
CONTRACTS AND GRANTS MANUAL

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Chancellor's Office
California Community Colleges
Sacramento, California

TABLE OF CONTENTS

1000 GENERAL PRINCIPLES	9
1001 Scope of Manual	9
1002 Definition of the California Community Colleges System.....	9
1003 Board Authority to Enter into Agreements	9
1004 Review by the Department of General Services.....	9
1005 General Delegation of Board Authority to the Chancellor and Others.....	9
1006 Delegation of Board Authority for Agreements	10
1007 Authority to Waive Requirements of Manual	10
1008 Who May Enter Into Agreements	10
1009 Agreements in Excess of Appropriation.....	10
1010 Role of the Office of the General Counsel.....	10
1011 Role of Vice Chancellors and Deans.....	11
1012 Role of Project Monitor or Specialist	11
1013 Approval of Agreements (Routing Slips).....	11
1014 Appropriations and the Budget Act	12
1015 Proposition 98	13
1016 Choosing Between a Grant, a Contract, or a Fiscal Agency Agreement	13
1017 Memoranda of Understanding.....	14
1018 Chancellor’s Office Review of All Vendor Agreements, Subcontracts, and Subgrants.....	14
1019 Electronic Signatures	14
1020 Resolving Questions About Grants and Contracts.....	15
1021 Staff Training.....	15
1022 Avoiding Conflicts of Interests.....	15

1023 Political Reform Act (PRA)	15
1024 Public Contract Code.....	16
1025 General Prohibitions	16
1026 Prohibitions Not Avoided by Leaving State Employment or IJE.....	16
2000 THE BIDDING PROCESS	17
2001 Competitive Bidding.....	17
2002 Competitive Bidding Solicitations.....	17
2003 Request for Proposal (RFP) and Request for Application (RFA)	17
2004 Invitation for Bids (IFB).....	17
2005 Request for Quotations (RFQ).....	18
2006 Request for Information (RFI).....	18
2007 Advertising in the California State Contracts Register (CSCR).....	18
2008 Number of Bids or Proposals Required	18
2009 Exemptions from Competitive Bidding	18
2010 Basic Components of a Request for Proposal or Application	19
2011 Instructions Prepared by Office Staff	19
2012 Information Included in Proposals\Applications	20
2013 Special Considerations for Bids with Certified Disabled Veteran Business Enterprise and Certified Small Businesses	21
2014 Certified DVBE Goals and Bidding Requirements.....	21
2015 Certified Small and Microbusiness, Non-small Business and Bidding Preference	22
2016 Length of Time Allowed for Proposals.....	22
2017 Questions and Clarifications	23
2018 Prohibition Against Restrictive Specifications	23
2019 Prohibition Against Pass-Through Agreements.....	23

2020 Division and Legal Review	23
2021 Review of Technology Agreements.....	23
2022 Awarding the Contract or Grant	23
2023 Selecting the Contractor	23
2024 Removal or Suspension of Contractors from Bidding	24
2025 Selecting the Grant Applicants	24
2026 Reader Panels.....	25
2027 Reader Recruitment	25
2028 Reading Processes.....	25
2029 Scoring of Proposals.....	26
2030 Averaging Reader Scores	26
2031 Process for Breaking Ties	27
2032 Ranking and Listing of Proposals	27
2033 Surplus Funds.....	27
2034 Notification of Intent to Award Grant.....	27
2035 Protests, Disputes and Complaints of Bid Requirements and Awards	27
2036 Inspection of Bids.....	27
2037 Protest of Bid Requirements	28
2038 Protest of Contract Award	28
2039 Decisions on Contract Protest.....	28
2040 Disputes Subsequent to Contract Award.....	28
2041 Protest of Grant Award	28
3000 CONTRACTS	29
3001 Scope.....	29
3002 Elements of a Valid Agreement.....	29

3003 Standard Language for Contracts	30
3004 Amendments	30
3005 Approval by the Board of Governors	30
3006 Approval by other State Agencies.....	30
3007 Progress Payments.....	31
3008 Misuse of the Name "California Community Colleges"	31
3009 Advance Payments for Other Than Interagency Agreements	31
3010 "Add-On" or "Follow-On" Consultant Contracts	31
3011 Duration of Contracts	31
3012 Services Contracts.....	31
3013 Personal Services Contracts	32
3014 Notice and Review by the State Personnel Board (SPB).....	32
3015 Notice to Union Organization.....	33
3016 Independent Contractor Status.....	33
3017 State Standard Form 204 – Contractor Data Record	33
3018 Consultant Services Contracts	34
3019 Compensation of Consultants	34
3020 Revolving Fund.....	35
3021 Evaluation of Contractors, Consultants, and Vendors.....	35
3022 Review for FPPC Filing Requirements.....	35
3023 Contracts for Legal Counsel	36
3024 Student Assistants.....	36
3025 Inter Jurisdictional Exchange Agreements.....	36
3026 Other Services	37
4000 GRANTS.....	37

4001 Commencement of Grants.....	37
4002 Standard Language for Grants	37
4003 Standard Language for Vendor Agreements.....	38
4004 Amendments	38
4005 Board Approval.....	38
4006 Multi-Year Awards.....	39
4007 Identification of Funding Priorities	39
4008 Grant Reporting.....	39
4009 Progress Reports	39
4010 Year End Reports	40
4011 Final Reports	40
4012 Additional Reports.....	40
4013 Grant Monitoring	40
4014 Payments.....	40
4015 Subgrants or Subcontracts.....	41
4016 Modifications and Amendments.....	41
4017 Changes in Work to be Performed	41
4018 Budget Changes	42
4019 Recovery of Unused Funds	42
5000 PROCUREMENT	43
5001 Role of Business Services	43
5002 Board of Governors Review	43
5003 Purchase Orders and Service Orders	43
5004 Multiple Awards; CMAS	43

6000 PROCUREMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS GOODS AND SERVICES.....	44
6001 Scope of Section.....	44
6002 Competitive Bidding.....	44
6003 Value-Effective Methodology.....	45
6004 Solicitations Not Based on Cost	45
6005 Hardware Purchases.....	45
6006 Best Financing Alternatives	45
6007 Purchase of Additional Items	45
6008 Bid Protest Process	46
6009 Evaluating Bids	46
6010 Surplus Goods	46
6011 Division of Telecommunications, DGS.....	46
6012 Grants for Systemwide Provision of Goods or Services	46
6013 Accessibility for Persons with Disabilities	47
7000 RECORDS MANAGEMENT	48
7001 Records Depository	48
7002 Agreement Log	48
LIST OF DOCUMENTS ON GENERAL COUNSEL’S INTRANET PAGE	49
Grants/Contracts Board Approval Item	49
Agreement Summary (coming soon)	49
Chancellor’s Office Agreement Approval Routing Slip.....	49
Fiscal Agent Vendor Agreement Routing Slip.....	49
Grant Amendment – Face Sheet – Districts.....	49
Grant Amendment – Face Sheet – Non Community College Entities	49

Contract – Face Sheet	49
Contract Amendment – Face Sheet	49
General Counsel Request for Advice Form	49
Contractor Evaluation Form CCC 4 (coming soon).....	49
Grant Reader Application\Nomination Form.....	49
Application Reader Conflict of Interest/Confidentiality Statement (coming soon)	49
Grant Template.....	49
Vendor Fiscal Agent Agreement Template	49
Interagency Agreement Template	49
Chancellor’s Office Standard Contract Template:	50
Interjurisdictional Exchange Template.....	50
COTOP Template	50
Instructions.....	50
APPENDIX A – EXPLANATION OF SPECIAL CONTRACT TERMS	51
APPENDIX B – INSTRUCTIONS AND DEFINITIONS FOR STANDARD AGREEMENTS	53
APPENDIX C – SAMPLE PURPOSE STATEMENTS AND SCOPES OF WORK.....	57
APPENDIX D – SAMPLE VENDOR AGREEMENT SCOPE OF WORK & BUDGET PROVISIONS ...	60
APPENDIX E – STEPS FOR CREATING CHANCELLOR’S OFFICE AGREEMENTS	63
APPENDIX F – GLOSSARY OF TERMS –CHANCELLOR’S OFFICE AGREEMENTS.....	65

1000 GENERAL PRINCIPLES

1001 Scope of Manual

This Manual contains the policies and procedures for the administration of contracts, grants, vendor agreements, and other forms of agreements such as memoranda of understanding, and for procurement for the California Community Colleges Chancellor's Office. It supersedes all former agency-wide procurement manuals and policies including the 2008 Contracts and Grants Manual. Individual division resources and policies related to contracts, grants and procurement processes remain operable provided that they do not conflict with this Manual. If there is any conflict between division materials and this Manual, this Manual is controlling. Furthermore, all division materials should be updated to reflect the policies and procedures in this Manual, if necessary.

