BROOKDALE COMMUNITY COLLEGE
BOARD POLICY

4.8000 Purchasing Policy (previously titled Contracts)

I. Title of Policy

4.8000 Purchasing Policy

II. Objective of Policy

To ensure compliance with legal requirements in the award of public contracts; to provide for an orderlypurchasing process by utilizing cost effective procedures for the procurement of quality goods and services at the lowest price; to limit the use of emergency purchasing and excessive change orders and to prevent unnecessary expenditure of College funds

III. Authority

Public contracts and procurement procedures are an administrative responsibility governed by the Board of Trustees in compliance with County College Contracts Law N.J.S.A. 18A: 64A-25.1 and "Pay-to-Play" Law N.J.S.A.19: 44A-20.4 et seq. as may be amended from time to time

IV. Policy Statement

General

The purpose of this Policy is to require and ensure compliance with New Jersey laws that govern the College's purchasing and procurement of goods and services and bidding requirements in order to avoid violation of the law, undue expense to the College, or both.

The College shall conduct the procurement process efficiently, promptly, fairly, and in strict accordancewith all applicable laws and this Policy.

All College departments shall plan and conduct their activities so as to make purchases of goods andservices in accordance with this Policy.

In compliance with policies and procedures set forth, the Purchasing Department has the administrative responsibility for the procurement, storage, issuance and delivery of all materials, supplies, services, and equipment required in the operation of the College and is governed by the Board of Trustees.

The Purchasing Department is the only College department that is empowered to make purchases on the College's behalf by issuing an official Purchase Order (PO) or Blanket Purchase Order (BPO). Purchases of goods or services made or negotiated by any department other than the Purchasing Department will not be honored by the College for payment except in the case of emergency purchases made in accordance with this Policy. A Purchase Order and or Blanket Purchase Order is a binding contract that allows a purchase to be conducted on behalf of the College. Orders for material goods and services placed without an official PO or BPO by an employee is in violation of this Policy. If the College is required to pay for any purchase made in the College's name and not in accordance with this Policy, disciplinary action may be taken against the responsible employee(s) up to and including termination, including a requirement that the employee(s) reimburse the College for all such payments.

Goods and Services Included

The following is an illustrative, but not all-inclusive, list of the types of purchases to which this policy applies:

Education Equipment and Supplies

Facilities Maintenance Department

Equipment and SuppliesCustodial Supplies

and Uniforms

Safety Equipment

Contracted Services of

all TypesPrinting

Professional and

Consulting Services

Testing Materials

General Class Instructional Materials

and SuppliesOffice Furniture and

Equipment

Art Materials and Supplies

Audio-Visual Equipment

and MaterialsAthletic

Equipment and

Supplies Science

Equipment and

Supplies

Security Equipment

Services and Maintenance of

Fleet VehiclesPolice Security

Equipment and Supplies

Computer Equipment and

Supplies

Communication Equipment

and Services

Electronic Equipment and Supplies

Mechanical Equipment and Supplies

1. Procedures on How to Purchase

In compliance with this Policy, departments shall enter online requisitions (E-reqs) by completing the form and including appropriate approvers as advised. Budget is automatically checked for sufficient funds within this system (an E-req cannot be processed without sufficient funds). Once all is approved, a Purchase Order or Blanket Purchase Order shall be signed by the Purchasing Manager and issued to the Vendor.

Note: The Purchasing Department may change vendor sources during the requisition process to reduce costs and change object codes to be consistent with the type of purchase. The Purchasing Department will also implement informal and formal processes for the procurement of goods and services based upon their cost and this Policy.

2. Purchasing

Thresholds

All purchases during a fiscal year shall be aggregated for purposes of calculating thresholds. If the aggregated purchases in a fiscal year would subject the goods or services to a particular threshold, the procedure applicable to that threshold shall be applied in the following year and subsequently until the amount of the contract in a fiscal year drops to a lower threshold amount, in which case the lower threshold procedure shall be applied in the following year. The Purchasing and Finance Departments shall assist departments in determining aggregate amounts.

Purchases of equivalent goods and services or with a particular vendor shall not be divided into smaller units for the purpose of avoiding thresholds applicableto higher amounts.

a. **Purchases between $5,000 and $17,499**

The Purchasing Department requires three (3) written quotations for the purchase of item(s) having an estimated net price in excess of $5,000 but under $17,500. Only one quote is required if the good or service is provided under a NJ State Contract (Vendor) or an approved Joint Purchasing Co-op Contract (Contract number must be stated on the quote). If the estimated net price is less than $5,000, a written quotation may be requested.

