

<b>Procurement Policy</b>	<b>BOT Approved:</b> February 21, 2023; Update September 19, 2023.
---------------------------	--

## TABLE OF CONTENTS

<b>PURPOSE:</b> .....	<b>1</b>
<b>POLICY STATEMENT:</b> .....	<b>1</b>
<b>PROCEDURES:</b> .....	<b>2</b>
<b>A. Vendor Requirements</b> .....	<b>2</b>
<b>B. Business Conduct and Conflict of Interest</b> .....	<b>2</b>
<b>C. Public Information Act</b> .....	<b>3</b>
<b>D. Tax Exemption</b> .....	<b>3</b>
<b>E. Receiving</b> .....	<b>3</b>
<b>F. Procurement Methods</b> .....	<b>3</b>
<b>a. Small Procurement</b> .....	<b>3</b>
<b>b. Procurement over \$100,000</b> .....	<b>4</b>
<b>c. Emergency Procurement</b> .....	<b>8</b>
<b>G. Multiyear Contracts</b> .....	<b>8</b>
<b>H. Cooperative Contract</b> .....	<b>8</b>

### PURPOSE:

Procurement procedures are to provide uniform procurement practices and ensure the fair treatment of all persons and companies who interact with the College's procurement process.

### POLICY STATEMENT:

Garrett College will abide by the procurement laws of Maryland to ensure public confidence in the ethical methods used while maximizing the College's purchasing power.

This Policy applies to every contract or purchase between the College and a vendor involving financial consideration of funds in exchange for supplies, equipment, and/or services except:

- a. Books or instructional materials

- b. Emergency repairs. See Section F.c. below for more information.
- c. Goods and services purchased with federal funds. Procurement of goods and services purchased with federal funds will follow the College's *Federal Awards Requirements* Policy.

The Director of Institutional Compliance & Safety serves as the College's Chief Procurement Officer. All related information and forms are available on the ["Procurement"](#) intranet page (NOTE: Employees must be logged in to access the forms).

## **PROCEDURES:**

### **A. Vendor Requirements**

All required vendor documents must be on file in the Business Office prior to entering into a contract with the vendor.

- a. All vendors must submit a W-9 and the relevant licensure applicable to the services and/or products being provided.
- b. If a contractor is completing work on campus, a current certificate of workman's compensation insurance, naming the college as an additional insured is required.
- c. Proof of general liability insurance is required if providing a service. In some circumstances, a waiver can be obtained by contacting the Director of Institutional Compliance & Safety.

### **B. Business Conduct and Conflict of Interest**

All individuals directly or indirectly involved in the acquisition of materials and services for the College will conduct themselves in a manner that is beyond challenge or reproach.

Employees may not solicit or accept gratuities, favors, or anything of significant monetary value from suppliers, contractors, or parties to subcontractors.

Additionally, employees may not participate in the selection, award, or administration of a contract if a real or apparent conflict of interest is possible.

Finally, the purchasing services and tax-exempt status of the College may not be used for the personal use of an employee or outside organization, unless the College is acting as the organization's agent. Violation of any of these prohibitions is grounds for disciplinary action, up to and including termination.

Individuals should report any questionable or unethical behavior, or threats to the integrity of the procurement process to the Director of Institutional Compliance & Safety in accordance with the College's *Whistleblower Policy*.

### C. Public Information Act

Access to public records will be made in accordance with the Public Information Act, current laws, and Garrett College policy. A vendor, bidder, prospective bidder, the media, or any member of the general public who requests to review procurement files must make the request in writing to the Office of Business and Finance. See Garrett College's *Public Information Policy* for information.

### D. Tax Exemption

As a tax-exempt institution, the college is not required to pay retail sales tax. The tax-exempt number is used whenever college purchases are made.

### E. Receiving

Purchases are to be delivered to the 600-building mailroom or 700 building receiving room. Deliveries can also be made to the Outreach Centers. If assistance is needed, contact the Facilities Administrative Associate. When the requester receives a shipment, it is their responsibility to verify that the shipment is correct as to the item and quantity ordered and its condition.

