

Walters State Community College Purchasing Manual

Introduction and Purpose	2
Responsibilities and Functions of the Purchasing Office	3
Purchasing Policy	3
Section I – Competitive Bidding and Specifications	4
Section II – Procurement of Goods, Materials & Supplies/Services	7
Section III – Requests for Quotation & Requests for Proposals	9
Section IV – Minimum Notice and Number of Bids	10
Section V – Bid Withdrawal, Bid Revision, & Bid Rejection	11
Section VI – Acceptance of Bids / No Rights Created	12
Section VII – Protested Bids	14
Section VIII – Tie Bids	17
Section IX – Receiving Reports	18
Section X – Vendor List	18
Section XI – Removal from Vendors List	18
Section XII – Purchases from Small/Minority/Women Owned Bus.	19
Section XIII – Emergency Purchases	20
Section XIV – Special Purchase Categories	20
Section XV – Contracts and Agreements	23
Section XVI – Coordination of Procurement Functions Among System Institutions and TCATs and with the University of Tennessee System	26
Section XVII – Life Cycle Costs	26
Section XVIII – Energy Efficiency Standards	27
Section XIX – Disposal of Surplus Personal Property	27
Section XX – Prohibited Transactions	27
Section XXI – Procurement Manual	27
Section XXII – Reports	27
Section XXIII – Exceptions	28
Section XXIV – Council of Buyers	28
Section XXV – General Purchasing Procedures	29
Section XXVI – Memberships and Subscriptions	32
Section XXVII – Receiving Materials	33
Section XXIX – Returning Materials to Vendors	33
Section XXX – Vendor Files	34
Section XXXI – Procedures for Assuring Funds are Available	34
Section XXXII – Procedures for Processing Payment of Invoices	35
Section XXXIII – Procedures for Entering Into Agreements	36
Section XXXIV – Procedures for Acquiring Data Processing Equipment/Software/Services	39

Introduction and Purpose

To insure compliance with Tennessee Board of Regents Policy Number 4.-02:10:00 and to provide for administrative efficiency, the president of Walters State Community College has delegated the responsibilities for purchasing materials, supplies, equipment and services to the vice president for Business Affairs. Immediate supervisory responsibility has been delegated to the procurement officer and this position reports to the vice-president for Business Affairs. The organizational structure of the purchasing function is presented in Appendix 1.

The purchasing procedures set forth herein are applicable in all cases. This includes funds expended from state or federal appropriations, student fees, grants, sales and services of educational departments, gifts, or other sources of college funds.

Except as specifically provided in this policy or other TBR policies or guidelines, the authority of the president pursuant to these policies and procedures shall not include the purchase or lease of real property, data processing equipment over \$249,999.99, the purchase of insurance, or purchases for capital outlay projects from any fund source whatsoever. Goods and services may be procured without competitive bidding only if such purchases are justified in writing and approved by the president, director or Chancellor as required by TBR policies and guidelines. In cases where the TBR policies and procedures do not address a specific procedure for purchase of a particular item, the Department of General Services' rules and regulations will govern, if applicable.

No employee or agent has the authority to make any purchase commitment or take any action which may be construed as financially binding to the college, except through the normal channels under the authority of the vice president for Business Affairs.

The purchasing policy does not preclude a department from contacting vendors for preliminary information concerning price, quality, etc. Such preliminary contacts, however, are not to produce firm commitments. Copies of letter estimates and other information relative to a purchase should be forwarded to the Purchasing Office with the original requisition.

Any exceptions to the TBR policies and procedures referenced in this manual are subject to the approval of the Chancellor. TBR policy super cedes anything contradictory or that is omitted from this manual.

Responsibilities and Functions of the Purchasing Office

- A.** To purchase materials, supplies, equipment and services for the college so as to obtain maximum value.
- B.** To insure that qualified suppliers are given equal opportunity to furnish materials and services for the college.
- C.** To expedite the delivery of materials and services to meet college requirements (when so requested by the department).
- D.** To process all correspondence with suppliers relating to quotations and purchase orders.
- E.** To handle complaints, claims and adjustments, and to negotiate for the return of material or arrange for other settlements.
- F.** To establish standard specifications for materials and supplies commonly used on the campus.
- G.** To consolidate purchases whenever possible to obtain quantity discounts.
- H.** To furnish, on request, prices or estimates of cost of materials and services supplied to departments.

Purchasing Policy

The following policy and procedures, Minimum General Bid Conditions (Attachment A), and Code of Ethics in Procurement and Contracting (Attachment B) are adopted as minimum standards for exercise by the President of the institution, governed by the Tennessee Board of Regents, of his or her delegated authority to purchase materials, supplies, equipment and services. Except as specifically provided in this policy or other TBR policies or guidelines, the authority of the President pursuant to these policies and procedures shall not include the purchase or lease of real property, purchase of data processing equipment over \$249,999.99, the purchase of insurance, or purchases for capital outlay projects from any fund source whatsoever. Goods and services may be procured without competitive bidding only if such purchases are justified in writing and approved by the President as required by TBR policies and guidelines. In cases where the TBR policies and procedures do not address a specific procedure for purchase of a particular item, the Department of General Services' rules and regulations will govern, if applicable. The President, vice president for Business Affairs, or the procurement officer may delegate approval authority as specified in this policy to designees. Time periods specified in this policy shall be calculated by excluding the first day and including the last, unless the last day is a Saturday, a Sunday, or a legal holiday, and then it shall also be excluded.

I. COMPETITIVE BIDDING AND SPECIFICATIONS

All purchases shall be based upon the principle of competitive bidding except as herein provided. Required documentation related to competitive bidding shall be routed through the college's purchasing/contract office, prior to the purchase, to ensure compliance with applicable policies and guidelines. Unless otherwise provided in this policy, electronic document distribution and record keeping is permitted in the procurement process, except when original signatures are required. Whenever possible, all specifications for materials, supplies, equipment and services shall be worded or designed so as to permit open and competitive bidding for the supplying of the article, commodities or services to which they apply. For all Requests for Proposal (RFP) and Requests for Quotation (RFQ) exceeding \$100,000, written certification from the author or committee that the specifications, to the best of their knowledge, are not proprietary shall be documented in the bid file. It is the responsibility of the procurement officer to ensure all competitive bidding is considered fair and open in a bid process. It will be considered open and competitive bidding by utilizing one of the following procurement techniques:

- A. Requests for Quotation (RFQ)/Invitation to Bid (ITB) – a competitive process soliciting bids from possible suppliers for a one-time procurement of product(s) and/or service(s).

Specifications based on brand names and product numbers - reference to brand names, trade names, model numbers or other descriptions peculiar to specific brand products is made to establish a required level of quality and functional capabilities; it is not intended to exclude other products of that level. Comparable products of other manufacturers will be considered if proof of comparability is contained in the bid. Vendors are required to notify the Procurement officer whenever specifications procedures are not perceived to be fair and open. All suggestions or objections shall be made in writing and received by the procurement officer at least three (3) working days prior to the bid opening. It shall be the responsibility of the vendors, including vendors whose product is referenced, to furnish with the bid such specifications, catalog pages, brochures or other data as will provide an adequate basis for determining the quality and functional capabilities of the product offered. Failure to provide the following data may be considered valid justification for rejection of a bid:

1. Specifications based on standard specifications;
2. Specifications based on qualified products list; or

3. Specifications based on catalogs, price lists, or price schedules.

B. Requests for Proposals (RFP) – a competitive process in which bids are solicited from possible suppliers, with a source or sources of supply established for a specified period of time at agreed upon unit pricing for goods and/or services.

1. **Request for Proposal under \$50,000** – can be written, telephone or electronic.

2. **Request for Proposal – \$50,000 and over** - sealed bid with separate sealed technical and cost proposals which must be submitted at the same time. Acceptability of technical offers shall be determined by an evaluation team selected by the president or designee. Members of the evaluation team should be adequate and appropriate to the scope and nature of the RFP. Procurement department representatives shall review the proposals to ensure procurement procedures were followed and shall offer guidance to the evaluation team, but shall not serve on the evaluation team, and shall not score technical proposals received, except in instances where the RFP is directly related to a good/service needed by the procurement department. All technical offers shall be evaluated based on the criteria of the RFP and other information learned during the technical evaluation process. Any technical offer submitted which contains any pricing information of any type shall be rejected. Technical offers not deemed acceptable will not proceed to the pricing phase. Cost proposals shall not be opened if the associated technical proposal has been deemed non-responsive and is rejected by the college. Technical and cost proposals shall not be made public until the inspection period following the evaluation of the cost proposals. If the estimated amount of the purchase (or revenue) is \$50,000 or more, written sealed bids from fifteen (15) vendors or the number of vendors on the Vendor's List – whichever is less and to all that request the specific RFQ/RFP (the procurement officer must approve the solicitation of less than 15 bids). A contract for consulting services which exceeds \$25,000 shall not be allowed unless it is determined by the Chancellor or President, in writing, that the services are in fact needed and that they cannot be satisfactorily or economically performed by a state agency. A cover form will be required to be completed by the requisitioning department, submitted to the purchasing office, certifying the need for the service(s) and that appropriate consideration has been given to the use of state resources (sample language is available through the TBR Office System).

3. **Multi-step Sealed Bidding** – the use of a multi-step sealed bidding process is required in the acquisition of college computer systems involving the purchase of hardware and the development of application software. The multi-step bidding process may also be used for the

procurement of other products or services, when it is not practical to prepare initially definitive specifications. (See TBR Guideline B-035, Procedures for Multi-Step Sealed Bidding).

C. Procurement Under the Authority of Another Entity's Bid Process:

Purchase of materials or services, for which any TBR or UT institution or the State of Tennessee Department of General Services, Purchasing Division, has awarded a contract to a vendor through the competitive bidding process may be made without adherence to Section IV, Minimum Notice and Number of Bids, provided the vendor meets the bid specifications. Note: the competitive bidding process of another entity (except the State Purchasing Division) must have specified that other institutions would be permitted to purchase under the bid. Institutions are strongly encouraged to include language in RFPs/RFQs asking if the bid is open to other TBR and UT institutions. This section does not preclude institutions from utilizing a SWC as a bid in accordance with the competitive bidding process outlined in Section IV, Minimum Notice and Number of Bids, if so desired. (F&A Rule 0690-3-1-.01 (5) and Section XVII of this policy.)

D. Procurement of State Manufactured Articles and Services:

The college is required to purchase items (goods) and services from other State agencies, e.g., Department of Correction, Blind Services, Tennessee Rehabilitative Initiative in Correction (TRICOR), Community Rehabilitation Agencies (CMRA) / TRUST in Tennessee, whenever such items or services are available therefrom and meet the desired conditions and standards. (General Services Rule 0690-3-1-.01 (7) (d).)

In addition, for personal, professional and consultant service contracts only, no competitive process is required when the contractor is a state agency (as provided in the immediately preceding paragraph), a political subdivision of the state, any other public entity in Tennessee, or an entity of the federal government. The non-competitive negotiation process in Section XIV B. of this Policy may be used for such contracts. (F&A Rule 0620-3-3-.03).

E. Procurement Under Contracts with Group Purchasing Organizations
(See Section XXI for Reporting and Documentation Requirements):

The college is permitted to make purchases of goods and services under a contract with a group purchasing program as provided in TCA 49-7-127. The statute specifically permits such purchases when the price for goods or services under a group purchasing program is lower than the price available on a state contract. A state contract is defined in this section as a TBR institution contract, a TBR system contract, a UT contract, or a General Services contract. Comparison pricing must have been obtained within twelve (12) months of the date of comparison.