All contracts under $17,500 may be awarded directly by the Purchasing Department. Departments can either obtain their own quotes, which will be reviewed by the Purchasing Manager, or the Purchasing Department will obtain a minimum of three (3) written quotes for departments. In the latter case, it is imperative the departments provide clear and sufficient specifications to the Purchasing Department to allow for the solicitation of quotes.

b. Purchases over $17,500 and $41,600 (Current Bid Threshold)

Although the bid threshold is currently at $41,600, all contracts/procurements in excess of $17,500 shall require formal public bidding unless exempted by N.J.S.A.18A: 64A-25.5 or other applicable law. Procurements that are exempted by law from public bidding but exceed the bid threshold, will be conducted by other formal processes such as Requests for Proposals (RFP), Request for Qualifications (RFQ) or similar appropriate competitive process. These processes are implemented to ensure fair competition and transparency in the procurement process.

All contracts/procurements in excess of $17,500 are subject to the New Jersey "Pay-to-Play" statute, N.J.S.A. 19:44A-20.4 et. seq. (P.L. 2005 c. 271) and/or County College Contracts Law 18A:64A-25.1 et. seq, related statutes, College Policy and Board of Trustees approval to the extent applicable. All contracts over the $17,500 threshold shall be procured in a fair and open manner as defined in said statutes and policy, except in extraordinary circumstances.

The Purchasing Department shall have administrative responsibility as contracting agent for purchasing equipment, materials, supplies, and services not exceeding $17,500; provided, however, that no contract in excess of $17,500 may be awarded by the Purchasing Department without prior approval of the Board of Trustees, Executive Committee, or another committee of the Board, as designated by the Chairman, or a single member of the Board designated by said committee.

Bids shall be publicly advertised in a legal newspaper and on the College's website under Vendor Opportunities. RFPs and RFQs shall be advertised only on the College's website under Vendor Opportunities.

Awarded contracts via formal processes are not subject to the Pay-to-Play statute, N.J.S.A. 19:44A-20.4 et. seq. (P.L. 2005 c. 271). Contracts awarded based upon NJ State Contracts and approved purchasing consortiums and co-ops are also not subject to Pay-to-Play.

c. Purchases over $500,000

Construction projects and contracts for procurement of capital equipment with an estimated value over $500,000 shall not be advertised for bid unless a complete draft bid package, including the conditions of the contract and all specifications and drawings, has been submitted to the College by the design professionals not less than 60 calendar days before the date scheduled for bidding.

Note that Contracts awarded between $2,000,000 - $10,000,000 must be provided to the Office of the State Comptroller (OSC) within 20 business days after award. The College must inform the OSC in writing of contracts valued over $10,000,000 prior to bid. The College must allow at least 30 days from informing the State Comptroller before public advertising.

3. Exempt Purchases – Pay-to-Play

Awarded contracts over $17,500 approved by the Board of Trustees from Exemptions under County College Contracts Law 18A:64A-25.1 et. seq. are subject to Pay-to-Play (submission of a Business Entity Disclosure Form and Political Contribution Disclosure Form).

The College has the discretion to implement a formal process (RFP or RFQ) for Exempt purchases; however, it is not required. If the College chooses a formal process for an Exempt good or service, the RFP and RFQ package will include Pay-to-Play documentation. If the College awards a contract based upon Exemption status, the Vendor is subject to Pay-to-Play (refer to N.J.S.A. 19:44A-20.1 et seq. and Elections Transparency Act. P.L. 2023, Ch. 30.). See Statute 18A:64A-25.5 for exceptions to requirement for advertising.

.

4. Vendors

All contacts with approved or potential suppliers who desire to present products or services to the College for consideration, shall go through the Purchasing Department. Other College departments should limit vendor contact other than to obtain a quote.

The Purchasing Department shall prescribe the general format in which specifications are to be prepared. Departments shall first ascertain whether the Purchasing Department is able to locate an appropriate standard specification from industry, government, or other independent sources. If standard specifications are not available, departments may obtain information from a Vendor to be used in the development of specifications. These specifications shall be shared with the Purchasing Department to assist in requesting a quote or developing a formal process.

