



Yavapai County Community College District (YCCCD)

**Procurement and Contract Services
Procedures Manual**

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1.0 INTRODUCTION

This Procurement and Contract Services Procedures Manual is designed to assist staff and faculty through the procurement and contract processes. The Director of Procurement and Contract Services or appropriate departmental designees (referred to from this point as “Procurement and Contract Services”) are responsible for the development and enforcement of procurement and contract procedures for all College expenditures and contract management.

Pursuant to Arizona Revised Statute 41-2501, political subdivisions are not subject to Arizona’s State Procurement Code, though they may adopt all or some of the Code. Yavapai County Community College District (doing business as Yavapai College and herein referred to as “the College”) is a political subdivision of the State and its District Governing Board has not adopted all of the Code. Yavapai College’s Procurement and Contract Services Procedures substantially follow the Arizona State Procurement Code, which is a compilation of Arizona Revised Statutes.

These procedures should be in sufficient detail to obtain all supplies, services and construction at the lowest cost to the College consistent with the quantity, quality and availability of the items at the time of procure. These procedures also describe the varying contracts and their required processes. It is recognized that every situation cannot be covered in this manual; therefore, if there are special circumstances, please contact Procurement and Contract Services.

1.1 Goals

Support the educational programs of Yavapai College, by obtaining maximum value from the expenditure of College funds.

Promote maximum credibility, efficiency and equity in goods/services received and in relations with requisitioning departments and Suppliers.

Ensure all contracts are compliant to the applicable laws of the State of Arizona and College policy.

1.2 Authority to Commit College Funds

1.2.1 Authorized Persons

The President of the College has delegated the responsibility for procurement negotiations and administration of procurement and contract procedures to the Director of Procurement and Contract Services. Only the Director of Procurement and Contract Services and those persons designated by that Director are authorized to commit the College’s funds in the procure of goods, services and construction. Unauthorized procures may be considered a personal obligation and individuals making unauthorized procures may be personally responsible for those procures (see 3.14 Unauthorized Procures).

1.2.2 Purchase Card (P-Card) Authority

Individuals who have been issued a purchase card (P-Card) have, in effect, been granted authority by their Budget Managers and the Director of Procurement and Contract Services to act as agents or representatives, on their behalf, for the procure of goods and services.

2.0 ADMINISTRATIVE PROCUREMENT PROCURES

2.1 Procurement and Contract Services

Procurement and Contract Services organizes and administers procurement and contract services for all units of the College. In providing these services in accordance with sound business practices, Procurement and Contract Services seeks to achieve the maximum value for every dollar expended.

To achieve this, the Procurement and Contract Services has the responsibility for the following:

1. Secure competitive bids or proposals whenever possible to obtain maximum value from the expenditures of College funds.
2. Provide consistent updates of current contracted Suppliers.
3. Maintain communication with Suppliers on behalf of the College.
4. Coordinate the procurement of goods, services and construction for all units of the College from responsible and responsive Suppliers.
5. Develop strategic sources of supply to assure that the College has an adequate number of Suppliers from which to obtain goods, services and construction.
6. Final authority on selection of Suppliers for all procures.
7. Review and approve all contracts, agreements, including but not limited to intergovernmental agreements (“IGA’s”), memorandums of understanding (“MOU’s”), etc. to confirm they are in the best interest of the College.
8. Sign contracts and agreements on behalf of the College. Exceptions include: Intergovernmental Agreements covered in paragraph 6.5 and Leases paragraph 6.6 which are submitted to the District Governing Board for approval and signature by the District Governing Board Chair.
9. Administer the Purchase Card Program.
10. Conduct training for new Purchasing Liaisons and Budget Managers and host periodic group training sessions.
11. Offer updated Procurement and Contract Services Procedures, guidelines, training materials and forms on the College’s Procurement and Contract Services website.
12. In accordance with the authority delegated to Procurement and Contract Services all procures, irrespective of the sources of funding, will be governed by the procedures outlined in this manual.

2.2 Purchasing Liaisons

The Purchasing Liaison is the designated person responsible for small dollar procurements within each department. The duties of a Purchasing Liaison include, but are not limited to the following:

1. Understand and follow all purchasing, procurement and contract procedures.
2. Ensure that all College personnel in their respective departments also adhere to all purchasing, procurement and contract procedures.
3. Be fiscally responsible with College funds.
4. Attend all mandatory training sessions including all Banner requisition training.
5. Know what method should be used for each procure (per dollar thresholds) such as P-Cards, check request forms or Banner requisitions.
6. Contact other departments as necessary for approval depending on the type of procure (i.e. furniture/electrical requirements/installation – Facilities; software – ITS; etc.)
7. Utilize contracted (College, State of Arizona, and cooperative) Suppliers whenever possible.
8. Complete requisitions in the Banner system with all required information; send back-up documents to Procurement and Contract Services (referencing the Banner requisition number) to be included in the purchase order file.
9. Track electronic budget approvals for all requisitions (Budget Manager, VP, and President as required).
10. Complete the P-Card Monthly Transaction Detail Report on the JP Morgan Website and return all backup receipts and other documents to the Business Office on or before the 20th of the following month.
11. Forward all contracts, agreements, IGAs, MOUs, etc. to Procurement and Contract Services for review and possible signature with pertinent information.

2.3 Budget Manager

The Budget Manager is responsible for planning and approving the spending of a department's budget. The Budget Manager does not have purchasing authority, but works with the Purchasing Liaison to approve budget spending. It is the responsibility of Budget Managers to:

1. Review and adhere to all purchasing, procurement and contract procedures and confirm that all College personnel in their respective departments also adhere to all purchasing, procurement and contract policies and procedures.

2. Review and approve all requisitions in the Banner system and manage all budget areas within their area of responsibility.

2.4 Other Staff and Faculty

Other staff and faculty do not have purchasing authority, and must work with the department's Purchasing Liaison to procure goods and/or services.

3.0 PROCUREMENT AND CONTRACT SERVICES GENERAL INFORMATION

3.1 Quality Standards

The responsibility to determine specifications for utility and quality rests with the end user (the department responsible for the performance or use of the materials). The quality of a product is determined by balancing two major factors, the technical consideration of suitability and the economic considerations of price and availability. The responsibility to question and to require justifications for that assessment is the responsibility of Procurement and Contract Services.

3.2 Bidder List

Procurement and Contract Services determines the bidder list based on the type of solicitation and estimated total spend amount. For procurements between \$5,000 and \$50,000, Purchasing Liaisons need only provide a single quote or list of specifications as required backup to a requisition. Procurement and Contract Services will then analyze the specifications to determine best value sourcing options for multiple quotes or contract options. The requesting party, consultants, directories of suppliers, and internet research are some of the resources available to provide this information. The College may also solicit quotes via the State Procurement Office's web-based purchasing portal, The Arizona Procurement Portal (APP).

Prospective Suppliers can request to be added to the directory of suppliers by completing the online Supplier Registration Form on the Procurement and Contract Services website; however, it will be left to the Buyer's discretion to determine what resource(s) to utilize when compiling the bidder list for each specific solicitation. For procurement of goods, services or construction anticipated to be \$50,000 or more, the Buyer will utilize APP to select suppliers via NIGP (The Institute for Public Procurement) Commodity Code(s).

3.3 Selection of Suppliers/Sources

Suppliers are selected for their capability to serve the needs of the College in the most economical and efficient manner possible. Procurement and Contract Services will evaluate Supplier performance and maintain pertinent records.