F. Gifts:

Gifts do not require a procurement process subject to this policy. See TBR Policy 4:01:04:00 Solicitation and Acceptance of Gifts and TBR G-030 Section 3.

For purposes of this policy, a gift to the college shall be defined as a voluntary transfer of goods or services to the college made gratuitously and without consideration. Essential elements of a gift are:

- (1) Capacity of the donor of the gift,
- (2) Intention of donor to make a gift,
- (3) Completed delivery of the gift to or for the college, and
- (4) Acceptance of the gift by the college.

Nothing in this policy shall be construed to mean that the college must accept any gift.

II. PROCUREMENT OF GOODS, MATERIALS AND SUPPLIES / SERVICES

A. Goods. Goods, materials, and supplies (cumulatively called "goods") should be awarded to the lowest responsive and responsible* bidder pursuant to a Request for Quotation, sometimes called an Invitation to Bid. (A sample Request for Quotation is available at the TBR web site.)

*"Responsive" means that the bid meets the requirements and criteria set forth in the Request for Quotation or Request for Proposal. "Responsible" means that the bidder is capable of performing or is not otherwise disqualified. In the event a bidder is not responsive and/or not responsible, then the bid is to be disqualified.

B. Goods and Services. Certain services or a combination of goods and services may be procured as a "good", based on a Request for Quotation rather than a Request for Proposal, if the end product is more important than the service that goes toward its production or when the vendor has little discretion in determining its actual content or form.

- a. Examples of this type of service may include, but are not limited to: (a) pest control; (b) security services; (c) moving and hauling; (d) refuse collections; (e) charter services; (f) printing services, and (g) maintenance services.
- b. Mischaracterization of an item to be procured as a good or service shall not constitute an error in the procurement if the requirements of this policy are met, but it may be grounds for the college to terminate the procurement process. For competitive procurement of goods, an Invitation to Bid (or Request for Quotation) is appropriate, and in general, a purchase order may be used to finalize the purchase. For

competitive procurement of services, a Request for Proposal is more appropriate, and a purchase order is generally not sufficient to serve as the written contract for the services. For procurement of services which will require System Office approval, the Request for Proposal format approved by the System Office shall be used. Procurement of goods under this policy shall not require a monitoring plan, but shall comply with TBR and institution internal controls and audit procedures.

C. Services. A contract for personal, professional, or consulting service shall be used when the vendor's discretion or the form of the end product or service is critical to the performance. All purchases of personal, professional, and consultant services should be based, to the maximum extent practicable, on evaluation and consideration of vendor qualifications and cost. Detailed information regarding service contracts is provided in TBR Guideline G-030. A sample Request for Proposal for service contracts is available at www.tbr.edu/offices/purchasing.aspx?id=3330. Each RFP should contain, at a minimum, the requirements of the sample RFP provided by TBR Central Office.

A contract for consulting services hereunder which exceeds \$25,000 shall not be allowed unless it is determined by the President in writing that the services are in fact needed and that they cannot be satisfactorily or economically performed by a state agency. A cover form will be required to be completed by the requisitioning department, submitted to the purchasing office, certifying the need for the service(s) and that appropriate consideration has been given to the use of state resources (sample language is available through the TBR Central Office).

D. Outsourcing: Institutions are encouraged to determine whether some services can be delivered more economically by the private rather than the public sector. The following process is hereby permitted and encouraged:

- (1) The state's cost of the service may be ascertained and kept confidential as part of the evaluation process. This cost must be finally determined and provided to the President, as appropriate, in a sealed envelope prior to bid/proposal due date.
- (2) The service may be the subject of an RFQ/RFP, as appropriate, which approximately describes the services heretofore provided by the institution.
- (3) The RFP/RFQ may require that if the proposer's/bidder's price exceeds the state's confidential cost, the proposal/bid may be rejected.

E. Monitoring and Services. The college shall have a monitoring plan for contracts resulting from RFPs to ensure the following:

- (1) that deliverables are received;
- (2) financial obligation of the college does not exceed the RFP pricing, and

(3) contract is in compliance with the terms and conditions of the RFP/contract.

F. Illegal Immigrants - No person may enter into a contract to supply goods or services to the state or other state entities without first attesting in writing that the person will not knowingly utilize the services of illegal immigrants in the performance of the contract, and will not knowingly utilize the services of any subcontractor who will utilize the serves of illegal immigrants in the performance of the contract. The procedures for implementing this Policy and the attestation form are provided in TBR Guideline G-030. Language to be included in bids/proposals is included in Exhibit 2, Minimum General Bid Conditions.

III. REQUESTS FOR QUOTATION AND REQUESTS FOR PROPOSAL

A. Requests for Quotation and Requests for Proposal shall specify:

- (1) The time and place that bids will be received and opened;
- (2) Information describing the purpose of the procurement, technical requirements, bidder qualifications, and any other information considered relevant to the goods or services being acquired;
- (3) the amount or number of articles or services required;
- (4) For all RFPs and RFQs exceeding \$100,000 in estimated expenditure or revenue, a question/answer period and/or pre-bidders' conference should be held, with all questions and responses forwarded to all prospective bidders. (The larger and more complex an RFP is, the more likely a pre-bidders' conference should be held, and the more likely it may be that two periods of questions and answers may be appropriate.);
- (5) the time of delivery;
- (6) the amount, if any, of any bid bond or certified checks to accompany the bid/proposal;
- (7) the amount, if any, of any performance bond which may be required if the vendor is the successful bidder;
- (8) a declaration of the contract terms and conditions which shall be required by the college;
- (9) a description of the factors to be considered in evaluating bids/proposals, if applicable;

- (10) date bid/proposals evaluations will be available for viewing;
 - (11) if applicable, whether other TBR institutions and/or UT institutions may purchase from the contract; and,
 - (12) the period of time during which each bidder/proposer will hold its bid open and the period during which the contract awarded will be available to other institutions, if applicable.
- B. RFQs/RFPs may specify any other requirements, conditions, or information in reference to the purchase deemed necessary.
- C. RFQ/RFP files (hard-copy or electronic) shall contain, at a minimum, the following:
- (1) a copy of the RFQ/RFP issued (including specifications),
 - (2) a list of vendors for solicitation,
 - (3) the date vendors were sent the RFQ/RFP,
 - (4) for RFPs and applicable RFQs, any pre-bid questions/responses or addendums to the RFQ/RFP,
 - (5) for RFPs and applicable RFQs, all documentation relating to the composition of the evaluation team and the evaluation documentation used to make the award,
 - (6) as applicable, any documentation that warrants a re-bid of the RFQ/RFP,
 - (7) any informal bid complaints and the respective responses/actions,
 - (8) as applicable, copies of intent to award letters, and
 - (9) the executed purchase order and/or contract.

IV. MINIMUM NOTICE AND NUMBER OF BIDS

The number of bids required and the notice to bidders for solicitation of bids for purchases and revenue contracts shall be as follows:

- A. If the estimated amount of the purchase (or revenue) is \$50,000 or more, written sealed bids must be solicited from fifteen (15) vendors or the number of vendors on the Vendors List--whichever is less and to all that request the specific RFQ/RFP. (The Procurement officer must approve the solicitation of less than 15 bids). If the annual estimated amount of the purchase is \$100,000 or more, solicitations must be sent in a manner that verifies proof of delivery. The RFQ for goods must be sent at least

fourteen (14) days (ten (10) days when all vendors are local vendors) before the date that the bids are scheduled to be opened. For RFPs and applicable RFQs (for example, those RFQs having requirements in addition to or other than the purchase of goods), a minimum of 4-6 weeks should be allowed for vendors to adequately prepare a competitive proposal based on the method of RFP or RFQ delivery, bid specifications and pre-bidders questions/responses.

Examples of types of bids which would need to allow at least six (6) weeks include, but are not limited to:

- a. banking and other financial services,
- b. bookstore and food services,
- c. custom software and/or IT system services,
- d. advertising management services,
- e. and any other bid for which the additional time is appropriate.

A vendor's general or standing request for notice for all RFQs/RFPs or all RFQs/RFPs of a given type shall not suffice as a request for a specific RFQ/RFP and shall create no obligation on the college.

- B. If the estimated amount of the purchase (or revenue) is at least \$10,000 but less than \$50,000, written, telephone or electronic bids must be solicited from at least three (3) qualified vendors (with the exception of Section I. E. above). When telephone bids are solicited, a written record of the bidders and amounts bid shall be maintained.

V. BID WITHDRAWAL, BID REVISION, AND BID REJECTION

Before bid opening, a vendor may be permitted to withdraw a bid entirely and/or submit a substitute bid. The vendor making such a request must submit suitable identification.

After bid opening, a vendor will be permitted to withdraw a bid only where there is obvious clerical error in the bid such as a misplaced decimal point, or when enforcement of the bid would impose unconscionable hardship due to an error in the bid resulting in a quotation substantially below the other bids received. Withdrawal will be considered only upon written request from the vendor.

In cases of errors in the extension of prices in the bid, the unit price will govern.

Incorrect proposal information – If the college or technology center determines that a proposer has provided, for consideration in a contractor selection process or in negotiations, information which the proposer knew or

should have known was materially incorrect, the subject proposal may be determined non-responsive, the proposal may be rejected and the vendor may be removed from the vendor list.

A bid may not be revised after bid opening. However, after evaluation is complete and the successful bidder/proposer selected, the college may initiate negotiations which serve to alter the bid/proposal in a way favorable to the college. For example, prices may be reduced, time requirements may be revised, the bid/proposal may be revised to supply omitted contract terms, etc. In no event shall negotiations increase the cost or amend the proposal such that the apparent successful proposer no longer offers the best proposal.

Any proposal that restricts the rights of the college or otherwise qualifies or limits the proposal may be considered to be non-responsive, and the proposal may be rejected.

When it becomes necessary to reject all bids, the reason for such rejection must be set out in complete detail and made available to all bidders who submitted a bid.

Action to reject all bids shall be taken only for unreasonably high prices, errors in the RFQ/RFP, cessation of need, unavailability of funds, failure of all proposals to meet technical specifications, a determination that the goods/services can be more economically delivered pursuant to an agreement with another TBR institution or other state agency, or a determination that proceeding with the procurement would be detrimental to the best interests of the college, the reason for which must be documented and approved by the President. If another RFP is to be issued, all prior offers and/or proposals shall remain closed to inspection by the proposers and/or the public until the evaluation of the re-bid is complete.

VI. ACCEPTANCE OF BIDS / NO RIGHTS CREATED

Notwithstanding any provision contained herein or in any solicitation document, submission of a bid or a proposal shall not create rights, interests or claims of entitlement in any bidder or proposer, including the successful bidder or proposer. Notwithstanding any action or agreement to the contrary, no such right, interest, or claim shall exist unless and until a purchase order has been issued or a contract is fully executed.

For RFPs and applicable RFQs, a notice of intent to award shall be sent to all proposers containing, at a minimum, the content provided by the TBR Central Office.

All bids shall be subject to rejection by the President. If awarded, the contract for purchase shall be awarded to the lowest qualified and responsible bidder,

taking into consideration quantifiable factors including but not limited to the apparent ability of the bidder to perform the proposed contract, the conformity of the articles or services to the specifications, any discount allowed for prompt payment or for any other reason, transportation charges, and the date of delivery specified in the RFP/RFQ.

A bond for the faithful performance of any contract may be required at the discretion of the college.

A complete written record on all procedures and justifications shall be maintained on each procurement transaction in order to provide a clear audit trail on the purchase.

