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### **101: Statement of Purpose and Mission**

The Contracting & Purchasing Division has as its primary mission the duty to serve the college campus and support all campus sites in the most cost efficient and responsive manner possible. In doing so, the mission of LCCC to serve the students is made possible. As a core of professionals, the entire department seeks innovative answers to the needs of its customers; while making cost effective use of College funds. Staff must meet the mandates of the rules and regulations which govern their actions as well as perform their duties in an ethical and responsible manner.

This Manual is designed to provide expectations, guidelines and procedures which will promote and ensure that centralized procurement services for LCCC are consistent and uniform. The Contracting & Purchasing Office, as professionals, is responsible for the administration and management of the college purchasing functions in order to maximize efficient and effective use of college funds. Proper conduct involving procurement practices is essential and shall be accomplished in accordance with ethical practices of the purchasing profession. This office is organized to serve and facilitate the objectives of the College; to make commitments in a consistent and orderly fashion; to maintain accurate and detailed records regarding procurement; and to foster a high standard of public relations within the College and with contractors, vendors, suppliers and the general public. This requires that employees involved with procurement take full responsibility for understanding and abiding by the College's policies and procedures regarding procurement and subsequent vendor relationships.

The scope of procurement functions and responsibilities includes (*but is not limited to*): preparation of accurate specifications; actions and processes related to solicitation of sources, equipment, goods, materials, personnel, services and/or supplies; qualification/disqualification of sources; and the preparation, review, award, and administration of purchase orders, agreements and contracts. The administration of all purchasing functions for the College shall be centralized through the Contracting and Purchasing Office, regardless of the dollar value. The intent of the centralized purchasing function is to maximize competition, provide fair and equal vendor/contractor opportunities, service the campus community with the proper quality, materials and services, and minimizes the College's exposure to risk and liability.

#### ***Integrity***

Fairness and impartiality in all phases of the process is an essential ingredient in public procurement, therefore interaction with vendors and peers must be open, honest and objective. As with any service function, contracting and procurement's justification is the quality of service it renders. In the case of public procurement, utmost fairness is required in expending public funds. The result of favoritism extended to either a user or seller is the same, thus this practice is NOT permissible. No matter how strongly a user may prefer a particular product or service over others, equivalency must be given every reasonable consideration. **We must commit and adhere to fair and open competition. Integrity is manifested by fairness, openness, and impartiality and can be tarnished by even the slightest appearance of impropriety.** Once this occurs, it is very difficult to regain. The contracting and procurement process of the College is designed to:

- Ensure fair and open competition;
- Guard against favoritism, improvidence, extravagance, fraud and corruption;
- Ensure that the results meet College needs;
- Provide for checks and balances to regulate and oversee college procurement activities; and
- Protect the interests of the taxpayers, State of Wyoming and the College.

### 102: Department Directory

Carol Hoglund	Vice President of Administration and Finance Services	(307) 778-1281	<a href="mailto:choglund@lccc.wy.edu">choglund@lccc.wy.edu</a>
Jamie Spezzano	Director, Contracting & Procurement	(307) 778-1280	<a href="mailto:jspezzano@lccc.wy.edu">jspezzano@lccc.wy.edu</a>
Cindy Lindsay	Buyer	(307) 432-1648	<a href="mailto:clindsay@lccc.wy.edu">clindsay@lccc.wy.edu</a>
Sheri Johnson	Executive Administrative Assistant	(307) 778-1153	<a href="mailto:sjohnson@lccc.wy.edu">sjohnson@lccc.wy.edu</a>

### Welcome to the LCCC Procurement Program

The College has a variety of funding sources, each of which has its own spending characteristics and restrictions. The guidelines described herein provide basic rules, regulations, and precedents to ensure that fiscally responsible and legal spending practices are followed, regardless of the form or method of purchase (*i.e. Petty Cash, P-Card, Limited Purchase Order, Purchase Order, Voucher, Check Request, etc.*). At all times, College employees are responsible for adhering to the basic purchasing guidelines for the procurement of goods and services as defined in this Manual as well as other published Contracting and Procurement documents. The starting point for any analysis concerning the use and/or misuse of public funds begins with the principle that public funds must be expended for an authorized public purpose. Expenditure is made for a public purchase when its purpose is to benefit the greater or public interest rather than individuals or private purposes.

### Commitment to Quality

The Purchasing Office is dedicated to providing quality service to the College and to the public. We shall work within the legal framework of public purchasing while providing goods and services to LCCC staff, faculty, and students. We also need to provide opportunities to members of our business community to supply goods and services to LCCC. Feel free to contact us with your ideas, suggestions, or concerns. The Contracting and Procurement Office is located in the Administration Building, our phone numbers are: (307) 432-1648, (307) 778-1153 or (307) 778-1280. Purchasing office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday; 7:30 a.m. to 4:30 p.m. Monday through Friday during the summer.

## Chapter One: General Information

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### 103: *Principles of Public Purchasing*

The Contracting and Procurement Division of the Laramie County Community College strives for:

1. **Maximization of Competition.** Specifications are written to allow the purchasing process to be as open as possible to qualified vendors, suppliers and contractors.
2. **Equal and Fair Competition.** Each vendor is provided the same information regarding product or service needs/specifications and their responses (*such as price quotes*) are kept confidential until the purchase is awarded.
3. **Best Value at the Lowest Price.** The purchase must be made at the lowest price for the product or service that best meets the needs of the requester.

### 104: Dollar Limits and Requirements

Procurement Transactions and the rules that govern how they are managed are based upon aggregate dollar amount and type of purchase. The guidelines are as follows:

- 104.1 **Purchases for \$30,000 and greater amounts, the Invitation for Bid Process (IFB):**  
Purchasing transactions exceeding \$30,000 require competitive, sealed bidding utilizing the Invitation for Bid (IFB) process. The Procurement Office is responsible for administering this process. (*Refer to Section 302; Competitive Sealed Bidding*)
- 104.2 **Purchases for \$30,000 and greater amounts, the Request for Proposal Process (RFP):**  
Purchasing transactions exceeding \$30,000 in which it is determined not to be advantageous or practical to use the sealed bidding process; may be purchased through the use of competitive proposals. This is the Request for Proposal (RFP) process. The Procurement Office is responsible for administering this process. (*Refer to Section 303; Competitive Proposals*)
- 104.3 **Purchases between \$5,000 and \$29,999**  
Purchasing transactions from \$5,000 to under \$30,000 shall be made with as much competition as is practical and deemed necessary by the Director of Contracting and Procurement. A minimum of three (3) written quotations will be obtained by the Procurement Office. Supporting written documentation and price quotations are maintained as part of the purchasing file system.
- 104.4 **Purchases between \$2,500 and \$5,000:**  
The procurement of goods and services in amounts from \$2,500 to under \$5,000 shall be made with as much competition as is practical and deemed necessary by the Director of Contracting and Procurement. This will include a written "quote" prior to the initiation of a PO and shall be obtained by the Procurement Office and is subject to review and approval by the Division Director. Supporting written documentation and price quotations are maintained as part of the purchasing file. In all competitive procurement transactions, award is made through

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the Procurement Office to the vendor with the lowest price for the good or service that conforms to specifications and other solicitation requirements.

### 104.5 Purchases under \$2,500:

Purchasing transactions of \$2,500 or less are not subject to the competitive process. A Limited Purchase Order may be created and approved by the approved college signature for transactions up to this limit. This purchase amount does include all costs associated with the transaction, including but not limited to: tax or freight. (*Refer to Section 105; Purchasing Documents*)

### 104.6 Splitting Purchases:

Purchasing transactions are not to be artificially divided or fragmented in order to meet the lesser requirements of a lower dollar transaction. Splitting an individual order for the purpose of circumventing purchasing procedures or limits is strictly prohibited.

### 104.7 Confidentiality of Price and other Information:

Price and other confidential information provided by vendors shall not be shared with competitors by any individual involved in the process. This includes requesters, reviewers, and Purchasing staff. Only after a Purchase Order is issued to a vendor can prices from other vendors be shared and this shall be done by the Purchasing Office. To request assistance in obtaining quotes, please call the College Buyer at extension #1648.

### 104.8 Obtaining Quotes:

An employee may choose to solicit quotes themselves for any purchase which does exceed a total amount of \$2,500, or Purchasing can obtain quotes for them. In order to promote fairness and consistency, employees are asked to utilize only Purchasing approved "quotation forms" when obtaining quotes from vendors. This form is available in electronic format and can be obtained by contacting the Procurement Office.

The Procurement Office maintains an informal listing of vendors by category. This distribution list is updated with vendor names, addresses, phone numbers, and categories on an on-going basis. This list is utilized to notify vendors of competitive opportunities on various equipment, goods and services. Prospective vendors request to be added to the distribution list by returning a completed Contractor/Vendor Application form to the Purchasing Office. The form outlines the company name, address, and phone number as well as the categories of service or products that they have to offer. In those categories in which there are no vendors on the distribution list or there is a very limited number, the Buyer shall be responsible for researching and creating a list of potential sources. The requisitioner, consultants, directories of suppliers, and trade journals and publications are some of the sources available to provide this information.

### 104.9 Vendor Qualification:

Removal of a vendor/contractor from the distribution list may be for failure to respond to more than three consecutive notices to bid, for failure to perform after an award of a quote, bid, or for other reasons that show the bidder to be a non-responsive or non-responsible bidder. The removal of a bidder from the distribution list will only be after an established non-performance record has been established by written instrument, reviewed and approved by the Director of Contracting and Procurement and the Vice President of Administration and Finance Services.

### 105: Purchasing Documents

Purchasing documents are legal and binding upon the College, therefore it is the responsibility of the Procurement Office to file and manage original copies of all transactions, including an original of contracts, agreements and MOU's. Copies are available upon request.

The **Purchase Order (PO)** is issued by Purchasing and has the signature of an authorized employee of the Purchasing Department. The necessary information is provided on the requisition to enable the Purchasing Department to generate a PO. The Purchase Requisition is not to be used to place orders.

The **Limited Purchase Order (LPO)** is used for purchases of \$2,500 or less. The LPO allows the user to make direct contact with a vendor, obtain prices and place orders with Fiscal approval at the campus level. The LPO is not intended to replace the normal requisitioning procedure except in well-defined and limited situations. LPO's are to be used for the one time purchase of goods, materials or supplies in which the supplier will ship and bill complete. No back orders and no split shipments. (Refer to Section 107 D; Procurement and Payment Methods)

The **Blanket Purchase Order (BPO)** is used for purchase of certain classes or categories of items. (Refer to 106; Blanket Purchase Orders)

The **Memorandum of Understanding (MOU)** is used when two agencies within the executive branch of state government are entering into an agreement and is considered a form of contract.

The **Agreement** is used for a mutual understanding between two legally competent individuals or entities about their rights and duties regarding their past or future performances and considerations, and is manifested by their written language.

The **Contract** is used for any legally binding agreement voluntarily entered into by two or more parties that places an obligation on each party to do or not do something for one or more of the other parties and that gives each party the right to demand the performance of whatever is promised to them by the other parties. To be valid, all parties must be legally competent to enter a contract, neither the objective nor the obligations or promised performances may be illegal, and its obligations must exist.

### 106: Blanket Purchase Orders

**Blanket Purchase Orders** are documents issued to a vendor for purchase of certain classes or categories of items designed to supply goods or services on an ongoing basis for a designated period of time. The Blanket Purchase Order may spell out terms, conditions, delivery information and other contract information, including pricing or discounts from published lists for a specific period of time. A "Not to Exceed" amount is listed on the Blanket Purchase Order document as a method of monitoring and control. Additional controls relative to maximum one-time purchases or single item costs may also be included. Blanket Orders are used to serve the needs of the requisitioner and to reduce paperwork on items bought repetitively. They may be used for commodity type purchases, such as maintenance supplies, food, utilities or for services such as miscellaneous repairs. Blanket Orders are not to be used to purchase capital items.

The blanket order is only valid for the specified period of time as indicated on the order and for amount it is funded. Once the effective period has passed or the funding has been depleted the order is no longer valid. To preclude any issues with people overspending the blanket orders, strict attention to the expiration date and the declining balance of funds should be closely monitored. As the remaining balance drops and the requirement still exists for the Blanket PO, funds can be added.

However, overspending a Blanket Purchase order is subject to the same process as any other unauthorized purchase. The amount of competition needed on a Blanket Order varies according to commodity, service and/or delivery as well as location of the supplier to the requisitioner. A decision as to the level of competition needed shall be made by the Buyer in consultation with the Director of Contracting and Procurement.

### 107: Procurement and Payment Methods

- A. **Credit Cards:** *(Approved Payment Method)*
  - i) College credit cards are intended for use as a method of payment ONLY, and are not an approved method of procurement; and shall require an LPO, PO or Travel Request to complete the process. Copies of the "Credit Card Procedures" and "Travel Request Procedures" are available from the Accounting Services office.
- B. **Charge Accounts:** *(Approved Payment Method)*
  - i) Charge accounts are intended for use as a method of payment ONLY, and are not an approved method of procurement; and shall require an LPO, PO or Travel Request to complete the process.
  - ii) Charge accounts are established by the Purchasing Office and Accounting Office for the benefit of the College.
- C. **P-Card:** *(Approved Procurement Method)* Procurement cards are assigned to college individuals for the purpose of small purchases. Specific program details are found in Chapter Seven.
- D. **Petty Cash:** *(Approved Procurement Method)*
  - i) Pre-approved purchases of \$50.00 or less may be completed by a college employee who shall pay the vendor cash and then be reimbursed by the college following submittal of a receipt.
  - ii) Submitted receipts shall include the appropriate approval signature; shall define the appropriate accounting budget code; and shall be submitted with the request for payment.
- E. **Limited Purchase Order (LPO):** *(Approved Procurement Method)*
  - i) Used by college employees for one-time procurement transactions which do not exceed a total order amount of \$2,500.00.
  - ii) Each LPO shall be accurately and thoroughly completed with detailed information and shall be pre-approved with appropriate signatures prior to initiation and order placement.
  - iii) Student Clubs are authorized to use an LPO, noting that the "Ordered By" line shall be signed by a club officer, and the "Approval Line" shall be signed by the Club Advisor.
  - iv) Colored copies of the LPO shall be distributed to designated departments (*shipping/receiving and accounting*) the same day as the order placement.
  - v) Splitting any order to avoid using a PO is strictly prohibited. The intent of an LPO is to provide for one-time purchases for goods, materials or supplies. LPO's shall not be used to procure equipment, personnel or services. EXCEPTION: LPO's may be used for procurement transactions when used in conjunction with a college approved agreement and/or contract.
- F. **Purchase Order (PO):** *(Approved Procurement Method)*
  - i) Initiated and managed by the Purchasing Office for procurement transactions not completed via an LPO.
  - ii) The PO process shall be initiated, completed and administered by the Purchasing Office, and shall be supported by written quotations, estimates, bids or proposals that detail specifications, pricing and applicable terms and conditions, and shall adhere to the LCCC "Purchase Order Standard Terms and Conditions", unless otherwise negotiated.
  - iii) Equipment, goods, materials, personnel, property, services, and/or supplies may be requested by completing the appropriate electronic Purchase Requisition or by submitting an approved written Purchase Requisition to the Purchasing Office.
  - iv) All equipment acquisitions require that the "Equipment Acquisition Review Worksheet" be completed in its entirety prior to completion of the respective transaction. The requestor is responsible for

initiating the "Worksheet" and ensuring that it is circulated for appropriate review of the impacted departments.

- v) All Purchase Requisitions shall be approved by the respective Director, Dean, Vice President or their designated representative prior to processing of such requests.
  - vi) Copies of each purchase order transaction shall be distributed to the requestor, accounting services, and receiving department within twenty-four (24) hours following completion of said transaction.
  - vii) PO's that exceed \$5,000.00 (*total PO amount*) require that competitive quotes be obtained by the Purchasing Office which shall be kept on file with the Purchasing Office. When competitive quotes are required, the requestor shall submit to the Purchasing Office the item/material/service specifications and/or scopes of work for competitive quoting.
  - viii) PO's exceeding \$30,000.00 (*total PO amount*) shall be administered and managed by the Purchasing Office through the "Request for Bid" process or the "Request for Proposal" process and shall be kept on file with the Purchasing Office. When competitive bids/proposals are required, the requestor shall submit to the Purchasing Office the item/material/service specifications and/or scopes of work for competitive bids and/or proposals.
- G. **Agreements, Contracts and MOU's:** (*Approved Procurement Method*)
- i) The College may enter into agreements and/or contracts for materials, equipment, real estate, services and/or construction in accordance with College Policy and applicable Wyoming State Statutes.
  - ii) Annual multi-year agreements and/or contracts are acceptable where feasible and useful for specific services.
  - iii) Per College policy, agreements and contracts shall be executed on college templates, whenever possible and practical, which are administered and executed by the Director of Contracting and Procurement; and shall include the appropriate supporting legal written requirements such as (*but not limited to*) "Certificate of Liability Insurance", "Performance and Payments Bonds", etc .
  - iv) All agreements, contracts and MOU's are a responsibility of the Contracts Office and therefore shall be reviewed, administered and managed by the Director of Contracting and Procurement in accordance with the "Contract/Agreement/MOU Review worksheet" and subsequent routing process.
  - v) In order to ensure that all contracts meet college and legal requirements, College personnel who wish to enter into a contractual relationship for work and/or services with a vendor, supplier or contractor shall first contact the Director of Contracting and Procurement prior to initiating contact with said vendor, supplier or contractor.
  - vi) The Purchasing Office administers a college-wide contract template system for the maintenance, repair, operation and use of college programs, equipment and facilities. Such templates are the responsibility of the Director of Contracting and Procurement and shall not be altered, modified or edited without the express written consent of this office.
  - vii) Expenditures made under grants shall comply with all of the requirements of the respective grant or grant agency. Unless otherwise agreed upon per grant language, all items purchased under grants are under the ownership or stewardship of LCCC.
  - viii) All agreements, contracts and MOU's shall be signed by the College President unless such signature authority has been delegated by the president and approved via written instrument.

### 108: Evaluation and Loan of Equipment

All equipment brought in for loan or evaluation purposes shall have prior written authorization by the requester, department/division head, and Purchasing. This prior approval shall be noted by signatures in the appropriate lines, on a Purchase Requisition form clearly marked "**For Evaluation Purposes Only**"; and the Requisition shall state that all costs associated with the delivery, installation,



evaluation, and return of the equipment shall be borne by the vendor. The requisition shall be used to issue a Purchase Order that states the same terms as the requisition. This will be provided to the vendor prior to delivery of the equipment. Loan or evaluation of equipment should in no manner constitute a preference for that equipment or imply that it will result in an order for the purchase. Purchasing has the responsibility to subject the purchase of all equipment to a competitive process as well as to negotiate all terms and conditions, price, warranty and service with the vendor.

### 109: Public Review of Bids and Proposals

Sealed Bids and Sealed Proposals are considered public information and as such, are open for review pursuant to the following:

#### **Bid Opening:**

Formal sealed bids are opened publicly and the name of the bidder, amount of the bid and other related information deemed relevant by the respective transaction is announced and recorded. This record shall be open to public inspection. The actual bid documents and related materials shall not be open to public review until after contract award.

#### **Proprietary Information:**

All information, except that classified as confidential and/or proprietary, will become public information at the time that the Bid is awarded in accordance with applicable sections of the federal "Freedom of Information Act (FOIA) and Wyoming State Statute §16-4-201. Confidential and/or proprietary information must be marked "CONFIDENTIAL" and/or "PROPRIETARY" in bold letters in the upper right hand corner of each sheet (*page*) containing the confidential information. Price and information concerning the Bid specifications **cannot** be considered confidential. All information identified as confidential and/or proprietary will remain confidential unless LCCC is required by legal order to make it available to the public or to particular parties. In addition, certain information relative to the procurement process can be deemed proprietary in nature and not open for public review, unless deemed otherwise by the Director of Contracting and Procurement. The final decision as to whether this information is proprietary lies with the Director of Contracting and Procurement.

#### **Review of Bids or Proposals:**

Requests for information or review of the documents shall be made to the Director of Contracting and Procurement or his/her designee. An appointment to review the file shall be made with the Director of Contracting and Procurement or College Buyer at a mutually convenient and reasonable time. The reviewer shall not take possession of any of the documents in the file. All proprietary information shall be removed from the file prior to the review.

### 110: Procurement through Grant Funding

Purchases made with grant funding will follow all applicable guidelines as outlined in the granting agency's letter of award and College Procedures. For federal grants this may include, but is not limited to, following the guidelines as detailed in the OMB Circular A-110 and other applicable Circulars and federal regulations. The responsibility for advising the Purchasing Department of any grant-related purchasing restrictions or requirements shall remain with the requesting department and grant awardee.

All Grant purchases shall be reviewed and approved by the Accounting Office Grants Compliance Supervisor prior to the expenditure of any funds. Upon completion of the transaction, a complete set of paperwork (Purchase Order and Quote) shall be sent to this office for filing.

All Grant procurement processes shall adhere to and follow applicable State Statutes and/or federal rules and regulations, deferring to the higher power when applying regulations. Applicable Wyoming Statutes shall include, but not limited to: Title 9 (*Administration of the Government*), § 9-2-1016 and § 9-2-1057 through 1033; Title 15 (Cities and Towns), §15-1-113 (when applicable with Grant monies); Title 16 (*City, County, State and Local Powers*), § 16-6-101 through 301 and § 16-6-701 through 902; and Title 27 (*Labor and Employment*), § 27-4-401 through 413.

### 111: Invoices

Processing payment to the vendor/supplier/contractor after the transaction has been fulfilled should be a very simple process which follows these guidelines that shall be completed before payment can be issued:

1. Delivery must be made per the terms and conditions of transaction documents; and,
2. An authorized signature shall be on the packing list, goods receipt, or voucher certifying that the items requested have been received or provided; and,
3. A clear and concise invoice has been submitted which matches the LPO, PO or applicable procurement document; and,
4. If items are back ordered and the vendor wants partial payment, they should invoice accordingly; and,
5. The respective invoice shall be approved via the appropriate department/division signature and dated, then forwarded to the Accounting Office for payment.
6. LCCC Voucher: Payment of services that has been pre-authorized via a contract, agreement or MOU can be approved for payment utilizing the internal Accounting Office document commonly known as Voucher.

### 112: Prepayment for Goods or Services

The following processes are followed for transactions that occur when the vendor will not accept payment subsequent to the goods or services being received and the Purchasing Office has approved the terms:

1. Prepayment terms shall be clearly stated via written documentation through the quoting or bid process, reviewed and approved by the Purchasing Office before acceptance of these terms.
2. Prepayment terms shall be defined in the Purchase Order language.
3. The vendor invoice shall reference the appropriate PO number and the invoice language shall declare that payment is for prepayment.

