

# PROCUREMENT POLICY AND PROCEDURES



## Guahan Academy Charter School

desires to adopt its own policies and procedures for procurement of goods and services not required by law to be competitively bid. Guahan Academy Charter School's procurement policy is presented as a general guidance to establishing procedures to ensure that competition is sought in a reasonable and cost effective manner for procurements below the bidding thresholds and for other contracts exempt from bidding. These policies and procedures shall comply with Guahan

Academy's Fiscal Handbook and must follow generally accepted accounting principles (GAAP), budgeting and annual financial reporting requirements.

Goods and services not required to be competitively bid must be procured in a manner (1) to assure the prudent and economical use of public monies in the best interest of the taxpayers; (2) to facilitate reasonable quality at the most reasonable possible cost; and, (3) to guard against favoritism, improvidence, extravagance, fraud and corruption.

Guahan Academy Charter School understands that the policy cited applies to purchases made using non-federal funds. As a condition of the receipt of certain federal funds, federal procurement requirements still apply.

### **I. GOODS AND SERVICES**

A. Guahan Academy Charter School adheres to the following objectives:

- Procurement will be completely impartial based strictly on the merits of supplier and contractor proposals and applicable related considerations which may include, but not limited to, price, quality, availability, timelines, reputation and prior dealings.
- Make all purchases in the best interests of the school and its funding sources.
- Obtain quality supplies and/or services needed for delivery at the time and place required.

- Buy from responsible and dependable sources of supply.
- Obtain best value for all expenditures.
- Deal fairly and impartially with all vendors.
- Be above suspicion of unethical behavior at all times; avoid actual conflict of interest.

B. **Purchase Orders.** The Charter School will execute a *Purchase Order* for all purchases. All *Purchase Orders* shall be issued by the Office Manager at the direction of the Procurement Manager or the Chief Executive Officer. The Procurement Manager and/or Office Manager can issue Purchase Orders of value less than \$25,000. The Chief Executive Officer shall approve all purchases greater than \$25,000.

C. **Leases and Subleases.** All lease agreements will be evidenced by a lease or sublease agreement approved by the Board of Trustees and signed by the Chairman of the Board and the Chief Executive Officer. The agreement will identify all the terms and conditions of the lease. Any real estate agreement to rent or sell will require a beneficial interest disclosure.

## II. EMERGENCY PURCHASES

An “emergency purchase” is the purchase of goods or services that are so badly needed that the school will suffer financial or operational damage if they are not secured immediately. A decision to purchase may be declared in an emergency at the school’s discretion and “best value” procurement guidelines must be followed. Emergency purchases over \$25,000 must be ratified by the Board of Trustees, however, in the event of a crisis and there is no time to convene the Board, by the Chief Executive Officer.

## III. CONSTRUCTION

Guahan Academy Charter School shall comply with all applicable laws, codes, rules and regulations when constructing a new facility or performing construction on its current facility.

## **PROCUREMENT AND CONTRACT RULES**

### **1. Purchasing Limitations.**

No purchases, including purchases made using school internal accounts, shall be made except as provided in these Rules. No officer or employee not expressly authorized by these Rules shall make any purchase on behalf of Guahan Academy Charter School or enter into any contract of purchase, verbal or written, for any apparatus, equipment, supplies, service, repairs, goods, wares or merchandise of any kind or description, or accept any of them on approval or otherwise. No officer or employee of Guahan Academy Charter School shall during a fiscal year expend or contract to be expended any money, or incur any liability, or enter into any contract without an appropriation therefore, or in excess of:

- (a) the amount appropriated in the budget;
- (b) the amount authorized in a Board Report;
- (c) the amount authorized by an Officer pursuant to the exercise of their delegated authority; or,
- (d) the compensation amount stated in the contract. Any contract, verbal or written, made in violation of this section is void as to Guahan Academy Charter School.