### F. Procurement Methods

#### a. Small Procurement

Defined in the State Procurement Regulations (COMAR 21.05.07) as any contract or purchase anticipated to be less than \$100,000.

##### i. Procurement less than \$5,000:

1. Written quotes (email, webpage, company letter, etc.) from at least three vendors are desired.
2. The "Small Procurement Approval" form is not required but encouraged.
3. Initiate request in Jenzabar. All purchase requests are initiated in Jenzabar.
4. Approval by the cost center manager in Jenzabar is required prior to a PO being issued.

##### ii. Procurement more than \$5,000, but less than \$100,000:

1. Written quotes (email, webpage, company letter, etc.) from at least three vendors are required.
2. Complete and submit the "Small Procurement Approval" form to the Procurement Office.
3. Initiate request in Jenzabar. All purchase requests are initiated in Jenzabar. Attach "Small Procurement Approval" form with the request.
4. The appropriate approvals in Jenzabar are required, including the cost center manager, and Dean or President.

**b. Procurement over \$100,000**

**i. Competitive Solicitations**

In compliance with COMAR and the Maryland Annotated Code Division III, Title 16, Subtitle 3, Sections 16-311 and 16-313, formal Competitive Solicitations must be issued when a purchase or contract is expected to exceed the state bid threshold for Small Procurement.

**ii. Approval**

Per the Maryland Annotated Code, contracts and purchases over \$100,000 must be approved by the Board of Trustees.

**iii. Timeline**

The Competitive Solicitation process takes 2-4 months.

**iv. Exceptions**

Competitive Solicitation procedures are not required for the following contracts.

**1. Piggyback Contracts**

- a. A cooperative contract where the buying of goods or services is done via an existing contract administered by another entity (the state of Maryland, other Maryland community colleges, Garrett County, etc.), and the pricing is extended to the College.
- b. Confirmation is required that the entity performed a formal competitive solicitation process for the contract and that the requirements of the Annotated Code of Maryland have been met.
- c. Employees should complete and submit the "Cooperative/Piggyback Procurement Standards Checklist" to the Procurement Office for review and approval.

- d. These contracts are provided to the Board of Trustees for information purposes.

2. Sole Source Contracts

- a. When a cost center manager recommends that procurement be restricted to one vendor, the Manager must provide justification, using the "Sole Source Justification" form, as to why no other vendor will be acceptable to meet the needs of the College.
- b. If the Procurement Officer determines that, in accordance with the Maryland Annotated Code SS 16-314, there is only one available vendor for the subject of the procurement contract, a Sole Source Contract may be written without competition to that source.
- c. Negotiations must still be conducted as to price, terms, and delivery.
- d. These contracts must be approved by the Board of Trustees.

v. Process

Competitive Solicitations can be done by Invitation to Bid (ITB) or Request for Proposals (RFP). ITB is used when the scope can be defined with generic conditions, like construction contracts. RFP is used when the scope cannot be generically defined, such as for architectural contracts. For complex construction projects, a prequalification process should be performed. Departments should work with the Procurement Office when completing this process.

1. Notifications

Notifications of solicitations shall be posted on the MD State procurement website, eMaryland Marketplace Advantage, and the College's website for at least 14 days prior to the day the solicitation responses are due. Solicitations for construction services must be posted for at least 21 days.

2. Content

The ITB or RFP shall include

- a. Information on pre-bid / pre-proposal meeting
- b. Information on bid opening
- c. Information on interviews
- d. Scope of Work, Specifications, and Services to be provided