### 113: Cash Advances

Cash Advances typically relate to travel-related expenditures for situations which the employee or students requests a cash advance to pay for lodging or transportation. Cash advances are to be done in accordance with the Accounting Office procedures and through the College's "Travel Request Form".

### 114: Asset Protection

Asset protection is administered in accordance with Procedure #8301 titled "Property Control".

### 115: Risk Management and Insurance

The Contracting and Procurement process must include management of the risks, which are as varied as are the types of contract documents involved with procurement. Risk assessment is a continuing process and risks should be reviewed and re-evaluated by the Director of Contracting and Procurement during the

procurement formation and on a continual basis until the transaction is fully performed and final payment is made. Preliminary risk assessments should be conducted to make an initial determination about the level, type, and amount of management, oversight, and resources required to plan and implement the proper document, beginning to end. As the risks associated with contracting and procurement increases, the level and degree of commitment, participation, and oversight by executive management should increase correspondingly.

A. Process: Risk management is a three part process:

- i) Identifying risk;
- ii) Quantifying and analyzing the likelihood and potential impact, of the identified risk; and
- ii) Limiting or lessening the identified risk.

Risk categories common to contracting and procurement include product, process, financial, performance, and schedule issues.

B. Factors: Identifying and quantifying risks related to procurement cannot be reduced to a formula so determining risk is based on subjective criteria. Some factors useful in identifying risk levels include:

- i) The complexity and subject matter of the transaction;
- ii) The dollar amount;
- iii) Whether the transaction will result in a major Contract;
- iv) The anticipated payment methodology;
- v) Whether the results of the transaction will impact the general public or other interests;
- vi) Vendor experience with this type of transaction;
- vii) Whether the process includes "cutting edge" development or technology;
- viii) Time constraints or the expected duration of the transaction.

C. Resource Allocation: The size, complexity, and exposure of a contractual relationship dictate the amount of resources devoted to them, although not all large transactions are complex and risky and not all small transactions are simple and risk-free. These factors must be considered when assessing a transaction:

- i) The size of the transaction is measured in terms of its dollar value;
- ii) The complexity of the transaction is measured in terms of its SOW and potential risk; and
- iii) The sensitivity of the transaction is measured in terms of who it impacts.

### Insurance Requirements

Vendors are required to maintain certain types and minimum limits of insurance, which are set forth by the College President or his/her designee. Any variation from these requirements requires written approval from this office. This Policy ensures the selection of responsible vendors and adequate protection of the College and ensures that contractors and vendors have the financial capability to defend the College from legal issues and to pay claims where liability exists while continuing to perform services or provide products. The standard types of insurance include: commercial general liability (CGL), commercial automobile liability, workers' compensation and umbrella liability. Additionally, depending on the nature of contract performance, the entity may be required to have professional liability.

## 116: Statements of Work (SOW) and Specifications

**Writing SOW's and Specifications:** Contractor and vendor obligations are often called Statements (*or Scopes*) of Work and/or specifications, even if there is not any "work" being performed in the common meaning of the word. SOW's usually include the following elements, which should be considered in every procurement transaction:

- General description of project, request or transaction;
- Definitions, terms and conditions;
- Deliverables (Goods/Services);

- Personnel;
- Testing and acceptance criteria;
- Payment; and
- Time frames and deadlines, including any required by law.

SOWs are critical to contractual relationships and should include as clear, comprehensive, and concise a statement of the vendor's obligations and responsibilities. SOWs should also (a) delineate performance measures for the vendors and what is required by the College, if any beyond payment, and (b) to the extent relevant, set forth the how, where, when, and by whom of performance requirements. Clear, comprehensive, and concise SOWs are they key to avoiding disputes and possible litigation with vendors while at the same time ensuring a quality product and/or service. Contractor/vendor responses to solicitation requests, may prove valuable when refining SOWs, they should not be adopted as the actual SOW as such.

Subject matter experts shall be included on the SOW development involving technical and/or complex products and/or services as these individuals can provide and explain specific information critical to good SOWs (*industry standards, specifications, reports, benchmarks, timeframes, and necessary tasks*).

### 117: Price Negotiation Considerations

Prices may not be negotiated with the successful Vendor and should be completed by the Procurement office to ensure fairness and consistency. Vendors usually build flexibility into their initial quotes and/or bids which probably will not contain the "bottom line" price, allowing for price to be adjusted at the appropriate juncture of the solicitation process. Suggestions for negotiating include, but not limited to:

1. Prior to negotiating, identify all known issues and outline its' position and acceptable alternatives;
2. Look for "win-win" solutions, agreeing on terms that are beneficial to both parties;
3. Determine the direct costs, which must be recovered, and indirect costs, which may be negotiated;
4. Consider options available from trading price or cost for delivery times, quality, and warranty; and
5. Notes should be kept of all negotiation discussions and all revisions should be tracked in writing to ensure that both parties have final agreement on the all terms and conditions.

### 118: Frequently Asked Questions

***What costs are included in the \$2,500 Limited Purchase Order limit?*** The \$2,500 limit is all inclusive of the price of goods, shipping, handling, and freight charges.

***Who authorizes changes in POs, Agreements and Contracts?*** All changes shall be authorized via written instrument through the Purchasing Office.

***Do we pay taxes?*** The College is a tax-exempt entity. Copies of the Tax Exemption form are available from the Accounting Office.

***Can an order be placed before a PO or LPO is created?*** Do not place an order, promise an order, or otherwise authorize the purchase of goods or services without the proper written and approved documents such as an approved LPO or PO being issued prior to placement of said order. This may make you personally liable for payment to the vendor.

***Can an order to one vendor be divided between two or more POs or LPOs?*** It is unlawful and against College Policy and Procedures to split orders in order to stay under certain dollar limits, subsequently avoiding the competitive process or applicable written procedure.



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*Who pays the bills?* Payments to vendors are processed by the College Accounting Office located in the Administration Building. Please forward any invoices you receive to Accounts Payable so that payment can be processed.

*Where can I learn more?* The Purchasing (or Procurement) Office offers information regarding the LCCC purchasing policies and procedures, available upon request via hard-copy or electronically.

### 119: Suspension and Debarment

Vendors and contractors conducting business with LCCC are required to certify: (i) that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in a transaction nor from federal financial or non-financial assistance; (ii) that any of the participants involved in the execution of an transaction are suspended, debarred, or voluntarily excluded by any federal department or agency in accordance with Executive Order 12549 (Debarment and Suspension) and CFR 44 Part 17, or are on the disbarred vendors list at [www.epls.gov](http://www.epls.gov); and (iii) are not presently indicted or otherwise criminally or civilly charged by a government entity (*federal, state or local*) with commission of these offenses: embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property. Further, they shall agree to notify LCCC by certified mail should it or any of its agents become debarred, suspended, or voluntarily excluded during the term of a subsequent transaction.

## Chapter Two: The Purchasing Organization

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### 201: Basis for Purchasing Policies and Procedures

All procurement conducted by the College is governed by the following:

**Administrative:** College Policies and Procedures, State of Wyoming Statutes, Uniform Commercial Code, and applicable Federal rules and regulations.

**Authorization:** The need for approvals is based upon the type of purchase and the dollar amount involved, and shall be applied in accordance with the LCCC Procedure titled "Signature Authority". The Administration and Finance Services Department maintains a signature manual that lists all individuals who have been given authority to sign payment documents encumbering funds or charging expenses on college accounts.

**Legal Documents:** An LPO, PO, Agreement, Contract and/or MOU are by law considered a legal binding commitment between the college and the respective vendor/supplier/contractor. The respective document should contain a clear and detailed description of each item or service being requested and/or a thorough statement of fact to the effect that materials and/or services furnished shall be in accordance with specific specifications, terms and conditions.

**Payment Methods:** Approved payment methods include charge accounts and college issued credit cards. These payment methods require that each respective transaction be approved via an LPO, PO or Travel Request. (Refer to 107; Procurement and Payment Methods)

**Planning:** Plan thoroughly and allow enough time for processing a transaction/order; submit requests early rather than at the last minute; and don't ask for "rush" services unless absolutely necessary.

**Prepaid Orders:** The College provides pre-payments only for very limited types of purchases such as subscriptions, dues, memberships, deposits for travel-related expenses, certain maintenance and license fees. Prepayment for standard goods or services is generally prohibited, however exceptions may be made in those situations in which no other source for the goods or services is available; when no other arrangements can be made; and when said prepayment terms have been negotiated and approved.

**Procurement Methods:** Approved procurement methods include petty cash, Limited Purchase Order (LPO), Purchase Order (PO), and a college approved agreement and/or contract.

**Purchase Orders:** The Purchase Order is initiated and administered by the Purchasing Office from information contained in the approved on-line requisition or the manual requisition and may be used for any level of purchase. The PO number is used by the vendor to identify the purchase and is listed on shipping documents and invoices.

**Purchase Requisitions:** A Purchase Requisition is an instrument used to request certain items or services and is initiated by an individual who desires to obtain said supplies, equipment, or services. It shall be completed accurately and clearly to allow individuals (*those who approve and process this request*) to understand what is needed. Requisitions may be created in Datatel, via the on-line Purchase Requisition form, or via a hand-written Purchase Requisition. Each Requisition shall be forwarded to the appropriate supervisor for their approval.

**Unauthorized Purchases:** Include the following: a) Placing an order prior to or without an approved LPO, PO, contract or agreement; b) Placing an order before or on the assumption that said order will be approved; c) Over spending the authorized amount; d) Asking or coercing a vendor to initiate an order on the promise that a commitment is forthcoming; and e) Using personal funds to make a purchase of goods or services that would normally require the following of written procedures or the involvement of the Purchasing Office.

### 202: Authority of the Director of Contracting and Procurement

As named and approved by College Policy No. 4.2, Procedure No. 8300, and the respective "Position Description", the Director of Contracting and Procurement has ultimate responsibility over the college contracting and procurement processes. Only designated individuals at LCCC are authorized to act as agents and sign on behalf of the College. College employees have a valuable role in requesting goods or services for your department or division, but you should not try to authorize the purchase of goods or services unless so designated as this may make you personally liable for payment to the vendor.

Consistent with the rules and regulations which govern the College, the Director of Contracting and Procurement shall adopt operational procedures governing the internal functions of the Contracting and Purchasing Division. Except as otherwise noted, the Director shall, in accordance with the rules and regulations affecting the College, procure or supervise the procurement of all goods, materials, supplies, services, and construction needed by the College.

### 203: Delegation of Purchasing Authority

The Authority to commit the College to purchases of equipment, supplies, and services is delegated by Position Description, the Vice President of Administration and Finance Services, and the College President. This is formally carried out by naming the Director of Contracting and Procurement as the Purchasing Authority for the College.

### 204: Centralized Purchasing

The College subscribes to a process of centralized purchasing. This is designed to monitor, standardize, and maximize the use of purchase documents, forms, contracts and agreements that are available to the College as well as to extend fiscal control over the expenditure of funds.

**Authorized Signatures:** Authorized signers of purchasing documents are outlined in the "Signature Authority" Procedure, and Sections 201, 202 and 203 of this Manual. Only these individuals as outlined in those policies are authorized to commit the College to purchases of goods, materials, services, equipment, and supplies. The College is bound to receive and pay only for those goods or services authorized by valid signatures on recognized Purchasing Department documents. (Refer to Section 105; Purchasing Documents)

### 205: Definitions

- A. Addendum: An addition or supplement to a solicitation document issued prior to the opening date.
- B. Agent: one who is empowered legally by signatory powers to act on behalf of the College.
- C. Blanket Orders: an annual purchase order issued for numerous small dollar items from the same vendor and used throughout the fiscal year.

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- D. Centralized Procurement: a system of procurement in which the authority, responsibility and control of procurement activities is concentrated in one administrative unit.
- E. Certificate of Liability Insurance: Appropriate insurance coverage is required of all vendors who come on campus to perform labor, provide services or make deliveries, or who conduct business with the college.
- F. Contract: A legally enforceable (binding) agreement between two competent parties; evidenced by an offer and acceptance of offer. Document shall include by reference, all bid documents, contractor's bid, issued addendums, special or supplemental conditions, specifications, and any mutually agreed upon modifications, and/or additions.
- G. Contractor: One that agrees to furnish materials or perform services at a specified price; a person or business which provides goods or services to another entity under terms specified in a contract; one that contracts to do specific work for another.
- H. Deliverable: A unit or increment of work required by a contractual relationship, including such items as goods, services, reports, or documents.
- I. FOB Destination: means that the seller bears the risk until the goods are transported to the college's dock, after which the risk will pass to the buyer. Also, the seller bears the cost of freight.
- J. FOB Origin: means that the seller bears the risk until it loads the goods onto an appropriate carrier, after which the College assumes the risk of loss and must claim against the carrier for damage or loss in-transit. Also, the College assumes the cost of freight.
- K. Goods: A transportable article of trade or commerce that can be bartered or sold. Good do not include services or real property.
- L. Limited Purchase Order (LPO): An LPO is created by the requestor for purchase of goods directly from vendors without having a request routed through the normal purchase requisition process and that will be shipped complete and billed in total.
- M. Material Safety Data Sheets (MSDS): are required by law for chemicals and other hazardous items at the time of the initial purchase. A copy of the respective MSDS should be kept on file in the user department and with the master MSDS file.
- N. Negotiations: A consensual bargaining process in which the parties attempt to reach agreement on a disputed or potentially disputed matter, and dealings conducted between two or more parties for the purpose of reaching an understanding.
- O. Procedure: the prescribed means of accomplishing policy with the intent to provide college personnel with the guidelines and specific action sequences to insure uniformity, compliance and control of all policy-related activities.
- P. Procurement: the complete action or process of inquiring, acquiring or negotiating for equipment, goods, materials, personnel, property, services, and/or supplies in conformance with applicable federal, state and college laws, regulations and rules; means contracting, leasing, purchasing,



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renting or otherwise acquiring equipment, goods, materials, personnel, property, services and/or supplies in conformance with applicable federal, state, and colleges laws, regulations and rules; the administration and management function that ensures identification, sourcing, access and management of the external sources that the college needs or may need to fulfill operational objectives.

- Q. Purchase Order (PO): A contractual agreement with a vendor for goods or services that specifies payment terms, delivery dates, item identification, quantities, freight terms, and other obligations and conditions.
- R. Representative: one that represents the College as a delegate.
- S. Service Contract: Agreement whereby a contractor supplies time, effort, and/or expertise instead of a good or tangible product; a contract offered for maintaining, repairing, or upgrading equipment or facilities.
- T. Sole Source: Equipment, goods, materials, personnel, property, services, and/or supplies which perform a certain function for which no other items are known to exist and are available from only one source, including:
- i) Available from only one source because of patents, copyrights, secret processes or natural monopolies; or,
  - ii) Films, manuscripts, papers, library materials, or books published and/or distributed and available from only one source; or,
  - iii) Electricity, gas, water and other utility services; or,
  - iv) Captive replacement parts or components for equipment, goods, materials and supplies; and,
  - v) Sole brand purchase of equipment, goods, materials and supplies which has been selected to standardize inventory, maintain repair and/or replacement parts, and/or comply with existing systems.
  - vi) Services that are required to maintain warranty coverage.
- U. Solicitation: the action or process of inquiring, acquiring or collecting factual data from sources for such information related to (*but not limited to*): scopes of work, pricing, proposals, specifications, services rendered.
- V. Surplus Property: Property which no longer serves a useful purpose to the College; may also be identified as obsolete, non-operational, or scrap. The Purchasing Office has the responsibility of managing the disposal process of surplus property in accordance with College Procedure #8301.
- W. Unauthorized Purchase: An agreement, commitment or an order for goods or services, or a change to an existing agreement, commitment or order by any person who does not have express written delegation or authorized procurement authority to bind LCCC. Unauthorized purchases are not binding on LCCC and the vendor may be advised to seek payment from the respective employee.
- X. Vendor: A company which supplies parts, services or materials to another; a company one does business with.

### 206: Procurement Principles

- A. Public funds shall be expended for an authorized public expense, therefore expenditure is made for a public purpose when its purpose is to benefit the public interest rather than personal or private interests. Once a public purpose is established, the expenditure must still be authorized via the appropriate written instrument. The term "public funds" is not limited to money, but includes anything of value belonging to a public agency such as equipment, supplies, compensated time, use of telephones, computers, fax machines, and other equipment and/or resources.
- B. Prior to the initiation of a transaction, said transaction shall have proper written authorization and shall be completed via an approved written instrument from the Purchasing Office. Verbal purchases, commitments and/or transactions are strictly prohibited, and are **not** an accepted method of procurement.
- C. All procurement transactions for materials, goods and supplies shall adhere to the LCCC "Purchase Order Terms and Conditions", NO EXCEPTIONS, unless otherwise negotiated by the Purchasing Office. Shipment terms for all purchases shall be "F.O.B. Destination", or "FOB LCCC Dock, Cheyenne, WY 82007", unless otherwise negotiated and approved by the Purchasing Office. This term means that title passes to LCCC when the goods are delivered to their destination and that the seller is responsible for the condition of the goods in transit, insurance and filing claims with the carrier.
- D. All contracting transactions for services and labor shall adhere to the LCCC "Contractor Terms & Conditions, Representations, and Responsibilities", NO EXCEPTIONS, unless otherwise negotiated by the Director of Contracting and Procurement.
- E. Price quotations, specification requests, transactions and/or order confirmations shall be completed via an approved Purchasing Office written instrument. All procurement transactions shall be supported with thorough and detailed written documentation.
- F. Respect suppliers, vendors and contractors; do not make commitments or promises the college cannot fulfill; commitments or promises which do not have prior College authorization; and commitments, promises or transactions prior to issuance of an approved LPO, PO, or agreement and/or contract.
- G. The purchase of computers, peripherals, software, computer equipment, audio visual equipment, phone equipment, software subscriptions, and other information technology equipment and materials shall have prior review and approval by the ITS Division before a purchase is initiated. Exceptions to this principle shall be approved via written instrument. Review and approval of such purchases shall be done via the "Acquisition Review Worksheet" and completed via a Purchase Order, regardless of dollar value.
- H. The purchase of furniture, furnishings and equipment (*FF&E*) shall have prior review and approval by the Physical Plant Division before a purchase is initiated. Exceptions to this principle shall be approved via written instrument. Review and approval of such purchases shall be done via the "Acquisition Review Worksheet" and completed via a Purchase Order, regardless of dollar value.
- I. The procurement of materials, goods, or equipment that require an LCCC logo/image, any type of logo/image design, any trademark emblem, and/or anything that affects the LCCC public image

shall be reviewed and approved by the Public Relations Department prior to a purchase being initiated. Creation, deformation, alteration and/or modification of any trademarked LCCC logo/image is strictly prohibited without the express written authorization of the college administration. Exceptions to this principle shall be approved written instrument. Review and approval of such purchases shall be done via the "Acquisition Review Worksheet" and completed via a Purchase Order, regardless of dollar value.

- J. College funds cannot be used to procure personal items such as, but not limited to: coffee or drink machines, microwave ovens, radios, TV's, DVD players, stoves refrigerators, other kitchen items, space heaters, and paper shredders.
- K. Shipment terms for all purchases shall be "F.O.B. Destination", i.e. "LCCC Dock, Cheyenne, WY 82007.", unless otherwise negotiated and approved by the Purchasing Office.
- L. Splitting an individual order for the purpose of circumventing purchasing procedures or limits is strictly prohibited.
- M. Specifications for the procurement of equipment, goods or services shall be written by the Purchasing Office with the assistance of the requestor and other impacted departments. These specifications shall be written in order to insure satisfaction with the product or service, yet general enough to insure competition. The specification shall include a description of the particular design, function, or performance characteristics that are required.
- N. Purchases totaling \$5,000 or more require competitive quotes; and shall be initiated, administered and completed by the Purchasing Office.
- O. Individual transactions which exceed \$12,500 or more shall be reported via monthly purchasing reports and submitted to the College President for presentation to the Board of Trustees.
- P. Purchases exceeding \$30,000 require competitive bids; shall be administered and completed by the Purchasing Office to ensure consistent, uniform and equitable bid procedures; and shall be reviewed by the College President and approved by the Board of Trustees unless pre-approved via the fiscal year budget process.
- Q. Negotiations are a critical function of the procurement process and shall be conducted professionally; within the governing rules and regulations; and by the Purchasing Office.
- R. The Director of Contracting and Procurement has ultimate responsibility for all College procurement functions, duties, responsibilities, and processes to include but not limited to, preparation and distribution of uniform procurement documents, solicitations, petty cash, credit cards, limited purchase orders, purchase orders, charge accounts, agreements and contracts.
- S. In accordance with Wyoming Law, procurement and contracting processes shall adhere to and follow applicable State Statutes. See Wyoming Statutes: Title 9 (*Administration of the Government*), § 9-2-1016 and § 9-2-1057 through 1033; Title 15 (Cities and Towns), §15-1-113 (when applicable with Grant monies); Title 16 (*City, County, State and Local Powers*), § 16-6-101 through 301 and § 16-6-701 through 902; and Title 27 (*Labor and Employment*), § 27-4-401 through 413.

- T. LCCC has an obligation to its taxpayer constituents to provide an accurate audit trail of all its purchasing and contracting activities. To this end, all transactions will be properly documented and processed to identify compliance with applicable federal rules and regulations, State Statutes, and College policies and procedures.

### 207: Prohibited or Limited Purchases

Policies concerning the acceptable and unacceptable use of the LCCC monies and resources have been established to protect the college and vendors. College employees need to be aware of budgetary limits within the accounts they are authorized to use, as well as internal limitations on the use of monies and resources that may be set by the cardholder's department. In the case of a questionable the employee should seek written approval from the Vice President of Administration and Finance Services rather than risk a purchase that may not pass the test. At a minimum, purchases for items that may be questionable or are not clearly defined via this Manual shall have written approval by an individual at a higher level of authority.