### **2. Procurement Policy for Biddable and Non-Biddable Items; Requests for Information, Request for Proposals and/or Qualifications, and Bid Solicitations**

A. Requests for information and public canvassing of solicitations of bids, requests for proposals and qualifications for contracts and purchases shall be authorized by the Chief Executive Officer and managed by the Procurement Manager or the personnel designated and authorized by the Chief Executive Officer. All bid solicitations, which convert to binding contracts upon execution by the Board, shall be approved as to legal form by the Board prior to the publication of such solicitation. All requests for qualification shall include language describing the basis and process for award of work to pre-qualified vendors. The Procurement Manager, or his/her designee shall establish requirements regarding the publication of any and all requests for information, solicitations of bids, and requests for proposals and qualifications.

B. All purchases for Biddable Items and Non-biddable Items shall be awarded pursuant to a competitive process in accordance with the following procedures.

- 1. Biddable Items are defined as those goods, services and transportation purchases and contracts required to be awarded through a competitively bid solicitation

2. Non-biddable Items are defined as those purchases and contracts for goods or services for which there is an exception under.

a. **Level One:** All purchases of **Non-biddable Items** between \$25,000 and \$50,000 shall be awarded pursuant to a procurement process whereby at least three (3) written price quotations are submitted to and evaluated by the Purchasing Officer or the Procurement Manager and awarded by the Chief Executive Officer to the most responsible and responsive proposer(s) with competitive pricing or any other form of competitive solicitation that is issued by the Purchasing Officer in accordance with Federal or other agency purchasing guidelines. Good faith competitive solicitations that do not yield three (3) legitimate price quotations may be deemed to satisfy the procurement process requirements of this section at the discretion of the Purchasing Officer;

b. **Level Two:** All purchases of **Non-biddable Items** between \$50,001 and \$250,000 must be approved by the Board and awarded pursuant to a procurement process whereby at least three (3) written proposals with price quotes are submitted to and evaluated by the Chief Executive Officer and are awarded to the most responsible and responsive proposer(s) with competitive pricing, or any other form of competitive solicitation that is issued by the Chief Executive Officer in accordance with Federal, or other agency purchasing guidelines. Good faith competitive solicitations that do not yield three (3) legitimate price quotations may be deemed to satisfy the procurement process requirements of this section at the discretion of the Chief Executive Officer; and

c. **Level Three:** All purchases of **Biddable Items** between \$25,001 and \$50,000 must be approved by the Chief Executive Officer. All purchases of Biddable Items in excess of \$50,000 must be approved by the Board. All purchases of Biddable Items in excess of \$25,001 shall be awarded pursuant to a duly advertised bid solicitation issued by the Procurement Manager at the direction of the Chief Executive Officer, in accordance with the precepts of formal sealed bids to the most reasonable, responsive, responsible bidder(s), considering conformity with specifications and terms of delivery, quality and serviceability. A good faith competitive solicitation in lieu of a bid for the purchase of Biddable Items between \$10,001 and \$25,000 may be deemed to satisfy the procurement process requirements of this section at the discretion of the Procurement Manager and/or the Chief Executive Officer.

All purchases of **Non-biddable Items \$250,001 and above** must be approved by the Board and awarded pursuant to a duly advertised request for proposals/qualifications issued by the Chief Executive Officer or any other form of competitive solicitation that is issued by the

Chief Executive Officer in accordance with Federal, or other agency purchasing guidelines.

**2.1 Expenditures of \$25,000 and Under Which are not Required to be Awarded Through a Competitive Bid Solicitation Process.**

Upon requisition duly signed or authorized by the Office Manager, Procurement Manager, the Chief Financial Officer, the Development Director, the Principal and the Chief Executive Officer, or any other officer designated by Board Resolution, as appropriate for their respective areas of responsibilities, expenditures for supplies, materials, non-personal services, personal and consulting services or other work which are not required to be awarded through the competitive bid solicitation process pursuant to Board Policy, up to \$25,000 may be made by *Purchase Order* charging appropriated funds.