The policies and procedures in this Manual apply agency-wide and do not replace program requirements found in applicable legislation. Each agreement should be tailored to the needs of the program. There is no single legal authority governing Chancellor's Office contracting. The policies and procedures have been adopted to comply with a variety of statutory and administrative policies including the Education, Public Contract, and Government Codes; title 5 of the California Code of Regulations; the State Contracting Manual (SCM); the State Administrative Manual (SAM); the Procedures and Standing Orders of the Board of Governors; and administrative policy memoranda. Collectively, these resources provide a framework for administering the Chancellor's Office agreements and procurement.

1002 Definition of the California Community Colleges System

The "California Community Colleges" is a term that refers to the postsecondary system that consists of community college districts and the Board of Governors of the California Community Colleges (Board or Board of Governors). The Board appoints a chief executive officer, known as the Chancellor of the California Community Colleges.ⁱ

1003 Board Authority to Enter into Agreements

The Board of Governors has the authority to enter into all types of agreements for goods and services for the benefit of the California Community Colleges, including goods and services for information technology.ⁱⁱ

1004 Review by the Department of General Services

All Chancellor's Office agreements for goods and services are exempt from review by the Department of General Services (DGS).ⁱⁱⁱ

1005 General Delegation of Board Authority to the Chancellor and Others

The Board, by a majority vote, may delegate authority to the Chancellor, or any other officer, employee, or committee of the California Community Colleges, or community college district. The Board cannot delegate any power that is expressly made nondelegable by statute.^{iv}

1006 Delegation of Board Authority for Agreements

The Board has delegated to the Chancellor the authority to enter into binding agreements in the name of the Board to exercise the duties and responsibilities vested in the Chancellor by law, or delegated to the Chancellor by the Board's Standing Orders. However, the Chancellor must obtain Board approval before entering into any agreement:

1. With a total value in excess of \$100,000; or
2. With respect to consulting services, in excess of \$50,000; or
3. With a term in excess of three (3) years, unless the agreement is with another governmental entity.

Board approval is also required for any amendment that causes an agreement to exceed the limitations outlined above.^v

The Chancellor and Deputy Chancellor may enter into agreements in excess of the limitations outlined above, in consultation with the General Counsel and the Board President. This authority is limited to urgent situations when waiting for Board approval of an agreement would have a substantial adverse effect on the Chancellor's Office or one or more California community college districts. Any agreement approved under this section must be disclosed to the Board at its next regular meeting.^{vi}

The Chancellor is required to report to the Board on the benefits to the California Community Colleges of agreements entered on its behalf.

1007 Authority to Waive Requirements of Manual

The General Counsel may waive any requirement of this Manual that is not required by a mandatory statute or Board Standing Order.

1008 Who May Enter Into Agreements

The Chancellor and the Deputy Chancellor have the authority to enter into agreements on behalf of the Board, which include contracts, grants, and other agreements, such as MOUs. If the Deputy Chancellor is unavailable, the Vice Chancellor of Internal Operations may execute agreements. The Deputy Chancellor may delegate additional authority to enter agreements on a temporary basis.^{vii}

1009 Agreements in Excess of Appropriation

Every person in the Chancellor's Office who incurs any expenditure in excess of the allotments or other provisions of the fiscal year budget is liable both personally and on his or her official bond for the amount of the excess expenditures.^{viii}

1010 Role of the Office of the General Counsel

The Office of the General Counsel provides legal counsel to the Board, the Chancellor, and the Chancellor's Office staff as requested, and provides guidance to community college district officials on the interpretation and implementation of laws affecting community

colleges. For procurement operations, it advises program staff, as necessary, on all matters related to agreements and procurements that require legal interpretation.

The Office of the General Counsel must approve all modifications to the standard agency contract and grant provisions and to the provisions of this Manual, and reviews and approves agreements between fiscal agents and third parties involving the expenditure of funds received from the Chancellor's Office. The Office of the General Counsel is responsible for updating this Manual as appropriate.

1011 Role of Vice Chancellors and Deans

Vice Chancellors and Deans play a strategic and central role in the design, implementation, and oversight (monitoring) of all agreements implementing division programs, and are primarily responsible for training division staff in these areas. Vice Chancellors and Deans should each (1) be familiar with this Manual and Chancellor's Office practices related to the development and monitoring of agreements and bidding proposals and provide training to their respective staff when needed; (2) review and approve bidding documents to ensure that they align with the priorities of the Chancellor's Office and the Vision for Success; (3) engage with the Office of the General Counsel as necessary; and (4) review and approve every agreement that is produced by their respective divisions, including agreements between fiscal agents and third-parties.

1012 Role of Project Monitor or Specialist

The Project Monitor or Specialist plays a key role in the development and processing of agreements (contracts, grants, vendor agreements, MOUs) and the related competitive bidding proposals, when applicable, to ensure that they align with the priorities of the Chancellor's Office and the Vision for Success. These individuals are program experts and are the authorized representatives of the Chancellor's Office responsible for developing agreements and administering and monitoring performance to ensure that funds are spent in accordance with legislative requirements, Board policy, and to advance Chancellor's Office objectives to the maximum extent possible.

The Project Monitor or Specialist: (1) develops the scope of work and budget; (2) prepares the agreement using Office templates that can be found on the General Counsel's Intranet page; (3) monitors services identified within the agreement; (4) compares measured performance of the contractors or grantees to agreed-upon standards set out in the scope of work and work plans; (5) communicates concerns and takes corrective action, as necessary, to ensure the successful completion of the terms of the agreement; (6) evaluates and documents the delivery of the agreed upon services; (7) reviews and approves submitted invoices and/or funding reports; (8) monitors the availability of funds; and (9) initiates amendments in a timely manner.

1013 Approval of Agreements (Routing Slips)

The Chancellor's Office uses routing slips (available on the General Counsel's Intranet page) to approve contracts, grants, and vendor agreements. Two routing slips are available. One routing slip is for contacts and grants in which the Board of Governors or

Chancellor's Office will be a party, and the agreement will be signed by the Deputy Chancellor. These agreements require review by the originating division and by our accounting and budget offices. The other routing slip is for vendor agreements that will be signed by our fiscal agent, on behalf of the Chancellor's Office, and a vendor that will provide services. These agreements require review by fewer individuals in the Chancellor's Office. In each case, the routing slip is a roadmap for approvals that starts with the drafting of the agreement and ends with the full execution of the agreement.

1014 Appropriations and the Budget Act

The state constitution requires an appropriation to draw money from the Treasury. The power of appropriation rests in the legislative branch alone. An appropriation is a legislative act setting aside a certain sum of money for a specified purpose in such a way that executive officers are authorized to use that money and no more for the specified purpose. To be considered an appropriation within the meaning of the constitution, nothing more is required than a designation of the amount and the fund out of which it shall be paid.

There are two types of appropriations, special fund and general fund. In the case of a special fund, a statute making available a specific fund for a definite purpose constitutes a valid appropriation of that fund, and it is not necessary that the amount be fixed or specified. However, that is not the case with an appropriation from the general fund (e.g., Proposition 98 funds). The designation of a specific amount is required when the appropriation is from the state's general fund. In this instance, the appropriation must be specific both as to purpose and amount; neither of these requisites can be left indefinite nor uncertain. Appropriations are a creature of law and can be made by:

- Budget Act (The Budget Act accounts for about 65 percent of total expenditure authorizations.)
- State Constitution
- Bills with specific appropriations
- Codified law providing for on-going continuous appropriations
- Ballot measures such as bond authorizations

The availability period to encumber and spend an appropriation may be specified in the authorizing law. If not, the general default period is one year to encumber and three years to spend. An appropriation containing the term "without regard to fiscal years" is available for encumbrance from year-to-year until expended. An appropriation is deemed encumbered at the time and to the extent that a valid obligation against the appropriation is created. In most cases, that would occur when the contract or grant is fully executed (i.e., signed by both parties) or upon its effective date (if another date is specified). However, the general one-year encumbrance rule does not apply to appropriations for the benefit of the community colleges. This means that we have three years to encumber and spend Proposition 98 funds whether through an apportionment or through categorical set-asides. To the extent that funds are not "expended" after three

years from the appropriation date, the Legislature will sweep the funds, and re-appropriate them to the community colleges for another purpose. Proposition 98 funds are “expended” when they leave the State Treasury and are transferred to a community college district.

