

**Sec. 1. Purpose of Policy.**

The Board of Directors (hereafter, the “Board”) and Superintendent/Chief Executive Officer (hereafter, “Superintendent”) of Heritage Academy Charter Schools, Inc. doing business as Heritage Academy (hereafter, the “Academy”) shall endeavor to maximize the use of Academy funds to purchase goods and services to further the Academy’s mission and facilitate the implementation of the charter program. Through this policy, the Board shall address the following legal requirements, as applicable, and directs the Superintendent to adopt and implement appropriate procedures to assure compliance for:

- (a) Texas Education Code (“Tex. Ed. Code”) Sections 12.115(a)(2) and 12.1053 and Chapter 44, Subchapter B (“Chapter 44”);
- (b) Texas Government Code (“Tex. Gov’t. Code”) Chapter 2254, Subchapter A and Chapter 2269 (“Chapter 2269”);
- (c) Texas Administrative Code, Title 19, §§ 100.1006, 100.1073, 100.1201 and 100.1205;
- (d) Code of Federal Regulations, Title 2, Part 200 (“2 CFR 200”); and
- (e) Financial Accountability System Resource Guide.

**Sec. 2. Applicability of Policy.**

This policy pertains to the purchase of any and all goods and services from state and federal funds. If not otherwise defined herein, capitalized terms shall have the same meaning as found in applicable state or federal law.

**Sec. 3. Definitions.**

Sec. 3.1. Component Purchases.

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

Sec. 3.2. Goods.

“Goods” means personal property such as appliances, contract rights, equipment, furniture, intellectual property, consumable materials, software, supplies and vehicles.

Sec. 3.3. Micro-purchase Threshold.

“Micro-purchase threshold” means \$3,500.

Sec. 3.4. Non-Professional Services.

“Non-professional services” means any service not specifically identified as a professional service.

Sec. 3.5. Professional Services.

“Professional services” means services:

- (a) Within the scope of the practice, as defined by state law, of:
  - (1) Accounting;
  - (2) Architecture;

- (3) Landscape architecture;
- (4) Land surveying;
- (5) Medicine;
- (6) Optometry;
- (7) Professional engineering;
- (8) Real estate appraising; or
- (9) Professional nursing; or

(b) Provided in connection with the professional employment or practice of a person who is licensed or registered as:

- (1) A certified public accountant;
- (2) An architect;
- (3) A landscape architect;
- (4) A land surveyor;
- (5) A physician, including a surgeon;
- (6) An optometrist;
- (7) A professional engineer;
- (8) A state certified or state licensed real estate appraiser; or
- (9) A registered nurse.

**Sec. 3.6. Public Works.**

“Public works” means the construction, renovation, or repair of a structure, road, highway, or other improvement or addition to real property.

**Sec. 3.7. Separate Purchases.**

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

**Sec. 3.8. Sequential Purchases.**

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

**Sec. 3.9. Services.**

“Services” means professional services and non-professional services.

**Sec. 3.10. Simplified Acquisition Threshold.**

Simplified acquisition threshold means \$50,000 for funds administered by the Texas Department of Agriculture and for the procurement of public works and \$150,000 for other funds.

**Sec. 4. Designee(s).**

In this policy, where the Superintendent is authorized to delegate authority to a designee(s) (as denoted by the phrase “or designee(s)”), the Superintendent may delegate such authority to a designee(s). If the Superintendent delegates authority to a designee(s), the Superintendent shall do so in writing through an administrative procedure, job description or internal memorandum. The Superintendent’s delegation of authority to a designee(s) must be specific,

must cite the policy section from which it is derived, and must utilize thresholds for each approval level. The Superintendent may not delegate authority for contracts and/or transactions with a cost or value exceeding the Simplified Acquisition Threshold. The Superintendent is responsible for any and all purchases of goods and services, including compliance with applicable law and this policy, regardless of any delegation of authority to a designee(s).

**Sec. 5. General Requirements Applicable to All Purchases.**

**Sec. 5.1. Segregation of Duties; Checks and Balances.**

To the degree feasible the Superintendent shall ensure an appropriate segregation of duties between the following functions: (1) the obligation of funds through the procurement of goods and services; (2) the receipt of goods and services including the preparation and maintenance of property inventory records; (3) the receipt of vendor invoices; (4) the disbursement of funds; and (5) the accounting of purchases and payments including the reconciliation of accounting and bank records. Where an appropriate segregation of duties between these functions is not feasible, the Superintendent shall ensure the appropriate review and approval of contractual arrangements and business transactions.