It is the College's Policy to maximize competition among Vendors to the extent consistent with good business practices and the needs of the College. Specifications that contain any of the following elements or omissions violate this Policy:

- Require a standard, restriction, condition, or limitation that is not directly related to the purpose of the procurement.
- Require that any bidder be a resident of, or that their place of business be located in Monmouth County unless the physical proximity of the bidder is requisite to the efficient or economical performance of the contract. For contracts where response time is important, response time and not physical proximity shallbe specified.
- Discriminate on the ground of age, race, creed, color, national origin, ancestry, marital status, affectionalor sexual orientation, gender identity or expression, disability, nationality, or sex.
- Require the use of any "brand name," but shall in all cases where brand names are required provide forequivalent goods on a "brand or equal" basis. If materials or supplies that are patented or copyrighted are required to be specified and there is no equivalent, the using department shall provide the Purchasing Department with a written explanation as to how the special need for the patented or copyrighted materials or supplies is directly related to the performance or purpose for which the purchase is made.
- Require the use of goods or services that can only be obtained from one vendor, when other vendorscan reasonably provide the same or equivalent goods or services for a comparable price.
- Unduly favor an incumbent vendor; provided, however, that a vendor's experience and familiarity withthe College's operations may be taken into account in the evaluation of proposals.
- As to any contract awarded by approval of the Board of Trustees, include a "contingency" or other fund or mechanism allowing increases in a base contract price in the absence of a change order approved bythe Board of

Trustees in accordance with this Policy.

- Fail to include any option for renewal, extension, or release which the College may wish to require;
- Fail to include any necessary terms or conditions, or to disclose any matter necessary for the substantialperformance of the contract or agreement.

5. Timing of the Procurement Process

Rushed procurements invite mistakes and often cause unnecessary expense to the College throughexcessive change orders and potential legal challenges. Accordingly:

As a general matter, departments are responsible for planning their needs and should collaborate with the Purchasing Department to allow a sufficient lead to determine the formal process (Quote, Bid, RFP, RFQ, or State Contract, Purchasing Co-op Contract); timeline for the process (develop, distribute, and send Bid, RFP or RFQ Package(s) to Vendors); Board of Trustees approval (if required); award of contract and issuance of the Purchase Order; and submission of required forms as applicable. The Purchasing Department will guide departments to ensure proper procedures are applied for the procurement of goods and services.

For formal procurement processes (Bids, RFPs and RFQs), the Purchasing Department shall develop and distribute a schedule for submission of procurement requests and specifications by user departments.

Departments shall adhere to the published schedule and shall not request waivers from the PurchasingDepartment. Emergency situations shall be handled in accordance with the specific provisions of this Policy.

6. Blanket Purchase Orders

In order to eliminate delays and reduce the need for writing large numbers of small purchase orders for monthly recurring (and payment of) goods and services while also complying with the County College Contract Laws, Blanket Purchase Orders (BPOs) may be issued by the Purchasing Department through either formal procurement processes or quotations. BPOs are generally use for utilities, “time and material” contracts with trades (plumbers, electricians), custodial services, test forms, facilities supplies, etc.

The Purchasing Department shall advise departments as to terms of BPOs and time and materials contracts. Departments and Vendors shall comply therewith with the terms and procedures of the BPO.

7. NJ State contract purchases and Approved Purchasing Co-op Contracts

The College may, in appropriate cases, purchase goods and services under NJ State Contracts and approved Joint Purchasing Co-ops. In each case, the Purchasing Department shall obtain a certification from the Vendor that the goods and services are in fact covered by the cited State contract and that the prices offered to the College are those contained in the cited applicable State contract, in each case identifying the specific, applicable provisions by page and paragraph and attaching copies of State Contract information from the State website. This certification shall be obtained from each vendor before any purchase order is issued. Purchasing Co-ops must be approved by the Board of Trustees by resolution prior to purchasing goods and services under such contracts.

8. Cancellation, Modification and Return of Orders

A Purchase Order is a binding contract between the College and the Vendor. Therefore, it cannot be modified or canceled unilaterally. Any request to modify or cancel an order should be directed to the Purchasing Department. They will advise all parties and determine course of action (obtain BOT approval if applicable).

Generally, a Vendor will agree to a request for cancellation if the items have not been shipped. The department may be held responsible for any material shipped by a Vendor, costs incurred prior to cancellation of fabricated items or re-stocking fees. The Purchasing Department will effect Purchase Order cancellation to disencumber funds less any amounts due to the Vendor.