1015 Proposition 98

Funding for programs administered by the Chancellor’s Office are generally made through an appropriation found in the Budget Act for either local assistance (Proposition 98 general funds) or state operations (non-Proposition 98 general funds). In some cases, funding is derived from some other source (e.g., federal funds). Since the majority of funds that are appropriated to the Chancellor’s Office are Proposition 98 funds, it is important to have a basic understanding of the purpose and scope of Proposition 98.

Proposition 98 was adopted by the voters in 1988 and amended the constitution to provide a minimum level of funding for school districts and community college districts. Proposition 98 does not appropriate funds. It does not divest the Legislature of its traditional authority over education funds, nor does it alter the state's role in education. Legislative programs that advance and support the educational mission of community colleges may constitutionally be included within the funding guarantee of Proposition 98.^{ix}

For our purposes, Proposition 98 funds must be expended by a community college district for the benefit of the California Community Colleges. Included within the Proposition 98 guarantee are funds “set-aside” for statewide programs conducted at the direction of the Chancellor’s Office. These funds may be expended at the direction of the Chancellor’s Office through the fiscal agency of a community college district.

1016 Choosing Between a Grant, a Contract, or a Fiscal Agency Agreement

A grant is a form of contract, but the terms “contract” and “grant” are used in the Chancellor’s Office to denote agreements used for different purposes. Grants are typically used to distribute funds that benefit the California Community College system in general. Grants can be flexible and allow grantees some latitude in defining a scope of work within parameters defined by the Chancellor’s Office. By contrast, a contract is an agreement between a buyer and seller to provide specified goods or services in return for compensation. For our purposes, a Fiscal Agency Agreement is an agreement between the Chancellor’s Office and a Community College District under which the district agrees, for a fee, to hold and expend funds at the direction of the Chancellor’s Office. In determining whether a particular program should be implemented through a grant, a contract, or a fiscal agency, consideration should be given to the purpose of the agreement as identified by the implementing statute, and in some cases the Budget Act. The following are some guidelines to consider when deciding between a contract or grant:

1. A grant should be used whenever the purpose is to fund activities for the benefit of a local district, region, or the community college system as a whole. This is true even if the agreement has an indirect benefit to the Chancellor's Office or assists it

in carrying out its efforts to support the community college districts. Districts may expend these funds through sub-grants or contracts to private entities, or the district may expend funds itself, to aid in the performance of statewide activities.

2. A fiscal agency agreement is used when a district acts as a fiscal agent for distribution of funds in accordance with the terms of the agreement even if the Chancellor's Office maintains control over the expenditures.
3. Unless specifically authorized by legislation, Proposition 98 funds must be distributed first to a community college district.
4. The Chancellor's Office may enter contracts or grants directly (i.e., without a fiscal agency) with non-district entities with non-Proposition 98 general funds or with federal funds.
5. A contract should be used when the principal purpose of the agreement is to acquire goods or services for the direct benefit or use of the Chancellor's Office. In particular, a contract (often in the form of a purchase order) must be used to purchase or lease equipment, supplies, or office space or to retain independent contractors for the Chancellor's Office.
6. Always study the implementing legislation or the legislation that created the program as it may specify use of a grant or contract.^x

1017 Memoranda of Understanding

The Board enters into MOUs primarily for data sharing. A MOU is a type of agreement between one or more parties that describes the relationships and responsibilities between the parties. MOUs are legally binding if they satisfy the technical elements of a contract. MOUs do not involve an exchange of funds.

1018 Chancellor's Office Review of All Vendor Agreements, Subcontracts, and Subgrants

When the Chancellor's Office enters into a fiscal agency agreement with a district (typically in the form of a grant), it will require Office oversight, review, and the approval of third-party subgrants, subcontracts, and vendor agreements. The fiscal agency agreement must clearly state that the Chancellor's Office will (1) review and approve all vendor agreements, subcontracts, and subgrants, before they are executed by the fiscal agent and explain the appropriate process, (2) review and approve all invoices and explain the appropriate process; (3) outline Office oversight including all reporting requirements. The Chancellor's Office has developed a template "Vendor Agreement" that should be used and modified as needed, which can be found on the General Counsel's Intranet page. As with all agreements, staff should develop this agreement and not rely on the fiscal agent or subcontractor or subgrantee to create it for the Chancellor's Office.

1019 Electronic Signatures

Electronic signatures are permissible on all agreements (contracts, grants, fiscal agency agreements, vendors, MOUs) that are either entered into by the Chancellor's Office or on

behalf of the Chancellor's. Electronic signatures are valid and have the same effect as wet signatures. Requiring wet signatures on agreements can cause unnecessary delay in the contracting process.^{xi}

1020 Resolving Questions About Grants and Contracts

When uncertain as to whether a contract or a grant is appropriate, or when considering a unique agreement, consult with the division Vice Chancellor who may in turn consult with the Office of the General Counsel.

1021 Staff Training

The Office of the General Counsel and Internal Operations Unit will provide training for staff regarding the contents of this Manual. Training on the day-to-day performance and administration of these functions should be provided by the division Vice Chancellor, Deans, or designated individuals.

1022 Avoiding Conflicts of Interests

When working with agreements in the Chancellor's Office, staff is governed by several sets of laws and regulations. In some situations, the application of this complex set of laws and regulations can only be determined through an in-depth analysis of the facts surrounding the proposed agreement. These questions should be brought to the attention of the Vice Chancellor of the division working on the agreement, and the Office of the General Counsel to determine the appropriate course of action. However, some general rules do apply and have been outlined below.

While one set of statutes may not prohibit a given action or involvement, it may be prohibited under another statute. The following is by no means inclusive of all prohibitions, but can serve as a general guideline for actions that are prohibited. As a general rule, no officer or employee of the Chancellor's Office, including employees on loan through an Inter Jurisdictional Exchange (IJE), may make or participate in the making of any decision in which they (including immediate family members such as a spouse) have a personal financial interest.^{xii}

1023 Political Reform Act (PRA)

The PRA generally prohibits an officer or employee's involvement in any decision that affects his or her financial interests including a spouse or other family members. It is not necessary for the officer or employee to be the actual decision maker or to work in the same general program area; any involvement or influence, however slight, may trigger the PRA's prohibitions against such activity. The main consideration under the PRA in this context is the effect of a state agreement on the financial interests of the officer or employee of the Chancellor's Office.

The Fair Political Practices Commission (FPPC) is the agency primarily charged with the responsibility for advising state officials and employees, as well as the public, and enforcing the conflict of interest provisions of the PRA. For a broader and more detailed discussion of the PRA, all designated employees should refer to the agency's Conflict of

Interest Code, as well as the FPPC's publication entitled, "Limitations and Restrictions on Gifts, Honoraria, Travel and Loans: A Fact Sheet for Members of State Boards and Commissions and Designated Employees of State Agencies," which is available from Personnel or the FPPC's website (<http://www.fppc.ca.gov>).^{xiii}

1024 Public Contract Code

Public Contract Code section 10410 places restrictions on officers and employees of the Chancellor's Office with regard to entering into agreements or performing work that is funded by a state agency. Officers or employees of the Chancellor's Office, including IJE employees at the Chancellor's Office, may not:

- Enter into an agreement with this office, or with any state agency; or
- Enter into an agreement or sub-agreement with a local government agency, college district, college, an auxiliary organization of a college district or college, the Foundation for the California Community Colleges, a nonprofit organization, or a private entity, to perform work which is funded, in whole or in part by a state grant or contract, including a Chancellor's Office grant or contract.

1025 General Prohibitions

Government Code sections 1090 et seq. contain prohibitions against an officer or employee's (includes IJE employees and consultants) involvement in agreements that affect their financial interests, including financial interests in sub-agreements. The term "financial interests" is very broad and includes the salary of an officer or employee's spouse. The prohibitions of section 1090 include influencing an agreement in any way, regardless of one's program area.