Following is a list of **Prohibited or Purchases**, including those with limitations:

- Alcoholic beverages, tobacco and drugs
- Automotive service and repair – responsibility of the Physical Plant to arrange for services
- Awards, gifts & donations
- Equipment which exceeds \$2,500.00 in total value, refer to Section 206, Paragraph "H"
- Cash advances
- Catering services
- Cellular phones, blackberries, etc., nor airtime for cellular phones, blackberries, etc., computers and other electronic items; refer to Section 206, Paragraph "G"
- Construction, repair, installation and renovation (*requires a formal agreement or contract*)
- Contracted/Personal services (*requires a formal agreement or contract*)
- Copier machines, desktop or stand alone; refer to Section 206, Paragraph G
- Entertainment
- Flowers or gifts to individuals, including those in lieu of payment for goods or services
- Fines, late fees and penalties
- Furniture; refer to Section 206, Paragraph "H"
- Gasoline or diesel fuel
- Leases and rental of space (*requires a contract*)
- Maintenance agreements for services, annual or one-time
- Meals and incidental expenses for employee travel (*refer to exception #2 below*)
- Medications and medical supplies (*refer to Exception #3 below*)
- Moving expenses, unless otherwise approved by the President or Executive Director of Human resources
- Personal items or personalized stationary (*refer to Note #3 below*)
- Political contributions
- Purchases involving trade-in of LCCC property (*a function of the Purchasing Office*)
- Radioactive or hazardous materials
- Recreation
- Services – retaining or hiring a firm, agency, etc. to provide service of any type
- Software or telephone equipment; refer to Section 206, Paragraph "G"
- Supplies for a "Break Room" (*refer to Note #1 below*) to include but not limited to: utensils, paper products, coffee pots, coffee, stove, drink machines, kitchen items, and disposable supplies. EXCEPTIONS: Cleaning supplies and tissues are approved purchases.

- Trade-marked or Logo items; refer to Section 206, Paragraph "I"
- Vehicles, leased or purchased
- Weapons and ammunition

**Note:**

1. **Break Room Definition:** a room or designated space which is set aside for coffee breaks, snacks, lunches, etc. and is ADA compliant.
2. Refrigerators and microwave ovens are approved purchases when equipping a Break Room.
3. "Personal Items" may include, but not limited to: coffee or drink machines, microwave ovens, radios, TV's, DVD players, stoves, refrigerators, other kitchen items, space heaters, paper shredding machines, coffee, tea, drinks, candy, snacks, break refreshments, personal clothing, party items, and any other items that would primarily be used for personal purposes.

**Exceptions:**

1. When required in the performance of his/her duties and at their discretion, the College President may procure meals, entertainment, gas, flowers and gifts.
2. Athletic coaches in the performance of their duties may procure meals using the P-Card in lieu of being reinstated for per diem.
3. Medical supplies that are required for Health Science programs and authorized college first-aid kits.

## 208: Solicitation Process

- 208.1** The solicitation is the time period that begins with the issuance of a College document to external sources and ends when a subsequent recommendation or non-recommendation is approved by the appropriate administrative body or person.
- 208.2** A solicitation process is considered responsive if it indicates compliance without material deviation of the solicitation request and the terms and conditions of the request and subsequent contract document are met. To determine that competition has been effective, responses must be received from at least two responsible participants, and a "no bid" or "no response" is not considered as effective.
- 208.3** When competition results in no response or limited submittals, the College has two options:  
Option #1: The solicitation may be cancelled as a "failed process" and re-distributed, modifying any possible requirements or specifications, and potentially expanding the list of participants.  
Option #2: If, in the opinion of the Director of Contracting and Procurement, a second solicitation would not result in a different outcome, the Purchasing Office may cancel the solicitation and proceed with a non-competitive solicitation document. To determine which supplier should be selected as the source, the proposed supplier must be substantially technically compliant and responsive with the solicitation specifications and the supplier must be deemed responsible.
- 208.4** Preservation of the integrity of the competitive solicitation process dictates that, after submittals have been received, an award shall be determined by the responsiveness of the responsible firm(s) participating in the process, unless there is compelling and justified evidence to reject one or all submittals that would result in a non-award thus resulting in a failed process.
- 208.5** A failed process may include, but not limited to: (i) failure to meet solicitation criteria, cost, specifications and requirements; (ii) a significant difference in solicitation costs between participants; and (iii) unacceptable submittals related to overall scope of work, proposed calendars, proposed materials or equipment; or (iv) other substantial or glaring discrepancies.

### 209: Purchase Limitations

For all potential expenditures, regardless of the funding source, three questions should be asked prior to making the purchase:

- How would this purchase look to external constituents if placed under review or questioned?
- Is this expenditure necessary for a college employee to do his/her job for the College to conduct its normal business?
- Would this purchase pass the proverbial “front page” test?

The application of these questions is intended to help college employees in their decision-making with the understanding that all employees are encouraged to avoid the appearance of poor management of public funds. Every attempt has been made to make this Manual comprehensive, however there will occasionally be cases that fall outside of the guidelines even though they may indeed be a legal expenditure and in the best interest of the College. In the case of a questionable expenditure, the person or department should seek written approval from the Vice President of Administration and Finance Services rather than risk a purchase that may not pass the test. At a minimum, purchases for items that may be questionable or are not clearly defined via the guidelines shall have written approval by an individual at a higher level of authority. In the event an individual believes an exception should be made to the guidelines, he/she should request this exception through the office of the Director of Contracting and Procurement. The Vice President of Administration and Finance Services will work with the requestor’s respective VP, Dean or Director to determine the latitude available on the request.

### 210: Procurement Accountability

In the event that misuse, abuse or other illegal or improper activities may have occurred or that the requirements of this Manual are not being followed, the Director of Contracting and Procurement shall notify the respective Administrator of such issues to determine the best the best course of action to take to correct the non-compliance. When college employees fail to follow the defined procurement processes, such actions can lead to a negative impact on the College and potentially jeopardize future funding opportunities.

## **Chapter Three: Source Selection and Contract Information**

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### **301: Bidders Lists and Source Selection**

Prospective vendors may request to be added to the bid list by returning a completed "Contractor Vendor Application" to the Purchasing Department. The form outlines the company name, address, and phone number as well as the categories of service or products that they have to offer.

Removal of a vendor from the bid list may be for failure to respond to more than three consecutive notices to bid, for failure to perform after an award of a bid, or for other reasons that show the bidder to be a non-responsive or non-responsible bidder. The removal of a bidder from the bid list will only be after review and approval by the Director of Contracting and Procurement.

In those categories in which there are no vendors on the bid list or a very limited number, the Buyer shall be responsible for researching and creating a list of potential sources. The requisitioner, consultants, directories of suppliers, websites, trade journals and publications are some of the sources available to provide this information.

### **302: Competitive Sealed Bidding: The Invitation for Bid (IFB) Process**

Purchases of goods and services in the aggregate amount of \$30,000 and over shall be awarded by a process of competitive sealed bidding.

- 302.1 The Request for Bid Document:** The Invitation for Bid shall include the following: Instructions and information to bidders concerning the bid submission requirements, including time and date for receipt of bids, the address of the office to which they are to be delivered, and any other information; the bid description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements; the contractual terms and conditions, including warranty and bonding or other security requirements applicable to the procurement.
- 302.2 Bidding Time:** The bidding time is the period of time between the date of distribution of the Invitation for Bids and the time and date for receipt of bids. In each case a bidding time shall be set that affords bidders a reasonable time to prepare the bids. A minimum of 14 calendar days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the Director of Contracting and Procurement.
- 302.3 Bidder Submissions:** The Invitation for Bids shall provide a form or format which the bidder shall include the bid price and in which the bidder shall sign and submit with all other necessary submissions. Telegraphic, telephone, electronic and facsimile transmissions are not acceptable for sealed bidding purposes.
- 302.4 Public Notice:** Adequate public notice of the Invitation for Bid or notices of the availability of the Invitation for Bid shall be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Advertisement in a general publication newspaper with a local circulation shall be used for sealed competitive bidding in accordance with State of Wyoming Statute. When the bid list is not sufficient to maximize competition, the determination not to advertise shall be made by the Director of Contracting and Procurement.

- 302.5 Bidders Lists:** The Purchasing Department shall compile a list of bidders that express interest in providing products or services to the College. Bidders that fail to respond to Invitation for Bid on three consecutive procurements of similar items may be removed from the bidders list. Prospective bidders currently meeting criteria for inclusion on the list may be reinstated at their request. Names and addresses on the bidder's lists shall be available for public inspection, provided these lists are not used for private promotional commercial or marketing purposes.
- 302.6 Pre-Bid Conferences:** Pre-bid meetings may be conducted to explain the bidding and project requirements. They shall be announced to all prospective bidders known to have received an Invitation for Bid. The conference shall be held long enough after the announcement has been issued to allow bidders to become familiar with the document, but sufficiently before bid opening to allow consideration of the conference results in preparing their bid. Generally the receipt of bids will be no sooner than seven calendar days after the pre-bid conference. Any exceptions must be granted in writing by the Director of Contracting and Procurement. Nothing stated at the conference shall change the Invitation for Bid unless a change is made by written amendment.
- 302.7 Site Visits.** Site visits can be very beneficial for potential bidders, consultants, and college staff. These can be deemed mandatory or optional, and may be conducted in conjunction with a pre-Bid conference.
- 302.8 Amendments to Invitation for Bid:** Amendments to Invitation for Bid shall be identified as such and shall require that the bidder acknowledge receipt of all amendments issued. The amendment shall reference the part of the Invitation for Bid that it amends. All addenda shall be identified as such and shall be sent to all bidders that have acknowledged receipt of the bid. The addendum shall require that the bidder acknowledge the receipt of the addendum. Addenda shall be issued within a reasonable amount of time for potential bidders to consider them in the preparation of their bids. If the time and date set do not permit sufficient time for bid preparation, the date and time of the bid opening shall be extended either in the addendum or by telephone, fax or electronically.
- 302.9 Withdrawal and Modification of Bids:** A bidder may modify or withdraw its bid at any time before bid opening if the modification or withdrawal is received before the time and date set for bid opening in the location designated in the Invitation for Bid for receipt of bids. All documentation relating to a withdrawal or modification of a bid shall be kept as part of the procurement file.
- 302.10 Late Bids:** A bid, withdrawal of a bid, or modification of a bid is late if it is received at the designated location of the bid opening after the time and date of bid opening. A late bid, late withdrawal of a bid, or late modification of a bid shall be rejected. Bidders submitting bids that are rejected as late shall be notified as soon as practical. All documents concerning a late bid shall be retained in the procurement file.
- 302.11 Receipt of Bids:** Bids and bid modifications shall be received by appropriate staff, marked with the date and time of receipt and stored unopened in a secure location, until the bid opening. Bids shall be opened publicly at the time, date, and location advertised in the bid document. The name of each bidder, the bid price, and other pertinent information shall be read aloud and recorded. A bid abstract shall be made available to the public for review.
- 302.12 Inspection of Bids:** Only after formal award of the bid, shall the bids be made available for public inspection. Information deemed proprietary in nature by the bidder and approved as such by the Director of Contracting and Procurement, shall not be included in the materials available for public inspection.



**302.13 Mistakes and Informalities in Bids:** Mistakes in bids may be corrected by modification or withdrawal as outlined in sections above, if discovered prior to the bid opening. After bid opening, a bid submitted in error of judgment, may not be corrected. A bid may be withdrawn pursuant to the following sections:

Minor informalities in a bid may be waived if the Director of Contracting and Procurement deems it advantageous to the College.

A bid may be withdrawn after bid opening only if the mistake is clearly evident to the Director of Contracting and Procurement or if the bidder establishes evidence clearly showing a mistake was made.

Mistakes shall not be corrected after award of the bid.

Any withdrawals or corrections to a bid permitted or denied after the bid opening shall have a written determination that is included in the procurement file.

**302.14 Bid Evaluation and Award:** The bid shall be awarded to the lowest responsive and responsible bidder whose bid meets, in all material respects, the requirements and criteria as defined in the Invitation for Bid. Bids shall be evaluated to determine which bidder offers the lowest cost to the College in accordance to the criteria as defined in the Invitation for Bid. Only objectively measurable criteria shall be applied in determining the lowest cost to the College. A contract may not be awarded to a bidder submitting a higher quality item than designated in the bid document unless the bidder is also the lowest bidder as determined by the criteria outlined above.

**302.15 Tie Bids:** Tie bids are defined as instances of identical pricing from responsible bidders that meet all requirements as set forth in the bid documents. Tie bids may be awarded by drawing lots or any other random choice manner. Care shall be taken by the buyer to ascertain that the tie bidders meet all requirements as outlined in the bid document before declaring a tie bid situation. Records and methods of determining the successful bidder shall be maintained in the procurement file for all tie or apparent tie bids.

**302.16 Single Bids:** In instances of only one bid being received, a determination must be made by the Director of Contracting and Procurement that the price submitted is fair and reasonable and that other prospective bidders had time to respond or that re-solicitation is not possible due to time constraints. In those instances, an award may be made. If it is determined in writing by the Director of Contracting and Procurement that the need for the product or service continues and that the acceptance of the sole bid is not advantageous to the College, then the procurement may be conducted in a manner as defined by the Director of Contracting and Procurement.

### **302.17 Bid Dispute Process**

The bid dispute resolution process is intended to ensure that any dispute is handled in an ethical, fair, reasonable, and timely fashion. Where a contractor or vendor wishes to dispute the outcome of a bid, subsequent to a debriefing with the Director of Contracts and Procurement, the process outlined below is to be followed:

1. The aggrieved party is to file a written bid protest with the Director of Contracts and Procurement, by certified mail, within 5 business days of the debriefing meeting. The aggrieved party's filing should include:

- The name and address of the aggrieved party.
  - Identification of the contract or bid solicitation being protested.
  - Detailed and factual statement of the grounds for protest.
  - Supporting documentation.
  - Desired relief, action or ruling.
2. The Director of Contracts and Procurement will respond to the aggrieved party, by certified mail, within 10 business days of receiving the bid protest notice. If a resolution cannot be achieved, the aggrieved party must contact the Vice President of Administration and Finance and copy Director of Contracts and Procurement, by certified mail, within 10 business days of receiving the first response from the Director of Contracts and Procurement. The Vice President of Administration and Finance will respond to the aggrieved party, by certified mail, within 10 business days of receiving the bid protest notice. The final decision on the dispute will be made by the VP of Administration and Finance Services.

### **303: Competitive Proposals: The Request for Proposal (RFP) Process**

Purchases of goods and services in the aggregate amount of \$30,000 and over that cannot be awarded by a process of competitive sealed bids shall be procured through the use of a Request for Proposal (RFP) process.

- 303.1 The Request for Proposal:** The RFP shall include the following: Instructions and information to proposers concerning the submission requirements, including time and date for receipt of proposals, the address of the office to which they are to be delivered, and any other information; The project description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements; and the contractual terms and conditions including warranty and bonding, or other security requirements applicable to the procurement. At a minimum, the RFP should specify which aspects or features of the requested deliverables are critical to the College, therefore submittals should address these categories:
- **Mandatory** – minimum required goods or services that the College deems essential to the meet the RFP requirements.
  - **Options** – Good or services that the respondent can offer, but the College is not obligated to purchase.
  - **Desirable** – Goods or services that the College prefers, but that the respondent is not obligated to offer.
  - **Alternative** – An approach proposed by the respondent that provides a different solution to the College needs.
- 303.2 Proposal Time Frame:** The proposal time is the period of time between the date of distribution of the Request for Proposal and the time and date for receipt of proposals. In each case, a proposal time shall be set that affords proposers a reasonable time to prepare the proposals. A minimum of 14 calendar days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the Director of Contracting and Procurement.
- 303.3 Proposal Submissions:** The Request for Proposal document shall provide a form or format in which the proposer shall include all pertinent information relative to the process. The proposer shall sign and submit all necessary information called for in the Request for Proposal document.
- 303.4 Public Notice:** Adequate public notice of the Request for Proposal or notices of the availability of the Request for Proposal shall be mailed or otherwise furnished to a sufficient number of proposers

for the purpose of securing competition. Advertisement in a general publication newspaper with a local circulation may be used for competitive proposals that are expected to exceed \$30,000 in cost.

- 303.5 Pre-Proposal Conferences:** Pre-proposal meetings may be mandatory or optional and conducted to explain the procurement requirements. They shall be announced to all prospective proposers known to have received a Request for Proposal. The meeting shall be held long enough after the Request for Proposal has been issued to allow proposers to become familiar with the document, but sufficiently before receipt of proposals to allow consideration of the conference results in preparation of their proposal. Generally the receipt of proposals will be no sooner than seven calendar days after the pre-proposal meeting. Any exceptions must be granted in writing by the Director of Contracting and Procurement. Nothing stated at the conference shall change the Request for Proposal unless a change is made by written amendment.
- 303.6 Amendments to Requests for Proposals:** Amendments to Requests for Proposals shall be identified as such and shall require that the proposer acknowledge receipt of all amendments issued. The amendment shall reference the part of the Request for Proposal that it amends. Amendments shall be issued within a reasonable amount of time for potential proposers to consider them in the preparation of their proposals. If the time and date set does not permit sufficient time for proposal preparation, the date and time of the proposal opening shall be extended in the form of an addendum.
- 303.7 Withdrawal and Modification of Proposals:** Withdrawal or modification of proposals is acceptable if the notification of withdrawal or modification is received prior to the deadline for receipt of the proposals at the designated location. All documentation relating to a proposal withdrawal or modification shall be kept as part of the procurement file.
- 303.8 Late Proposals:** A proposal, a request for withdrawal of proposal, or a modification of proposal is late if received at the designated location of the proposal receipt after the time and date listed in the Request for Proposal. Late proposals, late withdrawal of proposals, or late modification of a proposals shall be rejected. Proposers submitting proposals that are rejected as late shall be notified as soon as practical. All documents concerning a late proposal shall be retained in the procurement file.
- 303.9 Receipt of Proposals:** Proposals and proposal modifications shall be received by appropriate staff, marked with the date and time of receipt, and stored unopened in a secure location until the proposal opening. Proposals shall be opened publicly at the time, date, and location advertised in the proposal document. The name of each proposer and other pertinent information shall be read aloud and recorded. Pricing information, if part of the Request for Proposal, is not read aloud or recorded.
- 303.10 Inspection of Proposals:** Only after formal award of the proposal, shall the proposals be made available for public inspection. Information deemed proprietary in nature by the proposer and approved as such by the Director of Contracting and Procurement shall not be included in the materials available for public inspection.
- 303.11 Mistakes and Informalities in Proposals:** Mistakes in proposals may be corrected by modification or withdrawal as outlined in sections above, if discovered prior to the proposal opening. After proposal opening, a proposal submitted in error of judgment may not be corrected. Minor

informalities in a proposal may be waived if the Director of Contracting and Procurement deems it advantageous to the College. A proposal may be withdrawn pursuant to the following sections:

- a. A proposal may be withdrawn after proposal opening only if the mistake is clearly evident to the Director of Contracting and Procurement or if the proposer establishes evidence clearly showing a mistake was made.
- b. Mistakes shall not be corrected after award of the proposal.
- c. Any withdrawals or corrections to a proposal permitted or denied after the proposal opening shall have a written determination that is included in the procurement file.

**303.12 Proposal Evaluation and Award:** The award will be made to the most qualified proposer, based upon review and recommendations of a committee of individuals that score responses to the Request for Proposal document based upon published grading criteria.

**303.13 Single Proposals:** In instances of only one proposal being received, a determination must be made by the Director of Contracting and Procurement that the proposal submitted is fair and reasonable and that other prospective proposers had time to respond or that re-solicitation is not possible due to time constraints. In those instances, an award may be made. If it is determined in writing by the Director of Contracting and Procurement that the need for the product or service continues and that the acceptance of the single proposal is not advantageous to the College, then the procurement may be conducted in a manner as defined by the Director of Contracting and Procurement.

### 304: Procurement of Commodities

The procurement of certain commodities on a regular basis is not practical with common public procurement procedures such as sealed bidding. Examples of these types of purchases include the on-going purchase of food products or other commodity type items such as computer memory. Products such as these have pricing and availability which vary on a daily or weekly basis. Methods of maximizing competition, within reason, are to be implemented by the Purchasing staff with the approval of the Director of Contracting and Procurement.

### 305: Sole Source Procurement

LCCC is committed to maintaining fair and competitive procurement processes. A sole source justification represents from the end user for the Purchasing Office to waive the competitive solicitation process (*quotes/bids/proposals*) due to the fact(s) that a particular item possesses features that:

1. Are critical to the project or requested services. The features (specifications) must be described and defended as to why they are critical and needed for the intended application.
2. No other manufacturer's product possesses these features (manufacturers must be mentioned by name), therefore, since these features are needed and can be documented as needed, it would be futile to quote/bid as potential competition has been thoroughly surveyed, documented via written instrument and found to be deficient. Competition must be mentioned by name with the specific deficiencies.
3. It must be stated, with explanation of how, that the brand, model of choice, and manufacturer/dealer meets all of the specification requirements as described in item #1 above.

4. Price cannot be used to justify a sole source since a competitive solicitation would provide information on the price. A sole source is a request to waive the competitive process due to unique specifications need for the intended application.
5. Sole source items have unique performance features not found in other items and are available only from a single manufacturer or dealer with exclusive distribution rights. Such features/specifications cannot be manufacturer specific with the intent to eliminate other competition because of manufacturer preference.
6. Sole source services provided by a current contracted vendor can be provided by the respective vendor and therefore consolidated through an extension of the respective contract to better serve the LCCC interests. Such a sole source shall be deemed in the best interests of LCCC only after research supports the decision to categorize the service as a single source that can only be provided through consolidation.

Products or services may be procured without competition if there is documentation that there is only one source available. Submission of cost and specifications data may be required by the requesting department in conjunction with the Purchasing Office. Sole source procurement shall be avoided whenever possible. Written justification is required on all source requests which shall be reviewed and approved by the Director of Contracting and Procurement. Examples of sole source procurement include, but are not limited to:

- Products where compatibility with existing systems, equipment or accessories is absolutely necessary for function, service, warranty and cost.
- For trial or evaluation of products or services
- For public utilities and services
- Purchases of educational materials purchased directly from the publisher.
- Unique services such as advertising, in which circulation, billboard location, audience demographics, and other factors which make each provider different.
- Rental of certain facilities, equipment or materials
- Purchase of goods or services on an "emergency" basis, without competition, for situations that affect the safety and welfare of employees, students and the public

In order for the Purchasing Office to consider a sole source request, completing a "Sole Source Justification" form and returning it to the Purchasing Office will provide the documentation necessary to identify, review and approve sole source purchases.

**305.1 Justification:** Justification must demonstrate that only one vendor/supplier can perform or provide the material/service. The following are examples of basis for sole source acquisitions:

- a. The supplies or services to be acquired are unique and proprietary to a vendor, supplier, etc.
- b. Time is of the essence, meaning that the situation is a genuine emergency.
- c. Only one known source can meet the needs within the required timeframe.
- d. Data is unavailable for competitive procurement.
- e. It is necessary that the item being acquired from a sole source be compatible and interchangeable with existing equipment, systems, or services.

**305.2 Components:** The following elements and corresponding requisites shall be addressed in the sole source justification:

- a.