**2.2 Regulated Education-Related Expenditures Which are Not Subject to Section 2 – 2.1 Procurement Requirements.**

The procurement rules set out in Section 2-2.1 do not apply to:

- (a) selection of charter school providers and contract school providers which are subject to alternate procurement processes;
- (b) engagement of Guam State Board of Education certified special education providers who are providing specialized services as mandated by the Individuals with Disabilities in Education Act;
- (c) payments of proportionate share federal education funds for the purchase of goods and services for private school students under various Federal title programs;
- (d) engagement of vendor(s) required by the US Department of Education, the Guam State Board of Education, or other federal, state or local governmental agency to provide services under a grant or educational service program administered by the governmental agency; or
- (e) other education-related expenditures subject to statutory or regulatory procurement procedures outside the scope of these rules. The applicability of Section 1.2 shall be determined by the Chief Executive Officer and the General Counsel. If applicability is determined, the Chief Executive Officer and the General Counsel shall also identify the method of purchase and contract requirements pertinent to the transaction. Any expenditure pursuant to Section 2 – 2.1 that exceeds \$25,000 requires Chief Executive Officer's approval and any expenditure that exceeds \$75,000 further requires Board approval.

**2.3 Non-Biddable Education-Related Expenditures and Engagements Which are not Subject to Section 2 – 2.1 Procurement Requirements.**

The procurement rules set out in Section 2 – 2.1 do not apply to:

- (a) payments of tuition to accredited institutions of higher education; or
- (b) engagements with organizations or institutions providing internship practicum or other educational learning opportunities to students, including student stipend programs, or
- (c) payment of fees for membership in a professional association or organization providing educational programs and resources to support the professional capacity of Board employees, officers and members.

The applicability of Section 2.3 shall be determined by the Chief Executive Officer and the General Counsel. Any expenditure pursuant to Section 2.3(a) does not require a contract. Any expenditure pursuant to 2.3(b) that exceeds \$25,000 requires a contract. Any expenditure pursuant to Section 2.3 that exceeds \$25,000 requires Chief Executive Officer’s approval and any expenditure that exceeds \$75,000 further requires Board approval.

**2.4 Purchase of Non-Biddable and Biddable Items Through Federal, or Other Agency Contracts Which are not Subject to Section 2 -2.1 Procurement Requirements.**

The Chief Executive Officer is authorized to approve the purchase of Non-biddable and Biddable items based on contracts between another governmental entity and a federal agency, and its vendors (the “Reference Contract”), subject to the following conditions:

1. The procurement process used to form the Reference Contract shall substantially comply with the competitive procurement requirements of these rules, and shall comply with all legal obligations applicable to the Board.
  
2. A separate contract between the Board and the governmental entity’s vendor that includes all of the material terms in the Reference Contract shall be executed prior to any purchases. The contract entered into between the Board and the vendor may contain: (i) pricing or compensation terms equivalent to, or more favorable to the Board than those contained in the Reference Contract; (i) pricing or compensation terms equivalent to, or more favorable to the Board than those contained in the Reference Contract; (i) pricing or compensation terms equivalent to, or more favorable to the Board than those contained in the Reference Contract; (ii) a period of duration or term which may vary from the term of the Reference Contract; (iii) such additional provisions as the Chief

Executive Officer determines to be in the best interests of the Board; or (iv) such insertions to or deletions from the Reference Contract as are required by law or regulation applicable to the Board.

3. All purchases pursuant to Section 2.4 must be approved by the Chief Executive Officer and require a contract and those purchases over \$75,000 further require Board approval.

4. The contract between the Board and the governmental entity's vendor is subject to the review and approval of the General Counsel.

***2.5 Restricted Gift Purchases Which are not Subject to Section 2 – 2.1 Procurement Requirements.***

In accordance with, if a donor makes a restricted grant, gift, donation or legacy the terms of which require the Board to purchase certain goods or services from a specific vendor, the procurement rules set out in Section 2 shall not apply to such purchases. In all such cases, any grant, gift, donation or legacy restrictions must be independently identified by the donor with no influence by Charter School personnel. The applicability Section 2.5 shall be determined by the Chief Executive Officer and the General Counsel. If applicability is determined, the Chief Executive Officer and the General Counsel shall also identify the method of purchase and contract requirements pertinent to the transaction. Any expenditure that exceeds \$75,000 further requires Board approval.

