

**PURCHASING – LEGAL CONSIDERATIONS**

AP No. 6332
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**I. LEGAL CONSIDERATIONS**

Purchasing and contracting for supplies and equipment for public projects shall be based on sound business practices, Board Policies, and Administrative Procedures currently in effect, and shall be effected in accordance with Business & Professionals Code, Civil Code, California Code of Regulations, Education Code, Governmental Code, Health and Safety Code, Labor Code, Public Contract Code, Public Resources Code and Revenue & Taxation Code etc.

- A. Purchases shall not exceed the amounts specified in California Public Contract Code Section 20651 unless exception is stated in code. Surplus Property – Education Code Section 81653 – The governing board of any community college district may purchase from the federal government or any agency thereof any surplus property, as defined in the Surplus Property Act of 1944, in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.
- B. Public Corporations – Public Contract Code Section 20652 – Notwithstanding any other provisions of Sections 81640 to 81654, inclusive, of the Education Code, or of Sections 20651 to 20659, inclusive, of this code, the governing board of any community college district without advertising for bids, and when that board has determined it to be in the best interests of the district, may authorize by contract, lease, requisition, or purchase order, any public corporation or agency, including any county, city, town, or district, to lease data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner in which the public corporation or agency is authorized by law to make the leases or purchases. Upon receipt of any such personal property, provided the property complies with the specifications set forth in the contract, lease, requisition, or purchase order, the community college district may draw a warrant in favor of the public corporation or agency for the amount of the approved invoice, including the reasonable costs to the public corporation or agency for furnishing the services incidental to the lease or purchase of the personal property.
- C. Purchasing materials through the California Department of General Services – Public Contract Code Section 20653 – Nothing in this code shall preclude the governing board of any community college district from purchasing materials, equipment or supplies through the

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Department of General Services pursuant to Section 14814 of the Government Code.

- D. Supplementary Textbooks etc.– Education Code Section 81651- The governing board of any community college district may purchase supplementary textbooks, library books, and educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.
- E. Data Processing and Telecommunications – Education Code Section 81645 – The governing board of any community college district may contract with a party who has submitted one of the three lowest responsible competitive bids, for the acquisition, procurement, or maintenance of electronic data-processing systems and equipment, electronic telecommunication equipment, supporting software, and related materials, goods, and services, in accordance with procedures and criteria established by the governing board.
- F. Sale and Lease Back – Education Code Section 816435.5 - In addition to utilizing the procedures specified in Article 9 (commencing with Section 81450) of Chapter 2, any community college district may, by direct sale or otherwise, sell to a purchaser any electronic data-processing equipment or other major items of equipment owned by, or to be owned by, the district, if the purchaser agrees to lease the equipment back to the district for use by the district following the sale. The approval by the governing board of the district of the sale and leaseback shall be given only if the governing board finds, by resolution, that the equipment is data-processing equipment or another major item of equipment within the meaning of this section and that the sale and leaseback is the most economical means for providing electronic data-processing equipment or other major items of equipment to the district.