



January 12, 2012

## **PROCUREMENT GUIDELINES**

### **PROCUREMENT OPERATIONS HOUSTON COMMUNITY COLLEGE SYSTEM**

Procurement Guidelines are issued by the Executive Director under Article 1 of the Houston Community College Procurement Operations Procedures Manual.

#### **No. 4**

##### **Subject: Sole Source Procurements**

As internal guidelines and supplemental guidance under Article 5.3.5 of the Houston Community College Procurement Procedures Manual, “Sole Source,” this Guideline shall govern the process for requesting, justifying, vetting and completing a sole source request. This guideline shall apply to the Procurement Operations Department and all user departments that may request a sole source award. Adherence to this Guideline No. 4 is required by all user departments and does not, in any way, guarantee the user department that a sole source award will be processed by the Procurement Operations Department. Final award of any sole source as may be deemed in the best interests of HCC shall be in accordance with Procurement Operation’s Procedures Manual and Guideline No. 3 – Signature Authority.

The Procurement Operations Department consists of Procurement and Contract Administration, and is responsible for the procurement of all goods and services for the entire Houston Community College System. This Procurement Guideline is supplemental to all Texas State Statutes and Houston Community College resolutions and policies governing sole source procurements.

Guideline: It is the purpose of the Procurement Operations Department to promote the use of competitive awards. However, it is understood that in certain, very unique circumstances, the use of a sole source award may be deemed in the best interests of HCC. This Guideline sets forth the process by which such requests will be reviewed and

vetted by the Procurement Operations Department and will be supplemented with the introduction of the following forms:

- Sole Source Justification Form
- Conflict of Interest Certification Form – HCC Employee
- Conflict of Interest Certification Form – HCC Vendor

As noted in the Procurement Operations Manual (Section 1.7.90. Sole Source Item or Service), the following definition applies:

- An item that is available from only one source, including: an item for which competition is precluded because of the existence of a patent, copyright, secret process, or monopoly; a film, manuscript, or book; a utility service, including electricity, gas, or water; and a captive replacement part or component for equipment. However, an item is not a sole source item if it is mainframe data-processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

In accordance with Section 5.3.5.2 Excluded Reasons for Sole Source, the following reasons to justify a sole source purchase will NOT be accepted:

- Price
- Competing products are not satisfactory
- Subjective statements regarding product quality

If a sole source purchase is deemed justified, the request should be processed accordingly. Because purchasing files are subject to the Texas Public Information Act, the use of sole source purchase procedure must withstand critical scrutiny and the justifications must be objective and must avoid statements that cannot be substantiated.

Process: The key process features are (a) **justification** of the need for the sole source; (b) **disclosure of conflicts** by the HCC employee(s) and vendor representative(s); (c) **rigorous vetting** of the request in the form or review of materials, and research of current and available contracts; (d) only then will Procurement begin the process of working to negotiate with the requested vendor and developing a contract with the General Counsel's Office.

The following steps will be followed when a department requests a sole source award:

1. Requesting department must complete the Sole Source Justification Form as instructed to on the form. Sections A and B of the Form must be fully completed and the requesting department must include a detailed answer for each question (1-8) as noted on the form. Failure to provide a complete-detailed description will render the form incomplete and will delay the Procurement Operations

Department from reviewing and vetting of the form. The Form must be signed by the President of the requesting department's college. System departments will be required to obtain their Executive Director or Vice Chancellor's signature.

2. Requesting department representative(s) must review, complete and sign the Conflict of Interest Certification Form – HCC Employee. This form will ensure (subject to the penalties as noted therein) that there is no conflict between the requestor and the recommended vendor.
3. Requesting department representative(s) will have the recommended sole source vendor review, complete and sign the Conflict of Interest Certification Form – HCC Vendor. This form will ensure (subject to the penalties as noted therein) that there is no conflict between the recommended vendor and the requestor or other HCC employee or Trustees.
4. Once procurement receives the noted information, including all market research, product description and pricing details, Procurement will confirm if there are any current HCC competitively awarded contracts for said item.
5. Provided there are no HCC competitively awarded contracts, the Procurement Operations Department will then research to see if there are any competitively awarded contracts from other colleges, universities or government agencies that HCC may be able to access.
6. Provided there are no competitively awarded contracts from other colleges, universities or government agencies identified, the Procurement Operations Department will then.
7. As practicable, engage the recommended vendor in price negotiations and will work with the General Counsel's Office in finalizing the contract and preparing an award recommendation.
8. Final award of any sole source as may be deemed in the best interests of HCC shall be in accordance with Procurement Operation's Procedures Manual and Guideline No. 3 – Signature Authority.
9. Sole Source Justification Forms and Conflict of Interest Certification Form – HCC Employees and Vendors will be valid for one (1) year from the date of approval and may be used during said time if additional purchases of like goods or services are required. To the extent that a client department requires additional goods or services during a one (1) year period from the original form, the client department will provide written affirmation that the Sole Source Justification Form as written remains true and correct and will secure confirmation that the

original Conflict of Interest Certification Forms (HCC Employee & Vendor) remain accurate or if new individuals are involved, shall provide current forms.

10. In the event that a given contract is executed for a multi-year term, the original Sole Source Justification Form will govern during the contract term, including any options years. Furthermore, the requesting client department is responsible for advising of any changes in the Sole Source Justification Forms during any renewal terms. Additionally, both the HCC Employee and Vendor representative is responsible for advising the Procurement Department of any changes in the Conflict of Interest Certification Form within three (3) business days of becoming aware of said change.