***2.6. Purchases of Textbooks and Instructional Materials Which Are Not Subject to Section 2 – 2.1 Procurement Requirements.***

Purchases of textbooks and instructional materials are subject to the favored pricing obligations and therefore the procurement rules set out in Section 2 shall not apply to such purchases. Suppliers of textbooks and instructional materials shall file a sworn statement annually with the Chief Executive Officer attesting that prices charged to Guam Public Schools, including Guahan Academy Charter School for textbooks and instructional materials are the lowest net prices for such materials as charged elsewhere in Guam and in the United States. Suppliers charging higher prices in violation of their sworn statements are subject to penalties which include, but are not limited to, rebates for pricing overages. The Principal or his/her designated personnel may establish lists of recommended textbooks and instructional materials and provide guidelines for the selection and purchase of textbooks and instructional materials.

**2.7. Purchase of Non-Biddable and Biddable Items Through Guam’s School Purchasing Network or a Government Purchasing Cooperative Contracts are not Subject to Section 2-2.1 Procurement Requirements.**

The Chief Executive Officer is authorized to approve the purchase of Non-biddable and Biddable Items through contracts:

- (a) authorized under the Guam School Purchasing Network, or
- (b) procured from another governmental agency and offered by or through a government purchasing cooperative in which the contracts were entered into in accordance with the purchasing laws and regulations of the procuring government entity. Any expenditure over \$75,000 further requires Board approval. For all such purchases, the Chief Executive Officer and the General Counsel shall also identify the method of purchase and contract requirements pertinent to the transaction. The contract between the Board and the Guam School Purchasing Network, the government purchasing cooperative or their authorized vendor is subject to the review and approval of the General Counsel.

**2.8. Procurement Guidelines.** The Board’s designated person, and the Procurement Manager with consultation with the Chief Executive Officer shall work collaboratively and are authorized to establish procurement guidelines to ensure the effective implementation of the procurement rules contained herein.

**3. Procedure for Bid Solicitations.**

Except as may otherwise be provided by the Board, when solicitations for Biddable Items are taken, as many bids shall be secured as practicable, basing the solicitation upon a list of prospective bidders that are qualified to provide supplies, materials, work or services. At least one public notice is to be made at least ten days before the bid due date in a newspaper published in the district and shall simultaneously be posted on a readily accessible bulletin board in the Office of the Chief Executive Officer. Each bidder receiving a copy of the solicitation must receive at least three days’ notice of the time and place of the opening of all such bids. All bids must be sealed by the bidder and must be opened by the Chief Executive Officer or his/her designee at a public bid opening at which the contents of the bids must be announced. If the stated bid opening day falls upon a holiday as established by the Rules of the Board, the time for receipt and opening of bids shall automatically be continued to the next following business day at the same hour.

**4. Posting of Bid Responses.**

Whenever the bids are opened and announced in accordance with Section 2.B2(c), a copy of the aggregate bid prices by category proposed by each bidder shall be publically posted by the Office of the Chief Executive Officer not later than four (4) days following the day on which bids are opened.



## **5. Emergency Expenditures.**

a. An emergency shall be determined when, in the judgment of the Chief Executive Officer: (i) it is necessary make repairs and alterations, and purchase equipment, services, or supplies (collectively “Emergency Purchases”); (ii) the Emergency Purchases are necessary as a result of circumstances which call for immediate action (the “Conditions Precedent”); and (iii) the Conditions Precedent are a result of fire, accident, threat to the health, safety, security of individuals or other conditions and such action is necessary to prevent material loss or damage to property, or bodily injury or loss of life of the occupants of the Board’s buildings and third parties who may be present in its buildings or on its premises or to prevent interference with school sessions or to protect the health, safety, security or well being of students, staff, or third parties (“Emergency Condition(s)”).

b. In order to obtain approval of an Emergency Expenditure, the following steps must be taken: (i) obtain the verbal or written approval of the Chief Executive Officer, or such other chief officer charged with authority over the Conditions Precedent; (ii) obtain the verbal or written approval of the Chief Executive Officer; (iii) after the work has been completed, the purchases have been made, or the services have been rendered to the satisfaction of the appropriate Department, complete a Request to Approve Emergency Expenditure on a form approved by the Chief Executive Officer (the “Emergency Request Form”); (iv) obtain the verification of the appropriate chief officer on the Emergency Request Form; and (v) have the Emergency Request Form signed by the Procurement Manager or a Purchasing Officer.