Departments are encouraged to suggest sources of supply. Authority for the final selection of the Supplier is the responsibility of Procurement and Contract Services. Decisions will be made that are in the best interest of the College. Procures from individuals, classified advertisements (e.g. Craigslist) and on-line auction websites (e.g. eBay) require prior approval from the Director of Procurement and Contract Services.

3.4 Supplier Performance

When Suppliers do not perform in a satisfactory manner per the contract, it is the responsibility of the requisitioning unit involved to notify Procurement and Contract Services in writing, giving details of the non-performance. Procurement and Contract Services will then take appropriate action to rectify the problem and document the performance history accordingly.

3.5 Criteria for Capital Asset Procures

Equipment procures of \$5,000 or more must be procured from the Plant Fund (Fund # 9100). Criteria for capitalization of equipment include the following, the item will:

- a. Have a unit cost of \$5,000 or more, including tax, shipping and set-up costs.
- b. Have a useful life of one year or more (not a consumable item).
- c. All new construction and renovations with a cost of \$5,000 or more.

3.6 Purchasing Used Equipment

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

- a. The requestor has inspected the equipment.
- b. The equipment is in proper working order.
- c. The equipment meets the needs of the user.
- d. It is in the College's best interest to procure the used equipment.
- e. A determination as to price reasonableness.

The statement must be reviewed and approved by the Director of Procurement and Contract Services. Methods of maximizing competition, within reason, are to be implemented by the Procurement and Contract Services staff with the approval of the Procurement and Contract Services Director. Procures of used equipment in excess of \$50,000 must adhere to the competitive bid process.

3.7 Sales Tax

3.7.1 In-State and City Sales Taxes

The College is responsible for the payment of all applicable sales or use taxes, as required within the State of Arizona.

3.7.2 Sale Use Tax (Out-of-State Procures)

The College is responsible for payment to the State Department of Revenue for any procures from suppliers or suppliers outside of Arizona. This tax is called a State Use Tax. This expenditure is estimated on the purchase order if sales tax was not included as part of the quote.

3.8 Procurement and Contract Services Records

All procurement and contract records will be retained and disposed of in accordance with records retention guidelines and schedules approved by the Department of Library, Archives, and Public Records and the Arizona State Procurement Office.

3.9 Insurance Requirements of Both Parties

Prior to the commencement of any work or services for the College regardless of dollar amount, evidence of appropriate insurance coverage must be submitted by the Supplier to Procurement and Contract Services. The College will not provide insurance coverage to any party without a fully executed contract.

3.10 Government Surplus

The College shall follow Arizona State Statute 41-2602 when disposing of all College equipment.

3.11 Sales Representatives, Demonstrations and Sample Materials

College personnel who have direct contact with sales representatives are reminded that they are representing the College and to conduct business in a professional manner. They are not to verbally authorize any purchasing and are to advise the prospective Supplier that a purchase order will be issued by the authorized Procurement and Contract Services representative should a purchasing decision be made.

College personnel who would like to invite suppliers for on-site visits or request samples or on-site demonstrations must contact Procurement and Contract Services in advance for assistance. Suppliers are to provide proof of insurance coverage for any equipment and/or material left at the College.

3.12 Prepayment for Goods and Services

Advance payments or prepayments should be avoided whenever possible. Standard procedure is goods and services provided to Yavapai College are paid for after receipt. The College provides prepayment only for established industry standards and very limited procures such as memberships, metered postage, customized goods, and maintenance/license agreements. On occasion, it may be necessary to provide **known and reputable** Supplier with a prepayment.

In all cases the prepayment must be in the best interest of the College i.e. timely completion of construction, production/delivery of specialized equipment. In such cases, the requestor must provide the following to Procurement Contract Services for review:

3.12.1 Written documentation stating why this firm is the best option despite the prepayment requirement. Documentation shall include the specific need for prepayment.

3.12.2 Invoice (or written confirmation of total cost, including all associated costs) for the full amount of the advance payment prior to the issuance of the

advance payment. Subsequent payments (if applicable) will require additional invoices that can be provided after placing the order.

3.12.3 Upon review by the Procurement and Contract Services representative, which will include reference checks, Better Business Bureau rating verification, and financial stability inspection, a requisition may be issued upon approval from the Director of Procurement and Contract Services and the Controller.

3.12.4 The requisitioning department is responsible for tracking the goods/services associated with the advance payment to insure expected goods/services are delivered per the documentation.

3.13 Personal Orders

Procurement and Contract Services cannot issue purchase orders for personal procures. Suppliers are under no obligation to offer discounts to individuals, and if they do so it must be with the understanding that their offer places Procurement and Contract Services under no obligation to do business with them except under these Procurement and Contract Services Procedures.

3.14 Unauthorized Procures

Procures and or contracts that are in violation of the College's Procurement and Contract Services Procedures are considered serious offenses and will require completion and signatures on the Unauthorized Commitment (UAC) form. Unauthorized procures may be considered a personal obligation and individuals making unauthorized procures may be personally responsible for those procures (ARS 34-154).

3.15 Official Functions

Food/beverages procured for Official Functions requires an Official Functions form to be approved prior to procure in accordance with the guidelines below.

Recognizing that there are certain occasions when providing meals or refreshments is appropriate and in the best interest of the College, the following guidelines are examples of permissible events:

3.15.1 A Professional Development Activity

An entire group or major segment of the group is involved. Examples are faculty and staff in-service days.

3.15.2 Invited Guests from outside the College

An activity at which the College acts as host to invited guests from outside the College. This is limited to situations where there is specific benefit to the College such as advisory committees.

3.15.3 District Governing Board (DGB) meetings

DGB meeting that are held during meals hours, except for College employees.

Recognizing that no set of guidelines can respond to all circumstances, the President or his/her designee may approve, on a case-by-case basis, food requests not contemplated by these guidelines.

Food items not considered part of the Official Functions policy includes: food supplies for cooking classes, food procured for resale by clubs or other College departments, meals for athletic teams when the College food service is closed, campus life programs, meals provided in fees paid by participant, and food provided per contract to non-College groups.

A requisition for Official Functions must be submitted to Procurement and Contract Services if the total event expense for the fiscal year is \$5,000 or more. Check requests through Accounts Payable are required for expenses under \$5,000.

3.16 Conflict of Interest

The College as a general rule does not procure goods or services, or enter into any type of contract with students, faculty, staff or members of their immediate families. An acquisition from a business or individual in which an employee or an employee's immediate family member has an interest is prohibited unless full disclosures of the background facts are presented in writing to the Human Resources Department, who will forward a copy of the form to Procurement and Contract Services. Regardless of the total dollar amount, Procurement and Contract Services will solicit a minimum of three quotes. The employee with a conflicting interest will have no influence on the final decision for award. Interest is deemed present if the employee and/or his or her spouse or un-emancipated minor children own ten percent or more of the assets of a business. *Direct procure by College staff or faculty from a company they have personal interest in is strictly prohibited.*

4.0 METHODS OF SOURCE SELECTION

4.1 Check Request

A check request must be used for services under \$5,000 via individuals whom the College is paying as an independent contractor. A check request may also be used with those Suppliers that do not accept a P-Card for procures under \$5,000; however, these situations should be rare.

4.2 Purchase Card (P-Card)

Purchasing Liaisons will be issued a purchase card (credit card) upon completion of Purchasing Liaison training. This card may be used to procure items with a cost under \$5,000.