- b. State clearly the requirements via **written instrument**. Make sure that the entire requirement is covered by the justification.
- c. Explain why there is only vendor/supplier that can meet the requirement. The **written documentation** necessary to adequately substantiate the two most common basis of sole source include:
  1. If the vendor/supplier has a unique capability, whether it is an item or service, it is insufficient to simply say that the vendor/supplier is unique unless they are the proprietary manufacturer (*intellectual or physical*). If the item is unique to the vendor/supplier, the unique characteristics must be set forth. If the vendor/supplier has unique expertise, that expertise must be described. If the vendor/supplier has unique equipment or facilities or he has proprietary data, it must be explained.
  2. If only one vendor/supplier can perform within the required timeframe, the timeframe must be explained:
- c. Provide the date by which the supplies or services must be delivered.
- d. Indicate how that date was determined and its significance.
- e. Indicate the impact of delay beyond that date in terms of program schedules, milestones, etc.
- f. State how long it would take another vendor/supplier to acquire the capability to perform (*learning period*), how much it would cost another vendor/supplier to get up to speed, and if appropriate, what it would cost in terms of dollars and man-hours to get another vendor/supplier up to speed. State the bases for the above estimates.
- g. State how the decision to pursue sole source was reached. Generally, technical knowledge and experience can be used to support sole source. The following are examples of **written documentation** supporting this element:
  1. Explain requisition originator's experience that would indicate that he knows that only one source can perform.
  2. Explain that technical publications, symposiums, or conferences clearly indicate that only one vendor/supplier can perform, and reference same.
  3. State what is being done to foster future competition.
  4. Written justification must be signed and dated.

### 305.3. Other points to consider:

- a. The two most often cited basis for sole source are uniqueness and timeframe. There are often confused and inappropriately interchanged. If a vendor/supplier is unique and if his uniqueness is adequately substantiated, a discussion of timeframe is inappropriate. If the basis for sole source is timeframe, a discussion of uniqueness should not be made or alluded to. Timeframe does not make a vendor/supplier unique.
- b. The justification limiting acquisition to a single source must verify that the proposal represents the product of original (*copyright*) thinking by the submitting vendor/supplier and could not be obtained competitively without revealing the original thinking.
- c. Statements that a vendor/supplier has the best capability, or offers the lowest price, or is the only qualified source is not a basis for sole source. Such determinations can only be made through competitive solicitation. A strong presentation which merely establishes that the recommended source is most highly qualified to perform but does not establish why other sources cannot perform is unacceptable.
- d. Incumbency or favoritism does not justify sole source.
- e. Administrative delay or a lack of adequate advanced planning does not create an urgency that justifies sole source acquisition.

### 306: Emergency Procurement

The Director of Contracting and Procurement or designee may make or authorize others to make emergency procurement of equipment, goods, or services.

This will only be in instances of a true emergency where there exists a threat to the safety, health, or welfare of faculty, students, staff, or the public. In such instances, price competition is less important than the quick and safe resolution to the emergency. The normal quotation process may be waived.

Full back-up materials and justification will be provided to the Purchasing Department as soon as possible to substantiate the purchase. This information will be made a part of the file.

### 307: Procurement of Real Estate

The procurement of real estate is not subject to the same formal competitive processes as good and services. The purchase of real estate is unique, relative to location, access, associated improvements and other factors. In as much, the procurement of real estate cannot be competitively bid. Guidelines and benchmarks such as appraisals and comparative sales of similar properties will be used to determine the appropriateness of the purchase price.

The purchase of real estate is conducted by negotiation based upon comparable market listings, if available, as well as an appraisal. All issues such as legal description, rights of way, size, suitability, and assessment of risk factors such as structural analyses and asbestos surveys shall be performed prior to purchase. In the role of Chief Fiscal Officer for the College, the Vice President of Administration and Finance Services may act as agent for the procurement of real estate, or may delegate that responsibility to the Director of Contracting and Procurement. The College President or his/her designee shall sign all purchase agreements relating to the purchase or sale of real estate.

### 308: Privatization of Services

The College believes in utilizing the most beneficial method of providing services and goods, whether it is from the public or private sector. Whenever possible, established criteria shall be used to analyze the benefits of one source over the other. "Privatization" means the provision of services or goods by a private sector business, another public sector body or non-profit agency that is normally provided by employees of the College.

### 309: Types of Contracts

For the purposes of this Manual, a "contract" is defined as an agreement between two (2) or more parties, which is intended to have legal effect and documents the pricing, scope or work and other related terms & conditions of the relationship. All contracts document a common understanding among the parties as to the essential terms of their agreement, contain mutual obligations, and set forth "legal consideration," meaning that something of value is exchanged between the parties. Contracts are often called agreements, and these terms are generally synonymous. Grants, purchase orders, leases, etc. are all legally defined as contract document; the names simply denote the specific type of contract.

**309.1** Elements of a Contract. The elements necessary to form a legally binding and enforceable contract are: 1) Offer and Acceptance; 2) Legally enforceable promises (legal purpose/objective); 3) Mutuality of obligation; 4) Certainty of subject matter; 5) consideration; and 5) Competent parties.

# Laramie County Community College

## Contracting & Procurement Procedures Manual

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- a) Offer and acceptance: All contractual relationships require an offer by one party and acceptance by another party.
- b) Legally enforceable: Contracts must be for a legal purpose to be legally enforceable.
- c) Mutuality of obligation: Parties entering into a contract must have a “meeting of the minds”, which means that the parties are agreeing to the same thing, in the same sense, and at the same time.
- d) Certainty of subject matter: Contractual provisions must be sufficiently defined to enable courts to understand the parties’ obligations.
- e) Consideration: This is an essential element, without which contracts are unenforceable, even if all other elements are present. Consideration often is, but is not necessarily monetary. It consists of either a benefit to the party receiving the promise or a detriment to the party making the promise. It may consist of some right, interest, profit, or benefit accruing to the other party.
- f) Competent Parties: Parties to a contract must have legal capacity to contract. By definition, college representatives do not have legal capacity while college agents do have such.

Examples of college contracts include, but are not limited to: agreements for the purchase, lease, or rental of goods or services; agreements for the sale, lease, or donation of college goods or services; contracts with facilities which require a written agreement; and/or construction and architectural design contracts. Oral contracts are not an acceptable method of procurement; therefore they must be written to be enforceable. An agreement may constitute a binding contract even though one party provides something of value to the other party at no charge. There are a number of types of contracts used in the College. The most common are listed below:

**309.2 Basic Service, General Service and Construction Contract:** This type of contract encompasses the needs of a particular requisitioner or college or the College for a specific product or line of products or services. Contracts may be based upon a set price for a number of items or services, or it may be for a wide range of products or services with a predetermined discount or mark-down based upon a catalog or book standard price.

**309.3 Multi-Term Contracts:** Multi-term contracts for goods or services may be utilized for a period not to exceed five (5) years, if they meet the following criteria:

1. The estimated requirements subject to this contract are identifiable as to scope and/or general quantities for the periods covered.
2. The contract serves the best interest of the College by encouraging competition and economies of scale based upon extended purchase periods.
3. The contracts are based upon availability of funding. No contracts are automatically renewable.

The vendor must continue to meet all criteria based upon performance and other requirements that may apply such as bonding, insurance and licensure, etc. Contracts may be written with options for terms greater than five years, only with approval of the Director of Contracting and Procurement.

**309.4 Contracts for Professional Services:** Professional Services Contracts should be used for the procurement of services, not products or construction/renovation. Professional Services Contract procedures vary according to dollar limits and the requested services. Professional services templates are standard forms designed for use to ensure that all pertinent information is obtained



and agreed to by the Contractor. Contracts for Professional Services are developed by the Legal and Purchasing Departments.

**Note:** Professional Services Contracts are **not** to be used for the temporary employment of staff. If the person has assigned hours, is provided a workspace plus equipment and supplies, and is treated or performs such as an employee, this may be a temporary employment situation that warrants use of a Human Resources documentation process.

**309.5 Initiation and Review of Contracts:** When a college employee desires to involve college resources, the initial step for entering into a contract (*includes agreements and MOU's*) is to contact the Purchasing Office, **not** the vendor or entity. This ensures that the appropriate criteria are addressed via the appropriate template and document language, and any necessary negotiations are completed prior to review and signature.

**309.6 Routing of Contracts:** All contracts require a signature by the College President, or his/her designee, regardless of the dollar amount. Prior to signature, the Director of Contracting and Procurement shall review the respective document; then send any contracts that need additional review to the Legal department, if necessary. Following review and approval of the contract, the document is routed using the "Contract Review Form" for appropriate review and signature. After the contract is signed by the appropriate authority, a Purchase Order may be created based on the approved requisition and signed contract. The Purchase Order along with the signed contract is then sent to the vendor. **Note:** A vendor shall not begin work or provide any service until a requisition is approved, a contract is signed, and a Purchase Order (*if applicable*) is created.

**309.7 Contract Signatory Authority:** The authorized individuals to sign contracts on the behalf of the College are set by College Policy and Procedures and are as follows:

- College President, or the Acting President;
- Vice President of Administration and Finance Services when so designated in writing;
- The Director of Contracting and Procurement when so designated in writing.

**Note:** No other employee of the College is authorized to sign contracts on behalf of the College unless so designated via written instrument by the College President.

**309.8 Subcontracts:** Subcontracts are created when a vendor/contractor engages a third-Party to perform some or all of the contract obligations.

### 310: Right to Audit Records

The College may, at reasonable times and locations, audit the books and records of any person or organization that submits costs or pricing or is awarded a contract which includes cost reimbursement.

For purpose of this procedure, College includes appropriate Purchasing, Finance and Internal Audit staff as well as representatives of the designated staff or other review organizations. Any person or organization that receives a contract of which cost or pricing data is required, shall maintain the books and records that relate to that information for a period of three years from the date of the final payment under that contract, unless a different period is required. The College may, at reasonable times and locations, audit the books and records of any contractor or subcontractor relating to the performance of a contract or subcontract. The contractor or subcontractor shall maintain the books and records that relate to the contract or subcontract for a period of three years from the date of the final payment under that contract, unless a different period is required.

### 311: Right to Inspect Vendor/Supplier Facilities

The College may, at reasonable times inspect part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded. This extends to the inspection of a plant or business location prior to award, as part of a determination process to decide capability and fitness for the contract.

### 312: Records Retention Policy

The retention of contracting and purchasing records is in accordance with the standards as set forth in the State of Wyoming Records Manual and applicable Federal rules and regulations. Records will be kept longer if audits were not performed in a timely manner. In this case, these records will be maintained for a period of three (3) years after completion of that audit.

1. Formal Bids for construction and Requests for Proposals for architects, engineers and related professionals. Supporting documentation and summaries for the process are kept indefinitely. Submittals from non-successful bidders and proposers are kept for three years from completion of the project.
2. Formal Bids and Requests for Proposals: Supporting documentation and summaries for the process as well as additional back-up materials are kept for three years after close of the fiscal year in which they were received.
3. Purchase Orders, Requisitions and Vendor Invoices are kept for three years after close of the fiscal year in which they were processed.
4. Leases, Contracts and other agreements are maintained for a period of six years after expiration of the agreement.
5. Disclosure of Substantial Interest forms are kept for three years after close of the fiscal year in which they were received.

### 313: Special Procurements

A situation may arise which makes compliance impracticable, unnecessary or contrary to the public, but for which a sole source or emergency procurement is inappropriate. In such cases, the Director of Contracting and Procurement or his or her designee may make or authorize others to make procurements with limited or no competition, as the officer deems appropriate based on the circumstances. The Director or designee shall make a written determination of the basis for his or her decision, and the selection of the contractor. The determination will be retained in the contract file. The Director may authorize the purchase of certain specified classes of services, equipment or goods as special procurements under this Section. He or she may do so only through a written determination that sets forth the reason for the designation of the class of service, equipment or good as a special procurement, along with appropriate requirements applicable to the procurement, such as dollar/expenditure limits or limited competition procedures.

### 314: Procurement of Used Equipment

Used equipment may be purchased if it meets the needs of the college as required by the user. The purchase of used equipment must be in the best interest of the College and result in a cost savings when compared to the purchase of new or refurbished equipment. A statement containing the following information must accompany the requisition.

1. The requestor has inspected the equipment, and is in safe working condition.
2. The equipment is in proper working order, and requires little or no maintenance.
3. The equipment meets the needs of the user.
4. It is in the College's best interest to procure the used equipment.
5. The price is comparable to other similar units, and has a clear title.

The statement shall be reviewed and approved by the Director of Contracting and Procurement.

### 315: Employees as Vendors

The basic principle underlying procurement ethics is that those in public service should use their positions for the college's benefit and not for their own private gain or the private gain of another. The use of LCCC employees to provide goods or services is strongly discouraged. ANY purchases from an employee should show evidence of competition and be approved in advance by Purchasing. This includes purchases made on Limited Purchase Orders.

If you are an employee acting as a potential vendor or have a relative who is a potential vendor, you must complete a Disclosure of Substantial Interest Form. Forms are also available from your Fiscal Agent or the Purchasing Department. This form must be completed and submitted to the Purchasing Office annually.

## Chapter Four: Specifications

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### 401: Specifications

The first and probably most important step in the procurement process is to prepare a detailed specification and cost estimate. The specification is a highly detailed description of exactly what you want to buy. A fundamental rule of procurement is that specifications must be written in a clear, unambiguous and nonrestrictive manner so as to not eliminate competition by being manufacturer specific. A specification is defined as a clear and accurate description of the functional characteristics or nature of an item being procured or service being obtained. A well written specification serves these vital purposes: 1) It is the foundation for obtaining an item or service in the most cost-effective manner; and 2) It is the baseline for evaluating offers and bids. The specification may include drawings, technical documents, or product descriptions and should state the required performance in terms of quantity, items, labor hours, performance milestones, deliverable items and due dates. A brand name or equal specification shall designate as many brands as possible. The specification shall include a description of the particular design, function, or performance characteristics that are required, unless the Director of Contracting and Procurement determines that the brand names in the specifications are commonly known.

You can test your specification by:

1. Checking that there are no loopholes that would allow a bidder to evade a requirement.
2. Being certain that the requirements are reasonable. Tight requirements such as unnecessary precision or quick deliveries are usually more expensive and restrict competition.
3. Reviewing content to be certain that it will be "crystal clear" to bidders.
4. Being certain that whatever is to be included in the price has been clearly described.

Specifications for the procurement of goods or services can be written by the Purchasing Office with the assistance of the requesting department(s) and other College staff. These specifications shall be written in order to ensure satisfaction with the product or service, yet general enough to insure competition. Brand name or equal specifications may be utilized when the Director of Contracting and Procurement determines that the use of brand name or equal specification is advantageous to the College and:

- A. No existing specifications are available.
- B. Time does not permit the preparation of specifications.
- C. The nature of the product makes the use of a brand name or equal specification suitable for procurement.

#### 401.1 Types of Specifications

- Design specifications
- Performance specifications
- Purchase description specification

#### 401.2 Design Specifications

Design specifications tell the bidder precisely how to construct a product or perform a service or provide a product. They specify in exacting detail the department's requirements in terms of measurements, tolerances, materials and test results. Design specifications provide a description of exactly how the work is to be performed and define the end result and give the bidder little or no discretion in the process. Such specifications are appropriate when the department knows exactly what it wants and the precise details can be clearly communicated to bidders. Design specifications

also make it easier to use a competitive solicitation process to select vendors because everyone is bidding on exactly the same item or service. A common problem with design specifications is they can preclude the bidder from offering a better or less expensive alternative. If the specifications are followed exactly by the bidder and the requestor has a problem with the final product, the cost of correcting the problem is likely to be the requester's responsibility.

### 401.3 Performance Specifications

Performance specifications tell the vendor what results or operational characteristics the College seeks to achieve from the end product, as opposed to design specifications which state exactly how to accomplish the results. Performance may be stated in terms of specific accomplishments or in terms of the end product or solution. Design characteristics (i.e., specific instructions) not stated in a performance specification are presumed to be unimportant as long as performance characteristics are met. When using performance specifications, the contractor has virtually complete discretion regarding the design. It is permissible, and sometimes advisable, to include additional design characteristics (e.g., noise or size limitations) guaranteeing receipt of a product meeting all of the College's needs and expectations. Performance specifications, if drafted skillfully, increase the department's chances of meeting its needs while encouraging innovative approaches and bids from the widest range of competitors. Performance specifications also place more of the responsibility for the end product on the contractor. One problem with performance specifications is the contractor's design may have unwanted or unanticipated characteristics in need of address in the initial specification.

### 401.4 Purchase Description Specifications

Purchase description specifications describe the department's requirements by referencing a brand name, a manufacturer's name and model, or part number. Purchase description specifications should indicate the brand is just an example and not a preference. The spec should allow the vendor the option to provide an "equal" product. If the vendor provides an "equal," the burden of proof is on the vendor to show that the item provided is functionally equal. One highly recommended statement to include in your specification is: *"Any manufacturer names, trade names or catalog numbers used in this specification are for description only and to establish general quality levels. Such references are not intended to be restrictive. Bids will be considered for any brand which meets or exceeds the quality of the specifications listed for any item."* Purchase description specifications must contain a list of the required or desired characteristics of the brand name item to define how equivalency will be measured. An "equal" which differs from the brand name in a way that does not affect the College's requirements may not be rejected.

### 401.5 Draft Specifications

The College is ultimately responsible for the content of any specifications we produce. When special knowledge or expertise is needed by the department, assistance can be found in the literature for similar products (*often available from suppliers*). Alternatively, a consultant may be hired to assist in the development of the specification. Exercise caution when using the services of a consultant. If a consultant is used to develop specifications, the consultant shall provide to the College a general statement to be included in their recommendations that reads as follows: "No direct or indirect benefit is to be realized by the consultant from Laramie County Community College using these specifications or awarding a bid based upon them."

### 401.6 Ambiguous Specifications

A bidder may successfully challenge a specification if two or more reasonable interpretations are possible. Bidders may interpret the same specification differently with the effect they may actually be bidding on entirely different products. Once the contract commences, ambiguities may lead to a final product which fails to meet the needs or expectations of the department.

### 401.7 Defective Specifications

Defective specifications are often the result of typing errors, mistakes, omissions or the use of boilerplate information. The College is responsible for and warrants its specifications are accurate and suitable to achieve the desired product. The bidder has no duty to investigate whether the College's specifications will produce the desired result. If additional costs are incurred to achieve the desired result, the department is liable for these costs.

### 401.8 Unduly Restrictive Specifications

A specification cannot be used which unreasonably restricts competition and/or contains elements irrelevant to the College's needs. For example, the College wants to purchase a general use table; however, it has specified a table height of 28.5" when the industry standard is 30.0", this would be unduly restrictive. If challenged, the Procurement Office must be able to justify why restrictive specifications are necessary to meet the College's requirements. If required and justifiable, restrictive specifications are acceptable. Specifications that raise a "red flag" are those which carry design requirements not necessary to achieving the required performance, or those written around or modeled after a specific product but which do not specify the features of the brand item deemed essential to the College.

### 401.9 Unfair Competitive Advantage

Specifications should not give unfair competitive advantage to a bidder. For example, for a service contract, all bidders should be furnished with pertinent historic data available to the existing or incumbent vendor, or using a manufacture specification that only that entity can provide. Employees shall be careful to not cross the boundary of developing specification based on personal preference.

### 401.10 Safety Data Sheets (SDS)

This form is required for products that we purchase that are or is comprised of regulated materials. The SDS sheet lists the components of the product and the chemical reference provides more detailed profiles of these components. It also provides information on synonyms, specific gravity, hazard information, Uniform Fire Code, and chemical properties and characteristics. When applicable, SDS sheets shall be requested when developing product specifications for procurement purposes.

## Chapter Five: Procurement of Construction Services

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### 501: Construction Procurement

Construction procurement shall be conducted in accordance with all applicable State of Wyoming Statutes, Board of Trustees Policies, and College procedures. The College may procure design services, construction and construction services, as applicable, under any of the following project delivery methods:

1. Design-bid-build.
2. Construction-manager-at-risk (CMAR) or Construction Manager-General Contractor (CMGC).
3. Design-build.
4. Job-order-contracting.

#### 501.1 Definitions:

**Design-bid-build** is the process in which separate procurements are conducted for architect/engineer services and general construction. The design provided by the architect/engineer is utilized as part of the bidding document for the general contracting services. A **Construction-manager-at-risk** acts as a general contractor at the contracted-for price and provides consultation to the institution regarding construction during and after the design of the facility. Design-build is a method of contracting in which a single contract is created with a firm or group of firms in partnership to build or renovate a building or group of buildings. The intent is for the architect/engineering professionals to work more closely with the general contractor and subcontractors to provide a single source of responsibility for the design and construction of the project. This contrasts with the separate contracts with architects/engineers and general contractor involved in the standard design-bid-build or Construction Manager at Risk. **Job-order contracting** is a construction contract used for new construction, maintenance, rehabilitation, and alterations of a recurring nature but which is of an indefinite delivery and indefinite quantity. The Job Order Contract shall include a comprehensive compilation of detailed property repair, rehabilitation, alteration, maintenance, and minor construction task descriptions or specifications, a pre-determined and agreed upon pricing, discount coefficient or mark-up pricing structure.

#### 501.2 Design-Bid-Build

For the design-bid-build project, the College shall procure the Design services according to Section 506; Architect, Engineer, Land Surveying and Related Services and the Construction by competitive sealed bidding, according to Section 302: Competitive Sealed Bidding - The Invitation for Bid (IFB) Process, except as otherwise provided in Section 305: Sole Source Procurement and Section 306: Emergency Procurement.

#### 501.3 Construction-Manager-at-Risk, Design-Build and Job-Order-Contracting

The College shall procure construction services under the construction-manager-at-risk, design-build and job-order-contracting project delivery methods according College Policy and Procedures and in accordance with State Statutes § 16-6-101 through 1001. For job-order-contracting construction services projects, if the College does not include design services in the job-order-contracting construction services contract, the College shall procure any design services relating to job-order-contracting construction services projects under a separate professional services contract.

### 502: Bid Security

Bid security shall be used on all competitive sealed bidding for construction contracts that exceed \$7,500 in value in accordance with State Statute § 16-6-112, unless a waiver is deemed appropriate and approved by the Director of Contracting and Procurement. Bid security protects the College against the failure or refusal of the low bidder to supply the necessary performance and payment bonds, as required, and to proceed with the performance under the contract. Bid security shall be provided by a surety company licensed to conduct business in the State of Wyoming or it shall be in the form of a cashier's check made payable to the College. Bid security is set at 5% of the bidder's base bid amount. Bid security is required to be submitted at the time of the submittal of the sealed bid. If the bidder fails to accompany its bid with bid security, the bid shall be considered non-responsive.