c. If an Emergency Condition occurs after business hours, on a weekend, on a holiday, or at any other time that the appropriate chief officer and the Chief Purchasing Officer cannot be contacted, each Portfolio Manager or such other appropriate chief officer of the Board, or their designee, has the authority to take the necessary action at his/her own discretion.

d. The foregoing authority is limited to the minimum expenditure of funds necessary to stabilize an Emergency Condition and protect person and property from further harm. After the Emergency Request Form has been completed, the Chief Executive Officer shall prepare a Board Report and obtain approval of the Emergency Expenditure by a  $\frac{3}{4}$  vote of the Board.

## **6. Deposits, Bid Bonds, Performance and Payment Bonds.**

a. When a bid deposit shall be required, whether by law or at the discretion of the Chief Executive Officer, it shall be so stated in the solicitation of bids, and the deposit shall be in a reasonable amount but not in excess of

fifteen percent (15%) of the total bid amount proposed. The bid deposit, when required, may be in the form of a money order, certified check drawn upon a banking institution in good standing and made payable to the order of the Board, a specific bond, or a letter of credit. In lieu of submitting the bid deposit as herein above provided, a bidder may file with the Board an annual bid bond, the amount of which shall be determined by the Chief Executive Officer; provided, however, an annual bid bond shall not be accepted on bids for construction work, alterations, repairs to buildings and grounds, and student transportation matters. Such annual bid bond shall in no case be less than \$10,000, and shall cover all bids submitted by such bidder during the period of the bond. All bid bonds shall be signed by a responsible surety company licensed to do business in Guam.

b. All bid deposits accompanying a bid solicitation, except that of the successful bidder, shall be refunded or returned after the successful bidder has been determined and a contract has been awarded by the Board. The bid deposit of the successful bidder shall be returned after the full execution of the contract and the tendering of any payment and/or performance bond required under the contract. In case of a failure or refusal on the part of the selected bidder to execute a contract and tender a payment and/or performance bond, if required, within a reasonable period of time as determined by the Chief Executive Officer, the deposit of the selected bidder so failing or refusing may be forfeited and retained by the Board as liquidated damages and not as a penalty or, when a bid bond has been furnished in lieu of a deposit, the Board may take action on the bond.

c. A payment and performance bond shall be required for all building construction and building and grounds repair work, and student transportation matters. A payment and performance bond may also be required on any other purchases or contracts when specified by the Chief Executive Officer. When a payment and performance bond is required, it shall be stated in the solicitation of bids and requests for proposals and/or qualifications and the bonds required shall be in an amount sufficient to insure the fulfillment of the contract of the successful bidder/proposer. Such bonds shall be signed by a responsible surety company licensed to do business in Guam.

## **7. Rejection of Bids/Proposals.**

The Chief Executive Officer or the Procurement Manager shall have the right to reject any or all bids or proposals for any reason in the best interest of Guahan Academy Charter School.

## **8. Expenditures - Pre-Qualified Vendors.**

The Procurement Manager or his/her designee shall submit a report to the Chief Executive Officer each quarter of all expenditures made to pre-qualified vendors. The report shall include a list of: i) all expenditures made to each individual pre-qualified vendor; ii) the total expenditures made to all pre-

qualified vendors in the applicable pool; and, iii) the balance remaining of the aggregate amount authorized for each applicable pre-qualified pool of vendors.