Procures of \$5,000 or more may be paid with an Accounts Payable purchase card; however, these procures will be reviewed on a case-by-case basis. If there is an item

that needs to be paid by P-Card and the item is \$5,000 or more, a requisition/purchase order will need to be generated.

Misuse of P-Card. Utilizing the P-Card for unauthorized items/services, split transactions or for personal items/services is a violation of the current procedures and will be dealt with in accordance to established procedures set forth in the Purchase Card Procedure Manual including and up to termination.

Please see the Purchase Card Procedure Manual for more details.

4.3 Requisition/Purchase Order

The initial tool to request a procure is a requisition. A requisition serves a dual purpose: it provides a clear and complete description of the requisitioning unit's need and it transmits authority to Procurement and Contract Services to expend the requisitioning unit's funds.

All requests to procure that are over the P-Card/check request threshold of \$5,000 must be processed through Procurement and Contract Services via a Banner requisition regardless of the sources of funds. Staff or faculty that obligate the College without proper authority may be held personally responsible for all amounts owing.

Budget Managers are allocated funds in their department budgets for a given period; this allocation is only an authority to request, not to procure. Each department is assigned an account number or numbers by Business Services. All requisitions must carry the complete number of the account - Fund Organization Account Program (FOAP).

Additional approval(s) may be required on some requisitions for specialized items, regardless of dollar amount; such approvals may be made via an e-mail to the Purchasing Liaison and/or Buyer:

- a. Any procure with Terms & Conditions and/or contract needs to be reviewed by Procurement and Contract Services.
- b. Printing (except business cards, letterhead and envelopes): advertising media and promotional services require prior approval from the Marketing Department.
- c. Any item that will take up floor space (indoors and outdoors), uses electricity, or office furniture requires prior approval from Facilities.
- d. Telephones, computer software or hardware require prior approval from ITS.
- e. Photocopy equipment requires prior approval from Mail Print and Distribution Services.
- f. Items procured that may affect other departments.

The process is as follows:

1. Requisition is completed in Banner by the department's Purchasing Liaison including recommended Supplier, adequate description of goods and/or

services requested, actual or estimated cost including tax and shipping, date Supplier can deliver, budget information for payment and department name and location for delivery; and additional approvals (if required). All required backup is forwarded to Procurement and Contract Services noting the associated requisition number.

2. Requisition is electronically transmitted to the Budget Manager for review and approval. Their approval confirms they have funds within their area to cover all costs and is coded correctly. The requisition continues through the approval process in Banner until approved by all required parties.
3. Requisition is transmitted to Procurement and Contract Services electronically who reviews all information, reviews backup submitted by the Purchasing Liaison, confers with suggested Supplier when necessary, and creates a purchase order in Banner based on the best value for the College.
4. A purchase order is completed in Banner and sent to the Supplier (Terms and Conditions are available on the College's Procurement and Contract Services website). Upon acceptance by the Supplier the document becomes a contract to procure. Only Procurement and Contract Services is authorized to assign a purchase order number to a requisition.
5. Item is delivered to Mail, Print and Distribution Services (referred to from here on as Receiving), or designee, verified against purchase order, received in Banner and delivered to the department by Receiving. The end user checks and accepts goods.
6. Invoice is received by Accounts Payable and entered into Banner, checked against Receiving and Procurement and Contract Services documents; if all documents match a check is created and mailed to Supplier based on payment terms.

4.3.1 Standing Orders

Standing order purchase orders may be issued for a specified time period at an estimated dollar amount to encumber funds, and/or establish an arrangement with a Supplier for a period of time.

These types of purchase orders have other names such as "Blanket", "Open", "Requirements", "Indefinite Delivery, Indefinite Quantity." Standing Orders should not be used for Capital Asset items, unless approved by the Business Office.

A Standing Order must be used rather than repetitive P-Card orders or check requests that will total more than \$5,000 in a fiscal year. This type of purchase order is useful for paying for contracts, services or goods that will be invoiced frequently.

4.3.2 Change Orders

The initiating department may request a change order via email sent to Procurement and Contract Services specifying the applicable purchase order number and necessary changes. Approval for a change order request will follow the same approval requirements set up in Banner based on the new total value of the purchase order.

At a minimum, all purchase order change order requests that increase the dollar amount must be approved by the Budget Manager. The purchase order should always be a match with quantities, unit pricing and the description of items. Any changes to a purchase order must be requested in writing and subsequent change order must be issued prior to fulfillment by the Supplier.

A change order may not be required if the change is less than 10% and is due to estimated costs such as shipping and/or taxes. This determination will be made by Procurement and Contract Services.

4.4 Sole Source Procurement

A contract may be awarded for a material, service or construction without competition if the Director of Procurement and Contract Services determines in writing that there is only one source for the required material, service or construction. The Director may require the submission of cost or pricing data in connection with an award under this section. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. A written determination of the basis for the sole source procurement shall be included in the contract file.

The determination shall include the following information:

1. A description of the procurement need and the reason why there is only a single source available or no reasonable alternative exists;
2. The name of the proposed supplier;
3. The duration and estimated total dollar value of the proposed procurement;
4. Documentation that the price submitted is fair and reasonable; and,
5. A description of efforts made to seek other sources.

For procurements \$50,000 or more, Procurement and Contract Services shall send notice to registered suppliers on the Arizona Procurement Portal (APP) to invite comments on the sole-source notice for three working days. Following this period, the Director shall either:

1. Issue written approval via determination, with any conditions or restrictions;
or
2. Deny the request if input or information received shows that more than one source is available or a reasonable alternative source exists for the procurement need.

When possible, Procurement and Contract Services will enter into negotiations with sole source suppliers to obtain best pricing.

4.5 Single Source Procurement

This is a procurement decision whereby procures are directed to one source because of standardization, warranty or other factors, even though other competitive sources may be available. This situation makes it impossible to obtain competitive bids.

When possible, Procurement and Contract Services will enter into negotiations with single source Supplier to obtain the best pricing. The College requires documentation from the requisitioning unit to justify why the procure is a single source. Final responsibility in determining single source rests with Procurement and Contract Services.

4.5.1 Certain types of professional services

Consulting and legal services may be obtained up to \$25,000 in expenditures in any fiscal year without the requirement for three written quotations being met.

Further, for certain professional services that require specialized expertise in those matters where it is deemed to be crucial that the College obtain the optimum outcome, and/or which may have a significant financial impact on the College, the College may contract with firms or individuals for needed services up to \$100,000 without obtaining competitive quotes.

For the needed services, they may be obtained by written determination approved by the Director of Procurement and Contract Services up to \$25,000, and requiring the approvals of the Vice President of Financial and Administrative Services between \$25,000 and \$50,000, and the President between \$50,000 and \$100,000.

4.5.2 Consideration of Overall Impact to College

Extension of existing commodities or services contracts determined to be in the best interest of the College due to available internal resources and overall impact of change may be considered Single Source Procurement. Such procures will require a justification of determination completed by the requesting department and approved by the Director of Procurement and Contract Services. The determination must include a proposed timeframe for considering other sources.

