

Sec. 5.10.1. APPLICABILITY OF PROCUREMENT LAWS.

The Board of Directors (“Board”) and Superintendent of Trinity Basin Preparatory shall endeavor to maximize the use of Trinity Basin Preparatory funds to purchase goods and services to further Trinity Basin Preparatory’s mission and facilitate the implementation of the charter program.

Sec. 5.10.2. APPLICABILITY OF POLICY.

This policy pertains to the purchase of goods and services generally and does not apply to the procurement of professional services.

Sec. 5.10.3. AUTHORITY TO PROCURE GOODS AND SERVICES.

In accordance with applicable administrative law, the Board may not delegate, and thus retains, final authority over the expenditure or obligation of public funds or the use of public property. This final authority notwithstanding, the Superintendent and/or their designee(s) has the Board’s authority to initially expend or obligate public funds and to initially use public property in a manner consistent with this policy. At the Board’s discretion, the Board may review any business arrangement or transaction subject to this policy and approve or disapprove the Superintendent’s initial expenditure or obligation of public funds and use of public property.

Sec. 5.10.4. CONTRACT REQUIRED.

The Superintendent shall procure or cause the procurement of goods and/or services with a cost exceeding \$10,000 through an executed contract.

Only the Superintendent and/or their designee(s) shall be authorized to execute contractual agreements that obligate Trinity Basin Preparatory to disburse funds for the receipt of goods and/or services. The Superintendent shall delegate specific signature authority to any designee in writing through an administrative procedure, job description or internal memorandum.

Sec. 5.10.5. BOARD APPROVAL.

Excluding transactions for procurement of goods and/or services which may, in the aggregate over a period of twelve months, exceed \$250,000, and co-op acquired contracts, the Board shall approve any purchase where a contract or procurement event is greater than \$250,000.

Sec. 5.10.6. CENTRALIZED PURCHASING FUNCTION.

The Superintendent shall procure or cause the procurement of goods and/or services through a centralized purchasing function.

(a) Contract Administration.

The Superintendent or designee shall establish and maintain a contract administration system. The contract administration system must enable Trinity Basin Preparatory to maintain original, fully executed legal agreements that include contractual provisions required by prudent business practice and applicable law and rule.

(b) Purchase Order System.

The Superintendent or designee shall establish and maintain a purchase order system. The purchase order shall serve as the formal method for procuring goods and/or services from a vendor and shall have the effect of obligating Trinity Basin Preparatory to remit payment to the vendor upon receipt of the goods and/or services and of the related invoice.

Only the Superintendent and/or their designee(s) shall be authorized to approve purchase orders. The Superintendent shall delegate specific signature authority to any designee in writing through an administrative procedure, job description or internal memorandum.

Trinity Basin Preparatory employees shall not issue a purchase order to a vendor unless it has been approved pursuant to this section. If a Trinity Basin Preparatory employee issues a purchase order to a vendor without the required approvals, the employee may be financially responsible for the purchase and may also be subject to adverse employment action, up to and including termination.

(c) Corporate Card Program.

The Superintendent may establish a corporate charge or credit card program to permit authorized Trinity Basin Preparatory employees to purchase goods and/or services. The Superintendent may only use and may only allow the use of the corporate card program for official Trinity Basin Preparatory business and shall prohibit the use of the corporate card program for personal benefit. Any employee authorized to participate in the corporate card program shall be required to sign a usage agreement. In addition to other pertinent requirements, the usage agreement shall require the employee to pay for any unsubstantiated charges or for the purchase of non-business-related goods and/or services.

Employees authorized to use the corporate card program to purchase goods and services are required to and shall be responsible for procuring goods and services pursuant to the procurement methods identified in this policy.

(d) Required Records.

Authorized Trinity Basin Preparatory employees shall document each purchase through the corporate card program. Accordingly, the Superintendent shall require the Trinity Basin Preparatory employee to prepare a purchase order form or other comparable internal accounting record for each corporate card purchase. Additionally, the Superintendent shall require the employee to also provide the original, itemized vendor receipt.