## **9. Sole Sourcing.**

a. Sole Sourcing of Non-Biddable Items. Sole source procurements and contracts are defined as those that have not been competitively procured. Sole source procurements are discouraged and any office, department, program, unit, or school requesting sole sourcing should carefully consider all available resources before requesting a sole source award. Sole source procurements are improper if only for administrative convenience. The Procurement Manager is authorized to approve sole source procurements up to \$75,000. All sole source procurements over \$75,000 must be approved by the Chief Executive Officer and the Board. In determining whether to approve a sole source procurement of Non-biddable Items, the following criteria shall be considered:

1. The specific problem, requirement, or need that the procurement or contract is intended to address that makes sole sourcing necessary. This should include an explanation as to how the services or goods and merchandise are critical or essential to Guahan Academy Charter School responsibilities or operations.
2. The availability of resources to perform the services or provide the goods and merchandise efficiently and cost effectively.
3. The unique qualifications, abilities or expertise of the contractor or supplier to meet Guahan Academy Charter School needs and/or the unique nature of the services and/or goods and merchandise.
4. Whether the particular contractor or supplier was named in a grant and is essential to fulfilling Guahan Academy Charter School obligations under the grant.
5. Any other special circumstances that may be relevant such as copyright restrictions, or where the proposed contractor or supplier is the only source available in the geographical area.
6. The basis for the determination that the costs, fees, or rates negotiated are fair and reasonable given the absence of a competitive basis award. The explanation may make a comparison with comparable contracts, use the results of a market survey, or employ some other appropriate means to make such a determination.

b. Sole sourcing of Biddable Items is not permitted.

## **10. Contract Ineligibility.**

No person or business entity shall be awarded a contract if that person or business entity: (i) has been convicted of bribery or attempting to bribe an employee of Guahan Academy Charter School; (ii) has been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price, or otherwise; or (iii)

has made an admission of guilt of such conduct described above which is a matter of record but has not been prosecuted for such conduct. Ineligibility under this section shall continue for three years following such conviction or admission.

For purposes of this Section 11, no person or business entity shall be eligible to be awarded a contract if such person has engaged in: (i) Bid Stringing which also includes any knowing attempt to divide or plan procurements to avoid the use of competitive procedures; (ii) Bid Rigging as defined by law. For purposes of this section, where an official, agent or employee of a business entity has committed such conduct described above on behalf of such an entity and pursuant to the direction or authorization of a responsible official thereof, the business entity shall be chargeable with the conduct.

***Bid Stringing, Bid Rigging and Bid Rotating are prohibited.***

**11. Prohibition Against Stringing.**

“Stringing” is dividing or planning any procurement program, activity, transaction, invoice, purchase order or agreement involving the Board or any of its operational elements (including offices, departments, bureaus, programs, units and schools) to avoid either (a) any of the competitive procurement processes set forth in Board Policy or (b) any of the limitations on delegated authority set forth. ***Stringing is prohibited.***

**12. Written Contracts and Purchase Orders Required.**

a. Except as otherwise provided in these Rules, all expenditures for Biddable Items exceeding \$10,000 which must be awarded through the competitive bid solicitation process and expenditures for Non-biddable Items exceeding \$25,000 which are not required to be awarded through the competitive solicitation process, either individually or collectively for consecutive purchases from the same vendor/service provider of the same item or service by the same authorized officer, and all other transactional matters requiring contracts, leases, licenses or intergovernmental agreements shall be evidenced by a written document approved as to legal form by the General Counsel and signed by the Board, the Chief Executive Officer or other officers as specified in Section 13 or 14 of these Rules, as applicable, and the other party. No goods or materials, apparatus, equipment, supplies, wares or merchandise may be received, nor may services, repairs, or work commence nor leaseholds be created, nor may payments be made regarding any of the foregoing prior to execution of a written document for same in accordance with applicable rules and regulations.

b. Except as otherwise provided in these Rules, all purchases **except for petty cash purchases** for any Dollar amount require a *Purchase Order* obtained consistent with these Rules and applicable law. The *Purchase Order* must be issued prior to order or receipt of goods or services.