4.5.3 Other Procures Exempt from Competition

These procures, should be documented as “Justified per Procedure 4.5.3 (and list the appropriate letter).” The College should incorporate as much competition as is feasible and negotiate a suitable agreement when pursuing the following procures:

- a. Printing of publications and forms that involve proprietary art work or repeat orders where the Supplier has retained the design or format.
- b. Testing services.
- c. Maintenance, service, supplies and parts that are required by contract, warranty or to ensure system integrity.
- d. Material or equipment selected after a test of competitive brands.
- e. Expenses associated with training or educational courses provided by the College or experiential educational training or programs (e.g. apprenticeships, internships) provided for students of the College. Instructional courses are selected based on capability, course content and teaching ability by appropriate College administrators.
- f. Media or newspaper advertising which is based on area covered or target audience.
- g. Membership dues and subscriptions.
- h. Facility and equipment rentals. Based on applicability of locality, capacity, and availability.
- i. Procure of used or reconditioned equipment when determined to be the best value for the College.
- j. Appraisals and/or procures of real estate.
- k. Expenses paid to city, state, and government agencies.
- l. Performing and visual artists.
- m. Contractual services where no competition exists, such as electrical energy, telephone service, and other public utility services.
- n. Works of art for museum and public display.
- o. Contracts for group life insurance, group health and accident insurance, group professional liability insurance, worker's compensation insurance, and unemployment insurance.
- p. Procures of books and periodicals from the publishers or copyright holders.

4.6 Joint Purchasing/Purchasing Cooperatives/Purchasing Consortia

Procurement and Contract Services is authorized to enter into procurement agreements with the State of Arizona, cities, counties, other public agencies, colleges or universities, and any purchasing cooperative which utilizes a competitive bid process for the purpose of joint bidding and/or utilizing any competitively bid contract. Cooperative Contract Compliancy Due Diligence Documentation will be completed for ensuring consistency with Yavapai College Procurement and Contract Services Procedures. This method will meet all responsibilities for effective competitive purchasing.

4.7 General Services Administration (GSA) Contracts

Procurement and Contract Services may procure products or services using General Services Administration (GSA) schedules or contracts under the following conditions:

- a. Use of the GSA contract or schedule is cost effective and in the best interest of the College;

- b. Price is equal to or less than the Contractor's current GSA price;
- c. Price is fair and reasonable;
- d. Contractor is willing to offer GSA pricing and terms to the College;
- e. Comparable products or services are not available under a state or cooperative contract;
- f. Comparable products or services are not restricted under a set-aside contract;
- g. Contractor accepts required College contract terms and conditions.
- h. The Director of Procurement and Contract Services shall make a written determination that use of the GSA contract or schedule is in the best interest of the College. The determination shall contain the following:
 - 1. Name of the contractor;
 - 2. GSA contract or schedule number;
 - 3. Procurement description;
 - 4. Analysis of price, quality, and other relevant factors; and
 - 5. Statement that the price is fair and reasonable.

4.8 Emergency Orders

This is a procure made due to an unexpected and urgent request where health and safety or the conservation of public resources is at risk. Usually formal competitive bidding procedures are waived. Emergency orders must be kept to a minimum and require approval from the Vice President of Financial and Administrative Services. Failure to anticipate a need is not, of itself, considered a bona fide emergency.

The Purchasing Liaison in the requesting department may send Procurement and Contract Services an email requesting an authorization to procure. This email should contain:

- a. The actual or estimated cost
- b. Written (email) approvals as required by the dollar value of the procure
- c. State the nature of the emergency
- d. Include the Supplier's name; contact person's: name, number and email
- e. A current W-9 if needed

Under circumstances where it is not possible to create a requisition and issue a purchase order prior to order fulfillment, a confirming requisition must be completed within three business days after the emergency request following all other procurement and contract procedures.

4.9 Competition Impracticable Procurements

This a procure made when a procurement requirement exists which makes compliance with Procedures 5.1.2, 5.2, and 5.3 impracticable, unnecessary, or contrary to stakeholder interest, but which is not an emergency under Procedure 4.8. Procures with a documented lack of available suppliers in the marketplace and which require an open and continuous availability of offerors may be procured by this method. For procures to qualify under a competition impracticable procurements, a

determination signed by the Director of Procurement & Contract Services is required. The determination must contain the following:

1. An explanation of the competition impracticable need and the unusual or unique situation that makes compliance with Procedures 5.1.2, 5.2, and 5.3 impracticable, unnecessary, or contrary to stakeholder interest.
2. A definition of the proposed procurement process to be utilized and an explanation of how this process will foster as much competition as is practicable.
3. An explanation of why the proposed procurement process is advantageous to YC.
4. The scope, duration, and estimated dollar value of the procurement need.

4.10 Expenditure of Grant Funds

Procures made with grant funding will follow all applicable guidelines as outlined in the granting agency's letter of award. For federal grants this may include, but is not limited to, following the guidelines outlined by the Uniform Guidance located in Title 2 CFR Part 200. Procurement and Contract Services will work closely with the grant program manager and the Business Office to obtain any relevant documentation needed to verify allowable expenditures and purchasing requirements of the grant. This is to ensure a joint effort that all procures are in compliance with state, federal or other applicable requirements. Ultimately, it is the grant program manager's responsibility to provide this information to Procurement and Contract Services.

Once a procure is deemed to be allowable and compliant with all state, federal or other requirements, Yavapai College Procurement and Contract Services Procedures are to be followed for the procurement and contract process. When creating a requisition for a federal grant, the following statement needs to be included as a printed comment on the requisition: "By authorizing this expense, I certify to the best of my knowledge and belief that the expenditure and/or disbursement are for the purpose and objective set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (§200.415 Required certifications. U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

For all Suppliers being paid more than \$25,000 in federal monies, Procurement and Contract Services will verify they have not been suspended or debarred from doing business with governmental entities before incurring expenditures. This verification is accomplished by checking the Excluded Parties List System (EPLS) maintained by the General Services Administration, obtaining Supplier certification, or adding a clause or condition to the contract regarding suspension and debarment.

5.0 THRESHOLDS AND PROCESSES

The following thresholds and processes are established to serve the public purpose, further the goals of the College and shall withstand public scrutiny. Split procurements to avoid the appropriate processes are prohibited. A split procurement is defined as the procurement of a single item costing \$5,000 (including shipping and tax) with the procurement being divided (split) into more than one transaction; or, the procurement of a group of items totaling more than \$5,000 (including shipping and taxes) for a single procurement need. A single procurement need identifies a group of items that are similar enough in nature to be procured from a single source that are all known to be needed at the time of the first procurement transaction. Procurements cannot be deemed as separable based on multiple deliveries, locations, nor different FOAPs.

The practice of issuing a series of P-Card transactions or requisitions for placing multiple orders during a fiscal year to the same Supplier for the same commodity or service in order to avoid the appropriate competitive solicitation or approval process is prohibited. Violations of this procedure will require submittal of a P-Card Split Transaction (PST) form with required signatures. Department representatives are required to contact Procurement and Contract Services in the event an additional order increases annual departmental spend to a specific Supplier over a threshold amount.

5.1 Requests for Quotation (RFQ)

While Liaisons are not required to request multiple quotes for procurements under \$5,000 if more than one quote is requested please adhere to the “Confidentiality of Quotations”: Price quotations are given to the College in confidence and shall not be revealed to any other Supplier or unauthorized person until after the procurement/contract is executed. College personnel:

- a. are **not** to provide pricing from one Supplier to another to achieve better pricing from either.
- b. are **not** to discuss any aspect of the bid process with any Supplier until after a contract is awarded.
- c. will only speak to current Suppliers, who are part of a solicitation process, specifically about current work.

5.1.1 Procurements under \$5,000

The P-Card can be used to procure items up to \$4,999. A check request must be used for individuals whom the College is paying as an independent contractor. Exceptions:

- a. Procedure 3.16 requires competitive bidding for all procurements in consideration directly from employees and their immediate families, regardless of dollar amount.