If an employee fails to provide the required records, the employee may be financially responsible for the purchase and may also be subject to adverse employment action, up to and including termination.

(e) Purchasing Officer.

The Superintendent may delegate the purchasing function to an employee designated as the purchasing officer.

(f) Campus Principal Responsible.

Each Trinity Basin Preparatory campus principal shall be responsible for all the expenditures from the budget approved for their campus. Each campus principal must work with the purchasing officer to purchase goods and/or services pursuant to this policy. Alternatively, the campus principal may use the corporate card program to purchase goods and/or services.

(g) Employee Purchases Prohibited.

Trinity Basin Preparatory employees are prohibited from conducting any transaction that results in the purchase of services and/or equipment, furniture, supplies or other materials and that obligates Trinity Basin Preparatory funds and otherwise results in the expenditure of Trinity Basin Preparatory funds. To acquire supplies, materials, equipment, furniture and/or services, Trinity Basin Preparatory employees must follow this and other related policies.

If a Trinity Basin Preparatory employee fails to follow this policy, the employee shall be financially responsible for any expenses incurred for the purchase of goods and/or services regardless of the benefit to Trinity Basin Preparatory and its students.

(h) Authorized Vendors.

The Superintendent or designee shall require the procurement of goods and/or services from authorized vendors. The Superintendent or designee shall select or cause the selection of vendors based upon an application submitted by each vendor that includes the following considerations.

1. The vendor's record of providing satisfactory goods and/or services that conform to the buyer's specifications, if any.

2. The vendor’s record of providing goods and/or services within a stated time schedule.
3. The vendor’s ability and capacity to meet the needs and demands of Trinity Basin Preparatory based upon its existing personnel, equipment and other resources.
4. The vendor’s available financial resources to enable it to perform the work or provide the goods requested by Trinity Basin Preparatory.

Sec. 5.10.7. AUTHORIZED PROCUREMENT METHODS.

The Superintendent or designee shall procure goods and other services through the following methods for the amounts and funding sources indicated. Where allowable by law, the Superintendent may authorize procedures imposing a stricter method of procurement than required under this policy.

(a) Purchases with Local Funds.

The Superintendent or designee may use the most expedient manner available to procure goods and services through local funds.

(b) Purchases with State Funds.

Pursuant to Texas Education Code § 44.031(d), Texas Government Code § 2269.051, the Superintendent or designee may award a contract for construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property valued at \$50,000 or more in the aggregate for each 12-month period using the method, of the following methods, that provides the best value for Trinity Basin Preparatory:

- Interlocal agreement/cooperative,
- Competitive bidding,
- Competitive sealed proposal,
- Construction manager-agent,
- Construction manager-at-risk,
- Design-build, or
- Job order contracts.

Trinity Basin Preparatory will follow all requirements for the procurement method selected.

(1) Delegation of Authority.

Pursuant to Texas Government Code § 2269.053, the Board hereby delegates its full authority under Chapter 2269 to the Superintendent or designee or a committee formed by the Superintendent or designee. The Superintendent or designee shall

provide notice of this delegation, the limits of the delegation, and the name or title of each person designated through this policy or in the request for bids, proposals, or qualifications or in an addendum to said request.

Additionally, as established in Texas Government Code § 2269.051, the Board further delegates to the Superintendent or designee the responsibility of adopting procedures for the acquisition of goods or services related to public works, including construction services.

(2) Emergency Procurement.

If school equipment, a school facility, or a portion of a school facility is destroyed, severely damaged, or experiences a major unforeseen operational or structural failure, and the Board determines that the delay posed by the contract methods required by this section would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or portion of the school facility may be made by a method other than the methods required by this section.

If school equipment or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the Board determines that the delay posed by the methods provided for in this section would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment or the part of the school facility may be made by methods other than those required by this section.

(3) Monitoring and Oversight.