If a bid does not comply with the security requirements, the bid shall be rejected as non-responsive, unless the failure to comply is determined by the Director of Contracting and Procurement to be non-substantial where:

- A. Only one bid is received and there is not sufficient time to re-bid the contract;
- B. The amount of the bid security submitted, while less than the amount required by the Request for Bid, is equal or higher than the difference in the price stated in the next higher acceptable bid; or
- C. The bid guarantee becomes inadequate as a result of the correction of a mistake in the bid or bid modification, if allowed, if the bidder increases the amount of the guarantee to required limits within two working days after bid opening.

### 503: Performance and Payment Bonds

A performance bond is required for all construction contracts that exceed \$7,500 in value in accordance with State Statute § 16-6-112, in the amount of 100% of the contract price. The performance bond shall be delivered to the College at the same time the contract is executed. If a contractor fails to deliver the performance bond, the contractor's bid shall be rejected, its bid security shall be enforced, and award of the contract shall be made to the next lowest responsible and responsive bidder. EXCEPTION: LCCC reserves the right to waive P&P bond requirements for service contract scopes of work.

A performance bond protects the College against loss resulting from the failure of the contractor to perform a construction contract in accordance with plans and specifications. A payment bond is required for all construction contracts that exceed \$7,500 in value in accordance with State Statute § 16-6-112, in the amount of 100% of the contract price. The payment bond shall be delivered to the College at the same time the contract is executed. If a contractor fails to deliver the payment bond, the contractor's bid shall be rejected, its bid security shall be enforced, and award of the contract shall be made to the next lowest responsible and responsive bidder. A payment bond guarantees payment and protection for those furnishing labor and materials to the contractor or its subcontractors for the work bonded.

### 504: OSHA Training Certification

For public construction contracts estimated to cost more than \$30,000, contractors must certify in the bid or the contract that all employees to be employed at the worksite will have completed a course in construction safety and health that is at least ten hours (10-hour card) in duration and has been approved by the United States Occupational Safety and Health Administration.



### 505: Changes in Construction Contracts

At any time the Director of Contracting and Procurement may, in a signed letter without notice to the surety, approve a change order that may make:

- A. Changes in the work within the scope of the contract; and/or Changes in the time for performance of the contract that do not alter the scope of the contract.

If this change order increases or decreased the contractor's cost of or the time required for performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made and the contract shall be modified in writing. A change order shall be used for this process.

### 506: Architect, Engineer, and Related Professional Services

This procedure relates to the contracting of architect, engineer, and related professional services involved in the planning, design, construction, and renovation, of facilities for the College. Retention of such professional services shall be done in accordance with College Policies and Procedures and in accordance with State Statute § 9-2-1028 through 1033.

### 507. Alternative Construction Procurement Methods

Professional services and construction services shall be procured for the alternative construction procurement methods as outlined in this section. Exceptions are those instances in which Sole Source Procurement, Section 305, or Emergency Procurement, Section 306 apply, and alternative construction procurement methods as defined in Section 501, Construction Procurement, are construction-manager-at-risk, design-build, and job-order-contracting.

#### 507.1 Definitions

For purposes of this section, "construction services" includes: construction-manager-at-risk (CMAR or CMGC) construction services, design-build construction services, and job-order-contracting construction services. These may or may not contain a professional services component.

For the purposes of this section, "professional services" includes architect services, engineer services, landscape architect services, assayer services, geologist services and land surveying services and any combination of those services, provided by a registered professional.

Request for Qualifications (RFQ) means a solicitation with an intended response that includes initial data about a firm or individual such as experience, references, and approach to the project. For purposes of this section, pricing may not be required in the initial solicitation. RFP or Request for Proposals means a solicitation with an intended response that is fairly detailed. For purposes of this section, it may supplement an initial RFQ response. Also, for purposes of this section, the technical and financial portions of the proposal response will be provided at the same time, but in a separately sealed manner, to enable the committee to review the technical response separately and prior to the review of the financial proposal.

#### 507.2 Procurement of All Alternative Construction Services

For procurement of construction-manager-at-risk, design build and job-order-contracting, the College shall The College shall announce and issue the solicitation according to its normal procedures.

Purchasing shall assign a selection committee, which shall independently evaluate and score proposals and qualifications. Purchasing shall determine the makeup of the selection committee for all contracts that include construction services. For projects that include construction, the selection committee should have at least one person who is a senior management employee of a licensed contractor and/or one person who is an architect or engineer registered to practice in the State of Wyoming. The contractor or design professional may be an employee of the College.

Outside contractors, architects and engineers serving on a selection committee shall not receive compensation from the College for performing these services, but the College may elect to reimburse them for travel, lodging and other expenses incurred in connection with the service on the selection committee. Reimbursement shall be at a rate no greater than the standard rate authorized for College employees on College related travel. A person who is a member of the selection committee shall not be a contractor under the contract or provide construction, construction services, materials or other services under the contract.

The selection committee shall:

- A. Serve in accordance with the process, guidelines, rules and procedures as outlined in the "Competitive Solicitation Handbook".
- B. If outlined in the solicitation, shall attempt to conduct discussions with at least three of the highest scoring firms or individuals. If only two firms or individuals respond to the solicitation, the committee may proceed with the selection process or Purchasing may re-solicit for additional proposals. If only one firm or individual responds to a solicitation for professional services, the selection committee may choose to proceed with the process with that firm or individual if Purchasing determines in writing that the fee negotiated as a result of the process is fair and reasonable and that other firms and individuals had a reasonable opportunity to respond, or if there is not adequate time for a re-solicitation.

### 507.3 The Competitive Process

Purchasing shall enter into contract negotiations with the highest qualified firm or individual for the professional services or construction services as a result of following the processes outlined in this Manual. Negotiations shall include fees as well as other contractual terms and conditions deemed fair and reasonable and important to the College. Purchasing shall take into account the estimated value, scope, complexity and nature of the procurement. If Purchasing is unable to negotiate a satisfactory agreement with the firm or individual considered to be the most qualified, then Purchasing shall terminate those negotiations and undertake negotiations with the next most qualified firm or individual in sequence until an agreement is reached. If a construction contract is entered into as a result of this process, construction shall not begin until Purchasing and the contractor agree in writing on a price for the construction portion of the contract.

### 507.4 Service Contracts (IDIQ) Dollar Limits and Subcontracting

For general maintenance service contracts (IDIQ) only:

- A. The dollar amount of an individual job order shall not be more than twenty five thousand dollars (\$25,000.00) Requirements shall not be artificially divided or fragmented in order to constitute a job order that satisfies this requirement.
- B. If the contractor subcontracts or intends to subcontract part or all of the work under a job order and if the job-order construction services contract includes descriptions of standard individual tasks or standard unit prices for standard individual tasks, then:

1. The contractor has a duty to deliver promptly to each subcontractor invited to bid, a copy of the descriptions and the standard unit prices of all standard individual tasks on which the subcontractor is invited to bid.
2. The contractor has a duty to deliver promptly the following to each subcontractor that has agreed to do any of the work included in any job order, a copy of the description, the number of units and the standard unit price of each standard individual task that is included in the job order.

### 507.5 Confidentiality of Process

Until award and execution of a contract by the College, only the names of each firm or individual on the short list may be made available to the public. All other information received by the College in response to the request for qualifications or contained in the proposals shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing proposers during the selection process. The proposals shall be open to public inspection after the contract is awarded and the College has executed the contract. To the extent that the proposer designates and Purchasing concurs, trade secrets and other proprietary data contained in a proposal shall remain confidential.

### 507.6 Cancellation of Procurement Process

Purchasing may cancel a request for qualifications or a request for proposals or reject in whole or in part any or all submissions of qualifications or proposals as specified in the solicitation if it is in the best interest of the College. Purchasing shall make the reasons for cancellation or rejection part of the purchasing file.

### 507.7 Registrations, Licensing and Project Definition

- A. The successful contractor for construction-manager-at-risk, design-build or job-order-contracting construction services is required to be registered with the State of Wyoming to perform such services pursuant to State Statutes § 16-6-101 through 102.
- B. Each project under a construction services contract or a construction-manager-at-risk construction services contract shall be a specific, single project. For the purposes of this paragraph, "specific, single project" means a project that is constructed at a single location, at a common location or for a common purpose.

## 508. Contract Performance Monitoring

### 508.1 Monitoring Performance

Monitoring the performance of the contractor is a key function of proper contract administration. The purpose is to ensure that the contractor is performing all duties in accordance with the contract and for the college to be aware of and address any developing problems or issues. Small dollar value or less complex contracts normally require little, if any, monitoring. However, that does not preclude the possibility of more detailed monitoring if deemed necessary by the college. Conversely, large dollar contracts may need little monitoring if the items or services purchased are not complex, and the college is comfortable with the contractor's performance and the level of risk associated with the contract. Several areas of contract monitoring include:

1. Determining what to monitor and the type of monitoring.
2. How to establish expectations so that individuals responsible for contract monitoring and contractors understand what will be monitored and the criteria used to evaluate contractor performance.

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3. How to use risk assessment to select which contractors should be reviewed, the level of review for each contractor, and the subject matter to include in the review.
4. How to use the results of monitoring reviews.

### 508.2 Determining what to monitor

Consider the following questions when determining what to monitor:

- How will you know that the college is receiving what it paid for?
- How will you know that the contractor is complying with the terms of the contract?

Review the scope of work and other contract terms, including contractor compliance requirements. All of these requirements are deliverables that the contractor agreed to when the contract was executed or the purchase order was issued. Design the monitoring program to focus on items that are most important. Generally, this means to focus the monitoring on the outcomes that result from the contract. Consider the effect that the contract payment methodology has on what needs to be monitored. For example, if payment is based on a firm fixed price it is not necessary to verify contractor's expenses as they are not relevant to this type of contract. If the contract is a cost reimbursement contract wherein the college pays for the contractor's cost plus a percentage of overhead and profit, the college needs to consider the following monitoring reviews:

- Was the item billed really purchased by the contractor?
- Was the item billed used for the purpose of the contract?
- Was the item necessary and reasonable for the purpose of the contract?
- Was the item of the quality and quantity specified in the contract?
- Was the item duplicated in either overhead or profit?
- Was the item listed in the contractor's budget and approved by the college?

### 508.3 Monitoring Types

There are different types of monitoring available, including but not limited to:

**Site Visit (full and limited scope).** Full scope site visits are typically scheduled visits to the work site. They are based on risk assessment and cover a broad range of contract compliance and performance issues. Limited scope site visits typically focus on a particular problem. Examples of some typical reasons for considering a limited scope site visit include, but are not limited to:

**Desk Review.** Typically these are college reviews of reports submitted by the contractor to the college, and should include the following areas:

- Compare the actual performance against the contract requirements. Is the contractor performing in accordance with the contract requirements?
- Compare actual expenditures to the approved budget. Is the contractor following their approved budget plan?
- Compare the current period to prior periods. Are there any unexplained trends? Is the contractor performing work significantly different from the last period or the last year?
- Compare the report with what is known about the contractor's operating environment. Did a weather emergency in the area recently increase the cost of construction supplies or is the cause of a temporary reduction in services provided?

**Expenditure Document Review.** These are reviews of contractor invoices and expenditure draw requests to determine if the rates and services are the same as allowed by the contract. Determine if the supporting documents such as cost reports, third party receipts for expenses, detailed client information, etc. adequately support the request for payment. If the contractor consistently provides

incorrect invoices and/or the supporting document is insufficient to support the request, then additional monitoring such as an on-site visit may be necessary.

#### 508.4 Monitoring Reports.

The report of the site visit should stand by itself and serve as a record of the monitoring work. A copy of the report should be sent to the contractor and any others who may benefit from the report. Even if the contractor corrects a problem in front of the project representative, the representative is obligated to include the problem in the report. This will serve as an indicator to follow up on the problem on future visits to ensure it was corrected. Include what you have learned during this site visit in the next risk assessment and in future contract requirements. If the representative recommends changes for the next contract, include the recommendations in the monitoring reports. Also include any contractor recommendations for the next contract.

#### 508.5 Risk Assessment.

Limited resources require the use of risk assessment because there is not sufficient time to oversee all aspects of a contract. An effective risk assessment model will help focus monitoring resources on contractors with the highest risk of noncompliance. First, identify risk factors. Risk factors are indicators that assess the risk of the contract or project objectives not being achieved. General risk factors may include, but are not limited to:

- The contractor's current and past performance;
- The dollar amount of the contract;
- Factors from desk reviews, such as the variance between expected and actual performance;
- Significant problems with payment requests;
- Results of previous monitoring visits;
- Results of monitoring visits;
- The length of time since the last monitoring visit; and
- How experienced the contractor is with the type of work to be performed.

#### 508.6 Use of Monitoring Review Results.

Monitoring reviews, audits, and investigations should be routinely followed up to:

- Ensure corrective actions have been taken;
- Identify common problem areas that might require training; and
- Improve future contracts.

Contract administrators should design a system that includes criteria and defined follow up actions. The goal of follow up should be to bring the contractor back into compliance with the contract requirements. Follow up is essential as the problem will not correct itself simply by identifying it and including it in the monitoring report. Monitoring results should also be used to improve the contract requirements for future contracts. If there are unnecessary restrictions or insufficient restrictions, this is the time to make a note of the recommended changes so future contracts can incorporate the changes.

#### 508.7 Reporting

Reporting includes both a contract administrator reporting to executive administration and the contractor reporting to the contract administrator. There are generally two (2) categories of reports: status reports and activity reports. Both types of reporting serve useful functions:



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Status Reports – Describe the progress of the work. The content of the status report should be consistent with and track the organizational structure of the statement of work, i.e. phases, segments, deliverables and products. A status report should describe what work is complete and what work is pending and that status should be contrasted against the contract schedule. If there are any unresolved issues that the college is contractually obligated to resolve, those issues should be included in the status report and a resolution should be requested. If the scope of work has changed during the contract (by written contract amendment), insist that status reports track the original contract schedule, not a revised contract schedule, unless the amendments provides for a revised contract schedule. If status is tracked against a revised schedule, there is a risk that the schedule will continually change and the status report will be rendered meaningless being made by the contractor. This may be accomplished by requesting a status update from the contractor or a site visit to view the progress.

Activity Reports – Describe any activity on the project; project activity is not the same as a status report. A project may have a great deal of activity without making substantive progress. On the other hand, activity reporting can be a core feature of contract management.

### Chapter Six: Contracts for Supplies and Services

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#### 601: Contracts for Supplies and Services

Significant College monies are spent each year to purchase supplies and services that are necessary for the daily operation of the college. Although the procurement of supplies and services may appear to be as simple as placing an order with a preferred vendor, employees need to be aware of rules or regulations that govern the process. A good procurement system balances *fairness, value, accountability* and *flexibility*. Vendors competing for college business want equal opportunity and *fairness* in awarding contracts. College budgets require that stretching dollars achieve the best *value* and lowest price. Taxpayers want *accountability* to ensure that their hard-earned tax dollars are spent wisely and ethically. And purchasers want the *flexibility* to use their best judgment and experience to accomplish all of these criteria.

The first step in any procurement is to define what is needed, when it is needed, in what quantity, and who needs it – especially when consolidation of supplies or services can accomplish efficiency and effectiveness. It is the responsibility of anyone who procures to review the specifications, locate the appropriate supplier(s) and have the products delivered within the required time frame and at a competitive price.

When properly researched and applied, contracts for supplies and services will ensure that the three principles of public purchasing are met (refer to Section 103).

Contracts for supplies and services are subject to modifications and termination within the guidelines of the specific contract. At a minimum, language criteria should include, but not limited to:

- Price, payment and delivery terms;
- Description and specifications of the commodity or service being procured;
- Duration of the contract or relationship; and
- Liability clauses and any other requirements of the buyer and seller.

In addition, such contracts should specify which aspects or features of the requested deliverables are critical to the College, therefore submittals should address these categories:

- **Mandatory** – minimum required goods or services that the College deems essential to the meet the requirements.
- **Options** – Good or services that the respondent can offer, but the College is not obligated to purchase.
- **Desirable** – Goods or services that the College prefers, but that the respondent is not obligated to offer.
- **Alternative** – An approach proposed by the respondent that provides a different solution to the College needs.

Contracts may be terminated for cause and for mutual convenience of both parties in accordance with the respective contract/agreement language. Requests for terminations for cause must be documented and approved by the Director of Contracting and Procurement.

#### Professional Services:

Wyoming State Statute § 9-2-1016 (b)(D) mandates that every Agreement/Contract for services over \$1,500.00 must be reduced to writing before services are performed. These Agreements/Contracts are drafted by the Director of Contracting and Procurement and may only be signed by the LCCC President or Designee, Vice President of Administration and Finance, or Director of Contracting and Procurement. The

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LCCC employee requesting the service to be performed must provide the Purchasing Office with the following information:

- Vendor Quote/Statement of Work
- Vendor's responsibilities and LCCC's responsibilities
- Vendor company name, address, email, phone and point-of-contact (name)
- Authorized written approvals and budget coding
- If the service exceeds \$5,000.00, then the Purchasing Office will go to bid for the services
- Sole Source Form (if applicable, to be determined by Director of Contracting and Procurement )
- Acquisition Review Worksheet (if applicable, to be determined by Director of Contracting and Procurement )
- W-9 (Purchasing Office can obtain, but it is required before services can begin)
- Certificate of liability insurance (Purchasing Office can obtain, but it is required before services can begin)

For purchases where the cost is less than \$1,499.00, an Agreement/Contract is not required, except in the following cases:

- Educational Affiliation Agreements
- Clinical Agreements
- Memorandum of Understanding (MOU)
- Lease Agreements
- Mentor Agreements
- Internships/Externships
- Guest Speaker/Lecturer
- Visiting Artists
- Theater Participants
- When any Company/Provider requests that LCCC sign their agreement, it must be routed to the Purchasing Office regardless of dollar amount
- **If you have a question, please ask the Director of Contracting and Procurement before you proceed**

Employees requesting a service to be performed that is less than \$1,499 must route the following to the Purchasing Office so the project may be handled correctly (if applicable):

- Vendor Quote/Statement of Work
- Vendor company name, address, email, phone and point-of-contact (name)
- Authorized written approvals and budget coding
- Acquisition Review Worksheet (if applicable, to be determined by Director of Contracting and Procurement )
- W-9 (Purchasing Office can obtain, but it is required before services can begin)
- Certificate of liability insurance (Purchasing Office can obtain, but it is required before services can begin)

The Purchasing Office will issue a Purchase Order and send the PO to the vendor directly. No services can be performed until the aforementioned information is received by the Purchasing Office and a PO is issued and confirmed by the vendor.



## Chapter Seven: Procurement Card Program

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### 701: Overview and Policy

The purpose of the Procurement Card Program is to establish a more efficient, cost effective method of purchasing and paying for small dollar non-recurring transactions within established usage limits. Small dollar transactions are being defined as any total purchase that is under \$2,500, including all shipping, handling, and other transaction costs. The program is further intended to eliminate petty cash and the use of personal funds, and to reduce the use of Limited Purchase Orders. Card use will be monitored and cards may be rescinded at any time by the Vice President of Administration and Finance Services or the Director of Contracting and Procurement. All Cardholders will be required to sign a Procurement Cardholder Agreement, and the P-card will be issued by the Purchasing Office only after the cardholder has completed P-card training. Standard procedure requires retention of receipts, sales slips, invoices, order forms and other documentation. **Personal purchases of any nature are NOT allowed under any conditions, and cards must only be used by the cardholder name appearing on the card.** The P-card is **NOT** intended to avoid or bypass appropriate procurement or payment procedures, or to circumvent existing policies and procedures. Failure to comply with this policy will result in disciplinary actions, including up to possible termination of employment. Refer to Procurement Card (P-Card) Procedure Manual for specific program details.

### 702: Card Use Procedures

#### 702.1 How to Obtain a Card

The user shall complete a P-Card Cardholder Agreement which establishes the category and limits authorized. The completed forms shall be forwarded to the Purchasing Office at which time program training will be arranged and the P-Card ordered. Although the card is issued in the cardholder's name, it is the exclusive property of LCCC and is only to be used for College purchases as defined per this Manual and the Procurement Card (P-Card) Procedure Manual.

#### 702.2 How to cancel or renew a Card

To cancel a card, the card should be cut in half and forwarded to the Purchasing Office. For immediate cancellation, call the Purchasing Office. A renewal card will automatically be mailed to the Purchasing Office.

#### 702.3 How to Report a Lost or Stolen Card

If a P-Card is lost or stolen, immediately notify UMB Bank Security at 1-888-494-5141 and the Purchasing Office at (307) 778-1280, 778-1153, or 432-1648. It is the responsibility of the Purchasing Office to obtain a new card and account number.

### 703: Procurement Process

#### 703.1 General

The P-Card is not to be used for entertainment, incidental expenses, and hiring people or for any type of service unless pre-approved via written instrument by the Director of Contracting and Procurement. If inappropriate purchases appear appropriate disciplinary measure will be taken. Continued inappropriate use of the college funds will result in the loss of P-Card privileges and disciplinary measures per the Cardholder Agreement will be taken.

### 703.2 Receipt of Goods and Materials

The Cardholder is responsible for ensuring receipt of goods and materials and will follow-up with the vendor to resolve any delivery problems, discrepancies and damaged goods.

### 703.3 Reconciliation and Approval Process

Sales receipts and P-Card reports shall be in order, kept together and forwarded to the Accounting Office. The Administrator for each respective Cardholder is responsible for reviewing and approving the receipts and reports.

### 703.4 Enforcement

P-card policy is simply: "No Receipt – No Reimbursement", therefore the individual Cardholder will be personally liable for the way the dollars are spent. Any P-Card reconciliation without a receipt will have the account suspended for sixty (60) days if the missing receipts are not accounted for by the next statement due date. Purchases without receipts will be considered personal and will have to be reimbursed by personal check, cash or payroll deduction. A second violation will result in a six (6) month suspension.

Cardholders are given fifteen (15) days on average to reconcile their accounts. Any cardholder delinquent for a second time will have their card suspended for sixty (60) days. Continued failure to adhere to these procedures will result in a one-year or permanent suspension of P-Card privileges.

Any personal purchase will result in an automatic sixty (60) day suspension and may include further disciplinary action and possible termination of employment. Any attempt to hide a personal purchase will result in permanent suspension and may result in disciplinary action and possible termination of employment.