5.1.2 Procurements between \$5,000 and \$50,000

Purchasing Liaisons need only provide a single quote or list of specifications as required backup to a requisition. Procurement and Contract Services will then analyze the specifications to determine best value sourcing options for obtaining at least three quotes or contract options. If three quotations cannot be obtained, documentation showing Suppliers contacted but not offering

price quotations, or an explanation of why price quotations were not obtained will be provided. Procurement and Contract Services reserves the right to request modified quotations from Suppliers, and/or additional quotes from other Suppliers. Procurement and Contract Services determines final Supplier selection. The College will award a purchase order to the lowest quote which conforms to the quote request.

All relative charges, including shipping/handling, installation, travel expenses, etc. shall be included in the determination of award of purchase order. However, sales or use tax of a political subdivision of the state will not be a factor in determining the best value sourcing option.

Exception:

- a. Three quotes do not need to be obtained if the item(s) and/or service(s) can be obtained under a College, State of Arizona, or cooperative contract where competitive bidding has been previously achieved.

5.1.3 Exceptions for Certain Procures between \$5,000 and \$10,000

For certain goods and services procures, YC representatives are not required to request multiple quotes for procures under \$10,000. Procure exceptions:

- a. Specific to unplanned or urgent repairs and improvements necessary for optimal building/plant operations when time is of the essence.
- b. When paramount in the best interests of the College to procure goods and services available only from a single or limited number of local suppliers.
- c. Native or adapted plant life necessary to preserve and enhance the natural landscape for sustainable environmental health.
- d. Software that is only available manufacturer-direct or from a single source distributor when impracticable to solicit quotes for similar software.

5.2 Invitation for Bid (IFB)

For procures over \$50,000, also known as competitive sealed bids, in which price is the determining factor. Invitation for Bids (IFBs) are solicited by Procurement and Contract Services via APP, the State of Arizona's online procurement portal.

A "responsible" Supplier is one who has the capability to perform the required service(s) or deliver the desired products(s). A "responsive" Supplier is one who submits a bid that conforms in all material aspects to the bid request.

The College will award a contract to the lowest responsible and responsive bidder. All relative charges, including shipping/handling, installation, travel expenses, etc. shall be included in the determination. However, sales or use tax of a political subdivision of the state will not be a factor in determining the lowest bidder. IFBs do not generally require the assistance of an evaluation committee.

The IFB shall include the following:

- Instructions and information to Suppliers concerning the submission requirements via APP including time and date for receipt of questions and bids, relevant Appendices and any other information.
- The procure description, delivery or performance schedule (if applicable), and such inspection and acceptance requirements.
- The contractual terms and conditions as applicable to the procures such as: insurance; warranty; bonding; security requirements; etc.

5.2.1 Proposal Time

The proposal time is the period of time between the date of publication of the IFB and the time and date for receipt of bids. In each case, a bid 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 procure as determined in writing by the Director of Procurement and Contract Services.

5.2.2 Proposal Submissions

The IFB document shall provide a form or format in which the bidder shall include all pertinent information relative to the goals of the IFB. The bidder shall sign and submit all necessary information called for in the Invitation for Bid document via APP.

5.2.3 Public Notice

Adequate public notice of the availability of the IFB shall be furnished to a sufficient number of bidders for the purpose of securing competition. Public notice of the IFB shall be at least 14 days prior to the date set for receipt of bids by posting on the APP website unless a shorter time is deemed necessary for a particular procure as determined by the Director of Procurement and Contract Services. Public notice may also be published in a newspaper of general circulation or on other appropriate websites, or both.

5.2.4 Pre-Proposal Conferences

Pre-proposal meetings may be conducted to explain the procurement requirements. They shall be announced to all prospective Suppliers known to have received an IFB. The meeting shall be held long enough after the IFB has been issued to allow bidders to become familiar with the document, but sufficiently before receipt of bids to allow consideration of the conference results in preparation of their bid.

Generally, the receipt of bids will be no sooner than seven calendar days after the pre-bid meeting. Any exceptions must be granted in writing by the Director of Procurement and Contract Services. Nothing stated at the conference shall change the IFB unless a change is made by written amendment.

5.2.5 Amendments to Invitation for Bid

Amendments to an IFB shall be identified as such and provided via APP. The amendment shall reference the part of the IFB that it amends. Amendments 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 does not permit sufficient time for bid preparation, the date and time of the bid opening shall be extended in the form of an amendment.

5.2.6 Withdrawal and Modification of Bids

Withdrawal or modification of bids is acceptable if the notification of withdrawal or modification is received prior to the deadline for receipt of the bids at the designated location. All documentation relating to a bid withdrawal or modification shall be kept as part of the solicitation file.

5.2.7 Late Bids

A bid, a request for withdrawal of bid, or a modification of bid is late if not received through APP by the time and date listed in the IFB. Late bids, late withdrawal of bids, or late modifications will not be submittable through APP and shall be rejected

5.2.8 Receipt of Bids

Bids and bid modifications shall be received online through APP and remain unopened until the bid opening. Bids shall be electronically opened publicly at the time, date, and location advertised in the bid document. The name of each bidder and other pertinent information shall be viewable in the Procurement and Contract Services conference room.

5.2.9 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 Procurement and Contract Services shall not be included in the materials available for public inspection.

5.2.10 Mistakes and Informalities in Bids

Suppliers are responsible for the accuracy of their quoted prices. Where applicable, in the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern. 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. If an error is discovered after an opening, the Director of Procurement and Contract Services may permit a bidder to correct a mistake if the mistake is evident in the uncorrected bid. The Director shall not permit a correction that is prejudicial to the College or fair competition.

After an order has been issued, no bid may be withdrawn or amended unless the College considers the change to be in its best interest. The College reserves the right to reject any and all bids, or parts of bids, or to waive any informalities, and to select the bid that, in its opinion, best serves the needs of the College.

5.2.11 Bid Evaluation and Award

Award will be issued to the lowest responsive and responsible bidder whose bid meets, in all material respects, the requirements and criteria as defined in the IFB.

5.2.12 Tie Bids

Tie bids are defined as instances of identical pricing from responsible bidders that meet all the 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 College to ascertain that the tie bidders meet all requirements as outlined in the IFB document before declaring a tie bid situation.

Records and methods of determining the successful bidder shall be maintained in the solicitation file.

5.2.13 Single Proposals

In instances of only one proposal being received, a determination must be made by the Director of Procurement and Contract Services that the proposal submitted is fair and reasonable and that other prospective Suppliers 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 Procurement and Contract Services 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 procure may be conducted in a manner as defined by the Director of Procurement and Contract Services.

5.3 Request for Proposals (RFP)

Procures of goods and services in the aggregate amount of \$50,000 or more in a fiscal year that cannot be awarded by price alone shall be procured through the use of a Request for Proposal (RFP) process. This process may also be used for lower dollar procures if deemed as the best solicitation option as approved by the Director of Procurement and Contract Services. Request for Proposals are solicited by Procurement and Contract Services via APP.

The evaluation of proposals is based on various criteria. Pricing is a factor, but generally is not the only determining factor. Consideration is also given, but not limited to: specifications, warranties, liabilities, quality, performance/references, experience, lead-time, delivery, etc. The specific criteria will be listed in the proposal and a committee composed of College staff and/or faculty shall be designated for the purpose of evaluating the proposals.

The RFP shall include the following:

- Instructions and information to Suppliers concerning the submission requirements via APP including time and date for receipt of questions and bids, relevant Appendices and any other information.
- The procure description, evaluation factors, delivery or performance schedule (if applicable), and such inspection and acceptance requirements.
- The contractual terms and conditions as applicable to the procure such as: insurance; warranty; bonding; security requirements; etc.