Bids must be received in the specified location on or before the date and hour designated for bid opening. All bids received must be date and time stamped to show compliance with the designated opening date and time. Late bids will not be considered in contract award.

All RFQs received shall be publicly opened and examined by the Procurement officer or his or her designee at the time and place specified in the RFQ. Whenever sealed bidding is utilized, bidders shall have no less than five (5) working days after the opening before a purchase order/contract may be awarded.

All RFQs/RFPs conforming to the RFQ/RFP specifications, together with the name of the bidders, shall be recorded. Only after the completion of evaluation shall the complete procurement files become a matter of public record and open to public inspection.

Each bid should give the full name and business address of the bidder; if the vendor is a corporation, the name shall be stated as it is in the corporate charter. Bids must be typewritten or in ink; otherwise they may not be considered. However, the institution may conduct informal procurement electronically, and if the college requests or permits electronic bidding, no bidder's signature shall be required. TCA § 12-3-704. Unless original signatures are otherwise required (e.g., easements, deeds and other real property documents), electronic procurement is permitted for formal procurements when the required rules and procedures are developed in accordance with TBR Guidelines B-095 and T.C.A. § 12-3-704, which provides that state agencies shall not require small and minority owned businesses to receive or respond to invitations to bid/request for quotations or request for proposals, or other solicitations electronically. A purchase order, if applicable, will be issued to the firm name appearing on the bid.

When more than one item is specified in the RFQ/RFP, the college may provide in the RFQ/RFP that the college shall have the right to determine the low vendor(s) either on the basis of each individual item, a group of items, or the total of all items.

Alternate bids will not be considered unless specifically called for in the bid.

All material, supplies, and equipment offered and furnished must be new unless the RFQ/RFP specifically permits offers of used, remanufactured, or reconditioned items. RFQs/RFPs which specifically permit offers of used, remanufactured, or reconditioned items shall require a warranty; however, the Chancellor or President shall have the authority to waive this requirement.

VII. PROTESTED BIDS

A. Right to Protest

1. Any actual proposer who claims to be aggrieved in connection with a specific solicitation process may submit a protest in writing to the Procurement officer within seven (7) calendar days after he or she knows or should have known the facts giving rise to the protest.
2. All proposers should know and shall be deemed responsible for knowing the facts documented in the college's procurement files on the day the college opens the bid files for public inspection.
3. Any issues raised by the protesting party after the seven (7) calendar day period shall not be considered as part of the protest.

B. Signature on Protest Constitutes Certificate

1. The signature of an attorney or protesting party on a request for consideration, protest, motion, or other document constitutes a certificate by the signer that the signer has read such document, that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass, limit competition, or to cause unnecessary delay, or needless increase in the cost of the procurement or of the litigation.
2. If a request for consideration, protest, pleading, motion, or other document is signed in violation of this subsection before or after appeal to the Chancellor, the Chancellor upon motion or upon his/her own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties, including the college, the amount of the reasonable expenses incurred because of the filing of the protest, a petition for a stay of award, pleading, motion, or other paper, including reasonable attorneys' fees.
3. Neither a protest nor a stay of award shall proceed under this section unless the protesting party posts a protest bond (See Appendix 2).

The protesting party shall post, with the Procurement officer of the college, at the time of filing a notice of protest, a bond payable to the college in the amount of five percent (5%) of the lowest cost proposal evaluated or five percent (5%) of the highest revenue proposal evaluated. Such protest bond shall be in form and substance acceptable to the college and shall be immediately payable to the college conditioned upon a decision by the Chancellor that:

- a. A request for consideration, protest, pleading, motion, or other document is signed, before or after appeal to the Chancellor, in violation of TBR Policy Section XVII subsection B.;
- b. The protest has been brought or pursued in bad faith; or
- c. The protest does not state on its face a valid basis for protest.

4. The college shall hold such protest bond for at least eleven (11) calendar days after the date of the final determination by the college. If the protesting party appeals the determination in accordance with TBR Policy paragraph (17), the college shall hold such protest bond until instructed by the Chancellor to either keep the bond or return it to the protesting party.

5. At the time of filing notice of a protest of a procurement in which the lowest evaluated cost proposal is less than one million dollars (\$1,000,000), or in which the highest evaluated revenue proposal is less than one hundred thousand dollars (\$100,000), a minority or small business protesting party may submit a written petition to the Procurement officer for exemption from the protest bond requirement of TBR Policy Section XVII, B., 3. Such a petition must include clear evidence of minority or small business status. On the day of receipt, the petition shall be given (may be faxed) to the Chancellor or designee. The Chancellor has five (5) business days in which to make a determination. If an exemption from the protest bond requirement is granted, the protest shall proceed as though the bond were posted. Should the Chancellor deny an exemption from the requirement, the protesting party shall post the bond with the Procurement officer of the college as required in subsection TBR Policy Section XVII, B., 3 within three (3) business days of the determination.

C. Authority to Resolve Protest

1. The Procurement officer of the college has the authority to resolve the protest. If deemed necessary, the Procurement officer may request a meeting with the protesting party to seek clarification of the protest issues.
2. The final determination of the Procurement officer shall be given in writing and submitted to the protesting party.

3. The protesting party may request that the final determination of the Procurement officer be considered by the Vice President for Business Affairs. The request for consideration shall be made in writing to the Vice President for Business Affairs within seven (7) calendar days from the date of the final determination by the Procurement officer.
4. The Vice President for Business Affairs has the authority to review and resolve the protest. If deemed necessary, the Vice President for Business Affairs may request a meeting with the protesting party to seek clarification of the protest issues. The final determination of the Vice President for Business Affairs shall be given in writing and submitted to the protesting party.
5. The protesting party may request that the final determination of the Vice President for Business Affairs be considered by the President. The request for consideration shall be made in writing to the President seven (7) calendar days from the date of the final determination by the Vice President for Business Affairs.
6. The college shall have no longer than sixty (60) calendar days from receipt of the protest to resolve the protest.
7. The protesting party may request that the final determination of the President be considered by the Chancellor. The request for consideration shall be made in writing to the Chancellor within seven (7) calendar days from the date of the final determination by the President. The determination of the Chancellor or designee is final and shall be given in writing and submitted to the protestor.
8. In the event that the college fails to acknowledge receipt of a protest within fifteen (15) days of receipt of a protest or fails to resolve the protest within sixty (60) calendar days, the protesting party may request that the Chancellor consider the protest at a meeting.

D. Stay of Award

1. Prior to the award of a contract, a proposer who has protested may submit to the Vice President for Business Affairs a written petition for stay of award. Such stay shall become effective upon receipt by the Vice President for Business Affairs.
2. The Procurement officer shall not proceed further with the solicitation process or the award of the contract until the protest has been resolved in accordance with this section, unless the Chancellor makes a written determination that continuation of the solicitation process or the award of the contract without delay is necessary to protect substantial interests of the college.

3. It shall be the responsibility of the Vice President for Business Affairs to seek such determination by the Chancellor.

E. Protest Subsequent to Award

The Tennessee Claims Commission has exclusive jurisdiction to determine all monetary claims against the state for the negligent deprivation of statutory rights.

F. Appeal to Chancery Court

Protests appealed to the chancery court from the Chancellor's decision shall be by common law writ of certiorari. The scope of review in the proceedings shall involve only an inquiry into whether the Chancellor exceeded his/her jurisdiction; followed an unlawful procedure; or acted illegally, fraudulently or arbitrarily without material evidence to support his/her action

- G.** A protest bond may be presented to the college in form and substance compliant with the Protest Bond format attached in Appendix 2. Any protest bond presented to the college that represents a deviation from Appendix 2 format shall be considered for acceptability by the college on a case by case basis.

VIII. TIE BIDS

- A.** Goods - A tie bid exists when two or more bidders offer goods and/or services that meet all specifications, terms and conditions at identical prices, including cash discount offered. In such case, a tie bid will be broken by the following methods, in descending order of preference:
1. Tennessee businesses will be given preference.
 2. Small, minority and women-owned business will be given preference (business classifications defined in Section XII).
 3. Award item(s) to vendor who was low bidder on other item(s) being bid per the same requisition.
 4. Best delivery.
 5. By lot or coin toss (properly witnessed and documented).
- B.** Personal, professional and consultant services - In the event that a proposal evaluation process results in two or more proposals receiving evaluation scores that tie for the rank of highest score, the college or technology center shall request best and final cost

proposals from only those proposers with scores that tie. The college may calculate new evaluation scores for the tying proposals by adding the original technical scores to the recalculated cost scores. Should another tie result, the contract shall be awarded by coin toss.

IX. RECEIVING REPORTS

When any supplies, equipment, or materials are received by the college, the receiving clerk thereof shall maintain a record of receipt that the supplies, equipment, or materials received were equal in quality and quantity to those requisitioned. Appropriate documentation of contract performance or specific deliverables shall be provided by the requisitioning department prior to payment for services, supplies, equipment, and materials. Complete records on all receiving reports/documentation shall be maintained in order to provide for a clear audit trail on the receipt of all purchases.

X. VENDORS LIST

The college shall maintain a list of vendors which shows the types or classes of materials, supplies, equipment or services which the person, firm or corporation is willing and able to furnish to the college. The college may require the person, firm or corporation to submit sufficient information to demonstrate ability to perform any future commitment prior to inclusion on the list of bidders.

XI. REMOVAL FROM VENDORS LIST

Vendors who fail to respond to a reasonable number of bids or fail to provide adequate goods and/or services shall be removed from the vendors list. Reported failure to comply with bids, awards, and/or orders becomes a part of the bidder's application file. If a qualified bidder repeatedly fails to respond to Invitations to Bid, the bidder will be removed from all commodity groups. Examples of failure to comply include but are not limited to:

- Overshipments or Undershipments
- Early Shipments or Late Shipments
- Damaged Products
- Defective Products
- Shipments not in Conformance with Specifications
- Unauthorized Substitutions
- Billing Errors
- Service Deficiencies
- Failure to Ship

Other principal causes for temporary or permanent removal from the bid list are:

Unethical Practices
Misrepresentation of Merchandise

Failure of a vendor to perform satisfactorily in any of the above areas may result in a vendor's liability for damages to the college.

XII. PURCHASES FROM SMALL/MINORITY/WOMEN OWNED BUSINESSES

The college shall actively solicit bids from small, minority, and women owned businesses in order to obtain a fair proportion of goods and services from such businesses, whenever possible. In accordance with TCA 12 3 808, on an annual basis information regarding small, minority, and women-owned business purchases will be filed with the Department of General Services which will consolidate this information into the report to the Legislature.

For reporting purposes under this section, "Minority owned business" means a business that is a continuing, independent, for profit business which performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more minority individuals who are impeded from normal entry into the economic mainstream because of past practices of discrimination based on race or ethnic background. "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is: a) African American (a person having origins in any of the black racial groups of Africa); b) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race); c) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or d) Native American (a person having origins in any of the original peoples of North America).

A "small business" means a business which is independently owned and operated and is not dominant in its field of operation. The State of Tennessee shall design and implement procedures to identify small businesses and to monitor purchases from those businesses. The State shall establish criteria for consideration as a small business, which shall include, but not be limited to, number of employees and annual gross sales. A "woman owned business" means a business that is a continuing, independent, for profit business which performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one or more women; or, in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned and controlled by one (1) or more women and whose management and daily business operations are under the control of one (1) or more women.

XIII. EMERGENCY PURCHASES

Purchases of specific materials, supplies, equipment or services may be made in the open market for immediate delivery only to meet bona fide emergencies arising from any unforeseen cause. All bona fide emergency purchases must be approved by the President and a written report on the circumstances of any such emergency justifying the purchase shall be prepared and maintained. All emergency purchases shall, if practicable, be made on the basis of competitive bids.