## 704: Prohibited Purchases

### 704.1 Items that are Prohibited Purchases (*but not limited to*)

Alcoholic beverages, political contributions, traffic fines (*driver caused*), flowers, gifts to individuals or entities, per diem meals, personal items, personalized stationary, business cards, cash advances, construction, renovation, installation, equipment, furniture, gasoline, hospitality/entertainment, leases, rentals, printers, electronic equipment, computer equipment, purchases involving trade-ins, telephones, weapons or ammunition and other items as listed in the Procurement Card (P-Card) Procedure Manual.

## 705: P-Card Documentation Guidelines

### 705.1 Transaction Guidelines

The following items are required to document each transaction; every transaction shall have a valid and complete documentation from the merchant:

a) Receipt or card transaction slip; b) an order form; c) invoice showing credit card payment; and d) e-mail confirmation from merchant for internet transaction.

### 705.2 Required Documentation Information

All documentation must include the following information, noting that you shall hand-write if not printed on the documentation:

a) Date of purchase, description and quantity of each item, per item cost, total cost, and cardholder name.

## **Chapter Eight: Materials Management – Surplus**

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### **801: Delegation of Authority**

The Buyer is delegated the responsibility to act on behalf of the College on all matters relating to the disposition of excess and surplus materials. This responsibility is delegated from the Director of Contracting and Procurement to the Buyer.

No employee, student, department, or division shall transfer, sell, trade-in, donate or otherwise dispose of materials owned by the College without written authorization of the responsible Dean or Department Director assigned that responsibility. These approvals must be received prior to acceptance and approval of the request by the Director of Contracting and Procurement.

### **802: Disposition of Surplus Materials**

Employees, students, departments, or divisions shall notify the Buyer of all excess and surplus materials on the appropriate forms. The Buyer shall determine the fair market value of excess and surplus property. Methods used for determining value may include quotations, estimates, use of reference guides and other publications, as well as market indexes.

The Buyer shall facilitate the transfer of excess or surplus materials to or between colleges and eligible non-profit educational institutions. These excess or surplus materials must be offered to the colleges and other College operations prior to offering them to eligible non-profit educational institutions. Eligible non-profit educational institutions receiving surplus materials must sign an agreement stating that they will not sell, dispose, or transfer this equipment for the period of one year.

Surplus materials shall be offered through public auction, competitive sealed bids, established markets, or posted prices. If unusual circumstances render the above methods impractical, the Surplus Property Manager may employ other disposition methods, including appraisal or barter, provided the Surplus Property Manager makes a written determination that such procedure is advantageous to the College.

Methods of disposition of surplus materials shall be in accordance with College Procedure #8301.

### **803: Surplus Material Acquisition Programs**

The College may acquire surplus materials from the United States government and the State of Wyoming as well as any other governmental sub-division allowing the transfer or sale of surplus to similar organizations, and may distribute surplus materials as may be usable and necessary for public purposes to a college, center, or operating unit of the College.

#### **Authority for Transfer of Material**

The Director of Contracting and Procurement has the authority to secure the transfer of surplus materials from the above listed agencies or organizations. Prior authorization shall be via written instrument for each transaction.



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### **804: Fees and Charges**

The department may make proper charges and assess proper fees for the acquisition, receipt, warehousing, rehabilitation, delivery, distribution, or transfer of excess and surplus materials. Such fees and charges shall be fair and equitable and shall be based on services performed including acquisition, receipt, warehousing, rehabilitation, delivery, distribution, or transfer. A reasonable charge shall be made for maintenance and repair services.

All moneys coming into the department derived from surplus materials fees and charges shall be placed in the general fund. Moneys in the fund shall be available for the purpose of carrying out the provisions of these procedures.

### **805: Reports**

Monitoring reports shall be in accordance with College Procedure #8301.

## Chapter Nine: Legal and Contractual Remedies

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### 901: Protest and Appeals of Contracts and Awards

#### 901.1 Content of Formal Protest and Appeal Letter

Any participating bidder may file a protest of a contract award or proposed contract award. The protest or appeal must be in writing and contain at least the following information:

1. The name, address, and telephone number of the protester.
2. The signature of the protester.
3. The bid number and date of bid closing.
4. A statement of the legal and/or factual grounds on which the protest or appeal is based.
5. The form of relief requested.

#### 901.2 Filing Procedure

Protests are to be filed with the Director of Contracting and Procurement, within five (5) days of award. Failure to timely protest shall be deemed a waiver of all rights to protest. If a protest is filed before the award of a contract, no award shall be made until the protest has been administratively resolved, unless the Director makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the College.

A written decision will be made within five (5) days after the protest has been filed. The decision shall contain an explanation of the basis of the decision. The Director of Contracting and Procurement shall furnish a copy of the decision to the protester by certified mail, return receipt requested, or by any other method that provides evidence of receipt.

The time limit for a decision may be extended by the Director of Contracting and Procurement for a reasonable time not to exceed thirty days. The Director of Contracting and Procurement shall notify the protester in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.

#### 901.3 Remedies

If the Director of Contracting and Procurement sustains the protest in whole or in part and determines that a solicitation, proposed contract award, or contract award does not comply with College Policies or procedures, the Director of Contracting and Procurement shall implement an appropriate remedy. In determining an appropriate remedy, the Director of Contracting and Procurement shall consider all the circumstances surrounding the procurement or the proposed procurement, including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent of performance, cost to the government, the urgency of the procurement, and the impact of relief on the College's mission.

An appropriate remedy may include one or more of the following:

Decline to exercise an option to renew under the contract; terminate the contract; reissue the solicitation; issue a new solicitation; award a contract consistent with this College Policy and procedures; reject all bids or proposals without further actions; or such other relief as determined necessary to ensure compliance with this College Policy or procedures.

### 901.4 Appeals

Appeals are to be filed with the Director of Contracting and Procurement within five (5) days of the receipt of the decision. The notice of appeal shall contain:

The information from the original protest letter; a copy of the decision of the Director of Contracting and Procurement; and the basis for the appeal.

The Director of Contracting and Procurement shall immediately give written notice of the pending appeal to the successful contractor if award has been made or, if no award has been made, to interested parties. Any party so notified shall, upon request, be furnished with a copy of the notice of appeal filed in the matter.

The Director of Contracting and Procurement shall notify the College President and the Vice President of Administration and Finance Services of the appeal. Any hearing or appeal shall be conducted by the President or VP designee as hearing officer. A written decision will be made within 14 days after the appeal has been filed.

The time limit for a decision may be extended by the hearing officer for a reasonable time not to exceed thirty days. The hearing officer shall notify the protester in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.

#### 901.4.1 Stay of Procurement during Appeal

If an appeal is filed before an award of contract and the award of the contract was stayed by the Director of Contracting and Procurement, the filing of an appeal shall automatically continue the stay unless the hearing officer conducting the appeal makes a written determination that the award of the contract without delay is necessary to protect the substantial interest of the College.

#### 901.4.2 Dismissal before Hearing

The hearing officer conducting the appeal shall dismiss, upon a written determination, an appeal before scheduling of hearing if the appeal does not state a valid basis for protest; or the appeal is untimely.

### 901.5 Remedies

In the event a hearing officer sustains the protest in whole or in part and determines that a solicitation, proposed contract award, or contract award does not comply with College policies or procedures, the hearing officer shall implement an appropriate remedy.

### 902: Contract Claims and Dispute Resolution

#### 902.1 Applicability

This procedure applies to claims, controversies or disputes between Laramie County Community College and a contractor arising from activities or inactions on a contract between the two. This includes disagreements of any kind, such as claims or disputes asserting breach of contract, mistake, or misrepresentation, contract modification or rescission, and those regarding interpretation of the contract and the parties' responsibilities under it. It is the policy of Laramie County Community College to attempt to resolve claims, disputes or controversies in good faith, engaging the formal process specified in these procedures only where necessary.

#### 902.2 Authority

The Director of Contracting and Procurement is authorized to settle and resolve contract claims, controversies and disputes, subject to the restrictions and limits of this Manual and the policy and procedures of the College. Appeals of final decisions made by the Contract Administrator on a claim, controversy or dispute may be made to the Director of Contracting and Procurement following the format outlined in section 902.3.

#### 902.3 Timeliness and Format of the Initial Claim

The Director of Contracting and Procurement shall initially consider and resolve claims, controversies and disputes according to the procedures and within the times specified in the contract. In any event, any claim, controversy or dispute must be filed with the Director of Contracting and Procurement within 180 days after the date that the claim, dispute or controversy arose. The claim, controversy or dispute not resolved according to the contract's procedures shall be subject to the procedures specified below. The contractor must file with the Director of Contracting and Procurement in writing at least the following information, and any other information specified in the contract:

1. The name, address, and telephone number of the contractor and the person representing the contractor.
2. The signature of the person representing the contractor.
3. The contract number or other reference such as bid or RFP number, which will identify the contract.
4. A statement of the legal and/or factual grounds on which the claim is based.
5. The form of relief requested.

#### 902.4 The Director of Contracting and Procurement's Decision

If the claim, controversy or dispute cannot be resolved by mutual agreement, the Director of Contracting and Procurement shall issue a written decision no later than thirty (30) days after the initial claim, controversy or dispute is filed in writing. This final decision from the Director of Contracting and Procurement shall include:

- A description of the claim;
- Reference to the pertinent contract provisions;
- A statement of the factual areas of agreement or disagreement;

- A statement of the Director of Contracting and Procurement's decision with supporting rationale;
- A copy of this procedure, which outlines the appeal process.

A copy of this decision shall be provided to the contractor, by certified mail – return receipt requested, or by any other method that provides evidence of receipt.

### 902.5 Issuance of a Timely Decision by the Director of Contracting and Procurement

The Director of Contracting and Procurement may extend the time limit for a decision for a reasonable time, not to exceed thirty (30) days, but only with the approval of the Director of Contracting and Procurement. The Director of Contracting and Procurement shall notify the contractor in writing that the time for issuance of a decision has been extended and the date in which a decision shall be issued. If the Director of Contracting and Procurement fails to issue a decision within the time allowed, the contractor may proceed as if the Director of Contracting and Procurement had issued a decision adverse to the contractor.

### 902.6 Appeal of the Decision of the Director of Contracting and Procurement

The contractor shall have the right to appeal the decision of the Director of Contracting and Procurement. It shall file its appeal with the Director of Contracting and Procurement within five (5) days from the date the decision is received. The appeal shall contain all the information listed in section 902.4 as well as a statement of the precise factual or legal error in the decision of the Director of Contracting and Procurement from which the appeal is taken.

### 902.7 Issuance of a Timely Decision by the Director of Contracting and Procurement

The Director of Contracting and Procurement shall have thirty (30) days in which to render a decision on the appeal. The time limit for a decision by the Director of Contracting and Procurement may be extended for a reasonable time, not to exceed thirty (30) days, but only upon the approval of the Vice President of Administration and Finance Services in consultation with legal counsel. If an extension is granted, the Director of Contracting and Procurement shall notify the contractor in writing that the time for issuance of a decision has been extended and the date in which a decision shall be issued.

### 902.8 Director of Contracting and Procurement's Decision

This final decision from the Director of Contracting and Procurement shall include:

- A description of the claim;
- Reference to the pertinent contract provisions;
- A statement of the factual areas of agreement or disagreement;
- A summary of the procurement officer's decision;
- A statement of the Director of Contracting and Procurement's decision with supporting rationale;

A copy of this decision shall be provided to the contractor, by certified mail – return receipt requested, or by any other method that provides evidence of receipt.

### 902.9 Hearing

The contractor shall make any appeal of the decision of the Director of Contracting and Procurement within five (5) days of the receipt of the decision. The contractor shall file the appeal with the Director of Contracting and Procurement. The appeal shall contain all the



information listed in Section 902.4 as well as a copy of the decision of the Director of Contracting and Procurement and a statement of the precise factual or legal error in the decision of the Director of Contracting and Procurement, from which the appeal is taken.

The Director of Contracting and Procurement shall notify the College President and the Vice President of Administration and Finance Services of the appeal. Any hearing or appeal shall be conducted by the President or VP designee as hearing officer. A written decision will be made within 14 days after the appeal has been filed. The time limit for a decision may be extended by the hearing officer for a reasonable time not to exceed thirty days. The hearing officer shall notify the protester in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.

### **902.10 Controversies Involving College Claims Against a Contractor**

All claims asserted by the College against a contractor that are not resolved by mutual agreement shall promptly be referred by the Director of Contracting and Procurement to the Vice President of Administration and Finance Services for a hearing without regard to the procedures outlined above in sections 902.1 through 902.9.

## **903: Unauthorized Purchases**

### **Definition**

- (a) An "Unauthorized Purchase" is an agreement, a commitment, or an order for goods or services, or a change to existing contract by any person who does not have express written delegation of procurement authority to bind the College. This includes changes under existing contracts that are made by persons who do not have delegated purchasing authority. Unauthorized purchases are not binding on LCCC and the vendor may be advised to seek payment from the employee.
- (b) Unauthorized Purchases include:
  - (1) Placing an order without an approved Purchase Order.
  - (2) Placing an order either before or after submitting the requisition on the assumption that a PO has or will be approved.
  - (3) Over spending the authorized amount of the purchasing document without prior written approval.
  - (4) Coercing a vendor to initiate an order on the promise that a PO is forthcoming.
  - (5) Using personal funds to make a purchase of goods or services that would normally require the involvement of purchasing to secure competitive pricing; approve sole source; or otherwise comply with LCCC policy and procedure with the intent to seek personal reimbursement.

**Processing an Unauthorized Purchase:** In the event of an unauthorized purchase, the involved parties shall be notified via written instrument detailing the circumstances surrounding the unauthorized purchase and provide instructions for providing a response and remedy.



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## **Chapter Ten: Intergovernmental Relations**

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### **1001: Cooperative and Joint Purchasing Agreements**

The College is authorized to utilize various cooperative and joint purchase contracts for the procurement of goods, equipment and services.

These agreements are negotiated on the behalf of groups of educational institutions or governmental subdivisions. Some of these groups require membership in order to access these contracts, while others are purely voluntary and are available to all political subdivisions.

It is the intent of the College to support these contracts whenever possible. This includes assisting in the development and bidding phases as well as in reporting compliance with the contracts. The College however, reserves the right to obtain the best possible price and quality even if it means not utilizing these contracts.

The responsibility for placing orders, expediting, problem resolution, and payment shall remain with the Purchasing Office of the College.

## Chapter Eleven: Supplier/Vendor Program

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### 1100: Supplier/Vendor Development Program

#### 1100.1 Purpose

The LCCC Supplier/Vendor Development Program is designed to serve the needs of the College in furthering its vision relating to diversity as well as efficient use of resources. To further this vision, the College is committed to increased business activity with area vendors, minority and women-owned businesses.

#### 1100.2 Working with Vendors, Contractors and Suppliers

Due to the size and complexity of the College and the programs offered, we require a wide range of products and services. Depending upon your job, you may have limited or fairly regular contact with vendors in order to obtain price quotes, product specifications, and other information. Vendors, suppliers and contractors shall register with LCCC by completing the "Contractor/Vendor Application" form and forwarding it to the Purchasing Department. Registration forms can be requested from the Purchasing Office.

When working with vendors, suppliers or contractors, there are a number of other points to remember:

1. **Do not place an order with a vendor** without the proper written documents being completed and approved prior to placing the respective order. Said documentation should be confirmed with the vendor via fax, e-mail, or U.S. Mail.
2. **Do not promise an order to a vendor.** All purchases must be completed and approved prior to making any type of commitment.
3. **Do not request or expect a supplier to provide layouts or design services without charge or obligation.** Projects of this scope need to be competitively quoted or bid and there is no guarantee that the vendor providing the services will be the low bidder.
4. **Do not accept materials or equipment as a "loaner" or "on evaluation."** Only after the vendor receives a Purchase Order from the Purchasing Office marked "FOR EVALUATION PURPOSES ONLY" can equipment or software be brought in for evaluation purposes. All costs associated with the delivery, installation, evaluation and return of the equipment is borne by the vendor in accordance with the above heading titled "Sample Merchandise/Product Demonstrations".
5. **Be wary of unethical tactics by phone or drop-in solicitors** stating that they can offer you a deal on overstocked items or that it is time to re-order supplies for your office equipment or copier. All such calls should be immediately referred to the Purchasing Office.
6. **College employees may contact vendors/suppliers** in the initial phase of determining what they wish to procure in order to obtain price estimates or a listing of specifications to use as a guide when preparing a request. At no time should the employee make any

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## Contracting & Procurement Procedures Manual

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7. promises about future orders and the respective employee should clearly state via written instrument that such inquiries are solely for the purpose of budgeting purposes. Once a competitive process has been established, employees are to refrain from contacting a specific vendor, at this stage all communication with vendors shall be through the Purchasing Office.
8. **If an employee has any problems with merchandise** that does not meet their expectations, the Purchase Office should be notified and become involved with the resolution of this item(s).

### 1100.3 Education and Training

The Purchasing Division will coordinate the training and education of College employees to improve the awareness of the Supplier Development Program and to further its goals. Suppliers will be provided training in order to better understand College processes.

### 1100.4. Procurement Activities

The Purchasing Division shall continue to offer, evaluate, and award bids or proposals according to College Purchasing Policy. In informal competitive procurement processes (*those procurements under the formal bid limit*) every effort will be made to ensure participation from local, area and minority or women-owned businesses.

### 1100.5 Multiple Awards

The College will use multiple awards when practical and advantageous to the College to increase participation of all vendors. This may be used when service and availability is of greater importance in the selection of a non-primary supplier or the services can be better provided by a firm that is in closer proximity to the user. The practice will not be used when results would be a degradation of service or goods supplied.

## Chapter Twelve: Ethics in Public Contracting & Procurement

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### 1201: Code of Ethics

All College employees are responsible for protecting the safety and welfare of public monies, and should endeavor to pursue a course of conduct that does not raise suspicion among the public. Therefore, all employees shall avoid acts which are improper or give the appearance of impropriety. All employees of Laramie County Community College that participate in the procurement process, Purchasing staff as well as other College employees, will follow the following Code of Ethics based upon the Codes of the National Association of Educational Buyers and the National Institute of Governmental Purchasing.

As an employee, he/she:

- A. Believes in the dignity and worth of the services rendered by the organization and the social responsibilities assumed as a trusted public servant.
- B. Is governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.
- C. Believes that no employee shall, at any time or under any circumstances, accept directly or indirectly, gifts, gratuities or other things of value from suppliers.
- D. Seeks or dispenses no personal favors, and handles each administrative problem objectively and empathetically without discrimination.
- E. Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.
- F. Obtains maximum ultimate value from each dollar expended for products or services.
- G. Grants equal consideration to all competitive bidders; each transaction is evaluated on its own merit and fair, ethical, and legal trade practices are followed.
- H. Requires honesty from sales representation, whether through verbal or written statement, advertisement, or product sample.
- I. Uses only by consent, those original ideas and designs devised by one vendor for competitive purchasing purposes.
- J. Cooperates with professional and trade organizations and governmental and private agencies engaged in furthering the promotion and development of the Purchasing profession.
- K. Act impartially and with the highest degree of integrity to foster public confidence in the college and will make every effort to ensure open and fair competition for available college business is conducted in accordance with applicable college purchasing policies and procedures.
- L. Declare a conflict when an organization is to be selected for award that employs him or her, is about to employ him or her, or his or her family member or partner. Upon learning that the college is conducting or intends to conduct business with a vendor with which he or she, or a member of his or

her family have a financial interest, immediately disclose this real or apparent potential conflict of interest to his or her supervisor and refrain from all activity with respect to this vendor.

- M. Will not utilize confidential or sensitive information acquired in the course of his or her duties for personal gain or for the benefit of family or friends, and will act only within the official level of his or her authority.
- N. Not willfully or unlawfully conceal, remove, mutilate, alter, falsify or destroy any college document or record, nor will he or she make any false or fictitious statements in connection with any official matter, document or record. Violation of any provision of this policy shall be cause for disciplinary action in accordance with college personnel policies. Furthermore, the college reserves all rights to pursue appropriate legal action to the fullest extent permitted by law.
- O. Adhere to the requirements for public employees as defined and in accordance with Wyoming Statute § 9-13-101 through 109 regarding ethics, gratuities, contingency fees, and kickbacks.

## 1202: Conflict of Interest—Employees

### 1202.1 Purpose

All LCCC employees must make known any actual or potential conflicts of interest by completing the form entitled, "Disclosure of Substantial Interest." The responsibility to keep this form updated lies with all LCCC employees and elected officials. Notice will be distributed annually, reminding all employees and Board members of their need to complete this form. It is the responsibility of each person to keep the disclosure form current.

### 1202.2 Applicability

All College employees shall comply with the College's Conflict of Interest Procedure #8304 and provide updated disclosures during the year by the employee as needed if circumstances change. Other employees may also be required by the Vice President of Administration and Finance Services to annually complete an appropriate disclosure form, given the nature of their job responsibilities and the potential for conflicts of interest.

### 1202.3 Procurement

Any LCCC employee who has, or whose relative has a substantial interest in any contract with, sale to, purchase from or service for the College shall refrain from participating in any such contract, sale, procurement, or service. Participation includes initiating, signing, or acting in a decision-making role.

The procurement of supplies, equipment, or services from any employee of the College is not authorized unless it is made through public competitive bidding. The Purchasing Division is not required to request competitive bids for procurement of small dollar value merely to allow College employees to bid.

### 1202.4 Record Keeping, Reporting and Review

The Purchasing Office shall maintain the listing of disclosure forms and shall refer to it as part of the normal purchasing and contracting procedures. This is done to identify all potential conflicts of interest. All related party transactions shall be recorded in the Purchasing Office. Transactions shall be subject to periodic review by the annual audit.

### 1202.5 Definition

A conflict of interest occurs when an employee either (1) has an existing or potential financial or other interest which impairs, or might appear to impair, the employee's independent judgment in the discharge of responsibilities to the College or (2) may receive a material, financial or other benefit from knowledge or information confidential to the College. An employee shall be considered as having a personal interest, not only if he/she has a direct personal interest, but also if there will be benefit to a member of his/her family or to any business enterprise in which the employee has a substantial interest or to any business enterprise in which any member of his/her family has a substantial interest or to any business enterprise in which he/she or a family member serves as a director, trustee or officer. A conflict of interest arises from the situation, rather than the character, or even the actions, of the individual. Thus, when an employee has a financial interest at variance with his/her duty to the College, a conflict of interest will exist, even if the employee acts without regard to his/her financial interest. Employees should conduct their affairs so as to avoid or minimize conflicts of interest and shall respond appropriately when a conflict of interest arises in accordance with LCCC Procedure #8304.

### 1203: Conflict of Interest—Consultants

No individual or firm, including but not limited to consultants, architects, engineers, designers and other individuals or organizations preparing specifications or plans under contract to LCCC, shall receive a benefit, direct or indirect, from the utilization of such specifications or plans..