5.3.1 Proposal Time

The proposal time is the period of time between the date of distribution of the RFP and the time and date for receipt of proposals. In each case, a proposal time shall be set that affords Suppliers 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 procure as determined in writing by the Director of Procurement and Contract Services.

5.3.2 Proposal Submissions

The RFP document shall provide a form or format in which the Supplier shall include all pertinent information relative to the goals of the RFP. The Supplier shall sign and submit all necessary information called for in the RFP document online via APP.

5.3.3 Public Notice

Adequate public notice of the availability of the RFP shall be furnished to a sufficient number of bidders for the purpose of securing competition. Public notice of the RFP shall be at least 14 days prior to the date set for receipt of proposals by posting on the APP website unless a shorter time is deemed necessary for a particular procure as determined by the Director of Procurement and Contract Services. Public notice may also be published in a newspaper of general circulation or on other appropriate websites, or both. In addition, proposals may be solicited directly from potential Suppliers.

5.3.4 Pre-Proposal Conferences

Pre-proposal meetings may be conducted to explain the requirements. They shall be announced to all prospective Suppliers known to have received a RFP. The meeting shall be held long enough after the RFP has been issued to allow Suppliers 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 Procurement and Contract Services. Nothing stated at the conference shall change the RFP unless a change is made by written amendment.

5.3.5 Amendments to Requests for Proposals

Amendments to Requests for Proposals shall be identified as such and provided via APP. The amendment shall reference the part of the RFP that it amends. Amendments shall be issued within a reasonable amount of time for potential Suppliers 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 amendment.

5.3.6 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 solicitation file.

5.3.7 Late Proposals

A proposal, a request for withdrawal of proposal, or a modification of proposal is late if not received through APP by the time and date listed in the RFP. Late proposals, late withdrawal of proposals, or late modifications will not be submittable through APP and shall be rejected.

5.3.8 Receipt of Proposals

Proposals and proposal modifications shall be received online through APP, and remain unopened until the proposal opening. Proposals shall be electronically opened publicly at the time, date, and location advertised in the proposal document. The name of each Supplier shall be viewable in the Procurement and Contract Services conference room.

5.3.9 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 Supplier and approved as such by the Director of Procurement and Contract Services shall not be included in the materials available for public inspection.

5.3.10 Mistakes and Informalities in Proposals

Suppliers are responsible for the accuracy of their quoted prices. Where applicable, in the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern. 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. If an error is discovered after an opening, the Director of Procurement and Contract Services may permit a Supplier to correct a mistake if the mistake is evident in the uncorrected proposal. The Director shall not permit a correction that is prejudicial to the College or fair competition.

After an order has been issued, no proposal may be withdrawn or amended unless the College considers the change to be in its best interest. The College reserves the right to reject any and all proposals, or parts of proposals, or to waive any informalities, and to select the proposal that, in its opinion, best serves the needs of the College.

5.3.11 Proposal Evaluation and Award

Prior to evaluation of the proposals, a committee shall be designated for the purpose of scoring the written proposal and qualifications of the firms or individuals submitting proposals. The grading criteria will be published in the RFP.

After independent review by each of the committee members, scores will be discussed within the committee who may conduct a discussion of the proposal(s) and explore further evaluation options with the top-ranked firm(s) or individual(s). Alternatively, the committee may choose to award to the most qualified Supplier based upon the written proposal and without further discussion.

5.3.12 Single Proposals

In instances of only one proposal being received, a determination must be made by the Director of Procurement and Contract Services that the proposal submitted is fair and reasonable and that other prospective Suppliers 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 Procurement and Contract Services 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 procure may be conducted in a manner as defined by the Director of Procurement and Contract Services.

5.4 Construction and Construction Consultant-Related Services

5.4.1 Construction services under \$5,000

A P-Card can be used for construction services up to \$4,999.

5.4.2 Construction services between \$5,000 and \$50,000

- a. Facilities need only provide a single quote or list of specifications as required backup to a requisition. Procurement and Contract Services will then analyze the specifications to determine best value sourcing options for multiple quotes or contract options. Procurement and Contract Services reserves the right to request modified quotations from Suppliers, and/or additional quotes from other Suppliers. Purchasing determines final supplier selection.
- b. Three quotes do not need to be obtained if the service can be obtained under a College, State of Arizona, or cooperative contract where competitive bidding has been achieved. This includes job-order-contracting.

5.4.3 Construction procures \$50,000 or more

The College may procure design services, construction and construction services, as applicable under any of the following project delivery methods:

- a. Design-bid-build
- b. Job-order-contracting (JOC)

Alternate Construction Purchasing Methods

- c. Construction-manager-at-risk (CMAR)
- d. Design-build

5.4.4 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.

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 comprehensive compilation of detailed real 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.

Alternate Construction Procurement Methods

Construction-manager-at-risk acts as a general contractor at the contracted-for-price and provides consultation to the College 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 renovate a building or group of

buildings. The intent is for the architect/engineer 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 of Construction Manager at Risk.

5.4.5 Design-Bid-Build

For the design-bid-build project, the College shall procure the design services according to Section 5.9 Architect, Engineer, Land Surveying and Related Services and the construction by competitive sealed bids according to Section 5.2. Invitation for Bid (IFB), except as otherwise provided in Section 4.4 Sole Source Purchasing, Section 4.5 Single Source Purchasing and Section 4.7 Emergency Orders. This applies to all design-bid-build delivery methods that have a combined estimated cost of \$50,000 or more.

5.4.6 Job Order Contracting (JOC)

The Director of Procurement & Contract Services may award job order contracts for job orders estimated to cost \$250,000 or less from State of Arizona or cooperative contracted job order contractors or consultants.

- a. When authorized by the Vice President of Finance & Administrative Services, the Director of Procurement & Contract Services may use job order contracting for orders estimated to cost more than \$250,000 or less than or equal to \$500,000, provided that (1) The Director of Procurement & Contract Services obtains a cost estimate furnished by the Facilities representative for the job order before formally requesting a cost proposal from the job order contractor; (2) The Director of Procurement & Contract Services makes a written determination that award of the job order is in the best interest of YC before awarding a job order.
- b. When authorized by the President, the Director of Procurement & Contract Services may use job order contracting for orders estimated to cost more than \$500,000 or less than or equal to \$1,000,000, provided that (1) The Director of Procurement & Contract Services obtains a cost estimate furnished by the Facilities representative for the job order before formally requesting a cost proposal from the job order contractor; (2) The Director of Procurement & Contract Services makes a written determination that award of the job order is in the best interest of YC before awarding a job order.

5.5 Alternative Construction Purchasing Methods

Professional services and construction services shall be procured with the alternative construction procurement methods as outlined in this section. Exceptions are those instances in which Sole Source Purchasing, Section 4.4, Single Source Purchasing 4.5 or Emergency Orders, Section 4.7 apply. Alternative construction procurement methods as defined in Section 5.4.4, Construction Procurement, are construction-manager-at-risk and design-build.

5.5.1 Definitions

For purposes of this section, "construction services" includes: construction-manager-at-risk construction services and design-build 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 (RFQu) 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, the technical and financial portions of the proposal response will be provided at the same time.