XIV. SPECIAL PURCHASE CATEGORIES

A. Competitive Negotiation

A contract may be entered into by competitive negotiation only in cases when the college is unable to obtain needed goods and/or services by the competitive bid process. In addition, competitive negotiation may be appropriate for personal, professional and consultant service contracts when one of the following is true:

1. public need will not permit the delay incident to the RFP process;
2. no acceptable proposals have been received after the RFP process;
3. rates payable for the services are regulated by law; or
4. as provided in XIV.C. of TBR Policy. (F&A Rule 0620-3-3-.03)

The President shall prescribe the procedures under which negotiation is to be conducted. These procedures shall provide for the safeguarding of the information and provide fairness to the vendors in the negotiation process; procedures shall mandate communication of the requirements of the college, clarify best interests of the college, and solicit bids from at least three (3) potential providers (including minority, disadvantaged and small business providers as otherwise required by TBR policy and guidelines), and require documentation of the solicitation process. In the event it appears the competitive negotiation process is to be implemented, such an action must be approved by the President. Once the negotiations have been concluded, a recommendation shall be made by the negotiating team to the President and he or she shall approve the results prior to entering into a contract.

B. Non-competitive negotiation for sole source procurement – the negotiation of the terms of a contract with only one provider.

1. Personal, professional and consultant service contracts may be obtained by non-competitive negotiation when the contractor is a state agency, a political subdivision of the state, and any other public entity in Tennessee, or an entity of the federal government. (See Section XVII. Subsections A. & B. of TBR policy and F&A Rule 0620-3-3-.03.)
2. Sole source or proprietary purchases may be allowed pursuant to the

following:

a. Sole Source Procurement - Sole source purchases are made only when items are unique and possess specific characteristics that can be filled by only one source. The vendor must furnish a letter indicating that it is the sole source and the letter must be signed by an authorized company representative

b. Proprietary Purchase - A proprietary product is one that is manufactured and marketed by a person or persons having the exclusive right to manufacture and sell the product. Marketing is generally controlled by franchises that may include competitive sales at wholesale or retail levels. When it is found that bids may be obtained from different franchises, bid invitations must be issued unless the estimated purchase is less than \$10,000.

Factors to be considered in sole source and proprietary purchases include the following:

- i. Whether the vendor possesses exclusive and/or predominant capabilities or the items contain a patented feature providing superior utility not obtainable from similar products.
- ii. Whether the product or service is unique and easily established as one of a kind.
- iii. Whether the program requirements can be modified so that competitive products or services may be used.
- iv. Whether the product is available from only one source and not merchandised through wholesalers, jobbers, and retailers.
- v. Whether items must be interchangeable or compatible with in-place items.
- vi. Whether the cost of conversion, including but not limited to disruption, re-training, and replacement precludes bidding competitively.
- vii. Whether the product is to be used in an instructional setting and the intent is to provide instruction on the specific product or diversity of products.
- viii. For personal, professional and consultant services, whether the use of non-competitive negotiation is in the best interests of the college. (F&A Rule 0620-3-3-.03)
- ix. Other justifications as approved by the President.

- d. Only authorized sole source may be procured utilizing non-competitive negotiation and a completed non-competitive justification form.
- e. Whenever specifications are not so worded or designed to provide competitive bidding, or specify a single brand, the person responsible for the recommendation shall be required to justify the necessity for the specification in writing, and the request shall be approved by the President. The Justification for Non-Competitive Purchases and Contracts Form must be completed and approved by the procurement officer, the requesting department VP, the VP for Business Affairs and the President.

C. Purchases for Resale in Auxiliary Enterprises

The college currently contracts with an outside vendor for the operation of Bookstore. Purchases of textbooks and other course related materials are managed by the vendor.

D. Purchases for Libraries, Excluding Materials and Supplies Identified for Consumption by the Library

Purchases of materials for additions to a library collection include cost of books, catalogs, periodicals, binding, audio-visual media, and other general publications. These items are capital expenditures. The college shall be responsible for developing procurement policies and procedures for the library. These purchases may be made without formal bids or quotations, and appropriate documentation shall be maintained on these purchases to support sole source procurement.

Purchases of electronic journals, subscriptions, and databases for libraries shall be procured through the purchasing department in instances when a competitive process can be used. In addition, any required electronic or written agreements to license journals, subscriptions, or databases shall be routed through the purchasing department or the office of planning research and assessment for review and approval prior to use. Appropriate documentation must be maintained for purchases to support sole source procurement. Additionally, these items may require the approval of the Fiscal Review Committee if the purchase exceeds the Fiscal Review Committee threshold.

E. Federal Guidelines

Purchases utilizing federal funding are to follow federal guidelines regarding such purchases. Purchases for goods or services shall not be made from vendors on the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

F. Utility Contracts

The college shall purchase or contract for all telephone, telegraph, electric light, gas, power, postal and other services for which a rate for the use thereof has been established by a public authority in such manner as the college deems to be accordance with this policy, unless it has been determined that such purchase is single source. If such purchase has been determined to be single source, the purchase shall then be made pursuant to Section XV. B., Non-competitive negotiation, of this TBR Purchasing Policy.

XV. CONTRACTS AND AGREEMENTS

All contracts and agreements will be in conformance with TBR Policy 1:03:02:10 Approval of Agreements and TBR Guideline G 030, Contracts and Agreements.

- A. No agreement of any nature which requires the expenditures of funds shall extend beyond the end of fiscal year in which it is entered into unless expressly subject to the condition that the college shall have the right to terminate the agreement at the end of any fiscal year in the event that sufficient funds are not appropriated by the General Assembly and/or budgeted for continuation of the agreement.
- B. All agreements, contracts and subcontracts shall contain all necessary affirmative action and nondiscrimination requirements provided by Federal or State laws and regulations.
- C. No contract for purchase of materials, supplies, equipment or services shall be awarded pursuant to these procedures unless funds have been appropriated and are available for the purchase. No contract shall be entered into in addition to the contract resulting from acceptance of a bid and issuance of a purchase order except pursuant to TBR Policy No. 1:03:02:10, Approval of Agreements.
- D. Contracts containing no financial consideration may be negotiated.
- E. Expenditure contracts, other than real property contracts, may not have a contract term for a period in excess of sixty (60) months. Revenue contracts may not have a contract term for a period in excess of one hundred twenty (120) months.
- F. A revenue contract shall be used to formalize an agreement in which the college provides specific deliverable goods or services for monetary compensation. Revenue contracts shall conform to the requirements of this policy, TBR Policy 1:03:02:10 and G-030.
- G. Individuals who execute agreements, contracts or subcontracts containing impermissible clauses may be subject to personal liability

(TCA 12-3-105)

H. Limitations of Liability – Personal, Professional and Consultant Service Contracts.

The President or designee may approve personal, professional and consultant service contracts when such contracts contain limitations to the liability of contractors for damage claims.

Not Authorized. The President is not authorized to approve limitations of contractor liability for intentional torts, criminal acts, or fraudulent conduct; nor is the Chancellor authorized to accept limitation of liability for an amount less than two (2) times the value of the contract. Further, this section G. does not authorize TBR, the college, or the TCAT to indemnify contractors for the acts or negligence of the contractors or third parties.

Approval Timeliness. Any request to the President under this section G. must be made at an appropriate time in the procurement process to ensure that no such decision shall detrimentally impact the fairness of the procurement or the interests of the state in competitive procurements. In a formal RFP process, the college may determine to request the Chancellor's approval under this section G. after receiving written comments from potential proposers. If the Chancellor approves such request, an amendment to the RFP may be made. The college or TCAT may request, and the Chancellor may approve, initiation of a new procurement process, including a contractor's limitation of liability, at any stage of the procurement process, in circumstances in which the applicable procurement process has failed to provide a qualified proposer. The Chancellor may authorize a limitation of liability under this section G. in the course of competitive or non-competitive negotiations as otherwise permitted in this Purchasing Policy.

Approval Process. The request under this section G. must be submitted in writing to the Chancellor and must be signed by the President. The request must contain justification that addresses the following:

1. the text of the limitation of liability sought to be used;
2. the risks of liability to the state created by the information technology services to be purchased under the contract, and the impact on the state of allowing the limitation;
3. the conditions of the market which justify a limitation of liability;
4. the anticipated impact on the state's procurement if limitation of liability is not approved; and

5. the identification of one or more persons at the college familiar with the information set forth in the request.

The Chancellor may deny or approve the request or may authorize limitation of liability under other language than that proposed in the request.

Approval Documentation. Any request approved by the Chancellor under this Section G. shall be filed with the fiscal review committee of the general assembly.

TCA § 12-4-119 and F&A Rule 0620-3-7

- I. Limitations of Liability – Materials, Supplies, Equipment and Services. The President or designee may approve contracts for the purchase of materials, supplies, equipment and services when such contracts contain limitations of the liability of contractors for damage claims.

Not Authorized: The President is not authorized to approve limitations of contractor liability for intentional torts, criminal acts, or fraudulent conduct; nor is the Chancellor authorized to accept limitation of liability for an amount less than two times the value of the contract. Further, this section H. does not authorize the TBR, the college or the TCAT to indemnify contractors for the acts or negligence of the contractors or third parties.

Approval Timeliness: Any request to the Chancellor under this section H. must be made at an appropriate time in the procurement process to ensure that no such decision shall detrimentally impact the fairness of the procurement or the interests of the state in competitive procurements. In a formal ITB process, the college or TCAT may determine to request the Chancellor's approval under this section H. after receiving written comments from potential proposers. If the Chancellor approves such request, an amendment to the ITB may be made. The college or TCAT may request, and the Chancellor may approve, initiation of a new procurement process, including a contractor's limitation of liability, at any stage of the procurement process and may authorize negotiation of a limitation on a contractor's liability in circumstances in which the applicable procurement process has failed to provide a qualified proposer or a responsive bid.

Approval Process: The request under this section H. must be submitted in writing to the Chancellor and must be signed by the President or Director. The request must contain justification that addresses the following:

1. the text of the limitation of liability sought to be used;

2. the risks of liability to the state created by the information technology services and/or products to be purchased under the contract, and the impact on the state of allowing the limitation;
3. the conditions of the market which justify a limitation of liability;
4. the anticipated impact on the state's procurement if limitation of liability is not approved; and
5. the identification of one or more persons at the college or TCAT familiar with the information set forth in the request.

The Chancellor may deny or approve the request or may authorize limitation of liability under other language than that proposed in the request.

Notwithstanding the above, the Chancellor may authorize, with respect to contracts for telecommunications and information technology goods and services, a limitation of liability of not less than two (2) times the value of the contract provided that the limitation of liability permitted under this paragraph shall not apply to intentional torts, criminal acts, fraudulent conduct or acts or omissions that result in personal injuries or death. Any limitation beyond that permitted in this paragraph must be approved by the Chancellor and the Board of Standards.

TCA § 12-3-315 and General Services Rule 0690-3-2

XVI. COORDINATION OF PROCUREMENT FUNCTIONS AMONG SYSTEM INSTITUTIONS AND TCATS AND WITH THE UNIVERSITY OF TENNESSEE SYSTEM

In all contracts and other bid processes consideration will be given to such wording that would allow member institutions and TCATs to purchase under the terms and conditions of the bid of the college or TCAT. In all appropriate circumstances, consideration should also be given to wording that would allow UT institutions to purchase under the terms and conditions of the bid of the college or TCAT. The college and TCAT shall also be permitted to purchase under the terms and conditions of a bid of the UT System if the bid authorizes TBR institutions to do so.