"Interests" not considered an interest in an agreement are outlined in section 1091.5 of the Government Code. This includes agreements between two government agencies, which includes agreements between this agency and a college district. It provides that the officer or employee of one government agency is not financially interested in the agreements of the other government agency unless the agreement directly involves the department that provides salary, reimbursement or per diem to the employee in question. The law also contains disclosure requirements.^{xiv}

1026 Prohibitions Not Avoided by Leaving State Employment or IJE

An officer, employee (including an IJE employee), or a consultant covered under the Office's Conflict of Interest Code cannot circumvent the prohibitions of section 1090 of the Government Code by leaving state employment in order to consummate an agreement or a sub-agreement in which he or she had a financial interest, direct interest or an undisclosed noninterest, during the period when he or she was working for the Chancellor's Office.^{xv}

2000 THE BIDDING PROCESS

2001 Competitive Bidding

Competitive bidding in California is governed by statute. No public entity in California is bound to engage in competitive bidding absent a statutory mandate to do so. Consistent with Board policy, competitive bidding should be used by the Chancellor's Office to the extent that it is either required by law or in the best interest of the agency and the California Community College system.^{xvi}

2002 Competitive Bidding Solicitations

There are many ways in which a project can be competitively bid. One method is not preferred over another. Rather, the appropriate method should be based on the scope of the project or desired need. In the federal system, a Request for Application is used for grant awards, and a Request for Proposals, an Invitation for Bids, and a Request for Quotations generally result in contracts. However, the strict use of these terms is generally made only by federal agencies. It is not uncommon to find the term "request for proposals" when the award instrument is a grant. The label of the solicitation is irrelevant. They serve the same general purpose (i.e., a solicitation for proposals based on specific information). The solicitations used at the Chancellor's Office are listed below in sections 2003 through 2007.

2003 Request for Proposal (RFP) and Request for Application (RFA)

The most common method of competitive bidding used at the Chancellor's Office for a contract is a RFP. When cost is a factor (e.g., RFP for a contract for services), there are two types of RFPs, Primary and Secondary. The main difference between the two is how the cost is presented in the bid package. In the Primary Method, the cost proposal is submitted in a separate sealed envelope that is only opened if the proposer achieves a specified minimum number of points on the technical proposal. In the Secondary Method, the price may appear as a section within the narrative proposal and while it is a significant factor (e.g., at least 30 percent of the total points), it does not have to be the predominant or controlling factor. The decision to use a specific process should be based on the services required, and the approach used should be approved by the division Vice Chancellor. (For more detailed information on the two types of RFPs, see SCM, V1, § 5.08.) The Chancellor's Office primarily uses a RFA to solicit applications for grants.

2004 Invitation for Bids (IFB)

An IFB states exactly what is wanted and invites bids based on those specifications. The invitation must be exact and clear to ensure that all bids received will be competitive and based on exactly the same work or equipment, specifications, and contract obligations. An IFB should be used when the requested service or equipment is standard, routine, or common, or when there is a standard associated with the service or equipment to be hired. For example, the hiring of movers for relocating from one facility to another should be accomplished through an IFB, not a RFP.

2005 Request for Quotations (RFQ)

A RFQ may be utilized to obtain price quotes for goods or services whenever the estimated cost is less than \$5,000 and/or the terms and conditions, if any, may not be significant enough to require both parties to sign a contract.

2006 Request for Information (RFI)

A RFI is used to determine whether there is market availability or interest in satisfying a specific need or providing the solution to a given problem expressed in the RFI. The issuance of a RFI may be a precursor to the issuance of a formal bid invitation if there are multiple encouraging responses. If the requestor's needs can be expressed succinctly within the space of a normal ad, soliciting responses through newspaper advertising can be an alternative canvassing method.

2007 Advertising in the California State Contracts Register (CSCR)

CSCR is a DGS publication that advertises both service agreements and public works contracts. It provides an equal opportunity for all businesses to compete for a share of state contracts. It is maintained and published by DGS' Procurement Division.

Contract advertisements for the CSCR must be submitted on a Std. Form 815, Advertising in the Contracts Register (available on the Publications portion of DGS' website under State Standard Forms). The Contract Analyst will complete the form and submits the form to DGS' Procurement Division.

2008 Number of Bids or Proposals Required

Three competitive bids or proposals should be obtained for each contract, if possible. If three bids are unreasonable under the circumstances, staff must notify the division Vice Chancellor for approval to move forward with the solicitation without three bids.

2009 Exemptions from Competitive Bidding

There are many general statutory exemptions from competitive bidding that apply to all state agencies, including the Chancellor's Office, and some that apply to specific programs administered by the Office. (See SCM, V1, § 5.80.) For all practical purposes, these exemptions are irrelevant to our agreements because the Chancellor's Office has broad based statutory authority to enter into contracts for services and fiscal agency agreements under \$20 million without competitive bidding. Below is a list of exemptions that are most relevant to the Chancellor's Office including exemptions that would apply to the procurement of goods.

1. Contracts for Services - The Board is exempt from certain Public Contract Code requirements that pertain to contracts for service (e.g., interagency agreements, legal services) including DGS review and the competitive bidding process.^{xvii}
2. Fiscal Agency Agreements (grants) under \$20 million - The Chancellor's Office may enter into a contract or other agreement with the governing board of any community college district for services or fiscal agency on behalf of the California Community Colleges.^{xviii}

3. Other Applicable Exemptions

- a) Contracts for goods less than \$5,000.^{xix}
- b) Contracts with an estimated value of greater than five thousand dollars (\$5,000), but less than two hundred fifty thousand dollars (\$250,000), and is awarded to a certified small business, including a microbusiness or a disabled veteran business enterprise, provided that price quotations are obtained from two or more certified small businesses, including microbusinesses, or from disabled veteran business enterprises.^{xx}
- c) Contracts that are advertised in the California State Contracts Register, or following solicitation of all potential contractors known to the agency and receipt of fewer than three bids or proposals.^{xxi}
- d) Contracts for conference or meeting facilities, including room accommodations for conference attendees, of less than \$250,000.^{xxii}

When a contract or grant is let without a competitive process, the Chancellor's Office must ensure that funds are expended in a cost-effective manner, utilize sound fiscal practices, protect against the misuse of public funds and prevent favoritism, fraud, and corruption in the award.

2010 Basic Components of a Request for Proposal or Application

Despite the different labels (RFP or RFA), the request should follow the same general process described below. Not all of the elements apply in every situation, and staff will need to shape the RFP/RFA to the project or program at hand. The more thoroughly that staff communicates their specific needs, requirements, goals, and objectives in the RFP/RFA, the more complete, responsive, and acceptable the proposals received will be.

Each division may have its own internal process for arriving at the content of a request, and staff should follow those processes to the extent that they do not conflict with this Manual.

2011 Instructions Prepared by Office Staff

The following guidelines should be considered when preparing instructions for a RFP/RFA.

- The RFP/RFA should specify the nature of the project or program, and the evaluation criteria that will be used to grade and award proposals/applications.
- The instructions should include a detailed statement of work that describes the tasks to be performed by the winning bidder and a timeline for providing finished work. The instructions must be as precise as possible to ensure that all proposals/applications are designed to accomplish the same goal.
- The RFP/RFA should guide bidders on how to prepare a proposal. The instructions should outline the information the bidder must include and the desired format.
- The RFP/RFA should identify the criteria by which the successful bidder's performance will be measured.

2012 Information Included in Proposals\Applications

The following are suggested categories of information and documents that may be included as part of a proposal or application. This is not an exclusive list. The request should only require information and documents that are relevant to the grading of applicants and their proposals.