All returns shall be handled by the Purchasing Department. Departments shall contact Purchasing and provide a reason for the return. Purchasing will then contact the Vendor for a Return of Merchandise Authorization (RMA) number and shipping label. Purchasing will contact Receiving to pick up the said item from the department (to ship back). Depending on the reason for the return, departments may be responsible for the restocking fee (excluding damaged items or Vendor’s error).

9. Change orders

All contract amendments that change the price or extend the time for performance of any contract shall be deemed change orders. Change orders to contracts whose initial amount exceeds $17,500, shall be presented to the Board of Trustees for approval prior to execution. No College employee is authorized to approve change orders to such contracts without prior approval of the Board of Trustees.

All change orders shall be accompanied by a memorandum signed by the responsible department headthat explains the reason(s) why the change order is necessary and in the College’s interest.

As to each change order individually exceeding 20% of the original contract price, the President shall file with the Board of Trustees, a memo that includes an explanation of the factual circumstances which necessitate issuance of the change order; a statement indicating why these circumstances could not have been foreseen; a statement indicating why issuance of the change order would be in the best interests of the College and, if the nature of the change order is technical, a statement from the College’s engineer or other person with the appropriate expertise. This statement shall explain in detail the factual circumstances which justify issuance of the proposed change order.

Change orders increasing the contract time (as measured in total days) by more than 20% either individually or in the aggregate, shall be accompanied by a memo from the President explaining the chronology of the project or contract, the reason for delays or extensions, whether or not they are excusable delay under the terms of the contract in question, and explaining why it is necessary to increase the time for performance. Each subsequent change order increasing the contract time shall be accompanied by an updated memo.

In each case where a memorandum from the President is required, the President may attach a cover memo to materials provided by others; provided, however, that the President's cover memo shall statethat the President has personally reviewed the attached materials, has discussed them with their author(s), and is satisfied with the facts presented.

Increases to BPOs and POs for contracts whose initial amount exceeds $17,500, shall not be executed without approval of the Board of Trustees or Executive Committee or another committee of the Board, as designated by the Chairman, or a single member of the Board designated by said committee.

10. Extensions of contract time.

If it is necessary to extend the term of a contract awarded by the Board of Trustees in order to accommodate the process of re-bidding or other re-procurement, the Board may approve an extensionnot to exceed 60 days from the original contract date with one additional extension of 60 days. In each such case, the request for the extension shall be accompanied by a memo to the Board explaining the reasons why it is necessary and a request of their approval.

If time constraints for award are foreseen, the College may issue a Consent of Agreement to Vendors (Bidders or Proposers) for an extension of time to award such contracts within Bid, RFP and RFQ packages.

11. Emergency purchases.

The term "emergency" is defined in N.J.S.A. 18A: 64A-25.6 as a circumstance "affecting the public health, safety and welfare of occupants of college property and requiring the immediate delivery of goods or the performance of services." The term "affecting the public health, safety and welfare" means a circumstance that presents an imminent risk to life or property and does not include potential disruption to individual academic programs or business activities.

Examples of emergencies that fall within the above definition include fire, flood, extreme weather conditions, vandalism, or other criminal activity; release of hazardous substances, and significant failuresof building or College-wide systems. Other circumstances such as disruption to individual academic programs or business activities require waivers under Section IV (A) of this policy. The use of emergency purchasing procedures in situations not meeting the definition of an emergency is a violation of State law and of this Policy. The emergency purchasing procedures stated in this Policy shall apply to all emergency purchases over $17,500 and are as follows:

Upon the occurrence of an emergency as defined above, the College employee(s) making such determination in the first instance shall immediately notify their superior, who shall take such steps as are immediately necessary to protect health, safety and welfare and shall follow up within one business day by a written E-Form or E-Req (Requisition) and estimate for the goods and services required and stating the nature and cause of the emergency. Whenever possible, the College's standby trade contracts, and not emergency purchases, shall be used.

Within one business day, the E-Form/E-Req shall be forwarded to the department head who shall if they concur, forward it to the President, the applicable Vice President, and the Purchasing Manager.

The notice given by the department head shall include the requisition and give sufficient additional information for the President to determine that an emergency does indeed exist within the meaning and intent of the County College Contracts Law and that there are sufficient funds identified to carry out the work required in mitigating the emergency.