XVII. LIFE CYCLE COSTS

The college shall, in a case where the State Board of Standards has adopted a rule requiring life cycle costs to be used by the Commissioner of the Department of General Services in contracting for major energy consuming products, and may, in a case where a life cycle cost and/or energy efficiency standard has been developed for a product by the federal government, apply such life cycle cost and/or energy efficiency

standard in the determination of the lowest qualified and responsible bidder under this policy.

XVIII. ENERGY EFFICIENCY STANDARDS

Energy Star is a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy that has established energy efficiency standards that are used by the Federal Government in its contracting for major energy-consuming products, as well as energy efficient best practices.

XIX. DISPOSAL OF SURPLUS PERSONAL PROPERTY

Surplus property is personal property which has been determined obsolete, outmoded, unusable or no longer usable by the college or TCAT, or property for which future needs do not justify the cost of maintenance and/or storage. Disposal of such property must be in accordance with TBR Policy No. 4:02:20:00, Disposal of Surplus Personal Property.

XX. PROHIBITED TRANSACTIONS

No personal items shall be purchased through the college or from funds of the college for any employee of the college or any relative of any employee. No employee of the college responsible for initiating or approving requisitions shall accept or receive, directly or indirectly, from any person, firm or corporation to whom any contract may be awarded, by rebate, gift or otherwise, any money or anything of value whatsoever, or any promise, obligation or contract for future awards or compensation. Whenever any contract is awarded contrary to the provisions of these policies and procedures, the contract shall be void and of no effect, and if the violation was intentional, the employee responsible for the purchase shall be liable for any state funds paid contrary to these policies and procedures.

XXI. PROCUREMENT MANUAL

The college will maintain a written procurement manual (may be in electronic format) which sets forth any procedures of the college.

XXII. REPORTS

Reports shall be submitted to the TBR Central Office as follows:

- A. Small/Minority/Women-Owned Business Report. This report consists of transactions with minority-owned, women-owned, and small businesses required by TCA 12-3-808 shall be reported to the TBR Director of Purchasing and Contracts on a quarterly basis (January March, April June, July-September, and October December).

- B. Group Purchasing Report. This report consists of transactions procured with comparison pricing from group purchasing organizations required by TCA 49-7-124 and shall be reported to the TBR Director of Purchasing and Contracts on an annual basis.
- C. RFP Diversity Report. This report consists of contracts issued from request for proposals for goods and/or services pursuant to TCA 12-3-807(b) and shall be reported to the TBR Director of Purchasing and Contracts.

XXIII. EXCEPTIONS

Any exceptions to the policies and procedures established herein shall be subject to the approval of the Chancellor or designee. The college may devise and document procedures for an Alternate Competitive Procurement Method and use the methodology in a specific contractor selection process, provided that prior, written approval of the Chancellor or designee is obtained for the proposed method to be used in the specified instance.

XXIV. COUNCIL OF BUYERS

The Chancellor has established a Council of Buyers. The Council shall be comprised of at least one (1) procurement representative from each institution, and representatives from the TBR Central Office appointed by the Chancellor. The Council should meet quarterly, or at minimum semi-annually, or upon request of the Chancellor or designee, and shall have the responsibilities including but not limited to the following:

- A. Development of uniform procedures, forms, and general conditions governing procurement which may be feasible and practicable for use by all institutions and technology centers in the System, including affirmative action and equal opportunity provisions, for review and approval by the Chancellor. Uniform procedures, forms, and general conditions governing procurement developed by the Council of Buyers shall be posted at the TBR web site.
- B. Formulation of standard specifications for purchase of specific materials, supplies, equipment, and/or services which may be feasible and practicable for use by the college and TCAT, for review and approval by the Chancellor or designee. Standard specifications for purchase of specific materials, supplies, equipment, and/or services developed by the Council of Buyers shall be posted at the TBR web site.
- C. Consideration of the feasibility and advantages of possible term contracts for the System, of designation of certain institutions or TCATs as responsible procurement agents for specific materials,

supplies, equipment, and/or services for the System, and of the possibility of coordinating procurement functions among institutions and TCATs within geographic areas, with recommendations to be submitted to the Chancellor.

- D. Formulation of a uniform code of ethics for governing the professional conduct of employees responsible for procurement. (Attachment B)
- E. Any other matters referred to the Council by the Chancellor or designee.

XXV. General Purchasing Procedures

A. Requisition for Purchase

Purchases are initiated at the department level by completing a "requisition for purchase" in the procurement system, SciQuest. Requisitions from instructional/academic departments must be approved by the appropriate division dean and the vice president for Academic Affairs where appropriate. Requisitions from all other departments must be approved by the appropriate administrative officer and the administrative vice president where necessary. Requisitions for items purchased with grant funds must be approved by the director of accounting services and the vice president for business affairs. The requisition will be processed only after a budget for that grant has been prepared and approved. An exception to this will be purchases made from Workforce Investment Opportunity Act funds (WIOA). Requisitions for purchase involving WIOA funds will be approved by the program director and the director of WIOA Fiscal Services.

All requisitions for purchases of \$5,000 or more must be approved by the president. Requisitions for the purchase of food or food related items such as that used in serving college guests or special outside groups must also be approved by the president and the vice president for Business Affairs. Additionally, requisitions for furniture or items of an interior decorating nature must be approved by the vice president for Business Affairs. If the amount on a requisition for software and computer hardware exceeds the college's bid limit, it must be forwarded to the Chief Information Officer (CIO) for approval. In addition, all hardware and software being paid for by Technology Access fee funds must be approved by the CIO. Any requisition that is required to be approved by the president must also be approved by the vice president for the originating department.

B. Purchasing Materials

Approved requisitions are routed via SciQuest electronic approvals to the Purchasing Office for final review. If the specifications are adequate, the procurement officer approves the requisition. Purchase orders are sent to the supplier via fax or email. If neither of these routes is available, the purchasing office will mail the original purchase order.

Decisions to bid requisitions are made by the procurement officer based on the purchasing policy and information provided on the requisition. If the procurement officer has additional information that may affect the decision to bid, the procurement officer advises appropriate personnel (e.g., the requesting department, vice president for Business Affairs, president, etc.) accordingly.

The president has delegated the responsibility to award bids to the procurement officer. Department personnel are encouraged to examine bids prior to the time they are awarded. The vice president for Business Affairs or the procurement officer may request department personnel to review and advise on bids before they are awarded.

Upon receipt of the specifications and other bid information, the procurement officer shall:

- a. Select vendors from the vendor file as appropriate. Departments are encouraged to include a list of suggested vendors when submitting a purchase requisition that exceeds bid limitations.
- b. Prepare standard bid request forms.
- c. Follow special instructions as appropriate.
- d. Record any information needed for later follow up.
- e. Mail bid request forms.

Bids are received and opened in the Purchasing Office at the appointed time. The tabulated bids are reviewed by the procurement officer and the requesting department and awarded to the vendor with the best price based upon the recommendation by the requesting department.

Upon receiving a recommendation for award of bid, the procurement officer purchasing shall:

1. Confirm purchase requisition has been through all electronic approvals.
 - a. The purchase requisition should reference bid number, shipping instructions, bid prices, and quantity and description of items ordered.
2. Change vendor information from Bid Vendor to the winning bidder.
3. Update bid log by entering purchase order number.
4. SciQuest will distribute purchase order to vendor via fax or email after procurement officers final approval and all electronic approvals.

C. Petty Cash Purchases

Purchases for items costing \$50 or less may be made from petty cash. Approval prior to purchase is required. Instructional departments should complete a petty cash form securing approval from their division dean and the vice president for Business Affairs or his/her designee. All other departments should secure approval from the appropriate administrative officer and the

vice president for Business Affairs or his/her designee. The petty cash fund is maintained in the Accounts Payable Office. Petty cash funds cannot be used for agency funds, gift cards, or iTunes cards. Purchases for food must be accompanied by a food approval form and must be signed by the President. Both canary and pink copies must accompany the purchaser to ensure that sales tax is not charged. Petty cash is not to be split in order to avoid creating purchase requisitions. After the items have been purchased, the department must provide the Accounts Payable Office with an original receipt, written evidence that materials have been received, and any funds not spent on the purchase. The original receipt and any unexpended funds should be turned in within 24 hours in which the purchase was approved. (See Appendix 4 for sample copy and instructions for preparation.)

D. Other Notes Relating to Purchasing Procedures

1. Action will be taken on requisitions in SciQuest procurement system within two days after they are received, except in cases of unusual or unforeseen circumstances.
2. Bids may be awarded by the Purchasing Office only. The Purchasing Office will review the results of bids with the requesting department. Employees outside the Purchasing Office should not notify vendors; if this happens, the employee assumes full responsibility for duplicate shipments and any problems that may arise from this action.
3. Purchase orders may be cancelled only by the Purchasing Office. The Purchasing Office should be notified by written memorandum or email of any orders to be cancelled. Orders over six months old are subject to cancellation after consultation with the division dean or administrative supervisor. The Purchasing Office will make the necessary arrangements with the vendor to cancel any order when such action is appropriate.
4. Department heads, deans, and administrative officers imply, with their approval, that funds are available to purchase materials or services requisitioned. Budget balances are available in the Banner Finance System to provide current data for decision on requisitions.
5. All Internet purchases will be made following the same procedures as other purchasing transactions. A purchase requisition must be submitted in SciQuest purchasing for processing prior to making a purchase. The Internet site must accept a purchase order number or college credit card in order for the purchase to be made via the Internet. The purchasing department will ascertain whether the purchase will be made by Internet or through normal methods.

XXVI. Memberships and Subscriptions

The college shall develop, make known, and enforce a process for approval of memberships and subscriptions. The president or his/her designee(s) shall approve all memberships and subscriptions except as follows:

1. The college may be a member of an organization or maintain subscriptions if the membership or subscription is directly related to the goals and mission of the college.
2. The college may not pay the membership dues or subscription of an individual. An exception may be granted in rare instances where an organization does not permit institutional memberships or where an individual membership (in the name of a college representative) is less expensive than an institutional membership. However, memberships necessary to maintain or enhance an employee's professional status should be considered the responsibility of the employee and the association dues considered a personal expense.
3. Duplicate memberships and subscriptions should be evaluated with the intention of providing only one membership/subscription per college.
4. Membership dues and subscriptions costing in excess of \$1,000 per year must be approved initially by the Chancellor. A written request for approvals must be submitted by the president and include an explanation of the specific benefit the college derives. A listing of other colleges, which maintain the membership or subscription, may be requested.
5. Where membership dues are included as part or all of the expense of an organization meeting for which the college pays the expense of an employee to attend, the appropriate expenses shall be considered memberships dues under these guidelines and should be subject to the established membership approval process.
6. Faculty and staff membership in civic organizations is encouraged; however, state funds may not be used to pay for memberships.
7. The college may not subscribe to political publications for other than instructional purposes.
8. College libraries may include subscriptions related to their function or purpose. The college will maintain central locations so that faculty, staff and students may benefit from the periodicals.
9. The college may subscribe to newspapers within its service area for public

information and instructional-related purposes only. The only exceptions to the above are that the athletic department may subscribe to newspapers outside the college's service area, and that subscriptions to newspapers with national distribution may be held for instructional purposes.

XXVII. Receiving Materials

All materials will be received by Central Receiving (or responsible personnel in the case of off campus sites). The receiving clerk will record receipt of packages in a spreadsheet upon their arrival. If there are no special instructions or problems with the packages/contents, the order will be delivered to the requesting department. The requesting department will receive items in SciQuest with either a quantity receipt or a cost receipt.