**Sec. 5.2. Purchasing Officer.**

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

**Sec. 5.3. Authority to Procure Goods and Services.**

The Board authorizes the Superintendent or designee(s) to procure or cause the procurement of goods and services pursuant to the budget adopted and amended by the Board. The Superintendent or designee(s) may not procure or approve the procurement of goods and services that are not approved by the Board in the budget, as initially adopted or subsequently amended. Refer to the Policy for Budgetary Authorization.

**Sec. 5.4. Board Approval Required.**

Prior to executing a contract for the procurement of goods and services with a cost or value exceeding the Simplified Acquisition Threshold, the Board shall approve the contract.

**Sec. 5.5. Contract Required.**

The Superintendent or designee(s) shall procure or cause the procurement of goods and services with a cost or value exceeding the Simplified Acquisition Threshold through a fully executed contract or other written legal agreement signed by all parties that protects the Academy's interests in the underlying business arrangement and transaction.

**Sec. 5.6. Signature Authority.**

Unless otherwise authorized by the Board, only the Superintendent or designee(s) shall be authorized to execute contracts or other written legal agreements that obligate the Academy to disburse funds for the receipt of goods and/or services.

Sec. 5.7. Purchase Order System.

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

Sec. 5.8. Corporate Card Program.

The Superintendent may establish a corporate charge or credit card program to permit authorized Academy employees to purchase goods and/or services. The Superintendent may only use and may only allow the use of the corporate card program for official Academy business and shall prohibit the use of the corporate card program for personal benefit or use. Refer to the Policy for Authorized Use of Corporate Accounts.

Sec. 5.9. Employee Purchases Prohibited.

Academy employees are prohibited from conducting any transaction that results in the purchase of goods and services and that obligates Academy funds and otherwise results in the expenditure of Academy funds except as provided in this policy.

Sec. 5.10. Authorized Vendors.

The Superintendent or designee(s) shall require the procurement of goods and/or services from authorized vendors.

Sec. 5.11. Separate, Sequential or Component Purchases Prohibited.

Academy employees are prohibited from authorizing or making separate, sequential, or component purchases to avoid the requirements of this policy.

Sec. 5.12. Required Records.

Academy employees shall document each purchase of goods and services through the preparation of an internal accounting record and the submittal of original, itemized vendor invoices or receipts.

Sec. 5.13. Failure to Adhere to Policy.

If an Academy employee fails to follow this policy to purchase goods and services, the employee shall be financially responsible for any expenses incurred, particularly for any unsubstantiated charges or for the purchase of non-business related goods and/or services, regardless of the benefit to the Academy and its students.

**Sec. 6. Authorized Procurement Methods.**

The Superintendent or designee(s) shall procure or cause the procurement of goods and services through the following methods for the thresholds indicated.

Sec. 6.1. Purchase with Local Funds.

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

Sec. 6.2. Purchases with State Funds.

*Sec. 6.2.1. No Method Required.*

The Superintendent or designee(s) may procure goods and non-professional services that have a cost or value that does not exceed the Simplified Acquisition Threshold through the most expedient manner available.

*Sec. 6.2.2. Quotes.*

The Superintendent or designee(s) shall procure goods and non-professional services that have a cost or value exceeding the Simplified Acquisition Threshold through the solicitation and consideration of at least three documented quotes from authorized vendors.

*Sec. 6.2.3. Cooperative.*

For purchases subject to this subsection, the Superintendent or designee(s) may join and procure goods and non-professional services through a cooperative that provides written assurance of compliance with applicable legal purchasing requirements. However, in the event that a participating vendor in any purchasing cooperative program quotes a lower direct price for the same goods or non-professional services, the Superintendent or designee(s) may procure the goods and non-professional services using the vendor's direct quote and outside of the cooperative.

*Sec. 6.2.4. State Grants.*

The Superintendent or designee(s) shall procure goods and services utilizing state grant funds pursuant to applicable state law, rule and grant requirement.

Sec. 6.3. Purchases with Federal Funds.