### 1204: Purchasing for Employees and Private Individuals

Purchasing staff will not negotiate or request special pricing or discounts on the behalf of any LCCC employee, faculty member, or private individual or conduct any personal purchases. Any discounts or special programs offered to the faculty or staff by the vendor will be the sole responsibility of the vendor and the faculty and staff, and will not be processed through the College Purchasing channels. The offer of incentives or discounts by vendors to faculty and staff will not be considered in the award of any contract or agreement.

### 1205: Selection Committee Membership

Refer to "Competitive Solicitation Handbook, RFP Document # 00-509.

#### *Disclaimer*

The information contained herein is provided as established procedures and guidelines and may be distributed or copied. It is not intended to be a full and complete statement of college policy and procedure regarding procurement of goods, work and/or services. While Laramie County Community College makes every effort to provide accurate and complete information, data may change as policy, regulations, rules and laws change, therefore the contents of this Manual are subject to change without prior notice by the Director of Contracting Procurement.

## Appendix A: Vendor & Contractor Guidelines

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### Welcome

#### Who We Are

Laramie County Community College (LCCC) is a publicly funded educational institution subject to public purchasing laws and regulations including applicable Federal rules and regulations, State of Wyoming Statutes, Board of Trustee Policies, the Uniform Commercial Code (UCC), and institutional policies and procedures. The Purchasing Department at LCCC is responsible for negotiating pricing, terms, and conditions for goods and services for the College. The administration of all purchasing functions for the College shall be centralized through the Purchasing Office, regardless of the dollar value. The intent of the centralized purchasing function is to maximize competition, provide fair and equal vendor/contractor opportunities, service the campus community with the proper quality, materials and services, and minimizes the College's exposure to risk and liability.

#### Purchasing Responsibility

We make it our responsibility to explain the procedures and policies in which we must operate, to those who ask. We can guide you through the processes, but cannot give one vendor an unfair advantage over another. We look forward to receiving your quote, bid, or proposal and to learn more about the products and services your firm can provide.

#### *Public Purchasing — Three Principles*

The Contracting and Procurement Division of LCCC strives for:

1. **Maximization of Competition.** Specifications are written to allow the purchasing process to be as open as possible to a number of qualified vendors.
2. **Equal and Fair Competition.** Each vendor is provided the same information regarding product or service needs/specifications and their responses (such as price quotes) are kept confidential until the purchase is made.
3. **Best Value at the Lowest Price.** The purchase must be made at the lowest price for the product or service that best meets the needs of the requisitioner.

### Procurement Methods

**Levels of Competition/Dollar Limits:** At LCCC, as in all public purchasing organizations, there are various levels of competition that must be documented. The greater the dollar amount of the purchase, the greater the competition needed. The different levels are:

**Up to \$2,500:** Considered the small purchases limit and completed on an LPO, evidence of competition does not need to be documented. Requisitioners are encouraged to find the best supply source for the best price that meets their needs. Purchasing is not involved with these purchases, except to provide sources of supply or technical expertise.

**Over \$2,500 to under \$5,000:** Purchasing completes all purchases for this limit which are completed on a PO, evidence of competition does not need to be documented, however; the transaction does require a written Quote prior to initiation of a PO.

**From \$5,000 to under \$30,000:** Purchasing transactions from \$5,000 to under \$30,000 shall be made with as much competition as is practical and deemed necessary by the Director of Contracting and Procurement.

A minimum of two (2) written quotations will be obtained by the Procurement Office. Supporting written documentation and price quotations are maintained as part of the purchasing file system.



**\$30,000 and Above:** Purchasing transactions exceeding \$30,000 require competitive, sealed bidding utilizing the Request for Bid (RFB) process or the Request for Proposal (RFP) process. The Procurement Office is responsible for administering both processes, and will determine which process is most advantageous or practical to use.

**Submitting Quotes, Bids or Proposals:** Submittals instructions are defined per the respective solicitation document package.

**Bid Opening & Proposal Recordings:** Bids and proposals are considered formal solicitation documents that are opened, read publicly, and recorded at the time and date stated in the appropriate IFB or RFP document. Specific RFB and RFP openings are considered a public meeting, therefore suppliers, vendors, and contractors are welcome to attend these meetings. Bids and proposals must be received in the Purchasing Office by the time and date specified, those received after the specified time and date will not be accepted and will be returned unopened to the respective contractor/vendor.

**Waiver:** LCCC reserves the right to waive irregularities and informalities; to accept any bid and to reject any and all bids that have been altered or defaced, and are considered unacceptable, non-responsive, non-conforming or conditional; and to disapprove of any and all subcontractors as may be in the best interest of the college.

**Evaluation and loan of Items:** Equipment, goods and materials may be brought in for evaluation purposes, only after receipt of a Purchase Order issued by the Purchasing Office. All costs associated with the delivery, installation, evaluation and return of the item shall be borne by the vendor.

**Gratuities and Conflict of Interest:** The Purchasing staff and other college employees are prohibited from accepting gifts, gratuities or favors, though the intent may be customary and honorary in practice.

### Application of Applicable State of Wyoming Statutes

LCCC understands and acknowledges that individual procurement processes are governed by applicable State of Wyoming Statutes, and endeavors to apply specific statutes in a fair, consistent and judicious manner that will result in achieving the letter and spirit of these statutes. LCCC shall apply the following State of Wyoming Statutes when applicable.

1. §16-6-101 through 121 titled "Public Property – Public Works and Contracts".
2. §16-6-201 through 206 titled "Preference for State Laborers".
3. §16-6-701 through 708 titled "Construction Contracts with Public Entities".
4. §16-6-901 through 902 titled "Use of Apprenticeship Programs on Public Works Projects".
5. §16-1-1001 titled "Capital Construction Projects Temporary Restrictions".
6. §27-4-401 413 titled "Prevailing Wages".

### Representation and Responsibility Requirements

As defined by respective Quote, Bid or Proposal solicitation process or transaction, LCCC may require: 1) Bid security; 2) Performance and Payment Bonds; 3) Certificate of Liability Insurance; and 4) proof of Workman's compensation.

#### **A. Bid Security**

Per respective solicitation, bid bonds may be required at the time of submitting a particular bid. When applicable, bid shall be accompanied by a bid bond, certified check, or cashier's check in an amount of at least five (5%) percent of the bid, unless otherwise specified. The bid security shall be drawn upon a surety company with a rating of A or better per "*Best*" publication and licensed in the state of Wyoming. The security shall be made payable without condition to the college as a guarantee that if the bid is accepted, the bidder will enter into a contract with the college for the work. The bid security of all bidders will be retained until the contract is awarded or other disposition is made. If the successful bidder fails to execute an agreement and to furnish performance and payment bonds and a certificate of insurance within the specified number of days of Notice of Award of contract, the college shall be entitled to collect the amount of the bidder's proposal guarantee and costs of any legal fees incurred on collection of the

bid bond or any damages incurred by LCCC as liquidated damages and to award the work covered by the proposal to another bidder or to re-advertise the work or otherwise dispose of the work as the college may see fit.

**B. Performance and Payment Bond**

A performance and payment bond is a legal written obligation to guarantee surety for financial loss caused by default of the supplier/vendor/contractor and is intended to ensure performance and completion of the terms of the contract as well as to assure payment of the taxes, licenses, penalties, or assessments associated with the specific scope of work. A performance and payment bond for labor and material payments may be required on all contracts estimated to cost \$7,500 or more in an amount of one hundred (100%) percent of the contract sum, unless otherwise negotiated. The bonding company must have a rating of A or better per "Best" publication and licensed in the state of Wyoming.

**C. Certificate of Liability Insurance**

A certificate of liability insurance shall be furnished by the successful supplier/vendor/contractor upon award and prior to execution of a purchase order, agreement and/or contract. The limits of liability shall be in an amount pre-determined by the college, unless otherwise specified, and shall include general liability, auto, and all risk property coverage. The insurance shall be effective during the entire contract period, and the college shall be named as the "Certificate Holder" or "Additional Insured" with provisions that the college be notified of any change in policy status.

**D. Certificate of Wyoming Worker's Compensation**

Prior to executing a formal agreement, the successful supplier/vendor/contractor shall furnish a current certificate of Wyoming worker's compensation coverage.

**E. IRS Form W-9.** All College transactions for services, whether they are contracts, agreements, MOA's, purchase orders, or limited purchase orders require IRS Form W-9 information (*Request for Taxpayer Identification Number*) as part of the respective obligation. This W-9 Form is both a Federal IRS and College requirement; is the responsibility of the Contractor to submit and keep current; shall be on file prior to initiation of any obligation; and shall be kept on file in the Accounting Office of the College. Processing of invoices and or payment claims will NOT be completed if this form is missing or not current.

**F.** All procurement transactions for materials, goods and supplies shall adhere to the LCCC "Purchase Order Terms and Conditions", NO EXCEPTIONS, unless otherwise negotiated by the Purchasing Office. Shipment terms for all purchases shall be "F.O.B. Destination", or "FOB LCCC Dock, Cheyenne, WY 82007", unless otherwise negotiated and approved by the Purchasing Office.

**G.** All contracting transactions for services and labor shall adhere to the LCCC "Contractor Terms & Conditions, Representations, and Responsibilities", NO EXCEPTIONS, unless otherwise negotiated by the Director of Contracting and Procurement.

### Collusion

By submitting any quote, bid or proposal, the entity certifies under penalty of perjury that it has not acted in collusion with any other contractor/vendor or potential contractor/vendor.

### Disqualification & Reinstatement

Disqualification: LCCC reserves the right to remove any supplier, vendor or contractor from the LCCC Contractors'/Vendors' List for non-performance on a fully executed purchase order, agreement or contract. Non-

performance includes, but is not limited to; consistent late delivery of materials or services; failure to furnish material or services awarded through a competitive process; demonstrated inability to meet the requirements of the specifications, requirements, and the terms and conditions of a purchase order, agreement, or contract; unsatisfactory work performance related to a purchase order, agreement or contract; failure to provide warranty service as specified and agreed upon; collusion with other bidders or prospective bidders; failure to honor warranties or guarantees; and violation of applicable federal, state or local laws.

**Reinstatement:** Reinstatement of a disqualified supplier, vendor or contractor will be considered on a case-by-case basis upon the presentation of proof that the conditions for removal from the Contractors'/Vendors' List have been corrected. The respective entity shall apply to the college for consideration of reinstatement. The college will investigate, evaluate and verify that the conditions for removal have been corrected.

### **Equal Opportunity through Employment**

LCCC expects its' Suppliers, Vendors and Contractors to adopt the requirements of the Equal Employment Opportunity Commission (EEOC) to assure that no person shall be excluded from participation in, denied the benefits of, or otherwise discriminated against, in connection with the award and performance of college provided work and/or services on the grounds of race, color, disability, national origin or sex.

### **OSHA Training Certification**

For public construction contracts estimated to cost more than \$30,000, contractors must certify in the bid or the contract that all employees to be employed at the worksite will have completed a course in construction safety and health that is at least ten hours in duration and has been approved by the United States Occupational Safety and Health Administration.

### **General Guidelines**

Procurement activities generally involve several phases, including (*but not limited to*) pre-solicitation, solicitation-award, and post-award administration. The following guidelines and suggestions, each preceded by a possible reason for failure, may be helpful to potential suppliers, vendors and contractors.

***Failure to Read with Care the Solicitation document, Its Attachments and Specifications:*** The solicitation documents include instructions and general requirements on submitting a request for information, quote, bid or proposal; standard forms and special provisions where applicable; and essential documents incorporated by reference. Expectations for potential contractors/vendors are defined within the respective solicitation package.

***Assessing the Solicitation and the Risk:*** Potential contractors/vendors should take a realistic approach in determining its overall capability, both technical and financial, to perform the respective solicitation. Inability to deliver materials and/or produce services from contractors/vendors could cause the contract to be in delinquent status, which in turn could be cause for termination of the contract or assessment of liquidated damages.

***Non-Compliance with Specifications and Standards:*** Specifications are developed to obtain a level of quality and specify the minimum requirements necessary to achieve an acceptable outcome. Standards are descriptive criteria designed to ensure uniformity and consistency. Preparing a profitable, responsive solicitation requires close and careful study of the respective solicitation document package.

***Guess-Estimating versus Cost-Estimating based on Current Data:*** Familiarity with current market conditions is critical in estimating costs realistically, given that generally the price and/or specified service requirements will determine the award of a solicitation with equally qualified submittals.

***Meeting Solicitation Timetables and Target Dates:*** Contractors/vendors are responsible for ensuring that respective solicitation timetables and target dates are met. LCCC reserves the right to terminate all or any part of a purchase order, agreement and/or contract for default if the party (1) fails to make delivery of the supplies or

perform the services within the time specified; and (2) fails to make progress so as to endanger performance of the respective order, project and/or job.

***Errors in Preparing and/or Submitting Quotes, Bids and/or Proposals:*** Contractors/vendors should give particular attention to the respective solicitation document package and to the terms, conditions, requirements, and specifications of said package. When determining pricing and what services are to be offered, be careful to include all associated costs related to items such as material, labor, overhead, packaging, equipment, expenses, and transportation. LCCC reserves the right to reject any or all quotes, bids and/or proposals, including without limitation, if they are, in its' sole discretion judged unacceptable, non-responsive, non-conforming, conditional; to waive any technical or formal defect therein; to accept or reject any part of a quote, bid, and/or proposal; and to reject or disapprove of any contractor/vendor as may be in the best interests of LCCC.

### **Minority Business Enterprises**

Minority business enterprises will be afforded full opportunity to conduct business with LCCC and will not be subject to discrimination on the basis of race, color, national origin, sex, age, religion, political affiliation or disability in consideration for an award.

### **Placement on Supplier, Vendor and Contractor List**

A supplier, vendor or contractor wishing to do business with the college should complete a Supplier/Vendor/Contractor Application Form which will be kept on file in the Purchasing Office. This form may be obtained from the Purchasing Office.

### **Preferential for Wyoming Residents**

In accordance with Wyoming State Statutes, a percentage preferential for qualified Wyoming residents (*refer to W.S. §16-6-101*) will be allowed in the following instances:

- A. *Labor, Materials and Public Works:* A preferential of five percent (5%) will be allowed for labor, materials, supplies, agricultural products, equipment, machinery and provisions in accordance with W.S. §16-6-102 through 107.
- B. *Printing:* a preferential of ten percent (10%) shall be granted for printing services in accordance with W.S. §16-6-301.
- C. *Federal Funds:* Expenditures or contracts involving federal funds are subject to federal rules and regulations. Under these conditions, a percentage preferential will not be applied.
- D. *Wyoming Resident:* means a person, partnership limited partnership, registered limited partnership, registered limited liability company or corporation certified as a resident by the department of employment in accordance W.S. §16-6-101.
- E. *Preferential:* Preference will be given pursuant to Wyoming Statutes §16-6-101 through 16-6-108 as amended. For all quotes and bids that exceed Five Thousand dollars (\$5,000.00), a percentage preferential of five percent (5%) will be allowed. The preferential, when applied, will be accomplished by adding the five percent (5%) to the total of the non-resident bidder. Discounts offered will be taken into consideration and a deduction of the discount amount will be made before application of the preferential. Expenditures involving federal funds are subject to Federal Rules and Regulations, therefore under these conditions, a percentage preferential will not be allowed.
- F. Vendors who intend to claim the 5% preferential are required to submit written documentation with their respective Quote that will verify their current State of Wyoming "Resident" status. LCCC reserves the right to omit or exclude a vendor(s) from receiving the 5% preferential per respective Quote in the absence of proper "Resident" verification, and shall not be responsible or liable for same.

- G. State of Wyoming resident verification/certification can be obtained from the Wyoming Secretary of State's office. To obtain "Resident" verification/certification, go to <http://www.soswy.state.wy.us>, click on "Corporation", click on Database", click on "Name Search". A "Certificate of Good Standing" can be obtained by clicking on the "Filing No." or by clicking on "Certificate of Good Standing".

### **Suspension and Debarment, Voluntary Exclusion.**

When conducting business with LCCC, all vendors and contractors are required to certify: (i) that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in a transaction nor from federal financial or non-financial assistance; (ii) that any of the participants involved in the execution of a subsequent transaction are suspended, debarred, or voluntarily excluded by any federal department or agency in accordance with Executive Order 12549 (Debarment and Suspension) and CFR 44 Part 17, or are on the debarred vendors list at [www.epls.gov](http://www.epls.gov); and (iii) are not presently indicted or otherwise criminally or civilly charged by a government entity (*federal, state or local*) with commission of these offenses: embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property. In addition, a vendor/contractor shall notify LCCC by certified mail should it or any of its agents become debarred, suspended, or voluntarily excluded during the term of a transaction or contract.

### **How You Can Help Us**

- Familiarize yourself with our processes and procedures. Offer suggestions on how we can better serve you.
- Let us know if our specifications, procedures and processes can be improved upon.
- Keep us informed of back-order or shortage situations, changes and improvements in technology.
- Respond to our requests for solicitation opportunities.
- Always insist on receiving a Purchase Order or Contract for any order or service request
- Always make sure that the College PO number or Contract number is referenced on all invoices and other correspondence.

### **Disclaimer**

Laramie County Community College reserves the right to make modifications to the content of this guide without prior notice to contractors/vendors. If a disparity occurs between this guide and the respective solicitation documents, the respective solicitation documents will govern. The information stated in this guide shall not be construed as an interpretation of the State of Wyoming Statutes. In the event of changes in the laws, regulations or procedures, the laws, regulations and procedures are binding and take precedent. The information contained herein is provided for general information and reference purposes only and intended solely as a public service and may be distributed or copied. It is not intended to be a full and complete statement of college policy and procedure regarding procurement of goods, work and/or services. While Laramie County Community College makes every effort to provide accurate and complete information, some data may change prior to this Guide being updated, therefore LCCC makes no warranties, either express or implied, concerning the accuracy, completeness, or reliability of the furnished information. LCCC accepts no liability for the content of the Guide, or for the consequences of any actions taken on the basis of the information provided. The contents of this Guide are subject to change without notice.

## Appendix B: Insurance Requirements

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### CERTIFICATE OF LIABILITY INSURANCE

#### Insurance Coverage / Limits:

Contractors, vendors and each of its subcontractors hereunder, if any, shall at its own expense, obtain insurance as provided below from reliable insurance companies acceptable to Laramie County Community College and authorized to do business in the State of Wyoming in which the Work is to be performed, with limits as specified in U.S. currency or equivalent. Such insurance shall be in force at the time the Work is commenced and shall remain in force for the duration of this contract/agreement, unless a later date is specified below.

1. **Workers' Compensation and Employer's Liability Insurance:** Workers' Compensation insurance or its' equivalent, including Occupational Disease coverage, as required by law for all employees, agents, and subcontractors. Employer's Liability insurance (including Occupational Disease coverage) in the amount of **\$1,000,000.00 per accident**. Such insurance shall provide coverage in the location in which the work is performed and the location in which the Contractor is domiciled. The Contractor expressly agrees to comply with all provisions of the Workers' Compensation Laws of the state(s) or country wherein said work is being performed.
2. **General Liability Insurance:** Commercial General Liability insurance covering all operations by or on behalf of Contractor against claims for bodily injury (including mental injury, mental anguish, and death) and property damage (including loss of use). The Commercial General Liability policy will include limits as follows:

a) General Aggregate	\$1,000,000.00
b) Products and Completed Operations	\$1,000,000.00
c) Personal Injury & Advertising Injury	\$1,000,000.00
d) Each Occurrence	\$1,000,000.00
e) Damage to Premises Rented	\$100,000.00
f) Medical Expense	\$5,000.00

If the policy is written on a claims-made basis, the Contractor will include an automatic extended reporting period of at least five (5) years past the expiration date of the policy.

3. **Automobile Liability Insurance:** Automobile Liability insurance against claims of bodily injury (including death) and property damage (including loss of use) covering all owned, rented, leased, non-owned, and hired vehicles used in the performance of the Work, with a **minimum limit of \$1,000,000.00 per accident** for bodily injury and property damage combined and containing appropriate uninsured motorist and No-Fault insurance provision wherever applicable.
4. **Excess Insurance:** Excess (or Umbrella) Liability insurance with a **minimum limit of \$2,000,000.00 per occurrence/\$2,000,000.00 annual aggregate**. This insurance shall provide coverage in excess of the underlying primary liability limits, terms, and conditions for each category of liability insurance in the foregoing subsections 1, 2 and 3. This insurance shall be written on a following form basis of underlying coverage, and the aggregate limits, if any, shall apply separately to each annual policy period. If this insurance is written on a claims-made policy form, then the policy shall be endorsed to include an automatic extended reporting period of at least five (5) years.

## B. Policy Requirements

1. **Certificate Proof:** Prior to the commencement of the respective Contract and/or Agreement, the successful entity shall deliver certificates of insurance evidencing such policy or policies to the LCCC Director of Contracting and Procurement. Specific "Certification" proof shall include:

- a) Certificate of Liability Insurance form.
- b) State of Wyoming Department of Employment "Unemployment Insurance Certificate of Good Standing".
- c) State of Wyoming Department of Employment "Workers' Compensation – Certificate of Good Standing".

**"Certification" may be mailed, faxed or e-mailed to:**

- E-mail: [jspezzano@lccc.wy.edu](mailto:jspezzano@lccc.wy.edu)
  - Fax: (307) 778-4300, Attn: Director, Contracting and Procurement
  - Mail: 1400 East College Drive, Cheyenne WY, 82007. Attn: Director, Contracting & Procurement
2. **Additional Insured Clause:** LCCC shall be listed as the "Certificate Holder" on all policies, but only with respect to operations of successful firm under the respective Contract.
  3. **Notice of Cancellation:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be canceled or non-renewed except after thirty (30) days prior written notice has been given to the LCCC, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to LCCC, **Director of Contracting and Procurement**.

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## Appendix C: PO Terms and Conditions

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# Laramie County Community College

## Contracting & Procurement Procedures Manual

1. **PURCHASE ORDER DEFINED:** The term "purchase order" as used in these Terms and Conditions means the document entitled "Purchase Order" that Laramie County Community College (*hereinafter LCCC*) issues to the Vendor. Where applicable, it also means the following:
  - A. Any written solicitation that LCCC issued to the Vendor to which the entity provided a quote, bid or proposal (*including specifications or scopes of services*), and amendments to that solicitation;
  - B. The quote, bid or proposal submitted by the entity in response to the solicitation;
  - C. Any written contract entered into between the Vendor and LCCC.