- Information demonstrating that a corporate applicant is in good standing and qualified to conduct business in California;
- Copies of current business licenses, professional qualifications, or other credentials;
- Proof of financial solvency or stability (e.g., balance sheets and income statements for one year or more), as deemed applicable;
- A list of current or former references for whom the proposer has performed similar work;
- A brief list of similar types of contracts that were successfully concluded, with a sample of such work;
- A description of the lead personnel and anticipated supporting personnel to be employed during performance (by classification or title) and their qualifications to perform the work;
- Identification of a project director (recommended for all bid documents but required when consultants are sought);
- Resumes or Curriculum Vitae for each major contract participant who will exercise a major policy, administrative, or consultative role in carrying out the services (required by law for consultant contracts);
- An overall description of the techniques, approaches, and methods to be used in performing the services. For cost reimbursement contracts with consultants, the amount of time and manpower to be expended and the equipment and facilities to be utilized, if applicable;
- If subcontractors are contemplated, identification of those persons or firms, the portions and monetary percentages of the work to be done by the subcontractors, how and why they were selected, resumes of each major subcontract participant, and a description of how subcontracted work will be controlled, monitored, and evaluated; and
- The total cost of the project, with a detailed breakdown showing how the costs were determined. The detailed budget breakdown may include:
 - Identification of position/classification titles funded;
 - Salary rates or ranges;
 - Percentage of time devoted to the work;
 - Fringe benefits;

- Operating expenses;
- Travel and per diem expenses;
- Overhead or indirect costs;
- Subcontractors with the same type of cost details; and
- Other costs.

2013 Special Considerations for Bids with Certified Disabled Veteran Business Enterprise and Certified Small Businesses

The Chancellor's Office must offer procurement opportunities to California certified small businesses, microbusinesses, and disabled veteran business enterprise (DVBE) whenever possible. Small businesses also includes certified microbusinesses.^{xxiii}

2014 Certified DVBE Goals and Bidding Requirements

DVBE goals and bidding requirements have been established by the Chancellor's Office, and staff should make every reasonable effort to comply with the same. These goals and requirements are as follows:

1. The Chancellor's Office has established a DVBE participation goal of 3 percent of the dollar value of its agreements, including purchase orders and service orders. (For a detailed discussion of the DVBE contracting requirements, see SCM, V1, §§ 8.10, et. seq.) Staff should notify the Contract Analyst of DVBE participation in an agreement. The Contract Analyst maintains a list of DVBE participation.
2. Except where the Chancellor's Office has waived the DVBE requirement for a particular agreement (see (3) and (4), below), every RFP/RFA and any other bid request should include in the general conditions that any person making a bid shall set forth in the bid the following information:
 - a. The name and location of the place of business of each subcontractor certified as a DVBE who will perform work or labor or render service to the bidder in connection with the performance of the agreement, and who will be used by the bidding contractor to fulfill DVBE participation goals.; and
 - b. The portion of work that will be done by each such certified DVBE subcontractor. The bidder may list only one subcontractor for each portion of the work defined in the bid offer except where a contract is necessary for the immediate preservation of the public health, welfare, or safety or protection of state property.
3. Agreements with government agencies, colleges, universities and joint powers agencies are exempt from the DVBE participation requirements.
4. The Chancellor's Office has the sole discretion to exempt agreements from the DVBE requirements.

5. The decision to waive the DVBE goals must be reflected in the RFP/RFA. If the DVBE goals are included in the RFP/RFA, they apply to all bidders and may not be waived after the bid proposals are received.
6. Waiver of the DVBE requirements must be approved by the Vice Chancellor of the division based on a determination that setting a DVBE participation goal would likely preclude the Chancellor's Office from obtaining needed services at a reasonable rate from the best qualified contractor.^{xxiv}

2015 Certified Small and Microbusiness, Non-small Business and Bidding Preference

The Chancellor's Office has established goals and requirements for small and microbusinesses, and staff should make reasonable efforts to comply with the same. The goals and requirements are as follows:

1. A certified small business or microbusiness is entitled to claim a 5 percent preference in bidding on agreements. (For a detailed discussion of small and microbusiness contracting requirements, see SCM, V1, §§ 8.20, et. seq.)
2. A non-small business may receive a preference of 5 percent if the business commits to subcontract at least 25 percent of its net bid price with one or more small businesses or microbusinesses.
3. The 5 percent preference is used only for computation purposes, to determine the winning bidder and does not alter the amounts of the resulting contract. The value of the preference is limited to \$50,000 when a contract award is based upon award to the lowest compliant bid. A contract awarded on the basis of the 5 percent preference is awarded to the small business, microbusiness or non-small business for the actual amount of its bid. (For an application of the 5 percent preference see SCM, V1, § 8.21.)
4. In order to broaden subcontracting opportunities for small business, the Contract Analyst shall maintain and provide, upon request to interested parties, a list of the names and addresses of firms to whom requests for proposals or invitations to bid are to be issued in connection with all contracts for one hundred thousand dollars (\$100,000) or more.
5. Notice of the availability of the Small Business Preference Procedures must be included in the RFP/RFA or any other bid request.^{xxv}

2016 Length of Time Allowed for Proposals

Whenever possible, the Chancellor's Office should allow at least 90 days from the date of publication of the RFP/RFA to the deadline for submission of proposals. Where grants are targeted primarily at faculty, the timeline should reflect sensitivity to the academic calendar.

2017 Questions and Clarifications

The RFP/RFA should designate a contact person to whom questions may be directed. That person will respond individually to questions for which answers are already provided in the RFP/RFA. When an inquiry requires a clarification of the RFP/RFA, an addendum should be sent to all those to whom the RFP/RFA was initially sent.

2018 Prohibition Against Restrictive Specifications

No employee of the Chancellor's Office shall draft or cause to be drafted a RFP/RFA in a manner that would limit the proposals/applications, directly or indirectly, to any one respondent.

2019 Prohibition Against Pass-Through Agreements

A RFP/RFA may not be drafted in a manner designed to "pass" funds through a district in an attempt to circumvent procurement or contracting requirements applicable to the Chancellor's Office.

2020 Division and Legal Review

Staff assigned to write the bidding package should provide a draft to the division Vice Chancellor and Dean for review and, if necessary, coordinate with the Office of the General Counsel in sufficient time to allow meaningful review before publication. Some divisions may have a more exhaustive review process. Staff should comply with all divisional processes in place.

2021 Review of Technology Agreements

Projects with potential system-wide implications in the area of technology should be reviewed by the Technology and Telecommunications Advisory Committee (TTAC) prior to release of an RFP/RFA.

2022 Awarding the Contract or Grant

The processes for selecting contractors and grantees are different in the Chancellor's Office due to the nature of the agreements. Sections 2023 and 2024 address the selection process for contractors, and sections 2025 through 2034 address the selection process for grantees.

2023 Selecting the Contractor

All properly submitted proposals should be evaluated to select the one proposal that will best meet the Office's needs as outlined in the RFP. The proposals should be scored as directed by the RFP. A scoring template should be used for each proposal. Oral presentations may be arranged, if considered necessary. The following are some of the criteria that should be covered in the evaluation of each proposal:

1. Does the bidder understand the office's problem?
2. Is the approach to the problem reasonable and feasible?

3. Does the bidder have the organization, resources, and experience to perform the assignment? Has the organization had experience in similar problem areas?
4. What are the professional qualifications of the personnel that the bidder will commit to the assignment?
5. The total cost of the proposal to the agency.
6. Review of any completed Contractor's Evaluation, CCC 4, form (see § 3018) that may be on file with the Contract Analyst, or any completed Contract/Contractor Evaluation, Std. 4 form that may be on file with Department of General Services' Office of Legal Services (OLS).

2024 Removal or Suspension of Contractors from Bidding

A contractor may be removed or suspended from the Chancellor's Office list of potential bidders and be prohibited from participating in any of the agency's bid processes if there has been a failure to perform in accordance with the terms of a past contract with the Chancellor's Office. The Chancellor's Office may also prohibit bids from firms suspended or removed from the DGS list of potential bidders. Such exclusion must remain in effect for at least six months after the unsatisfactory performance has been recorded, but shall not exceed a period of 36 months. A contractor excluded from bidding shall be relieved of the prohibition at any time after the initial six month time period, upon demonstrating to the satisfaction of the Chancellor's Office that the problems that resulted in the removal or suspension have been corrected.^{xxvi}

A list of removed or suspended contractors is maintained by the Contract Analyst. Staff should immediately report said contractors to the Contract Analyst.

2025 Selecting the Grant Applicants

When applications are first received, staff must perform a preliminary review of the applications to determine if they are eligible for reading and scoring. The Chancellor's Office reserves the right to reject any and all applications received. However, applications should only be rejected before scoring under the following limited circumstances:

1. The application is late. Application deadlines should be established based on whether they are received by a certain date and time. Electronic submission of an application is preferred. The date specified in the RFA as the deadline for submission of applications must be followed;
2. The RFA Specification Number cannot readily be ascertained;
3. The application is incomplete or does not conform with the RFA instructions and supporting documents.
4. The proposal violates public policy. Consult with the Office of General Counsel before rejecting a proposal on this basis.