5.5.2 Construction-Manager-at-Risk (CMAR) and Design-Build Contracting

The College shall procure construction and design services under the construction manager-at-risk and design-build project delivery methods according to Section 5.5: Alternative Construction Procurement Methods. The College does not include design services in a job-order-contracting construction services contract. The College shall procure any design services relating to job-order-contracting construction services projects under the contract according to Section 5.6: Architect, Engineer, Land Surveying and Related Services.

If deemed to be in the best interests of the College in a written determination by the Director of Procurement and Contract Services, purchasing of CMAR services may be obtained through a standard Request for Proposals process. Unlike the State purchasing process for CMAR services that does not allow pricing to be submitted as part of the request for qualifications process, the College, as an alternative, may issue a Request for Qualifications with the option of having pricing included in the CMAR.

5.5.3 Procurement of All Alternative Construction Services

For procurement of construction-manager-at-risk and design build, the College shall follow these procedures:

The College shall announce and issue the solicitation according to its normal procedures.

The Buyer shall initiate an appropriately qualified selection committee. The selection committee shall contain the Facilities Project Manager and no more than six additional members selected from College Administration, Facilities/Maintenance and Operations, and representatives of the project's

user groups. A non-voting representative of Procurement and Contract Services will observe all meetings and selection committee activities.

For projects that include construction with selection made on a qualifications basis, while not required, the selection committee may select one person who is a senior management employee of a licensed contractor and one person who is an architect or engineer registered to practice in the State of Arizona. The contractor or design professional may be an employee of the College and will not count against the six college representative limit.

Outside architects, engineers or contractors serving on a selection committee shall not receive compensation for performing this service. A person who is a member of a selection committee shall not be a contractor under a contract awarded under the procurement or provide any professional services, construction, construction services, materials or other services under the contract awarded through this selection.

The selection committee shall:

- a. Independently evaluate and score the written proposals and qualifications submitted by the firms or individuals.
- 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 Procurement and Contract Services 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 the Director of Procurement and Contract Services 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.

5.5.4 The One-Step Competitive Process

Procurement and Contract Services 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 section 5.5.3. Negotiations shall include fees as well as other contractual terms and conditions deemed fair and reasonable and important to the College. Procurement and Contract Services shall take into account the estimated value, scope, complexity and nature of the procurement.

If Procurement and Contract Services is unable to negotiate a satisfactory agreement with the firm or individual considered to be the most qualified, then Procurement and Contract Services 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 Procurement and Contract Services and the contractor agree in writing on a price for the construction portion of the contract.

5.5.5 The Two-Step Competitive Process

As an alternative to the one-step competitive process outline in Section 5.5.4 above, Procurement and Contract Services may utilize the following process:

- A. Procurement and Contract Services shall issue a Request for Proposals to those firms or individuals short-listed as a result of the process outlined above.
- B. The selection committee make up shall remain the same as outlined in sections 5.5.3
- C. For design-build construction services, the Request for Proposals shall include:
 1. Specifically for design-build construction projects, the project schedule, project final design and construction budget or life-cycle budget.
 2. For both types of services, a statement that the contract will be awarded to the firm or person whose proposal receives the highest number of points under a scoring system.
 3. A description of the scoring method, including a list of factors in the scoring method and the number of points allocated to each factor. Those factors may include:
 - a. Proposer's qualifications
 - b. Proposer's financial capacity
 - c. Proposer's proposed compliance with the College's project schedule
 - d. Proposer's quality management plan
 - e. Any other evaluation factors as determined by Facilities/Purchasing and Contracting
 - f. For design-build construction services only, demonstrated compliance with the design requirements
 - g. For design-build construction services only, if the Request for Proposals specifies the District will spend its project budget and not exceed that budget, and thus is seeking the best proposal for the project budget
 4. A requirement that each proposer submit separately a technical proposal and a price proposal and that the proposer's entire proposal is responsive to the RFP. For design-build construction services, the price in the proposal shall be a fixed price or a guaranteed maximum price (GMP).

5. A statement that the selection committee will separately evaluate the technical proposal and the price proposal, and that they will evaluate and score the technical proposal before opening the price proposal.
- D. If determined by Procurement and Contract Services and noted in the RFP, the selection committee or a subcommittee consisting of Procurement and Contract Services and at least one other member may conduct discussions with any or all firms or individuals chosen. Discussions shall be for the purpose of clarification to assure full understanding of the project and responsiveness to the solicitation requirements. Information from proposals submitted and discussions held shall not be disclosed to competing proposers.
 - E. Best and Final Offer submittals may be requested of any or all finalists. These submittals shall contain both technical and financial information. The final technical proposals shall be evaluated and scored first before opening and evaluating and scoring final financial proposals.
 - F. Procurement and Contract Services shall award the contract to the responsive and responsible proposer whose proposal receives the highest score.
 - G. For design-build construction services only, the College shall award a stipulated fee equal to a percentage of the College's project final construction budget, as prescribed in the RFP, but not less than two-tenths of one per cent of the project final construction budget to each short listed proposer who provides a responsive, but unsuccessful, proposal. If the College does not award a contract, all responsive short listed proposers shall receive the stipulated fee based on the College's estimate of the project final design and construction budget as included in the request for proposals. The College shall pay the stipulated fee to each proposer within ninety days after the award of the initial contract or the decision not to award a contract.

In consideration for paying the stipulated fee, the College may use any ideas or information contained in the proposals in connection with any contract awarded for the project, or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the unsuccessful proposers.

Notwithstanding the other provisions of this paragraph, an unsuccessful short list proposer may elect to waive the stipulated fee. If an unsuccessful short list proposer elects to waive the stipulated fee, the College may not use ideas and information contained in the proposer's proposal, except that this restriction does not prevent the purchasing agency from using any idea or information if the idea or information is also included in a proposal of a proposer that accepts the stipulated fee.

5.5.6 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 the Procurement and Contract Services Director concurs in a written determination, trade secrets and other proprietary data contained in a proposal shall remain confidential.

5.5.7 Registrations, Licensure and Project Definition

- a. The successful contractor for construction-manager-at-risk, design-build or job-order-contracting construction services is not required to be registered to perform design services pursuant to Title 32, Chapter 1 of the Arizona Revised Statutes, if the person or firm actually performing the design services on behalf of the contractor is appropriately registered.
- b. Each project under a design-build 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.

5.5.8 College Prohibitions for Design and Construction Services

Notwithstanding anything to the contrary in this procedure, the College shall not:

- a. Enter into a contract as a contractor to provide construction-manager-at-risk construction services, design-build construction services or job-order-contracting construction services to others.
- b. Contract with itself, with another College, with the state or with any other governmental unit of the state or the federal government to provide construction-manager-at-risk construction services, design-build construction services or job-order-contracting construction services for itself.
- c. The prohibitions prescribed in this section do not prohibit the College from providing design or construction services for itself as provided by law.

5.6 Architect, Engineer, Land Surveying and Related Services

If deemed to be in the best interests of the College in a written determination by the Director of Procurement and Contract Services, purchasing of architect services may be obtained through a standard Request for Proposals process. Unlike the State purchasing process for architectural services that does not allow pricing to be

submitted as part of the request for qualifications process the College, as an alternative, may issue a Request for Qualifications with the option of having pricing included in the RFQ.

5.7 Bid Security

Bid security shall be used on all competitive sealed bidding for construction contracts \$50,000 and higher in value, unless a waiver is deemed appropriate and approved by the Director of Procurement and Contract Services. 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 Arizona or it shall be in the form of a cashier's check made payable to the College. Bid security is set at 10% 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, unless the failure to comply is determined by the Director of Procurement and Contract Services 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 IFB, 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.