XXIX. Returning Materials to Vendors

All departments desiring to return materials to vendors must process returns through the Purchasing Office. Departments wishing to return unsatisfactory items should furnish the procurement officer with the following information:

- A. Original purchase order number
- B. Date of purchase order
- C. Date items received
- D. Vendor name and address
- E. Reason for return

The procurement officer will contact the vendor. As soon as arrangements have been made for returning the materials, the department and Central Receiving will be notified.

Central Receiving will then pick up the materials, package it for return to vendor, and select the best method for return. This procedure must be followed in all cases unless other arrangements are made with the Purchasing Office.

Due to the considerable volume of computer hardware/software returns and the interrelatedness of equipment/software, the office of information and educational technologies will make arrangements for the return/exchange of goods while simultaneously informing the purchasing department of such arrangements. These departments will contact the Purchasing Office when problems arise concerning the return of materials or when negotiations need to be made.

XXX. Vendor Files

The purchasing office will maintain a vendor file which shows the type or classes of materials, supplies, equipment, or services which the person, firm or

corporation is willing and able to furnish to the college. This file may consist of catalogs, brochures, and other data furnished by vendors. Literature shall be grouped so that vendors offering like items are located together to the extent practicable.

Vendors may qualify to be added to the vendor list by requesting and completing a vendor application. Vendors should furnish the procurement officer with enough descriptive literature to identify the goods or services they offer and the most current prices of these goods and services.

Qualified vendors are those vendors that have an established place of business and a record of satisfactory service to others. The Purchasing Office reserves the right to request letters of recommendation from any vendor before placing the vendor on the college vendor list.

All vendors must certify that their organization and its principles are not suspended, debarred, or listed in the *List of Parties Excluded From Federal Procurement or Nonprocurement Programs*, issued by the General Services Administration (GSA). This certification will be obtained from vendors by their completion of the college's vendor application.

XXXI. Procedures for Assuring Funds are Available to Purchase

A. Each person involved in the requisitioning process will have responsibility to determine that funds are available for merchandise requisitioned. Responsibilities in this respect are met as follows:

1. Department personnel initiating requisitions are responsible to ensure funds are available for the purchase. Personnel can access available balances for their FOAP either through STARNET (Banner SSB "Self Service") or INB (Banner INB "Native Banner"). The purchasing software system, SciQuest, matches requisition amounts to available balance amounts within each FOAP budget pool. Because available balances in Banner are only adjusted when a purchase order is created (as opposed to the requisition), the departments are responsible to maintain a ledger of outstanding requisition and the effects on the available balance.
2. Approval queues are set up in SciQuest assuring responsible staff must review and approve each purchase requisition. The first stop within the approval queues is the NSF (non-sufficient funds) queue. This queue is controlled by the vice president for Business Affairs and their designees. Any requisition exceeding the available balance within the Banner FOAP budget pool is sent to this queue. If a requisition is sent to the NSF queue, the vice president for Business Affairs or his/her designee can contact the requisition initiator to discuss further actions. Those actions can be to disapprove the requisition, return the requisition to the initiator, or override the requisition to continue to the next approver in the approval queue. SciQuest will stop a requisition from being processed into a purchase

order if multiple requisitions have been approved reducing available balance below the purchase amount.

B. The Vice President for Business Affairs or his/her designee monitor budget balances by reviewing an ARGOS "WS Budget OLAP" report. This report details by budget pool within each FOAP the budget, expenditures, encumbrances, and available budget.

1. In case of price increases on purchase orders not formally bid, vendors are instructed not to ship merchandise without prior authorization from the WSCC Purchasing Office. These increases are to be checked against the budget and expenditure report as in (1) above.

C. In the event funds are not available for a required purchase, department heads may petition the appropriate administrative officer to request a budget revision. The petition will be in writing and include the reasons for the increase. If the administrative officer agrees that the budget needs to be increased, he/she will present a budget transfer form through the vice president for Business Affairs to the president for approval. The president will review the request and take appropriate action as provided by the Tennessee Board of Regents.

If the budget revision is approved, the appropriate approval will be forwarded to the Purchasing Office. If the request is denied, the administrative officer will advise the department accordingly.

XXXII. Procedures for Processing Payment of Invoices

Accounts Payable Staff

1. Accounts payable receives invoices.
2. Invoices are matched with receipts in SciQuest, and receipt numbers are referenced on the invoices.
3. Invoices are then entered into the Banner Finance System.
4. Accountant reviews the invoices within Banner Finance and approves or disapproves payment.
5. If approved, payments are paid by credit card (phone or other method used by accounts payable staff) or check (on the next check processing date).
6. If the department needs to pick up the check the individual who is picking up the check is required, by accounts payable staff, to sign for that check.

XXXIII. Procedures for Entering Into Agreements

Contracts or agreements may be required in order to conduct the business of the college, including but not limited to acquiring the services of outside

individuals or agencies, using a facility other than a Walters State campus, or as required by outside entities for purchases, clinical training, licensing activities, equipment maintenance, or other services. The college adheres to guidelines and policies of the Tennessee Board of Regents (TBR) including G-030 *Contracts and Agreements* and Policy 1:03:02:10, *Approval of Agreements* in addition to purchasing policies.

Only the president can legally obligate or sign a contract for Walters State. No commitment shall be made, nor should any contractual activities commence, until approval of a contract has been granted by the president, and TBR staff*, if applicable.

PROCEDURES

The office of Planning, Research and Assessment (OPRA) functions as the contracts office.

1. Contracts Requiring No Expenditure of College Funds or Receipt of Funds by the College

Forward the request for a contract to OPRA substantially prior to the start date of the agreement.

The request must include the following:

- legal name of the individual or business (contractor)
- address and phone number of contractor
- contact person's name, title, and email
- detailed description of service or activity
- dates for the agreement to be effective
- amount to be received by the college, if applicable
- any special conditions or processing requests
- the standard form agreement if provided by an external entity

2. Contracts Requiring Expenditure of College Funds

Submit an online purchase requisition through SciQuest substantially prior to the proposed start of the agreement.

The request must include the following:

- legal name of the individual, business, or vendor (contractor)
- the contractor's Banner Identification Number
- the contractor's point of contact name, title, address, phone number, and email
- detailed description of goods or services
- dates of the service
- amount to be paid by the college

- any special conditions or processing requests
- the standard form agreement if provided an external entity

The Purchasing Department will work with OPRA to determine whether a specific activity requires a contract. In all circumstances, other purchasing policies and procedures must be followed. For example acquisitions exceeding the bid limit must either be bid or have sole source justification before a contract will be completed.

The Purchasing Department will forward a copy of the purchase requisition to OPRA for processing. OPRA will assign a WSCC contract number that is recorded on the requisition. *Accounts Payable will not make payments on a requisition with a contract number prior to receiving a copy of the signed contract.*

3. Internal Review and Processing

If a contract is needed pursuant to Section 1 or Section 2, OPRA will provide needed assistance in contract preparation, negotiation of terms, and coordination of the review/approval process. Contracts for Workforce Development training, the Great Smoky Mountain Expo Center, and WIA have special processing requirements in addition to these procedures. These special processing requirements are addressed through direct consultation with OPRA.

Upon receipt of a complete contract request, OPRA will prepare an appropriate number of contracts for original signatures. Contract documents will be forwarded to the initiator with a transmittal memorandum and a completed Statement of Assurances. The contract initiator and all contract approvers should follow the instructions in the transmittal memo for review, approval, and routing. If changes are required, the contract is to be returned to the office of Planning, Research and Assessment along with recommended changes in writing.

All contracts are routed through appropriate channels ending with the vice president of Business Affairs and the president. Contracts not approved by the vice president for Business Affairs, or the president, will be returned to OPRA. OPRA will contact the initiator to discuss the rejection and, if applicable, to request additional information for reconsidering the proposed contract.

To expedite contract processing, the initiator may walk the contract and associated paperwork around for signature. If this processing is requested, the initiator is responsible for delivering the contract to each individual listed on the contract transmittal memorandum for approval.

4. External Processing and Distribution

After the president has approved and signed the agreement. OPRA will forward the agreement to the contractor for signature. Contracts are not to be forwarded to the contractor by the initiator unless a written request to do so has been acknowledged by OPRA. In such cases, the initiator assumes the responsibility of ensuring that an appropriate number of contracts are signed and returned to OPRA for final processing.

The contractor, upon receipt, is instructed to sign all copies of the agreement, retain one copy, and return the remaining original signature version of the contract to OPRA. OPRA distributes copies of the fully executed contract as follows:

- the office of Business Affairs;
- the initiator; and
- the contracts file in the office of Planning, Research and Assessment.

Activities or work specified in a contract should not begin until the contract is fully executed. If the initiator has not received a fully-executed agreement before the scheduled activity occurs, he or she should contact OPRA. The initiator is responsible for follow-up with the contractor to secure signed agreements. The office of Planning, Research and Assessment may assist in attempts to secure signed agreements, and may notify the initiator of outstanding agreement. If attempts to secure a signed agreement fail, the initiator must pursue other alternatives to secure the goods or services, and OPRA will file the agreement as unexecuted. OPRA may also mark contracts as unexecuted if the initiator fails to respond to requests for information.

5. Contract Follow Up

The contract initiator has additional responsibilities upon completion of contract including, but not limited to the following.

- After services have been fully rendered, the initiator is responsible for following-up with the contractor. If payment is required, the initiator should ensure that an invoice is approved and submitted to the WSCC Accounts Payable office in a timely manner for payment processing.
- The initiator is responsible for contacting OPRA if there is a need to cancel or modify the contract after it has been approved.

- The initiator is responsible for monitoring expiring contracts, and should request renewals or extensions in advance of the expiration date. Expired agreements may not be renewed nor can a contract exceed five years or sixty months. New contracts must be initiated in these circumstances. Upon request for a new contract, the initiator is responsible for verifying or updating required information as previously specified.

6. TBR Processing and Approval

*When contracts require the approval of the TBR staff, the following additional processing steps are required:

Upon approval by the president, OPRA forwards the contract to the TBR.

After signatures have been obtained from the TBR staff, copies of the contract are returned to OPRA. Contracts are distributed as specified in Item 4. In some circumstances, the TBR retains an executed copy.

Each quarter, the office of Planning, Research and Assessment prepares a summary report of activities meeting criteria specified by the State for inclusion in the Quarterly Contract Report. OPRA forwards the report to the Purchasing Department. The Coordinator of Purchasing prepares the final report for submission to TBR.

XXXIV. TBR Procedures for Acquiring Data Processing Equipment/Software/Services

This section establishes procedures for the initial acquisition of data processing equipment, software, and maintenance services for the college or TCAT. It does not apply to annual renewals of lease agreements, software licenses, or maintenance contracts. It also does not apply to data processing acquisitions where the total expenditure is less than \$50,000. If multi-step sealed bidding is to be used, reference should be made to TBR Guideline B-035.

For the purpose of this section, the term data processing equipment, software, and maintenance services is defined as those computers and related peripherals, operating system and associated utility software, application software and hardware and software maintenance services that are used in conjunction with the electronic information systems serving both academic and administrative departments. Typical functions include office automation, financial accounting, payroll and personnel systems, decision support systems, programming, and educational activities related to the above. Specifically excluded from this definition is equipment hardware, software and services

where the use of microcomputers or microprocessors is incidental to its intended primary use for non-data processing functions. Examples of said equipment are telephone switches, numerically controlled mills, robotics, and audio spectrum analyzers and other such scientific equipment.