**13. Chairman and Chief Executive Officer to Execute Contracts and Leases.**

Except as otherwise provided in these Rules, the Chairman of the Board of Trustees and the Chief Executive Officer shall sign and execute all contracts duly authorized by order, resolution, or direction of Guahan Academy Charter School and shall sign and execute leases of school property or property required for school purposes duly authorized by order, resolution, or direction of Guahan Academy Charter School, and which have been approved as to legal form by the General Counsel. The Chairman, with the approval of the Board, may designate one or more persons who shall have proxy authority to affix the signature of the Chairman to such contracts or leases. In the absence of the Chairman, the Vice-Chairman shall sign such contracts or leases. The Board may, at its discretion, authorize and designate a signatory for leases and contracts under certain specified dollar amounts and for ancillary documents that serve to administer or effectuate a contract or lease. In the event the Chairman abstains from a contract or lease matter, the Board-approved contract or lease may be executed by the Vice Chairman. In the case of abstention by the Chairman and the absence, disability or abstention of the Vice-Chairman, the Board-approved contract or lease may be executed by any member of the Board. When so signed, executed, and approved, such contracts and leases shall be deemed to be duly executed by the Guahan Academy Charter School.

**14. Delegation of Authority to Act.**

In addition to the foregoing, the Board hereby delegates the following specific authority to the following Officers or their respective designees with respect to making and executing certain agreements, which authority may be exercised without prior Board action or approval. This authority includes the authority to approve payments and ratify agreements within the scope of the authority delegated in this section. All authority exercised by the Officers pursuant to this Rule shall be reported to the Board on a monthly basis.

a. The Chief Executive Officer has the authority to authorize and execute the following:

1. Any and all intergovernmental agreements and other miscellaneous types of agreements that have no financial impact on the Board, subject to approval as to legal form by the General Counsel.
2. Education-related agreements enumerated in the appropriate Board Rules up to \$75,000 per provider/institution, subject to approval as to legal form by the General Counsel.
3. Any and all real property leases/licenses where the Board is the landlord/licensor, with a term of less than ten (10) years, regardless of the dollar amount, subject to approval as to legal form by the General

Counsel (except for leases/licenses in Guam and for leases/licenses with Charter Schools, which require prior Board approval), provided however that the Chief Executive Officer may authorize and execute such leases/licenses with no further approval from the General Counsel when using the form agreement established by the Law Department with no modifications thereto other than to include business terms.

Further, the Chief Executive Officer has the authority to authorize and execute all real property leases/licenses (including those with indemnification provisions) where the Board is the tenant/licensee, the term is less than ten (10) years, and the dollar amount for the term of the lease/license is \$75,000 or under, subject to approval as to legal form by the General Counsel. Further, the Chief Executive Officer has the authority to authorize and execute any and all agreements and documents to grant the Board access or right of entry to property including those with indemnification provisions.

4. All Change Orders related to construction. "Change Order" means a change in a contract term other than as specifically provided for in the contract which authorizes or necessitates any increase or decrease in the cost of the contract or the time to completion. The Procurement Manager and/or the Chief Executive Officer shall establish construction change order procedures for the submission and approval of Change Orders. The Chief Executive Officer shall report all Change Orders to the Board on a monthly basis. The monthly report shall include a brief description of the change, the original contract amount, the net change by previous Change Orders in dollar amount and by percentage, the total contract amount prior to the current Change Order being submitted; the net increase/decrease in contract amount with the current Change Order in dollar amount and by percentage, and the revised contract amount. All Change Orders must be in compliance with the governing rules at the Department of Public Works.

5. Agreements or documents for the sale, disposition, transfer, donation or auctioning of Board assets, subject to approval as to legal form by the General Counsel, and provided that the compensation to be paid to a third party for these services shall be payable or deductible from the proceeds. The Chief Executive Officer shall also have the authority to approve the transfer of school assets to other schools (including charter schools). Board assets mean those goods which are tangible, non-real estate properties. The sale, disposition, transfer, donation and auctioning of Board assets with an original purchase price or fair market value of \$5,000 or more that were purchased with funds from the State Board of Education shall be subject to the approval of Corporate Accounting. The Chief Executive Officer shall report to the Board on an annual basis all

assets sold, transferred, donated, or otherwise disposed under the delegation of authority herein.

6. Education-related agreements enumerated in Board Rules up to \$75,000 per provider/institution, subject to approval as to legal form by the General Counsel.

