10 of this manual for further guidance.

Sec. 8.13.2. RESPONSIBLE BIDDER DEFINED

(a) A responsible bidder is a person who has the capability in all respects to perform in full the contract requirements and the integrity and reliability assuring good faith performance.[75]

(b) A responsible bidder may be required to meet any or all the following requirements.

1. Be an experienced contractor who has served as a prime contractor on similar construction projects for Texas public schools, has satisfactorily completed the scope of work described in the construction documents, and is knowledgeable about the requirements for the construction of and the building elements for Texas public schools including, without limitation, applicable building code requirements.

2. Provide a warranty and support for any equipment installed as part of the construction services and in accordance with the scope of work described in the construction documents.

3. Be able to obtain payment and performance bonds of the types and in the amounts described in Tex. Govt. Code Chapter 2253.

4. When submitting the bid, provide a Letter of Statement from a bonding company that the bidder can obtain both a payment bond and a performance bond described as stipulated in Tex. Govt. Code Chapter 2253.

5. Prior to executing the contract, obtain and provide the payment and performance bonds of the types and in the amounts established at Tex. Govt. Code Chapter 2253.

6. Have adequate financial resources or ability to obtain such resources as required during the performance of any resulting contract.

7. Be able to comply with the required performance schedule, taking into consideration all existing business commitments.

[73] Tex. Govt. Code §2269.101(a)
[74] Tex. Govt. Code §2269.101(b)
[75] FASRG (Update 14; January 2010) Module 3, Purchasing, Glossary of Terms

8. Have necessary management and technical capability to perform any resulting contract for construction services.

9. Be qualified as an established firm regularly engaged in the type of business to provide the items and work required by the request for bids.

10. Be registered to do business in the State of Texas.

11. Be in good standing with the State of Texas.

12. Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

(c) To be effective, the requirements to establish an offeror as a responsible bidder must be disclosed in the request for bids.

Sec. 8.13.3. Preparation of Construction Documents

(a) SAPI and the charter districts shall select or designate an architect or engineer to prepare the construction documents required for a project to be awarded by competitive bidding.[76]

(b) SAPI and the charter districts must procure the services of an architect or engineer as prescribed in Sec. 7 of this manual.

Sec. 8.13.4. Preparation of Request[77]

SAPI and the charter districts shall prepare a request for competitive bids that includes construction documents, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to submit a bid.

Sec. 8.13.5. Notice

Refer to Sec. 4.10 of this manual.

Sec. 8.13.6. Receipt and Opening of Bids

(a) A person who submits a bid, proposal, or qualification to SAPI and a charter district is required to seal it before delivery.[78] The Superintendent or designee shall reject any bid, proposal or qualification that is not sealed and return it to the offeror with a statement:

1. Representing that the bid, proposal or qualification was not opened, viewed or otherwise examined.

2. Asserting that the content and form of the bid, proposal, or qualification was not duplicated or disseminated with any person or entity; and

[76] Tex. Govt. Code §2269.102
[77] Tex. Govt. Code §2269.103
[78] Tex. Govt. Code §2269.059

3. Instructing the offeror to resubmit an appropriately sealed bid, proposal or qualification as required by state law.

(b) SAPI and the charter districts shall receive, officially open, and read aloud the names of the offerors and their bids.[79]

(c) Only the Board, during a lawfully convened Board meeting, or the Superintendent or designee, at or in SAPI's or the charter district's central administrative office, may open the bids submitted by offerors.[80]

(d) A bid that has been opened may not be changed for the purpose of correcting an error in the bid price.[81]

(e) A bidder has the common law right to withdraw a bid due to a material mistake in the bid.[82]

(f) SAPI and the charter districts are entitled to reject all bids.[83]

(g) To the degree appropriate and feasible, the charter district shall consider and utilize the process described in Sec. 6.2.3 of this manual.

Sec. 8.14. CHANGE ORDERS[84]

(a) If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the Superintendent or designee may approve change orders making the changes.

(b) The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

(c) The Superintendent or designee has general authority to approve change orders.

(d) A contract with an original contract price of $1 million or more may not be increased under this section by more than 25 percent. If a change order for a contract with an original contract price of less than $1 million increases the contract amount to $1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Sec. 8.15. COLLECTIVE BARGAINING[85]

In awarding a contract under this section, SAPI may not:

[79] Tex. Govt. Code §2269.104
[80] Tex. Govt. Code §2269.106; Tex. Local Govt. Code §271.026(a)
[81] *Id*.
[82] Tex. Govt. Code §2269.106; Tex. Local Govt. Code §271.026(b)
[83] Tex. Govt. Code §2269.106; Tex. Local Govt. Code §271.027(a)
[84] Tex. Ed. Code §44.0411
[85] Tex. Govt. Code §2269.05411

(a) prohibit, require, discourage, or encourage a person bidding on the public work contract, including a contractor or subcontractor, from entering or adhering to an agreement with a collective bargaining organization relating to the project; or

(b) discriminate against a person under (a) above based on the person's involvement in the agreement, including the person's:

(1) status or lack of status as a party to the agreement; or
(2) willingness or refusal to enter into the agreement.