The term "acquiring" denotes any form of acquisition (regardless of source of funds) including, but not limited to a rental, lease, purchase, trade, or gift.

All changes in data processing equipment at the college or TCAT shall be accomplished in accordance with the current institutional data processing plan and with the approval of the president. All changes in data processing equipment at the TCAT will be reviewed by the centers computer advisory committee, with approval by the vice-chancellor for Vocational-Technical Education, who for the purposes of this guideline shall have the authority and responsibilities of a college president. Upon approval the technology center director will coordinate the actual purchase through the college.

The procedures outlined in the Tennessee Board of Regents Policy No. 4:02:01:00, Purchasing Policies and Procedures, Guidelines B-035 on Multi-Step Sealed Bidding Process and, G-030 on Contracts and Agreements will serve as the guide for the bid process for data processing equipment software/services. To determine the applicable category under Section III, Item IV, Minimum Notice and Number of Bids, "expenditures" are defined as follows:

1. Total expenditures if purchase is proposed.
2. Total funds to be committed by contractual obligation if lease, lease/purchase or rental. (Example: \$200 per month on a three-year contract would be considered a \$7,200 expenditure.)
3. For month to month leases or rentals, the annual obligation or the actual cost to be incurred if period is less than one year.

For the purpose of acquisition approval, service contract cost will be considered on the basis of Number 2 and 3 above, and the cost of service contracts will be added to the cost of the equipment purchase or lease to determine total expenditure. The appropriate number of vendors will be solicited and method of bid solicitation will be followed as specified in Section III, Item IV, of this manual and TBR guidelines on approval of Contracts and Agreements. If multi-step process is used, Guideline B-035 will be followed. Tennessee Board of Regents notification or approval will not be required on expenditures less than \$50,000. In case of quantity orders or assemblies, it will be the cost of the extended total cost or total assembly cost, respectively that will apply. All acquisitions regardless of cost are to be reviewed by the office of Information and educational technologies. Renewals of annual machine maintenance contracts will not require Board approval.

Requests for approval to acquire data processing equipment will be submitted in the Information Technology Plan (ITP) as part of the July budget process. Equipment purchases included in an approved ITP do not require subsequent individual approvals. Changes to data processing equipment needs as submitted in the ITP and/or other requests not included in the ITP will be forwarded to the Chancellor over the signature of the president of the college for review and

approval. A copy of the request should be sent to the Office of Business and Finance. Approval must be obtained prior to awarding the bid. The request for approval of equipment not submitted in the ITP and/or changes to requested equipment in the ITP will include: (1) justification for change or acquisition, (2) approximate expenditure, and (3) justification for sole source procurement, if applicable. Upon request, if deemed necessary, the Office of Business and Finance may require that the bid specifications be forwarded to the Board office.

If intended purchase requires performance evaluation, the benchmark and bid specifications will be prepared in conjunction with the Tennessee Board of Regents. All bid specifications will incorporate Tennessee Board of Regents standard contracts and essential terms where applicable.

When approved by the TBR, the bid process will then proceed at the college. If not previously submitted but required, a copy of the final bid specifications will be forwarded to the TBR when bids are mailed to the vendors. Upon acceptance of a bid in cases where no formal contract must be signed, the college will furnish to the TBR a report of bid analysis, vendor selected, price, terms, etc., and scheduled installation date (if required).

If a contract or letter of agreement must be signed, the above-mentioned report and the contract, if applicable, will be forwarded to the Chancellor with a copy to the office of Administration for appropriate signature prior to formal acceptance of the bid. If the TBR policies and procedures require additional signatures, the signed contract will be returned to the college after appropriate signatures have been obtained.

If intended procurement includes major purchases which have had benchmark and bid specifications prepared, vendors will be required to submit copies of responses to bids to both the college and or center and the office of Business and Finance. The college or TCAT will be responsible for maintaining files of correspondence related to any bid procedures. Copies of bid responses furnished to the Board will be disposed of when the bid process is complete.

To further facilitate the acquisition of data processing equipment/software/services, the following guidelines are applicable for Walters State Community College use.

General Procurement Guidelines: The procurement of hardware and software at Walters State will be a joint effort among members of the requesting department, the office of information and educational technologies, and Purchasing. Only hardware and software that support the educational, administrative, public service, and research missions of the college will be considered for procurement.

ATTACHMENT A

MINIMUM GENERAL BID CONDITIONS

1. PREPARATION AND SUBMISSION OF BID.

- a. Failure to examine any drawings, specifications, or instructions will be at the bidder's risk.
- b. **BID SUBMITTAL / SIGNATURE:** Bid shall give the full name and business address of the bidder. If the bidder is a corporation, the name shall be stated as it is in the corporate charter. Bids must be signed in ink by the bidder's authorized agent. Unsigned bids will be rejected. Bids are to be sealed and the outside of the envelope is to reference the bid number. The person signing the bid must show his title, and if requested by the institution, must furnish satisfactory proof of his or her authority to bind his or her company in contract. Bidder understands that by submitting a bid with an authorized signature, it shall constitute an offer to the institution. Bids must be typewritten or in ink; otherwise they may not be considered. Purchase orders will be issued to the firm name appearing on the bid.
- c. Bids are to be received in the location designated on the bid no later than the specified date and time. Late bids will NOT be opened or considered.
- d. No erasures permitted. Errors may be crossed out and corrections printed in ink or typewritten adjacent to error and must be initialed in ink by person signing bid.
- e. Discounts other than "Time" or "Cash" offered should be deducted from the unit price.
- f. **Specifications:** Reference to available specifications shall be sufficient to make the terms of the specifications binding on the bidder. The use of the name of a manufacturer, or any special brand or make in describing an item does not restrict the bidder to that manufacturer or specific article, unless specifically stated. Comparable products of other manufacturers will be considered if proof of compatibility is contained in the bid. Bidders are required to notify the Institution's RFQ Coordinator whenever specifications/procedures are not perceived to be fair and open. All suggestions or objections shall be made in writing and received by the RFQ Coordinator at least three (3) working days prior to the bid opening. The articles on which the bids are submitted must be equal or superior to that specified. **Informative and Descriptive Literature:** The bidder must show brand or trade names of the articles bid, when applicable. It shall be the responsibility of the vendor, including vendors whose product is referenced, to furnish with the bid such specifications, catalog pages, brochures or other data as will provide an adequate basis for determining the quality and functional capabilities of the product offered. Failure to provide this data may be considered valid justification for rejection of bid.
- g. **Samples:** Samples of items when called for, must be furnished free of expense, and if not destroyed will, upon vendor's request within ten (10) days of bid opening, be returned at the bidder's expense. Each sample must be labeled with the bidder's name, manufacturer's brand name and number, bid number and item reference.
- h. **Time of Performance:** The number of calendar days in which delivery is to be made after receipt of order shall be stated in the bid and may be a factor in making an award, price notwithstanding. If no delivery time is stated in the bid, bidder agrees that delivery is to be made within two weeks (10 business days) of order.
- i. Transportation and delivery charges should be included in the price and be fully prepaid by the vendor to the destination specified in the bid. Bid prices shall include delivery of all items F.O.B. destination.
- j. New materials and supplies must be delivered unless otherwise specifically stated in the bid.
- k. Alternate/multiple bids will not be considered unless specifically called for in the bid.
- l. **Bond requirements.** The institution reserves the right to require that the selected vendor post a performance and/or payment bond in such amount as deemed reasonable by the institution. Any bond requirement should be included in the bid, itemized separately.

- m. Only bids submitted on bid forms furnished by the Institution will be considered, except that the Institution reserves the right to consider telephone, faxed or electronically submitted bids for purchases totaling less than \$25,000 if received by the deadline and confirmed in writing within five (5) days on Institution forms.
- n. By signing this bid where indicated, the bidder agrees to strictly abide by all state and federal statutes and regulations. The bidder further certifies that this bid is made without collusion or fraud.
- o. Failure to Bid/Error in Bid. Failure to bid without advising the Institution that future invitations for bids are desirable may result in removal from Institution's bidders' list covering this category of items. In case of error in the extension of prices in the bid, the unit price will govern. Late bids will NOT be opened or considered. Bidders are cautioned to verify their bids before submission, as amendments received after the bid deadline will not be considered. No bid shall be altered, amended or withdrawn after opening. After bid opening, a bidder may withdraw a bid only when there is obvious clerical error such as a misplaced decimal point, or when enforcement of the bid would impose unconscionable hardship due to an error in the bid resulting in a quotation substantially below the other bids received. Bid withdrawals will be considered only upon written request of the bidder.

2. INSPECTION. All bids will be publicly opened and are subject to public inspection after the award. Bidders may be present at bid opening.

3. ACCEPTANCE AND AWARD. The Institution reserves the right to reject any and all bids and to waive any informality in bids and, unless otherwise specified by the bidder to accept any item in the bid. Action to reject all bids shall be taken for unreasonably high prices, errors in the bid documents, cessation of need, unavailability of funds, or any other reason approved by the Tennessee Board of Regents.

- a. Contracts and purchases will be made with the lowest, responsible, qualified bidder. The quality of the articles to be supplied, their conformity with the specifications, their suitability to the requirements of the Institution, cash discount offered and the delivery terms will be taken into consideration.
- b. The Institution reserves the right to order up to 10% more or less than the quantity listed in the bid.
- c. If a bidder fails to state a time within which a bid must be accepted, it is understood and agreed that the Institution shall have sixty (60) days to accept.
- d. A written purchase order mailed or otherwise furnished, to the successful bidder within the time period specified in the bid results in a binding contract without further action by either party. The contract may not be assigned without written Institution consent.
- e. If the appropriate space is marked on the bid, other state institutions of higher education may purchase off the contract during the same period as the Institution.

4. DISCOUNT PERIOD. Time in connection with discount offered will be computed from the date of delivery at destination, or from the date correct invoices are received, whichever is later.

5. DEFAULT OF SELECTED VENDOR. In case of vendor default, the Institution may procure the articles or services from other sources and hold the defaulting vendor responsible for any resulting cost.

6. INSPECTION OF PURCHASES. Articles received which are not equivalent will not be accepted and will be picked up by the vendor or returned to vendor, shipping charges collect. Institution shall have a reasonable period in which to inspect and accept or reject materials without liability. If necessity requires Institution to use nonconforming materials, an appropriate reduction in payment may be made.

7. TAXES. Institution is tax exempt; do not include taxes in quotation. Vendors making improvements or additions to, or performing repair work on real property for Institution are liable for any applicable sales or use tax on tangible personal property used in connection with the contract or furnished to vendors by the state for use under the contract.

8. NONDISCRIMINATION. The Institution and bidder agree to comply with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of

1973, Executive Order 11,246, the Americans with Disabilities Act of 1990 and the related regulations to each. Each party assures that it will not discriminate against any individual including, but not limited to employees or applicants for employment and/or students, because of race, religion, creed, color, sex, age, disability, veteran status or national origin.

9. PROHIBITIONS/NO VENDOR CONTRACT FORM/TENNESSEE LAW/AUDIT. Acceptance of gifts from vendors is prohibited. TCA §12-3-106. Bidding by state employees is prohibited. TCA §12-4-103. The bidder warrants that no part of the total contract amount shall be paid directly or indirectly to any officer or employee of the State of Tennessee. The contract documents for purchase under this bid request shall consist of the successful bidder's bid and the Institution's purchase order. **Bidders may not require any other written contract terms or conditions, nor may any other terms and conditions be imposed by means of subsequent documents, such as invoices, warranty agreements, license agreements, etc. Should the bidder request exceptions to terms and conditions and/or those proposed by the bidder vary from the bid and TBR Policies and Guidelines, Institution may render the bid unresponsive and subject the bid to rejection. The contract shall be governed by Tennessee law.** For all awards other than for a firm, fixed price, vendor shall maintain books and records for a period of three (3) years from final payment, and these records shall be subject to audit by the State.