2026 Reader Panels

Program staff for the division issuing the RFA is responsible for assembling evaluation panels. The general agency policy is that panels should consist of three readers, but a Vice Chancellor may authorize use of fewer readers where it would be impractical to obtain three readers for each panel. The panel should include outside readers as appropriate and should be comprised to assure objectivity and prevent conflicts of interests. In the event that outside readers are not used, the evaluation panel shall include staff from more than one division in the Chancellor's Office. (Note: Due to the specialized nature of the subject matter, this rule is not applied to grants awarded by the Facilities Planning Unit.)

2027 Reader Recruitment

An agency-wide, year-round process should be utilized that includes various approaches to soliciting readers for grant programs that require competitive bidding. Policies governing reader recruitment include:

1. The Chancellor, Deputy Chancellor, Vice Chancellors, or Assistant Vice Chancellors may formally request reader nominations through appropriate groups and organizations, including an explanation of the value to participants of the reader experience;
2. All reader recruitment should utilize the Grant Reader Application/Nomination form available on the General Counsel's Intranet page. The completed form should be sent to the Contract Analyst who will maintain a list of potential readers. The recruitment form may also be distributed at all appropriate statewide and regional meetings and conferences attended by Office staff;
3. Readers should be selected from representation of a wide range of expertise in education, program practitioners, and Chancellor's Office staff;
4. Reader pools should be established to allow readers to build up experience and become more skilled, and to apply consistent grading standards to applications;
5. Whenever possible, readers should be notified of their selection at least 4 weeks in advance of the proposal submission deadline, and then of their actual assignment to a reading process soon after the deadline (when the number of proposals, and therefore the number of readers needed, are both known); and
6. A reader may not review a discretionary grant application submitted by an organization or a person in which the reader was a representative, voting member, or staff member within the 2-year period preceding the receipt of the application. Organization does not include local, state, or federal agencies.^{xxvii}

2028 Reading Processes

Each division shall, consistent with the general principles below, assume responsibility for the management and oversight of the actual reading process for grant programs it administers.

1. All readers will be provided with reader orientation materials accompanied by a FAQ (Frequently Asked Questions) piece, which will also be available on the Office's website.
2. A reasonable amount of time will be allowed for reading given the number of grants to be read in a session.
3. All readers will be given the same rules, scoring criteria, and maximum possible point values assigned to each criterion, and use the same proposal evaluation form.
4. Reading locations should be comfortable, well lighted and well ventilated.
5. The role of staff should be made clear during the training process.
6. Readers are required to sign a Conflict of Interests/Confidentiality Statement (available on the General Counsel's Intranet page) form stating that they will disqualify themselves from reading any proposal that might involve a conflict and will keep all information confidential.
7. Each unit is responsible for arranging for the travel reimbursement for its readers.

2029 Scoring of Proposals

All applications will be evaluated and ranked on the basis of a 100-point scale. Division staff are free to develop scoring criteria and values that are appropriate to the grant objectives, provided they are approved by the Division Vice Chancellor. The scoring matrix must be clearly stated in the RFA, and followed in all circumstances. The scoring matrix cannot change after the RFA has been published.

- Need (Statement of Problem): 10 points
- Response to the Need: 10 points
- Workplan-Objectives: 15 points
- Workplan-Procedures Activities: 10 points
- Workplan-Performance Outcomes: 15 points
- Project Management: 15 points
- Application Budget: 10 points
- Dissemination: 5 points
- Overall Feasibility of the Project: 10 points

2030 Averaging Reader Scores

The score assigned to a given application is the average of the scores determined by the individual readers. Where three readers are used, if a score deviates by more than 10 points from the median score, it shall be disregarded, unless there is a score that deviates from the median score by a higher number. If two scores deviate by the same amount more than 10 points from the median score, the lowest score will be disregarded.

2031 Process for Breaking Ties

In the event of a tie that will affect funding, the application will be read by an additional reader, and the score of the additional reader will be averaged with the other scores.

2032 Ranking and Listing of Proposals

Once scoring is complete, program staff will rank proposals and develop a list that includes four categories for each RFA Specification. The categories are:

1. Funded (F);
2. Eligible-Not Funded (E-NF). A proposal will be placed in this category when it receives at least the minimum number of points necessary for funding (normally 75 points) but funding is insufficient to fund proposals down to that level;
3. Not Eligible (NE). This category includes proposals that did not achieve the minimum number of points on their application evaluation, and proposals that are contrary to law or public policy; and
4. Not Scored (NS). This category designates proposals that were rejected for reasons listed in the RFA.

2033 Surplus Funds

If a RFA contains multiple specifications or funding categories, and there are funds remaining under any specification/category after all of the eligible proposals/applicants have been funded, the Chancellor's Office may, subject to restrictions in the applicable statutes or Budget Act provisions, elect to award the remaining funds under a different RFA specification. The additional awards will be made by taking proposals in ranked order from the E-NF lists already established.

If the RFA does not have multiple specifications, or if reallocation of funds still does not exhaust all funds, remaining funds must be re-advertised through another RFA unless the proposed agreement is exempt from competitive bidding.

2034 Notification of Intent to Award Grant

A master list of the scoring results for each of the RFA specifications will be posted on the agency's website along with notification of intent to award those grants listed as "Funded." The notice will be posted for at least 10 business days. If appeals are filed during this period, the grants affected will not be awarded until the appeal is resolved.

2035 Protests, Disputes and Complaints of Bid Requirements and Awards

The Chancellor's Office has final authority to resolve protests, disputes, and complaints arising from the solicitation or award of a contract or grant. Solicitation documents must contain provisions for the resolution of protests and disputes.

2036 Inspection of Bids

Inspection of bids is permitted as follows:

1. After bid opening, all bids shall be available for public inspection (IFB process).

2. After proposals are evaluated, and notice of intent to award has been posted, all proposals shall be available for public inspection (RFP process).^{xxviii}

2037 Protest of Bid Requirements

The solicitation document shall provide potential bidders with the opportunity to take exception to specifications and/or requirements. Protests of requirements received after the time identified in the solicitation document shall be considered untimely and rejected.

2038 Protest of Contract Award

If a protest is received in writing and filed on the grounds that the award does not conform to the provisions of the solicitation document, the contract shall not be awarded until the protest has been withdrawn or a decision has been reached by the Chancellor's Office. Complaints lodged by a bidder prior to award may be resolved informally. However, in the event that the matter is not resolved, bidders shall be advised of the timeframe for submitting a full and complete formal statement of the grounds for the protest within the timeframes specified in the solicitation document.

2039 Decisions on Contract Protest

The Chancellor's Office shall review the merits and timeliness of the protest and submit a decision in writing within a reasonable period of time following receipt of the protest. The Chancellor's Office shall issue a decision in writing and furnish the decision to the bidder in such a manner as to ensure receipt. The decision shall be rendered by the division Vice Chancellor, in consultation with the General Counsel. The decision of the Chancellor's Office is final.

2040 Disputes Subsequent to Contract Award

Disputes subsequent to award may include, but not be limited to, contention over terms, pricing, payment, scope and/or deliverables. A dispute resolution describing resolution procedures, shall be included in solicitation documents and contracts, as applicable.

2041 Protest of Grant Award

An appeal of a grant award must be in writing signed by the college president or designee, or by the head of a nondistrict entity in those rare instances where such entities are eligible to apply under the particular RFA. The appeal must be emailed to the Vice Chancellor of the division responsible for funding the project (as identified in the RFA) within 10 business days after the date the notice of intent to award is posted. The appeal must specify the grounds of appeal and must be based on the process and/or procedures used in the review and recommendation of applications for awards. The Vice Chancellor shall review all the information submitted with the appeal, consult with the Office of the General Counsel, and render a decision within 30 calendar days of the date of receipt of the appeal. The decision of the Chancellor's Office is final.

3000 CONTRACTS

3001 Scope

This Manual does not address the following types of contracts:

- Construction contracts, including those for alteration, improvement, repair or maintenance of real or personal property.
- Public works contracts.
- Procurement contracts, other than as discussed in section 5000. For contracts for goods or services where the amount is estimated to be under \$5,000, you should contact Business Services and utilize this agency's procurement processes through the use of a purchase request or services request. However, splitting larger contracts into several smaller contracts of under \$5,000 in order to take advantage of this option is prohibited.
- California Multiple Awards Schedule (CMAS) contracts, exempt as provided for in section 5004.
- Memoranda of Understanding. Staff should consult with Office of the General Counsel when drafting MOUs.