If there are any inconsistencies among the documents listed above, the inconsistencies shall be resolved in the order of importance listed above, with the document entitled "Purchase Order" being last in order of importance. The terms and conditions set forth in this Paragraph take precedence over any conflicting terms and conditions in documents that the Vendor provides. **Vendors shall not begin work or supply equipment, goods or materials to LCCC unless it has received a purchase order from LCCC to do so.**

2. **BASIS OF PURCHASE:** The Purchase Order and these Terms and Conditions together constitute the entire agreement between the parties relating to the subject matter of the agreement. Any variation shall be in writing and signed by authorized agents for both parties. Modifications to the order shall not be binding upon LCCC unless approved via written instrument in advance of same.
3. **FACTORY NEW:** Unless otherwise specified via written instrument, all Purchase Order Items (*materials, goods, equipment and supplies*) shall be "factory new". The term "factory new" shall mean items that are not: refurbished, reconditioned, surplus, grey-market, after-market or otherwise not original items manufactured direct from the original equipment manufacturer (OEM) and which when applicable, have unique never been assigned serial numbers and a factory new warranty.
4. **DELIVERY AND FREIGHT TERMS:** Delivery terms shall be: F.O.B. Destination, Freight Prepaid and added, unless otherwise designated in writing. Delivery shall be to the address stated in the Purchase Order and time of delivery is of the essence of the Order. The Purchase Order number shall appear on all packing labels, packing lists, freight bills, and invoices.
5. **ACCEPTANCE AND REJECTION:** Regardless of any terms or conditions to the contrary in Vendor forms or documents, LCCC shall have the all the rights and remedies specified in this paragraph. LCCC shall have a reasonable time after delivery of goods to inspect them. LCCC is not obligated to pay for those goods until it has had the opportunity to inspect them, and has accepted them. LCCC may reject goods if, prior to final acceptance, the goods are found to be defective or not as specified. In the case of services, LCCC is not obligated to pay for them until it has finally accepted the services and, in the case of construction, is occupying or otherwise using the facility where the construction occurred. LCCC is entitled to all other remedies under applicable law, including the right to revoke acceptance of nonconforming goods. Vendor shall reimburse LCCC for all direct, indirect, incidental and consequential costs related to nonconforming goods or services. Notwithstanding final acceptance and payment, said entity shall be liable for latent defects, fraud, or such gross mistakes as amount to fraud. Acceptance of performance shall not waive the right to claim damages for breach, negligence, product liability, or any other act or omission covered by the indemnity provisions of these Purchase Order Terms and Conditions.
6. **ASSIGNMENT AND DELEGATION:** The Vendor shall not assign any right nor delegate any duty under this purchase order without the prior written approval of the LCCC Director of Contracting and Procurement. LCCC shall not unreasonably withhold approval.
7. **CHANGES:** The LCCC Purchasing Office may make changes within the general scope of this Purchase Order by giving notice to Vendor and subsequently confirming such changes in writing. If such changes affect the cost of, or the time required for performance of this Purchase Order, an appropriate equitable adjustment shall be made. No change by Vendor shall be recognized without written approval by LCCC. Any claim by Vendor for an adjustment under this Paragraph must be made in writing within thirty (30) days from the date of receipt by Vendor of notification of such change. Nothing in this Paragraph shall excuse Vendor from proceeding with performance of the Purchase Order as modified.
8. **CANCELLATION FOR CONFLICT OF INTEREST:** Pursuant to *Wyo. Stat. Ann §9-13-101 through 109, and applicable LCCC Policies and Procedures*, LCCC may cancel this Purchase Order without penalty or further obligation



# Laramie County Community College

## Contracting & Procurement Procedures Manual

if any person significantly involved in the initiating, negotiating, securing, drafting or creating the Purchase Order on behalf of LCCC is or becomes at any time while the Purchase Order or an extension of the Purchase Order is in effect an employee of or a consultant to any other party to this Purchase Order with respect to the subject matter of the Purchase Order. The cancellation shall be effective when the Vendor receives written notice of the cancellation unless the notice specifies a later time.

9. **NON-DISCRIMINATION:** The Vendor shall comply with all applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
10. **DISCOUNTS:** If prompt payment discounts apply to this purchase, any discount time will not begin until the materials, supplies, or services have been received and accepted and correct invoice received by the appropriate LCCC Department and/or Division. In the event testing is required prior to acceptance, the discount time shall begin upon completion of the tests.
11. **SALES-USE TAX:** LCCC is exempt from sales and use tax in accordance with the federal Certificate of Exemption Tax ID number 83-6009473.
12. **BANKRUPTCY:** In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency, by, or against the Vendor, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, LCCC shall be entitled to cancel the Purchase Order without liability.
13. **INSPECTIONS:** The Vendor agrees to permit access to its facilities and the Vendor's processes for producing the materials, at reasonable times for inspection of the materials covered under this Purchase Order. LCCC shall also have the right to test at its own cost the materials to be supplied under this Purchase Order. Neither inspection at the Vendor's facilities nor testing shall constitute final acceptance of the materials. If LCCC determines non-compliance of the materials, the Vendor shall be responsible for the payment of all costs incurred by LCCC for testing and inspection.
14. **APPLICABLE LAW and VENUE:** The laws of the State of Wyoming shall apply to the performance and interpretation of this Purchase Order. Any provision required and to be included in a contract of this type by any applicable and valid Executive order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated into this Purchase Order.
15. **PATENT AND COPYRIGHT INDEMNITY:** Vendor shall indemnify LCCC against all losses, liabilities, lawsuits, claims, expenses (*including attorney's fees*), costs, and judgments incurred through third parties claims of infringement of any copyright, patent, trademark or other intellectual property rights.
16. **RISK OF LOSS:** The Vendor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Vendor regardless of receipt.
17. **FORCE MAJEURE:** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.
18. **TITLE:** Unless stated otherwise in the Purchase Order, all prices shall be F.O.B. Destination (*Cheyenne WY, 82007 or otherwise designated*) and shall include all delivery and unloading at the destination. Title to the materials and supplies shall pass to LCCC upon acceptance at the F.O.B. point specified, subject to the right of LCCC to reject and/or terminate for any exception to the delivery date specified.
19. **WARRANTIES:**
  - A. Liens: The Vendor warrants that the materials supplied under this purchase order are free of liens.
  - B.
  - C. Quality: Unless otherwise modified elsewhere in these terms and conditions, the Vendor warrants that, for one year after acceptance by LCCC of the materials, they shall be:
    1. Of a quality to pass without objection in the trade under the purchase order description;
    2. Fit for the intended purposes for which the materials are used;

# Laramie County Community College

## Contracting & Procurement Procedures Manual

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3. Are of even kind, quantity, and quality;
    4. Adequately contained, packaged and marked as the Purchase Order may require; and
    5. Conform to the written promises or affirmations of fact made by the Vendor.
  - D. **Fitness.** The Vendor warrants that any material supplied to the LCCC shall fully conform to all requirements of the purchase order and all representations of the Vendor, and shall be fit for all purposes and uses required by the Purchase Order.
  - E. **Exclusions.** Except as otherwise set forth in this Purchase Order, there are no express or implied warranties of merchantability or fitness.
20. **PAYMENT:** To be paid, Vendor shall submit an itemized invoice referencing a valid Purchase Order number. The invoice must specify the services, equipment, goods or materials provided, which must match the description in the purchase order; the dates of and work performed or the equipment, goods, or materials were provided; and the specific dollar amount owed. Payment shall be subject to the provisions of the Acceptance and Rejection clause (*Paragraph 5*) of these Purchase Order Terms and Conditions. Vendor shall be paid at the end of the Contract unless a schedule of progress payments for work performed is agreed to in writing with the LCCC Purchasing Office. Invoices for progress payments must specify the actual work performed. If LCCC has agreed in writing to reimburse the travel expenses of the Vendor, LCCC will do so according to its *policies and rates* applicable to its employees. Vendor must submit an invoice for any travel reimbursement requested, specifying its expenses, and attach original receipts for airfare, meals, rentals, hotel and other approved reimbursable expenses.
21. **INDEMNIFICATION:** To the fullest extent permitted by law, Vendor shall defend, indemnify, and hold harmless LCCC, its agents, officers, officials, employees, and volunteers from and against all claims, damages, losses, and expenses (*including but not limited to attorney fees and court costs*) arising from the acts, errors, mistakes, omissions, work or service of Vendor, its agents, employees, or any tier of Vendor's sub-vendors in the performance of this Purchase Order. The amount and type of insurance coverage requirements set forth in Paragraph 22 will in no way be construed as limiting the scope of indemnification in this Paragraph.
22. **INSURANCE:** Vendor shall maintain during the term of this Purchase Order insurance policies described below issued by companies licensed with a current A.M. Best rating of A or better. Before providing any services or supplying any equipment, goods or materials, Vendor shall furnish LCCC with certificates of insurance evidencing the required coverage, conditions, and limits required by this Purchase Order at the following address:

LCCC Director of Contracting and Procurement  
1400 East College Drive  
Cheyenne, WY 82007  
307-778-1280  
307-778-4300 (fax)

The insurance policies, except those for Worker's Compensation or Professional Liability, shall be endorsed to name Laramie County Community College as the "Certificate Holder" or additional insured. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of Vendor's work, services, equipment, goods or materials, and must be evidenced by annual certificates of insurance. The insurance policies shall be endorsed stating that they shall not expire, be cancelled, suspended, voided or materially changed without 30 days written notice by certified mail to the LCCC Director of Contracting and Procurement. Vendor's insurance must be primary, and any insurance or self-insurance maintained by LCCC shall not contribute to it. If any part of this Agreement is subcontracted, these insurance requirements also apply to all sub-vendors. Insurance coverage required under this Purchase Order, unless the Director of Contracting and Procurement instructs Vendor otherwise, is:

- A. Commercial General Liability insurance with a limit of not less than \$1,000,000 per occurrence for bodily injury, property damage, personal injury, products and completed operations, and blanket contractual coverage, including but not limited to, the liability assumed under the indemnification provisions of this purchase order;
  - B. Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to Vendor's owned, hired, and non-owned vehicles;
  - C. Workers' Compensation insurance with limits statutorily required by any Federal or state law and Employer's Liability insurance of not less than \$1,000,000 for each accident.
23. **TERMINATION:**
- A. LCCC may terminate this purchase order for convenience by giving Vendor fifteen (15) days written notice of termination. A non-breaching party may terminate this Purchase Order for the failure of the other party

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to comply with this Purchase Order by giving that other party ten (10) days' written notice of the failure to comply.

- B. In the event this PO is terminated by either party, it is agreed that the compensation due the Vendor shall only be that approved amount incurred by the Vendor pursuant to this PO up to and including the termination date of this PO.
24. **PROPERTY RIGHTS:** LCCC shall, at all times, retain ownership in and the rights to any creative works, research data, reports, designs, recordings, graphical representations or works of similar nature (Works) to be delivered under this purchase order. Vendor agrees that the Works are "works for hire" and assigns all of the Vendor's right, title and interest to LCCC.
25. **FUNDS UNAVAILABLE:** LCCC may cancel this Purchase Order if, in future fiscal years, funds become unavailable for the support of the program for which the services, equipment, goods or materials are provided.
26. **ADVERTISING AND PROMOTION:** The Vendor shall not advertise or publish information for commercial benefit concerning this Purchase Order without the prior written approval of LCCC.
27. **GRATUITIES:** LCCC may, by written notice, terminate this Purchase Order, in whole or in part, if LCCC determines that employment or a Gratuity was offered or made by the Vendor or a representative of the Vendor to any officer or employee of LCCC for the purpose of influencing the outcome of the procurement or securing the Purchase Order, an amendment to the Purchase Order, or favorable treatment concerning the transaction, including the making of any determination or decision about contract performance.
28. **FERPA:** If Vendor has access to students' educational records, Vendor shall limit its employees' access to the records to those persons for whom access is essential to the performance of this Purchase Order. At all times during this transaction, Vendor shall comply with the terms of the Family Educational Rights and Privacy Act of 1974 in all respects.
29. **SOVEREIGN/GOVERNMENTAL IMMUNITY:** LCCC does not waive its Governmental/Sovereign Immunity by entering into this Agreement and specifically retains all immunities and defenses available to it as a governmental entity pursuant to WYO. STAT. ANN. § 1-39-101 (2011), *et seq.*, and all other applicable laws. LCCC fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Contract. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.
30. **DEBARMENT/SUSPENSION:** A Vendor certifies, by submission of the respective Quote/Bid, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of State or Federal benefits by State or Federal court, or voluntarily excluded from participation in this transaction by any State or Federal department or agency. Submission is also agreement that LCCC will be notified of any change in this status. Additional certification includes:
- a) Have not within a three-year period preceding this transaction been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (*Federal, State, or Local*) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and,
  - b) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (*Federal, State, or Local*) with commission of any of the offenses enumerated in Paragraph "a" above; and have not within a three-year period preceding this transaction had one or more public transactions (Federal, State, or Local) terminated for cause or default.

## Contractor Terms & Conditions, Representations and Responsibilities

In case of any conflict, disagreement, discrepancy or ambiguity between the terms of an LCCC issued Purchase Order and/or Agreement and its incorporated documents, the terms of these "*Contractor Terms and Conditions*" shall control and prevail. The Parties agree that any provision contained in Contractor's proposal/bid/quote that add to, vary or conflict with the terms of this certain transaction are null and void; therefore these Contractor Terms and Conditions are the governing document and shall take precedence.

- A. **Amendments.** Any changes, modifications, revisions, or amendments which are mutually agreed upon by the Parties shall be incorporated by written instrument, executed and signed by all Parties to the applicable transaction.
- B. **Applicable Law and Venue.** The parties mutually understand and agree the construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. In the event a dispute arises between the parties from or concerning this Agreement or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in Laramie County Wyoming. The foregoing provisions of this paragraph are agreed by the parties to be a material inducement to both parties in executing this Agreement. This provision is not intended nor shall it be construed to waive LCCC's governmental immunity as provided in WYO. STAT. ANN. § 1-39-101 (2013), *et seq.*, and all other applicable laws.
- C. **Assignment and Delegation:** The Contractor shall not assign any right nor delegate any duty under this obligation without the prior written approval of the LCCC Director of Contracting and Procurement.
- D. **Availability of Funds.** LCCC's payment obligation is conditioned upon the availability of funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services and equipment provided by Contractor the Agreement may be terminated by the LCCC at the end of the period for which funds are available. LCCC shall notify Contractor at the earliest possible time of the services which will or may be affected by a shortage of funds. At the earliest possible time means at least thirty (30) days before the shortage will affect payment of claims, if LCCC knows of the shortage at least thirty (30) days in advance. No penalty shall accrue to LCCC in the event this provision is exercised, and LCCC shall not be obligated or liable for any future payments due or for any damages as a result of termination under this provision. This provision shall not be interpreted or construed to permit LCCC to terminate an obligation in order to acquire similar services from another party.
- E. **Debarment/Suspension:** A Vendor certifies, by submission of their respective proposal/bid/quote, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of State or Federal benefits by State or Federal court, or voluntarily excluded from participation in this transaction by any State or Federal department or agency. Submission is also agreement that LCCC will be notified of any change in this status. Additional certification includes:
- c) Have not within a three-year period preceding this transaction been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (*Federal, State, or Local*) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and,
  - d) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (*Federal, State, or Local*) with commission of any of the offenses enumerated in Paragraph "a" above; and have not within a three-year period preceding this transaction had one or more public transactions (Federal, State, or Local) terminated for cause or default.
- F. **Delivery and Freight Terms:** Delivery terms shall be: F.O.B. Destination, Freight Prepaid and added, unless otherwise designated in writing.
- G. **Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming Party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the Party failing to perform immediately notifies the other Party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming Party.
- H. **Gratuities:** LCCC may, by written notice, terminate this obligation, in whole or in part, if LCCC determines that employment or a gratuity was offered or made by the Contractor or a representative of the contractor to any employee of LCCC for the purpose of

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influencing the outcome of the procurement or securing the obligation, an amendment to the obligation, or favorable treatment concerning the transaction, including the making of any determination or decision about obligation performance.

- I. **Indemnification.** To the fullest extent permitted by law, Contractor agrees to indemnify and hold harmless LCCC, its elected and appointed officials, employees, officers, agents, successors, assignees and volunteers from any and all lawsuits, losses, liability for injuries, damages, claims, penalties, actions, demands or expenses arising from or in connection with work performed by or on behalf of Contractor for LCCC.
- J. **Independent Contractor.** The Contractor shall function as an independent Contractor for the purposes of this Agreement and shall not be considered an employee of LCCC. It is intended that the fees paid hereunder shall constitute earnings from self-employment income. The Contractor shall assume sole responsibility for and indemnify LCCC against liability for any debts, liabilities, taxes, duties, fees or fiscal charges that may be incurred by the Contractor in fulfilling the terms of this Agreement. LCCC will not withhold any amounts therefrom as U.S. Federal income tax withholdings from wages or as employee contributions under the U.S. Federal Insurance Contributions Act or make employer contributions thereunder with respect thereto. Contractor shall be solely responsible for the reporting, estimation and payment of all income taxes, fees, and other contributions on or attributable to self-employment income attributable to the fees payable hereunder. All portions of the work and/or services the Contractor does not perform with its' own forces shall be performed under subcontracts issued by the Contractor. No subcontract shall bind or purport to bind LCCC and Contractor shall be responsible for the acts and omissions of their sub-Contractors or sub-contractors. The Contractor shall be responsible for ensuring that each subcontract has procured and maintained during the life of their respective subcontract appropriate insurance coverage. LCCC shall neither have control or charge of, nor be responsible for the means, methods, manner, timing, sequences, or procedures related to the Contractor's propose scope of work.
- K. **IRS Form W-9.** All College transactions for services, whether they are contracts, agreements, MOA's, purchase orders, or limited purchase orders require IRS Form W-9 information (*Request for Taxpayer Identification Number*) as part of the respective obligation. This W-9 Form is both a Federal IRS and College requirement; is the responsibility of the Contractor to submit and keep current; shall be on file prior to initiation of any obligation; and shall be kept on file in the Accounting Office of the College. Processing of invoices and or payment claims will NOT be completed if this form is missing or not current.
- L. **Proof of Insurance.** The Contractor (*and any subsequent subcontractors*) shall not commence the work and/or services under this obligation until they have obtained the required insurance coverage(s) as required by LCCC per Exhibit "B". Proof of required insurance must be submitted via written certificate and submitted to LCCC Agreement representative. Throughout the term of a subsequent agreement and/or Purchase Order, the successful firm shall carry and pay the premium for Certificate of Liability Insurance with such policies of insurance limits satisfactory to LCCC as will protect LCCC; its Board of Trustees, officers, employees, Architect's, and agents; individually and collectively from Worker's Compensation claims and from any other claims for damages to property or for bodily injury, including death, which may arise from or in connection with the operations under this certain obligation, whether such operations be by the successful firm or by any subcontractor firm or anyone directly or indirectly employed by either of them. Such insurance shall cover all contractual obligations which the successful firm has assumed.
- M. **Sovereign/Governmental Immunity.** LCCC does not waive its Governmental/Sovereign Immunity by entering into this Agreement and specifically retains all immunities and defenses available to it as a governmental entity pursuant to WYO. STAT. ANN. § 1-39-101 (2013), *et seq.*, and all other applicable laws. LCCC fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Contract. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.
- N. **Termination.** If for any other reason either Party desires to terminate this Agreement without cause, it may do so upon fifteen (15) day advance written notice to the other Party. Upon receipt of such notice, Contractor will immediately discontinue specific work and/or services and subsequent financial obligations.
- O. **Warranties.**
- A. Liens: The Contractor warrants that the materials and services supplied under this obligation are free of liens.
  - B. Quality: Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by LCCC of the materials, they shall be:
    1. Of a quality to pass without objection in the trade under the obligation requirement;
    2. Fit for the intended purposes for which the materials are used; and,
    3. Are of even kind, quantity, and quality;

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4. Conform to the written promises or affirmations of fact made by the Parties to this obligation.
- C. Fitness. The Contractor warrants that any materials and services supplied shall fully conform to all requirements of the obligation and all representations of both Parties, and shall be fit for all purposes and uses required by the obligation.

### Representations and Responsibilities

- 1.1 Contractor hereby agrees to devote its' organization, personnel, certification, expertise, experience, capabilities, education, administration, and talents to the duties described herein and to perform its' professional services in a good, diligent, and workmanlike manner reasonably calculated to achieve the objective of this Agreement. The Contractor shall provide and pay for all competent supervision and operations, skilled professionals, all materials and supplies, all accessories and incidentals, all required equipment, permits, fees, licenses, charges, tools, and other required items (*unless specifically agreed upon otherwise by both Parties*) required to complete the required respective services.
- 1.2 The Contractor, as an independent Contractor, shall perform the respective services according to a schedule mutually agreed upon by LCCC, and in the best and most workmanlike manner by qualified supervision and skilled professionals in strict conformity with the respective obligation documentation.
- 1.3 Contractor hereby guarantees and warrants all labor, materials, segments of construction, and supplies furnished by Contractor for a period of one (1) year after completion and acceptance of the work by LCCC. The Contractor agrees to replace materials or supplies furnished by it at no additional cost to LCCC during the one (1) year warranty period. Contractor guarantees that all work performed hereunder by it or its subcontractor(s) shall be free from defects in workmanship, and that Contractor agrees that any defect in workmanship discovered within one (1) year following acceptance of the work and/or services shall be remedied to the satisfaction of LCCC.
- 1.4 Contractor has visited the site and become familiar with and is satisfied as to the general, local, and site conditions and its surroundings and all risks in connection therewith that may affect cost, progress, and performance of this obligation.
- 1.5 Contractor understands and is familiar with and shall comply with all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of this obligation.
- 1.6 The Contractor shall keep the LCCC premises and surrounding area free from accumulation of waste materials, rubbish, and unnecessary equipment or materials caused by the services performed under this obligation; and shall do so on a daily, weekly and monthly basis as the need dictates. At the completion of the Work, the Contractor shall remove from and about the LCCC premises all waste materials, rubbish, tools, equipment, machinery and surplus materials. If the Contractor fails to clean up as provided in the obligation documentation, LCCC reserves the right to do so and the cost thereof shall be charged to the Contractor.
- 1.7 Contractor shall take care at all phases of work to protect the existing property at the work site. Contractor shall be liable for damage they incurred during construction at the respective property. Contractor shall restore construction site(s) and all other disturbed areas to their original condition.
- 1.8 When applicable, Contractor shall be responsible for retaining qualified sub-contractors to perform specific tasks; shall be responsible for their workmanship and their adherence to project specifications; and shall be responsible for ensuring that each sub-contractor is properly insured according to LCCC standards.