- e. Criteria for awarding bid, including whether it will be awarded based on lowest bid price (ITB) or highest scored proposal (RFP.) Bids and Proposals shall be submitted as Best and Final, unless otherwise indicated in the ITB or RFP. The factors that will be used in evaluating proposals must be clearly identified with the relative importance of each factor. The factors may include:
  - a. quantities involved;
  - b. price;
  - c. technical merit;
  - d. time required for delivery;
  - e. purpose for which the purchase is required;
  - f. competency and responsibility of the bidder; and
  - g. ability of the bidder to perform the contract satisfactorily.
- f. Bond and Insurance Requirements
  - a. Performance and payment bonds will be required for all construction contracts with a value of \$50,000 or more and shall each be in the amount equal to at least 100 percent of the contract price.
  - b. Bid bonds will be required for all construction contracts with a value of \$50,000 or more and shall be in the amount equal to at least 5 percent of the contract price.
  - c. Bonding for other types of contracts such as for equipment may be required by the college, but is not required by law.
  - d. Insurance requirements shall be specified.
- g. Certification & Licensure Requirements
- h. Bid Affidavit Form
- i. Supplemental Terms and Conditions as appropriate for type of contract
- j. MBE Resolution and Goal Form
- k. Prevailing Wage Requirements, if applicable.
  - a. Any construction contract project with a value of \$250,000 or more and with funding of at least 25% State funds, requires the contractor to follow MD Dept. of Labor Prevailing Wage Requirements.
- l. Schedule

3. Pre-bid / Pre-proposal Meeting

A pre-bid/pre-proposal meeting may be held to clarify complex solicitations.

4. Questions / Addendum

Under no circumstances are College employees who are responsible for the evaluation and award of a contract, or who may have information that would be advantageous to a potential bidder, to have contact with any potential bidders about the solicitation while it is in progress.

If it becomes necessary to issue an addendum prior to the competitive solicitation deadline, consideration shall be given whether the deadline date should be extended.

Care will be taken to ensure fair and equal treatment of all vendors during the bid process.

5. Award of Contract

- a. ITB openings are open to the public and contracts are awarded to the lowest responsible, responsive bidder meeting all specifications.
- b. RFP openings are not open to the public. An evaluation committee will score the proposals using the predetermined factors and weighting criteria as defined in the RFP.
- c. Proposers may be invited for on-campus interviews or presentations, if identified as part of the RFP process.
- d. Competitive solicitation contracts will be awarded to the lowest responsible, responsive bidder who conforms to the specifications.
- e. The College may reject any and all bids and re-advertise for bids.
- f. Per Maryland law, formal solicitations are to be approved by the Board of Trustees.

6. Debriefings

Vendors who submit proposals may request a debriefing if a different vendor is recommended for award. Debriefings are scheduled after the Board meets. Debriefings are an opportunity to communicate to the vendor the strengths and weaknesses of their proposal and their score. Other vendor proposals or individual evaluator's scores will not be shared or discussed with the vendor, in accordance with the Maryland Annotated Code.

The intent of the conversation is to help the vendor learn how to improve their proposals for the future.

7. Bid Protest

A prospective contractor may protest the award in writing, addressed to the Procurement Officer. Protests must be filed within 10 business days of the notification to the bidder that their bid / proposal has not been recommended for the award.

c. **Emergency Procurement**

Procurement for an emergency repair is for an unexpected occurrence that poses a threat to continuance of normal college operations or a situation where immediate action is necessary to avoid or mitigate serious damage to public health or safety.

If an emergency situation arises, and it is necessary to respond quickly to the emergency and procure goods or services that are reasonably expected to cost \$100,000 or more, the President or designee will notify the Board of Trustees' chair, or in the Board chair's absence, the Board vice chair, of the need for an emergency procurement. The President is authorized to take whatever action is necessary to accomplish such a purchase including the execution of a contract. Competition will be sought to the extent feasible to provide a measure of assurance of a reasonable price, given the circumstances, and the purchase will be limited to the procurement of only the types and quantities of items necessary.

**G. Multiyear Contracts**

- a. When it is in the best interest of the College, a multiyear contract may be authorized. All multiyear contracts will include a termination clause that states that the contract will be cancelled if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal period succeeding the first.
- b. Multiyear Contracts are subject to the Procurement Methods outlined in Section "F. Procurement Methods" above.

**H. Cooperative Contract**

- a. A cooperative contract is a contract where entities combine their demand to obtain lower prices from suppliers.
- b. To the extent practical, the College will work with other partners to establish cooperative procurement agreements.



- c. Cooperative contracts are subject to the Procurement Methods outlined in Section “F. Procurement Methods” above.
- d. Contracts must be clear that the College will not assume any obligation for performance or payment of any other entity participating in the cooperative effort.