The Superintendent or designee shall monitor and oversee all construction projects and services. The Superintendent or designee shall document their monitoring and oversight activities. The Superintendent or designee shall report to the Board the progress and status of any and all public works procured under this section. The Superintendent or designee shall not make any final payments for public works procured under this section until the work has been completed. Upon completion of a public work, the Superintendent or designee shall provide a final report to the Board. Upon accepting the work performed, the Board may authorize the Superintendent or designee to issue final payment(s).

(4) Non-Competitive Methods.

The Superintendent or designee may procure an item that is available from only one source by non-competitive means, including:

- An item for which competition is precluded because of the existence of a patent, copyright, secret process, or monopoly;

- A film, manuscript, or book;
- A utility service, including electricity, gas, or water; and
- A captive replacement part or component for equipment.

(c) Purchases with Federal Funds.

(1) No Method Required (Under \$10,000).

The Superintendent and/or their designee(s) may procure goods and/or services that have a cost of less than \$10,000 through the most expedient manner available if TBP considers the price to be reasonable based on research, experience, purchase history or other information and documents. Where practicable, such purchases shall be distributed equitably among qualified suppliers.

(2) Quotes (\$10,000–\$250,000).

The Superintendent and/or their designee(s) may procure goods and/or services that have a cost of no less than \$10,000 and no more than \$250,000 through the solicitation of an adequate number of written quotes from authorized vendors. Where practicable, such purchases shall be distributed equitably among qualified suppliers.

(3) Competitive Bids/Proposals (\$250,001+).

The Superintendent and/or their designee(s) may procure goods and/or services for public works that have a cost of \$250,000 or more through the public solicitation of sealed bids if the following conditions apply:

- A complete, adequate, and realistic specification or purchase description is available;
- Two or more responsible bidders are willing and able to compete effectively for the business; and
- The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of authorized vendors, providing them sufficient response time prior to the date set for opening the bids;
- The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- All bids will be opened at the time and place prescribed in the invitation for bids;

- A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- Any or all bids may be rejected if there is a sound documented reason.

Upon approval by the Board, the Superintendent or designee shall award a firm fixed price contract to the lowest responsible bidder with the bid that conforms with all the material terms and conditions of the invitation for bids.

If conditions are not appropriate for the use of sealed bids, the Superintendent or designee shall procure goods and services that have a cost or value exceeding \$250,000 through competitive proposals if the following requirements are met:

- Requests for proposals must be publicized and identify all evaluation factors and their relative importance;
- Any response to publicized requests for proposals must be considered to the maximum extent practical;
- Proposals must be solicited from an adequate number of qualified offerors;
- Trinity Basin Preparatory must have a written method for conducting technical evaluations of the proposals received and making selections;
- Contracts must be awarded to the responsible offeror whose proposal is most advantageous to TBP, with price and other factors considered; and
- Trinity Basin Preparatory may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated, and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms are a potential source to perform the proposed effort.

Trinity Basin Preparatory will perform a cost or price analysis in connection with every procurement action in excess of \$250,000.

(4) Non-Competitive Methods.

The Superintendent or designee may procure goods through the solicitation of a proposal from only one source only when one or more of the following circumstances apply:

- The item is available only from a single source;

- The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
- The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or
- After solicitation of a number of sources, competition is determined inadequate.

Sec. 5.10.8. COOPERATIVE PURCHASING.

For purchases subject to this Policy, the Superintendent or designee may join and procure goods and other services through a cooperative that provides written assurance of compliance with applicable legal purchasing requirements.

Sec. 5.10.9. SEPARATE, SEQUENTIAL, OR COMPONENT PURCHASES PROHIBITED.

The Superintendent and Trinity Basin Preparatory employees are prohibited from making or authorizing separate, sequential, or component purchases to avoid the requirements of this policy.

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

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

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

Sec. 5.10.10. ADMINISTRATIVE PROCEDURES.

The Superintendent shall prepare administrative procedures as required to implement this policy.