If the President is satisfied that an emergency in fact exists, the President shall immediately authorize the procurement of the goods and services, notify the Chairman of the Board of Trustees and the College's counsel of the nature and extent of the emergency and what actions have or will be taken, direct the Purchasing Manager to take all appropriate action (issuance of a Purchase Order), and prepare a Resolution acknowledging said procurement for Board of Trustees action.

The Resolution ratifying the President's action in authorizing the emergency procurement shall beplaced on the next following Board of Trustees agenda for formal action.

12. Disposition of Surplus and Personal Property not needed for College Purposes

It shall be the responsibility of the Purchasing Department to dispose of surplus or obsolete materials, supplies, or equipment that is no longer needed to accomplish the educational mission of the College. Such items shall be cataloged and sold annually, or at other specified times on the following basis:

1. Items of no value.
2. Items having resale value as scrap.
3. Items that can no longer be used for educational purposes, but which retain a portion of their value and are considered salable.

   Items in category 1 shall be offered to charitable, educational, and civic organizations. Those items which are not desired by these organizations shall be disposed of in accordance with instructions from the Purchasing Manager. The department shall notify the Manager in writing of their need to dispose of an item and note if there is an inventory tag. Inventory will be notified at this time to review the original purchase value and date of purchase via tag identification from the Inventory Report. After review of the report and inspection of the item, and if determined to be of no value, the Purchasing Manager and department will coordinate such disposal legally and environmentally appropriate.

Items in Category 2 and 3 shall be sold to interested parties at public sale to the highest bidder. The exceptions to this are if the items to be sold are perishable goods or if the estimated fair value of the property to be sold does not exceed the amount determined pursuant to N.J.S.A. 18A:64A-25.3(b) in any one sale. In these cases, a public sale is not mandated. The procedures for such sales are set forth in N.J.S.A. 18A:64A-25.27.

If no bids are received in the first public sale, or if the College elects to reject all bids in accordance with the statute following a second public sale, the College may then elect to sell the goods at a private sale. In no event shall the negotiated price at the private sale be less than the amount of the highest bid rejected at the preceding two public sales. In any event, the terms or conditions of sale shall not be changed or amended. In the case in which the College received no bids at the two previous sales and elected to sell at a private sale, the property may not be sold at less than the estimated fair value as defined in N.J.S.A. 18A:64A-25.27.

13. Reference to Other Laws and Rules

Where the County College Contracts Law, N.J.S.A. 18A:64A-25.1 et seq. and this policy does not provide guidance as to any aspect of procurement or contracting, the College shall look to analogousprovisions of the Local Public Contracts Law, N.J.S.A. 40A: 11-1 et seq., the Public School ContractsLaw, N.J.S.A. 18A: 18A-1 et seq., and implementing regulations, guidance, publications, and Local Finance Notices published by the New Jersey Department of Community Affairs.

14. No Reliance; Interpretation

This Policy is solely for the guidance of the College and its staff, is not contractual in nature, and is not to be deemed to be incorporated directly or indirectly into any specification, bid package, or other document relied upon or intended to be relied upon by any actual or prospective vendor, bidder, or other person doing business or seeking to do business with the College. No person may rely upon this Policy as establishing any duty or obligation for the benefit of anyone other than the College. In all cases, this Policy is to be interpreted solely for the benefit of the College.

15. Code of Ethics

The College’s purchasing activities shall be consistent with the College’s Code of Ethics as well as thefollowing:

1. To give first consideration to the objectives and policies of the College.
2. To strive to obtain the maximum ultimate value for each dollar expended.

3. To cooperate with trade and industrial associations, governmental, and private agencies engaged in the promotion and development of sound business methods.
4. To demand honesty in sales representation whether offered through the medium of a verbal or written statement, an advertisement, or a sample of the product.
5. To decline personal gifts or gratuities.
6. To grant all competitive bidders' equal consideration; to regard each transaction on its own merits; to foster and promote fair, ethical, and legal trade practices.
7. To use only by consent, original ideas and designs devised by one vendor for competitive purchasing purposes.
8. To accord a prompt and courteous reception in so far as conditions permit to all who call on legitimate business missions.

Prior Policies Superseded

This policy shall supersede any policy or regulation adopted by the Board of Trustees prior to its effective date, to the extent of any conflict or inconsistency between this and any earlier policy orregulation.

V. Responsibility for Implementation

Board of Trustees
Finance and Purchasing

Effective: 6/9/11
Updated: 3/18/13, 7/15/15
Approved: Board of Trustees, 11/28/2023 (Formerly titled Contracts Policy)