3002 Elements of a Valid Agreement

Contracts entered into by the Chancellor's Office must reflect our best efforts to advance and protect the public interest. Contracts are legally binding, and must not be entered casually, without careful consideration of costs and benefits. Each agreement, whether it is a contract or a grant, must contain the following information:

- Parties. The identity of the parties who will be bound by the agreement must be clearly identified.
- Term. The duration of time for the performance or completion of the contract, including the end date must be specified.
- Consideration. The agreement must clearly express the maximum amount to be paid and the basis on which payment is to be made, e.g., a fixed amount regardless of time spent, billing based on time spent at a specified rate plus actual expenses, or cost recovery.
- Scope. The work, service, or product to be performed, rendered, or provided. Clear and concise language must be used to describe the scope.
- Termination. The agreement must include terms that allow for its cancellation on reasonable notice without cause, and on shortened or no notice for cause.
- Other general or unique terms and conditions of the agreement.

- Signature (electronic signature is acceptable) by a person for each party who is authorized to bind that party.

3003 Standard Language for Contracts

The Chancellor's Office has developed standard templates for various types of contracts that consist of (1) Face Sheet; (2) Scope of Work (Exhibit A); (3) Budget Detail and Payment Provisions (Exhibit B); (4) General Terms and Conditions (Exhibit C); and (5) Special Terms and Conditions (Exhibit D). These documents must be included in all contracts, whether or not they are awarded through a competitive process. The face sheet and standard templates are available on the Office of General Counsel Intranet page. Always look to the General Counsel's Intranet page for the most updated version of a template as they will be updated periodically by the Office of the General Counsel. Additional exhibits may be added depending on the nature of the contract. For example, if data security is a component of the contract, the contract may require a separate exhibit to address specific requirements.

3004 Amendments

Amendments to contracts are required to be in writing and signed by both parties. A template for amendments (face sheet) can be found on the General Counsel's Intranet page. Amendments should clearly identify the nature of the amendment and explain the same. (See § 1006.)^{xxix}

3005 Approval by the Board of Governors

The Chancellor must obtain Board approval before entering into a contract that is:

1. In excess of \$100,000; or
2. Over three years in duration, unless the contract is with another government entity; or
3. With respect to consulting services, in excess of \$50,000. (See § 1006.)^{xxx}

All contracts requiring Board approval must be submitted for inclusion in the Grants and Contracts agenda item for a Board meeting prior to the commencement date of the contract. A summary for each contract should include, at a minimum:

1. The purpose of the contract and the funding source;
2. The proposed scope of work and expected deliverables;
3. The amount of the contract;
4. The time for performance of the contract, and
5. Information, if any, related to competitive bidding.

3006 Approval by other State Agencies

Some contracts entered into by the Chancellor's Office are subject to requirements imposed by the Department of Finance. Personal Service Contracts are subject to State Personnel Board review. (See §§ 3014, 3015.)

3007 Progress Payments

When progress payments are made, the amount should not exceed 90 percent of the total amount of the contract, with the balance to be paid upon satisfactory completion of the contract. Progress or other payments must always be based on at least equivalent services rendered and not made in advance of service rendered. Progress payments should not be made for contracts lasting less than three months.

If the contract is written to include progress payments, it is the policy of the state to withhold 10 percent from each progress payment, the balance to be paid after receipt of the final product. It is not necessary to withhold 10 percent from payments which are tied to the completion of specific tasks or receipt of deliverable products.^{xxxix}

3008 Misuse of the Name "California Community Colleges"

The name "California Community Colleges" is the property of the state. No person may use this name, or any abbreviation of it, or any name of which these words are a part, without the permission of the Board of Governors.^{xxxix}

3009 Advance Payments for Other Than Interagency Agreements

Payment in arrears is the prescribed method of remitting payments for state acquisitions of work, services, materials or equipment from private firms and for interagency agreements involving transactions, which are limited to transfers of state general fund money to another state agency's non-general fund. Advance payments by the state are permitted, however, only when specifically authorized in law and determined to be in the agency's best interest.^{xxxix}

3010 "Add-On" or "Follow-On" Consultant Contracts

No consultant who has been retained in connection with the development of a procurement, may participate as a bidder in that, or a related, procurement.^{xxxix}

3011 Duration of Contracts

Contracts should not exceed a five-year term (60 consecutive months) except in extraordinary circumstances that must be explained to the Board of Governors when the contract is presented for approval.

3012 Services Contracts

For purposes of this Manual, the following contracts executed by the Chancellor's Office are services contracts:

- Personal service contracts;
- Consulting service contracts;
- Other personal services (e.g., movers, security);
- Inter-Jurisdictional Exchange agreements under Government Code section 19050.8 consisting of an assignment or loan of an employee within a government agency or between agencies;

- Contracts for student assistants for the part-time services of a student attending any public or private institution of higher education in California governed by Government Code section 19133; and
- Other services that are not personal (e.g., electronic research subscriptions).

In the event that a particular contract involves two or more of these types of services, the provisions of law and of this Manual for each type of contract shall all be applicable.

3013 Personal Services Contracts

A personal services contract is a contract in which labor or personal services is a significant, separately identifiable element.^{xxxv} It may resemble an employer-employee relationship in some respects, and must be carefully drafted to ensure no employer-employee relationship is inadvertently created. Personal services contracts are used to obtain personal services (when it is appropriate to do so) outside of civil service hiring procedures. The business or person performing these contractual services is an independent contractor and does not have status as an employee of the state. Contracting for personal services in lieu of using civil service personnel is permitted, subject to State Personnel Board review, only if the standards outlined in Government Code section 19130(a) or (b) are met as follows:

1. Cost savings. Section 19130(a) permits contracting for personal services to achieve cost savings when a variety of conditions are met. (The list is exhaustive. Staff should review the statute and consult with the Office of the General Counsel to determine if all of the conditions are met.)
2. Highly specialized or technical work. Section 19130(b) permits contracting for personal services when any of its requirements are met. For Chancellor's Office purposes, sections 19130(b)(3) and 19130(b)(10) are the exceptions most likely to arise.
3. Non-civil service work. Section 19130(b)(3) provides that personal service contracts are permissible when "[t]he services contracted are not available within civil service, cannot be performed satisfactorily by civil service employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the civil service system."
4. Urgent need. Section 19130(b)(10) allows personal service contracts when "[t]he services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under civil service would frustrate their very purpose."^{xxxvi}

3014 Notice and Review by the State Personnel Board (SPB)

If the Chancellor's Office intends to award a personal services contract pursuant to Government Code section 19130(a), *cost savings*, it must notify SPB of its intention to award the contract and retain all data and information relevant to the contract in the event that SPB chooses to review the matter. Our notification to the SPB should include written justification containing specific and detailed factual information demonstrating

that the contract will achieve an overall cost savings to the state and that it meets all of the other requirements of 19130(a). The SPB sends notice of all proposed contract awards under section 19130(a) to state employee organizations that may then choose to request SPB review within 10 days of such notification.

While notice to SPB is not required for contracts awarded on the basis of Government Code section 19130(b), such contracts are still subject to review by SPB at the request of an employee organization representing state employees. Therefore, all data and information must be retained.

3015 Notice to Union Organization

Unless a personal services contract let under Government Code section 19130(b) is necessary due to a sudden and unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services, the contract *shall not be executed* until the state agency proposing to execute the contract has notified all organizations *that represent state employees who perform the type of work to be contracted.* ^{xxxvii}

Note: All personal service contracts must be reviewed by the Human Resources Office to determine if the contracted work falls within the civil service system. If so, Human Resources will prepare a memorandum supporting the contract and will provide the Contract Analyst with instructions for union notification. The Contract Analyst is responsible for notifying the appropriate union organization, in writing, of the proposed contract and giving said organization a reasonable opportunity to respond. ^{xxxviii}

3016 Independent Contractor Status

All persons who provide services to the state under conditions that constitute an employment relationship shall be retained under an appropriate civil service appointment, unless exempt. A contract for services with individuals should be drafted and administered in a manner consistent with the establishment of an independent contractor status when a civil service appointment is not intended. Certification of employee status and independent contractor status for each individual engaged under contract is required documentation.

