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## PROPOSED REVISIONS

In addition to complying with the requirements at CH(LEGAL), the ESC shall comply with the following policies when entering a contract for purchase or acquisition.

### BOARD AUTHORITY

The Board may adopt rules and procedures for the acquisition of goods and services.

### DELEGATION OF PURCHASING AUTHORITY

The Executive Director or designee shall have the authority to make budgeted purchases unless Board policy requires the Board to make or approve a purchase. [See also CE, CHA, CHE, and CS]

### PURCHASES VALUED AT OR ABOVE \$25,000

All ESC contracts except contracts for the purchase of produce or vehicle fuel, valued at \$25,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for the ESC:0)

1. Competitive bidding [see also CSA];
2. Competitive sealed proposals [see also CSB];
3. A request for proposals for services other than construction services;
4. A catalog purchase as provided by Government Code Chapter 2157, Subchapter B;
5. An interlocal contract; or
6. The reverse auction procedure as defined by Government Code 2155.062(d).

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**Note:** Regarding construction of ESC facilities, see CUE for design/build contracts; CUC, CUD for contracts using a construction manager; CUF for job order contracts for minor repairs/alterations.

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The Board delegates to the Executive Director or designee the authority to determine which method of purchasing provides the best value to the ESC.

### ELECTRONIC BIDS OR PROPOSALS

The ESC shall accept bids or proposals through electronic transmission in accordance with administrative regulations. Such regulations shall safeguard the integrity of the competitive procurement process; ensure the identification, security, and confidentiality of electronic bids or proposals; and ensure that the electronic bids or proposals remain effectively unopened until the proper time.

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FACTORS	<p>In awarding a contract, the ESC may consider:</p> <ol style="list-style-type: none"><li>1. Purchase price;</li><li>2. The reputation of the vendor and of the vendor's goods and services;</li><li>3. The quality of the vendor's goods or services;</li><li>4. The extent to which the goods or services meet the ESC's needs;</li><li>5. The vendor's past relationship with the ESC;</li><li>6. The impact on the ability of the ESC to comply with laws relating to historically underutilized businesses;</li><li>7. The total long-term cost to the ESC to acquire the goods or services; and</li><li>8. Any other relevant factor specifically listed in the request for bids or proposals.</li></ol>
CONTRACT WITH PERSON INDEBTED TO ESC	<p>The Board may, by resolution, establish regulations permitting the ESC to refuse to enter into a contract or other transaction with a person indebted to the ESC. The ESC may refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the ESC.</p> <p>The term "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that seeks to enter into a contract or other transaction with the ESC requiring Board approval.</p>
NOTICE PUBLICATION	<p>Notice of when and where bids or proposals or the responses to a request for qualifications will be received and opened shall be published in the county where the ESC's administrative office is located once a week for at least two weeks prior to the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is no newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the ESC's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately.</p>
BUS PURCHASE OR LEASE	<p>Each contract proposed for the purchase or lease of one or more school buses, including a lease with an option to purchase, shall be submitted to competitive bidding when the contract is valued at \$25,000 or more. [See CN]</p>

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PURCHASING AND ACQUISITION

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PROFESSIONAL SERVICES EXCEPTION	The purchasing requirements in this policy do not apply to a contract for professional services rendered, including the services of an architect, attorney, or fiscal agent. The ESC may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided in this policy. [See also CS]
EMERGENCY DAMAGE OR DESTRUCTION	If ESC equipment, an ESC facility or a part of an ESC facility, or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, it undergoes major operational or structural failure, and the Executive Director determines that the time delay posed by adhering to the requirements of this policy would prevent or substantially impair the conduct of classes or other essential operations of the ESC, then contracts for the replacement or repair of the equipment, personal property, facility, or part of the facility may be made by methods other than those required by this policy.
SOLE SOURCE	<p>These purchasing restrictions do not apply to purchases that are available from only one source, such as:</p> <ol style="list-style-type: none"><li>1. An item for which competition is precluded because of a patent, copyright, secret process, or monopoly;</li><li>2. A film, manuscript, or book;</li><li>3. A utility service, including electricity, gas, or water; or</li><li>4. A captive replacement part or component for equipment.</li></ol>
IMPERMISSIBLE PRACTICES	<p>A Board member, employee, or agent shall not make or authorize separate, sequential, or component purchases to avoid the requirements of this policy.</p> <p>“Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be made in one purchase. “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be made in one purchase. “Sequential purchases” means purchases, over a period, of items that in normal purchasing practices would be made in one purchase.</p>
INSURANCE	A contract for the purchase of insurance is a contract for the purchase of personal property and shall be made in accordance with the requirements set forth in this policy.
MULTIYEAR CONTRACTS	The ESC may execute an insurance contract for a period longer than 12 months if the contract contains either or both of the provi-

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	sions described in CH(LEGAL) at COMMITMENT OF CURRENT REVENUE.
AGRICULTURAL PRODUCTS	<p>If the cost and quality are equal, the ESC shall give preference in purchasing to agricultural products, including textiles and other similar products, that are produced, processed, or grown in Texas. "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form. If Texas agricultural products are not equal in cost and quality to other agricultural products, the ESC shall give preference in purchasing to agricultural products produced, processed, or grown in the United States if the cost and quality of the U.S. and foreign products are equal.</p> <p>The ESC may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in Texas.</p>
VEGETATION FOR LANDSCAPING	<p>If cost is equal and the quality is not inferior, the ESC shall give preference to Texas vegetation when it purchases vegetation for landscaping purposes.</p>
ENERGY SAVINGS PERFORMANCE CONTRACTS	<p>The Board of the ESC may enter into an energy savings performance contract in accordance with Education Code 44.901.</p> <p>"Energy savings performance contract" means a contract for energy or water conservation measures to reduce energy or water consumption or operating costs of school facilities in which the estimated savings in utility costs resulting from the measures is guaranteed to offset the cost of the measures over a specified period.</p>