10. PURCHASING POLICIES/BID PROTESTS. This bid request and any award made hereunder are subject to the policies and guidelines of the Tennessee Board of Regents (www.tbr.state.tn.us) and Institution (available upon request). Bid protest procedures are available at: http://www.tbr.state.tn.us/policies_guidelines/business_policies/4-02-10-00.htm

11. PROHIBITION ON HIRING ILLEGAL IMMIGRANTS. Tennessee Public Chapter No. 878 of 2006, TCA 12-4-124, requires that Contactor attest in writing that Contractor will not knowingly utilize the services of illegal immigrants in the performance of this Contract and will not knowingly utilize the services of any subcontractor, if permitted under this Contract, who will utilize the services of illegal immigrants in the performance of this Contract. The attestation shall be made on the form, Attestation re Personnel Used in Contract Performance ("the Attestation"), which is attached and hereby incorporated by this reference.

If Contractor is discovered to have breached the Attestation, the Commissioner of Finance and Administration shall declare that the Contractor shall be prohibited from contracting or submitting a bid to any Tennessee Board of Regents institution or any other state entity for a period of one (1) year from the date of discovery of the breach. Contractor may appeal the one (1) year by utilizing an appeals process in the Rules of Finance and Administration, Chapter 0620.

ATTACHMENT B

CODES OF ETHICS IN PROCUREMENT AND CONTRACTING

The code of ethics was developed by the TBR Council of Buyers, approved by the Chancellor, and shall be applicable to all employees in the Tennessee Board of Regents System who are primarily responsible for the purchase of goods or services for any institution or TCAT in the System.

1. Statement of Policy

Employees must discharge their duties and responsibilities fairly and impartially. They also should maintain a standard of conduct that will inspire public confidence in the integrity of the college and TCAT.

2. General Standards of Ethical Conduct

- (a) Any attempt to realize personal gain through public employment, inconsistent with the responsible discharge of that public employment, is a breach of public trust.
- (b) Employees shall base all purchases on the principle of competitive bidding consistent with policies of the Board and the college or TCAT.
- (c) Employees shall grant all competitive bidders equal consideration, regard each transaction on its own merits, and foster and promote fair, ethical and legal trade practices.
- (d) Employees shall avoid misrepresentation and sharp practices, and demand honesty in sales representations whether offered through the medium of a verbal or written statement, an advertisement, or a sample of a product.
- (e) Employees shall be receptive to competent counsel from colleagues, and be willing to submit any major controversy through the appropriate appeals processes.
- (f) Employees shall accord prompt and courteous reception insofar as conditions permit to all who call on legitimate business missions.
- (g) Employees shall not use without consent the original designs developed by a vendor for competitive purposes.

3. Conflict of Interest

It shall be a breach of ethical standards for any employee, in the performance of his or her official duties, to participate directly or indirectly in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal thereof, in which to his or her knowledge:

- (a) he or she or any member of his or her immediate family has a substantial financial interest; or
- (b) a business or organization in which he or she or any member of his or her immediate family has a substantial financial interest as an officer, director, trustee, partner or employee, is a party; or
- (c) any other person, business, or organization with whom he or she or a member of his or her immediate family is negotiating or has an agreement concerning prospective employment is a party.

The determination of whether a substantial financial interest exists shall be based upon the criteria identified in TBR Policy No. 1:02:03:10, Conflict of Interest.

Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing or in any other advisory capacity.

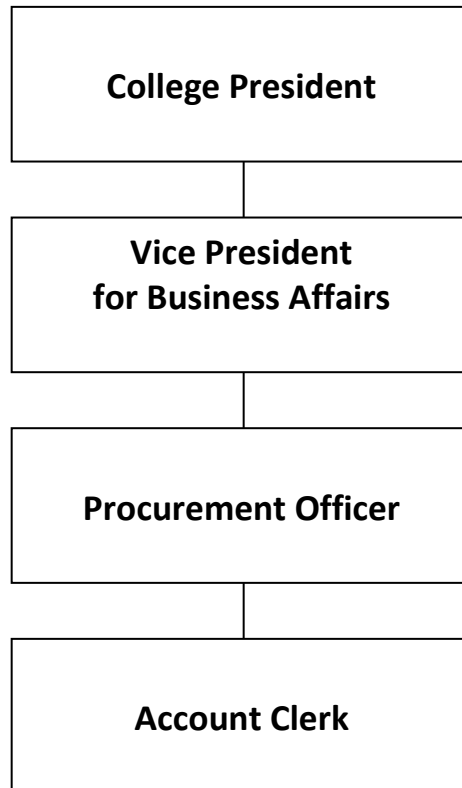
4. Gratuities

It shall be a breach of ethical standards for any employee or former employee 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 purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal thereof.

5. Contemporaneous Employment Prohibited

It shall be a breach of ethical standards for any employee who is involved in procurement to become or be, while such an employee, the employee of any party contracting with the particular governmental body by which the employee is employed.

Organizational Chart



Protest Bond

The Surety Company issuing bond shall be licensed to transact business in the State of Tennessee by the Tennessee Department of Commerce and Insurance. The bond shall have certified and current Power-of Attorney for the Surety's Attorney-in-Fact attached.

KNOW ALL BY THESE PRESENTS:

That we,

(Name of Protestor)

(Address of Protestor)

as the Party filing a protest of the State of Tennessee's determination(s) regarding a Request for Proposals (RFP) process, hereinafter called the Protestor, and

(Name of Surety)

(Address of Surety)

as Surety, hereinafter call the Surety, do hereby acknowledge ourselves indebted and securely bound and held unto the State of Tennessee as Obligee, hereinafter called the Obligee, and in the penal sum of

(Dollar Amount of Bond)

good and lawful money of the United States of America, for the use and benefit of those entitled thereto, for the payment of which, well and truly to be made, we bind ourselves, our heirs, our administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

BUT THE CONDITION OF THE FOREGOING OBLIGATION OR BOND IS THIS:

WHEREAS, the Obligee has issued a Request for Proposals bearing the RFP Number:

(RFP Number)

AND, the Protestor, as an actual proposer to the RFP, claims to be aggrieved in connection with said RFP process;

AND, the signature of an attorney or the Protestor on a request for consideration, protest, motion, or other document constitutes a certificate by the signer that the signer has read such document, that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass, limit competition, or to cause unnecessary delay or needless increase in the cost of the procurement or of the litigation;

AND, neither a protest nor a stay of award shall proceed under the laws of the State of Tennessee unless the Protestor posts a protest bond, the Protestor does file this protest bond payable to the Obligee with a notice of protest regarding the subject RFP process;

AND, the Obligee shall hold the protest bond for at least eleven (11) calendar days after the date of the final determination on the protest by the head of the affected agency;

AND, if the Protestor appeals the affected agency head's determination on the protest to the Chancellor, in accordance with subsection Tennessee Code Annotated, § 12-4-109(a)(1)(E)(vii), the head of the agency shall hold said protest bond until instructed by the Chancellor as to its disposition.

NOW, THEREFORE, this obligation or bond shall remain in full force and effect conditioned upon a decision by the Review Committee that:

A request for consideration, protest, pleading, motion, or other document is signed by an attorney or the Protestor, before or after appeal to the Chancellor, in violation of Tennessee Code Annotated, § 12-4-109(a)(1)(E)(ii);

the Protestor has brought or pursued the protest in bad faith; or

the Protestor's notice of protest does not state on its face a valid basis for protest.

In which case, this obligation or bond shall be immediately payable to the Obligee. Otherwise, this obligation or bond shall be null and void.

IN WITNESS WHEREOF, the Protestor has hereunto affixed its signature and Surety has hereunto caused to be affixed its corporate signature and seal, by its duly authorized officers,

On this _____ day of _____ in the year _____

WITNESS:

(Name of Protestor)

(Authorized Signature of Protestor)

(Name and Title of Signatory)

(Name of Surety)

(Signature of Attorney-in-Fact)

(Name of Attorney-in-Fact)

(Tennessee License Number of Surety)

Purchase Requisition

A requisition will be created by the designated staff member of the department requesting the purchase in the Walters State eProcurement site, SciQuest, via the non-catalog requisition form button or one of the catalogs provided and submitted to their supervisor and financial managers for approval.

- A. Requisitions are processed electronically via SciQuest . Each requisition must specify the type of order, correct shipping address, commodity code and FOAP. Requisitions without this information will be returned to the requestor for correction.
- B. Requisitions that total \$10,000 or more must be processed by bid, unless a sole source is applicable. A requisition is submitted in SciQuest with the BID VENDOR as supplier. Specifications should be included in this requisition. Bids of \$50,000 or less are sent to at least three (3) vendors, or to the number on the bid list. Requisitions that total \$50,000 or more must be processed by written bid. If possible, fifteen vendors will be sent bids. Bidders will have 14 working days to respond. After 14 working days, all bids that have been received will be opened, logged, and returned to the requesting staff for review. When the bid package is returned to the purchasing office with a recommendation, the bid will be reviewed by the procurement officer and requisition information will be changed to reflect bid results, including correct vendor.

For bids, the description should be complete enough so that any vendor of like material can recognize what is desired without showing brands, models, etc. Certain exceptions may be made; please contact the purchasing office for answers to specific questions. Attach written proposals or other documentation if information has been received from a vendor. State-wide Contract Information is available on the Internet; contact the Purchasing Office for details.

Other Comments/Instructions - Use as deemed necessary to ensure proper attention is given to requisition. External notes in SciQuest will be seen by the vendor, internal notes will be seen by college staff only.

In addition, certain requisitions must be approved by the administrative head for your area, the appropriate vice president and the president. Among these are: food-related items, registrations, requisitions totaling \$5,000 or more (with the exception of the Tennessee College of Applied Technology), and unbudgeted capital equipment equal to or greater than \$5000.

Requisitions for which formal bid procedures must be followed shall include a complete description of the item requisitioned including its function and specifications. Specifications must be written so that competitive bids can be obtained. The use of a brand name with the words "or equal" is not adequate, and requisitions submitted this way will be returned to the requisitioner for proper completion and resubmitting. Specifications should not be written in a manner to eliminate competitive bidding. This is easy to determine when bids are received, and if it occurs, bids will be rejected and the item(s) will have to be rebid with appropriate specifications. This can delay a purchase as much as one month.

CAUTION: Do not award any purchases since this is the responsibility of the Purchasing Office. In those cases where the Purchasing Office can negotiate a better price, goods will be purchased from the vendor with the best price. The Purchasing Office has the responsibility to combine requisitions from more than one department when determining when to use formal bid procedures. Please do not hesitate to call the Purchasing Office when you have questions

Petty Cash Approval

Petty cash transactions are to be used for purchases which do not exceed \$50. All petty cash forms need the information below COMPLETE upon submittal.

1. Date purchase is to be made.
2. Indicate the department FOAP to be charged with the purchase.
3. Provide a complete description of items to be purchased.
4. Suggested vendor from who purchase will be made.
5. Name of employee who will make purchase.
6. Department budget name to be charged with purchase.
7. Department head/division chair approval.
8. Purchasing Office approval.

Approval prior to purchase is required. After the items have been purchased, the department must provide the Accounts Payable Office with an original receipt and any funds not expended on the purchase. The original receipt and any unexpended funds should be turned in within twenty-four hours of when the purchase was approved.