5.8 Performance and Payment Bonds

A performance bond is required for all construction contracts \$50,000 and higher in value, in the amount of 100% of the contract price. 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. 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.

A payment bond is required for all construction contracts \$50,000 and higher in the amount of 100% of the contract price. A payment bond guarantees payment and protection for those furnishing labor and materials to the contractor or its subcontractors for the work bonded. 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.

5.9 Changes in Construction Contracts

At any time, the Director of Procurement and Contract Services may, without notice to the surety, approve a change order that may make:

- a. Changes in the work within the scope of the contract; and
- b. Changes in the time for performance of the contract that do not alter the scope of the contract.

If this change order increases or decreases 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.

6.0 CONTRACTS

All contracts, regardless of type, for the purchasing of goods, services or equipment must be reviewed by a member of Procurement and Contract Services. Procurement and Contract Services shall be the holder of all contract documents.

6.1 Supplier Sales Contracts

It is in the best interest of the College to refrain from signing Supplier sales contracts. If a Supplier requires that a sales document be signed, the originating department should forward it to Procurement and Contract Services (referencing the Banner requisition number if applicable) for consideration for signature (for any dollar amount). For those to be paid on a check request or P-Card, the agreement must be submitted to Procurement and Contract Services first and indicate that payments will be via check request. A copy of the agreement will be retained in Procurement and Contract Services.

6.2 Service Contracts

Certain items of equipment are covered by service contracts in order to assure continuing efficient operation. Forms requiring signature(s) provided by service companies must be submitted to Procurement Contract Services Department for review and approval/signature prior to contracting for the services.

In cases where the total service costs are \$5,000 or more, the liaison will issue a requisition and provide the service contract as an accompaniment by referencing the requisition number. If total costs are under \$5,000, the liaison will need to ensure the contract is approved/signed by Procurement and Contract Services prior to payment.

6.3 Independent Contractor

All agreements below \$5,000 with *individuals* providing services (consultants, presenters or performers) require an Individual Independent Contractor Form (which serves as a check request, W-9 and checklist all in one) to be filled out. Services by an Independent Contractor *business* under \$5,000 will be paid via check request and may require an Independent Contractor Agreement.

All agreements \$5,000 and above with *individuals* providing services a purchase order and an Independent Contractor Agreement are required. This agreement is signed by the Director of Procurement and Contract Services. If the Independent Contractor is licensed as a *business* an Independent Contractor Agreement may be required.

6.4 Memorandum of Understanding (MOU)

Memorandum of Understanding (MOUs) do not require District Governing Board approval. However, once they have been reviewed by Procurement and Contract Services and finalized, they are to be submitted for review and approval by (the appropriate) Vice President and College President. Then the Agreement is signed by the Director of Procurement and Contract Services.

6.5 Intergovernmental Agreements (IGA)

Intergovernmental agreements (IGAs) should be submitted to Procurement and Contract Services at least two months prior to the need date if at all possible. IGAs generally require written approval (signature on the documents) by the College's legal counsel. Procurement and Contract Services will obtain these approvals. (Attorney's signature is not needed for Charter School IGA Dual Enrollment Agreements). Often the documents need revision which may or may not include negotiations between both entities' legal firms.

Once the IGA is modified as needed, and legal signatures are in place, the IGA will be forwarded to the appropriate Vice President for review and placement on the upcoming District Governing Board meeting.

Only the District Governing Board is authorized to approve IGAs or other agreements as required by law. These include Dual Enrollment Agreements. All IGAs and amendments to IGAs - regardless of whether or not the College has had similar ones previously - must be approved by the District Governing Board.

6.6 Lease Agreements

Leases for under a year are signed by the College President or designee. Leases that are one or more years in duration and/or above \$200,000 require the District Governing Board's approval. Legal review and signature will be on a case-by-case basis and is not required.

6.7 Facility Use Agreement (FUA)

The Director of Procurement and Contract Services or designee only reviews and signs those Facility Use Agreements (FUAs) for *use of the College of outside entities' facilities*, e.g., when the College holds classes at locations that are not on our campus/center sites.

6.8 Agency Affiliation Agreements

These types of agreements include: Economic Development Center Affiliation Agreements; Emergency Medical Services Agreements; Medical Affiliation Agreements; Nursing Affiliation Agreements; Radiology Affiliation Agreements and are signed by the Director of Procurement and Contract Services.

7.0 PROTEST AND APPEALS

7.1 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, including copies of information relevant to the bid.
5. The form of relief requested

7.2 Filing Procedure

Protests are to be filed with Yavapai College's Director of Procurement and Contract Services within 10 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 of Procurement and Contract Services 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 10 days after the protest has been filed. The decision shall contain an explanation of the basis of the decision. The Director of Procurement and Contract Services 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 Procurement and Contract Services for a reasonable time not to exceed thirty days. The Director of Procurement and Contract Services 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.

7.3 Remedies

If the Director of Procurement and Contract Services 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 Procurement and Contract Services shall implement an appropriate remedy.

In determining an appropriate remedy, the Director of Procurement and Contract Services 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 College, 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 College Policy and Procedures; reject all bids or proposals without further actions; or such other relief as determined necessary to ensure compliance with College Policy or Procedures.

7.4 Appeals

Appeals are to be filed with the Director of Procurement and Contract Services 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 Procurement and Contract Services and the basis for the appeal.

The Buyer 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 Procurement and Contract Services shall notify the District Governing Board or its designee of the appeal. Any hearing or appeal shall be conducted by the District Governing Board or its 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.

7.4.1 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 Buyer, 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.

7.4.2 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.

7.5 Remedies

If the 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. Remedies shall follow those outlined in the previous section on remedies.

8.0 ETHICS IN PUBLIC PROCUREMENT

8.1 Code of Ethics

Because procurement personnel constantly operate under pressure from conflicting sources, they must have a highly developed sense of professional ethics to resist those pressures and to serve their institution in an honorable way. To strengthen ethical awareness and to provide guidelines for its staff, the College has implemented the following Code of Ethics as established by the National Association of Educational Procurement (NAEP):

1. Give first consideration to the objectives and policies of the institution.
2. Strive to obtain the maximum value for each dollar of expenditure.
3. Decline personal gifts or gratuities.
4. Grant all competitive suppliers equal consideration insofar as state or federal and institutional policy permit.
5. Conduct business with potential and current suppliers in an atmosphere of good faith devoid of intentional misrepresentation.
6. Demand honesty in sales representation whether offered through the medium of a verbal or written statement, an advertisement, or a sample of the product.
7. Receive consent of originator or proprietary ideas and designs before using them for competitive purchasing purposes.
8. Make every reasonable effort to negotiate an equitable and mutually agreeable settlement of any controversy with a supplier, and/or be willing to submit any major controversies to arbitration or other third party for review, insofar as the established policies of the institution permit.
9. Accord a prompt and courteous receipt insofar as conditions permit to all who call on legitimate business missions.
10. Cooperate with trade, industrial and professional associations, and with governmental and private agencies for the purpose of promoting and developing sound business methods.
11. Foster fair, ethical and legal trade practices.

8.2 Gifts and Gratuities

College personnel will not accept personal gifts or gratuities, with a value exceeding \$25 from any Supplier of goods, services and/or construction. College personnel who hold a position of influence on Supplier choice will not accept gifts or gratuities of any value or type from a submitting Supplier during the bid process or before contract is fully executed. In either of these situations occur, Suppliers will be disqualified and College personnel will be reported to the respective Vice President.