*Sec. 6.3.1. Micro- and Small Purchases.*

The Superintendent or designee(s) may procure goods and non-professional services that have a cost or value that does not exceed the Micro-Purchase Threshold pursuant to Sec. 6.2.1 and that have a cost or value exceeding the Micro-Purchase Threshold but not more than the Simplified Acquisition Threshold pursuant to Sec. 6.2.2 of this policy.

*Sec. 6.3.2. Sealed Bids.*

Sec. 6.3.2.1. The Superintendent or designee(s) shall procure goods and non-professional services that have a cost or value exceeding the Simplified Acquisition Threshold through the public solicitation of sealed bids if the following conditions apply:

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

Sec. 6.3.2.2. If sealed bids are used, the following requirements apply:

- (a) Bids must be solicited from an adequate number of authorized vendors, providing them sufficient response time prior to the date set for opening the bids;
- (b) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (c) All bids will be opened at the time and place prescribed in the invitation for bids;
- (d) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder; and
- (e) Any or all bids may be rejected if there is a sound documented reason.

Sec. 6.3.2.3. Upon approval by the Board, the Superintendent or designee(s) shall award a firm fixed price contract to the lowest responsible bidder with the bid that conforms with all the material terms and conditions of the invitation for bids.

*Sec. 6.3.3. Competitive Proposals.*

Sec. 6.3.3.1. If conditions are not appropriate for the use of sealed bids, the Superintendent or designee shall procure goods and services that have a cost or value exceeding the Simplified Acquisition Threshold through competitive proposals if the following requirements are met:

- (a) Requests for proposals must be publicized and identify all evaluation factors and their relative importance;
- (b) Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (c) Proposals must be solicited from an adequate number of qualified sources;
- (d) The Academy must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (e) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (f) The Academy may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.

Sec. 6.3.3.2. The Academy shall award either a fixed price or cost reimbursement type contract.

*Sec. 6.3.4. Noncompetitive Proposals.*

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

- (a) The item is available only from a single source;

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

*Sec. 6.3.5. Other Federal Procurement Standards.*

In addition to this policy, the Superintendent or designee(s) shall procure goods and services utilizing federal funds pursuant to other applicable federal procurement standards.

*Sec. 6.4. Procurement of Professional Services.*

The Board and Superintendent or designee(s) shall select providers of Professional Services in accordance with the Texas Professional Services Procurement Act and shall not select a provider of professional services or a group or association of providers or award a contract for professional services on the basis of competitive bids or fees submitted. Instead, the Board and Superintendent or designee(s) shall select the provider for the professional service to be procured based on the following criteria:

- (a) The provider's demonstrated competence and qualifications to perform the services; and
- (b) The fairness and reasonableness of the provider's price.

*Sec. 6.5. Procurement of Public Works.*

*Sec. 6.5.1. Rules and Procedures.*

Pursuant to Tex. Ed. Code §44.031(d) and Tex. Gov't. Code §2269.051, the Board hereby adopts the policy statements in Sec. 6.5 of this policy as its rules for the acquisition of goods or services related to public works, including construction services. Additionally, as established in Tex. Gov't. Code §2269.051, the Board further delegates to the Superintendent or designee(s) the responsibility of adopting procedures for the acquisition of goods or services related to public works, including construction services.

*Sec. 6.5.2. Delegation of Authority.*

Pursuant to Tex. Gov't. Code §2269.053, the Board hereby delegates its full authority under Chapter 2269 to the Superintendent or designee(s) or a committee formed by the Superintendent or designee(s). The Superintendent or designee(s) shall provide notice of this delegation, the limits of the delegation, and the name or title of each person designated through this policy or in the request for bids, proposals, or qualifications or in an addendum to said request.

*Sec. 6.5.3. Authorized Methods of Procurement.*

The Superintendent or designee(s) may award a contract for construction services using the method, of the following methods, that provides the best value for the Academy:

- (a) Interlocal agreement,
- (b) Competitive bidding,
- (c) Competitive sealed proposal,
- (d) Construction manager-agent,
- (e) Construction manager-at-risk,
- (f) Design-build, or
- (g) Job order contracts.

*Sec. 6.5.4. Suspension of Policy.*

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

**Sec. 7. Administrative Procedures.**

The Superintendent or designee shall prepare and formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law.