7. No-fee education-related agreements including internship agreements, programmatic agreements and data sharing agreements, subject to approval as to legal form by the General Counsel.

b. The Development Director with the concurrence of the Chief Executive Officer has the authority to: i) accept any and all grants, donations and gifts of any dollar amount; and ii) refund any unspent dollars from grants, donations or gifts.

The Chief Executive Officer and the Development Director have the authority to execute any and all grant, donation or gift acceptance agreements and amendments related thereto required by any such grantor, donor or gift or, including agreements with obligations to cost-share using district funds or to indemnify the grantor, donor or giftor. However, any grant, donation or gift acceptance agreements and amendments related thereto with a total value of \$250,000 or more of both external funding and internal funding, shall be subject to approval as to legal form by the General Counsel. The Development Director together with the head of the department receiving the grant have the authority to provide such additional information, assurances and certifications as are necessary in connection with such grant. For all grants, gifts and donations and refunds of same, the Development Director shall provide the required monthly reporting to the Chief Executive Officer in order for the Chief Executive Officer to report accordingly to the Board on a monthly basis as well on all grants, gifts and donations received in excess of \$50,000, all related cost-sharing obligations contained in such grants, gifts or donations in excess of \$50,000, and all refunds of unspent grants, gifts or donations in excess of \$5,000. Expenditure of grant funds are subject to the procurement rules.

c. The Chief Executive Officer has the authority to:

1. Approve purchases up to \$75,000 and to authorize and execute any and all of the purchasing documents enumerated below, subject to approval as to legal form by the General Counsel, when such purchases are made in accordance with the Board Rules; provided however that the Chief Purchasing Officer may authorize and execute such purchasing

documents with no further approval from the General Counsel when using the form agreement established by the Law Department with no modifications thereto other than to include business terms. If modifications are made to the form agreement, then approval of the General Counsel as to legal form is required.

i. Agreements for Biddable Items and Non-biddable Items that do not exceed \$75,000;

ii. Options to renew and/or mutually-agreed-to extensions of agreements for Biddable Items and Non-biddable Items that do not exceed \$75,000; and

iii. Amendments to Contracts for Biddable Items and Non-biddable Items initially costing \$75,000 and under, which amendments do not increase the total obligation to more than \$75,000 or materially diminish the obligations of the vendor.

2. Approve payments and ratify agreements for the purchase of Non-biddable items up to \$75,000 and for the purchase of biddable items between \$10,001 and \$25,000 when such purchases are not made in accordance with the Board Rules.

3. Approve the amendments enumerated below to Contracts for Biddable Items and Non-biddable Items that exceed \$75,000, subject to approval as to legal form by the General Counsel, when such amendments do not increase the Board-approved maximum expenditure amount or materially diminish the obligations of the vendor.

i. Amendments to effectuate a reduction in unit price negotiated by the Chief Purchasing Officer;

ii. Amendments to effectuate an assignment and assumption of a Board Contract to another corporate entity due to the corporate reorganization of a Board vendor;

iii. Amendments to effectuate a corporate name change of a Board vendor;

iv. Amendments to effectuate a contract extension; and

v. Amendments to effectuate administrative corrections or clarifications.

Effective \_\_\_\_\_ all references to the Purchasing Officer in any Board Rule, Policy or contract are interchangeable with, and shall constitute a reference to, the Procurement Manager.



BY SIGNATURE OF MEMBERS OF THE BOARD OF TRUSTEES, this Procurement Policy is approved, subject to any approved modifications or any amendments (inclusions or exclusions) suggested by a formal legal opinion of General Counsel.

Any Amendments heretofore after the signature of the Board of Trustees must be ratified by further resolution of the Board.

DATED THIS 25<sup>th</sup> DAY OF OCTOBER, 2013.

*David M. Blas, Jr.*

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DAVID M. BLAS, JR.

*Rose Rios Overstreet*

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ROSE RIOS OVERSTREET

*Matthew S. Kane*

\_\_\_\_\_  
MATTHEW KANE

*Koisimy Rudolph*

\_\_\_\_\_  
KOISIMY RUDOLPH

*Arthur Taimanglo*

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ARTHUR TAIMANGLO

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