In retaining and using independent contractors, the Chancellor's Office should establish that the contractor (1) is free from the control and direction of the Office in connection with the performance of the work, both under the contract for the performance of the work and in fact; (2) the work is outside the usual course of the Office's business; and (3) the contractor is customarily engaged in an independently established trade, occupation, or business. ^{xxxix}

3017 State Standard Form 204 – Contractor Data Record

The Project Monitor must send a Std. 204, Payee Data Record form (available from the Publications portion of the DGS' website under State Standard Forms at <https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std204.pdf>) to the contractor to be completed and submitted to the Accounting Unit (except for a state or other

governmental entity, including a community college district) doing business with this agency.^{xl}

3018 Consultant Services Contracts

A consulting service agreement is a contract defining the terms of service between a consultant and the Chancellor's Office, or between a consultant and a fiscal agent on behalf of the Chancellor's Office. A consultant agreement can be with an individual or a firm, and typically involves high-level advice in a field that requires specialized training and assists in identifying a recommended course of action. The work product may include anything from answers to specific questions, to the design of a system or plan. Examples of areas where consultants provide advice include law, management, technology, marketing, and other similar fields.

3019 Compensation of Consultants

The following methods may be used in paying consultants:

1. A lump sum or fixed price for the total project. This avoids detailed accounting and is a contract for a given result. The agency's primary concern is not with the cost incurred by the consultant, but with the end product. This approach to costing is more likely to require a competitive process to determine whether the cost is appropriate.
2. Hourly rate plus cost reimbursement, with a ceiling on the total project or contract amount. The consultant agrees to charge only for hours utilized at an agreed rate of compensation and reimbursement of costs. This method is also a contract for a given result. Division staff should conduct a survey or other research to confirm that the hourly rate is appropriate for the services.
3. Daily compensation plus cost reimbursement, to work "when requested" during the term of the contract for daily rate plus cost reimbursement, with a ceiling on the total project or contract amount. This type of contract should be avoided if a given result can be contracted for.

To implement methods (2) and (3) above, the contract must provide for the following:

- The rate of compensation to be paid the consultant;
- There are no set rates for paying consultants. Amounts to be paid depend upon the complexity and difficulty of the project, the going rate for similar work both within and outside the state service, and the qualifications and reputation of the individual(s) or firms being awarded the contract. Proposals submitted by individuals and firms will list the rate of compensation to be paid staff assigned to the contract by the bidder. Division staff should ensure compensation rates are competitive with rates charged within the applicable industry;
- Transportations costs must be borne by the contractor to maintain independent status. The costs of travel required under the contract may be estimated based on applicable state rates and *included in the sum of the contract*; and

- Any other expenses. These should be clearly and specifically set forth in the contract.

3020 Revolving Fund

For emergencies only, if approved by the Vice Chancellor of Internal Operations, payment may be made to a contractor by the Accounting Unit from the "revolving fund."

3021 Evaluation of Contractors, Consultants, and Vendors

The project monitor must evaluate the consultant, contractor, or vendor after the completion of an agreement in excess of \$5,000. The contractor, consultant, or vendor should be advised that performance under the agreement will be evaluated. Evaluations should include:

- The adequacy of the service or product;
- Whether the service was satisfactory;
- Whether the service or product was provided or completed within the time limitations;
- Reasons for time or cost overruns;
- Whether the product is operational or being utilized by the agency and/or the agency's plans for implementation, and
- The agency's general impression as to the competency of the firm and its staff.

An evaluation shall be prepared on a Contractor's Evaluation, CCC 4, form (available on the General Counsel's Intranet page). The evaluation should be sent to the Contract Analyst within 60 days after completion of the agreement. If an evaluation is unsatisfactory, a copy of the evaluation should be sent to the contractor in a timely manner. The Contract Analyst will review the evaluations and contractor responses. The Contract Analyst will maintain a central depository for all agency contractor evaluations, contractor responses to evaluations, and requests for information on a contractor's record. The evaluations and contractor responses on file with the agency are not public records and should be kept in a separate file.^{xli}

3022 Review for FPPC Filing Requirements

The Vice Chancellor of Internal Operations, or staff working under the direction of the Vice Chancellor will:

- Review each consultant's duties under the contract, along with the regulations of the FPPC and determine whether any of the contractor's personnel that will be working for this agency under the contract are covered under the definition of "consultant." For purposes of the FPPC regulations, it is not the business or firm providing services to the agency that is considered to be the consultant; rather, each individual employee of the contractor providing consulting services for this agency may be considered a "consultant" for purposes of compliance with the regulations.

- If the consultant is covered, determine which disclosure category in the agency's Conflict of Interest Code applies to the consultant's duties. In general, most consultants will be in category 2. However, for consultants involved in facilities planning issues, they will be covered under category 1.
- If the consultant is covered, inform the consultant that he or she is designated in the agency's Conflict of Interest Code and the disclosure category, provide the consultant with the proper materials, and inform the consultant that he or she is subject to the conflict of interests provisions of the California law and must file a Form 700 within 30 days from his or her start date.
- If it is determined that a consultant is not covered by the FPPC's regulations, seek the advice of the Office of the General Counsel in order to affirm that the determination is correct.

3023 Contracts for Legal Counsel

Occasionally, the Chancellor's Office will retain private legal counsel under contract to avoid conflicts of interests or for other reasons. Such contracts do not require competitive bidding, and may be negotiated and executed by the Chancellor, the Deputy Chancellor, the Vice Chancellor of Internal Operations, or the General Counsel.^{xlii}

3024 Student Assistants

Contracts for student assistants for the part-time services of a student attending any public or private institution of higher education in California are exempt from the need to justify contracting out of civil service work so long as the agency contracts with one of the types of foundations identified in the statute and the following requirements are satisfied:

- The work must be related to the student's field of study.
- Students cannot accrue civil service status.
- Students cannot be employed for more than 194 days in the 365 days beginning with the day of initial employment.
- Use of students cannot cause displacement of civil service employees.

Note: The Human Resources Office is responsible for arranging for student assistants to the Chancellor's Office and should be consulted.^{xliii}

3025 Inter Jurisdictional Exchange Agreements

Inter Jurisdictional Exchange agreements permit the temporary assignment or loan of employees between the Chancellor's Office and other agencies, including community college districts. So-called "reverse IJE" agreements are used when a member of the Chancellor's Office staff is temporarily loaned to a community college district. Such agreements are exempt from competitive bidding requirements.^{xliv}

3026 Other Services

Occasionally, there may be circumstances where the Chancellor's Office needs to contract for services that do not fall into any of the above categories. Staff should consult with their Vice Chancellor, who in turn, may consult with the Office of General Counsel

4000 GRANTS

4001 Commencement of Grants

Staff should make all arrangements necessary to enable grants to begin on or soon after July 1st to coincide with the commencement of the fiscal year for which funds are provided. There are some programs (such as the Fund for Instructional Improvement and those funded under the Carl D. Perkins Career and Technical Education Improvement Act) where grants must be awarded on a fiscal year basis. However, where allowed by law, agency policy permits use of an alternative grant cycle where grants begin January 1st and end December 31st. One of these two cycles should be used unless there are compelling circumstances requiring a different schedule and the vice chancellor for the division administering the program approves use of a different commencement date. The fiscal cycle for the federal government is October 1 to September 30. Most federal grants run on this cycle.

4002 Standard Language for Grants

The Chancellor's Office has developed a standard template for grant agreements that consist of (1) Face Sheet; (2) Scope of Work (Exhibit A); (3) Budget Detail and Payment Provisions (Exhibit B); (4) General Terms and Conditions (Exhibit C); and (5) Special Terms and Conditions (Exhibit D). These documents must be included in all grants, whether or not they are awarded through a competitive process. Always look to the General Counsel's Intranet page for the most updated version of the template as it will be updated periodically by the Office of the General Counsel. Additional exhibits may be added depending on the nature of the grant.

1. The face sheet includes certain basic information about the grant such as the name of the grantee, the dollar amount of the grant, and the grant's purpose and terms. In order for a grant to be legally effective, the face sheet must be signed by the Deputy Chancellor or the Director of Internal Operations (or their designee in periods of absence) for the Chancellor's Office and by the Chief Executive Officer or designee for the grantee.
2. The Scope of Work (Exhibit A) is one of the most important sections of the grant and must be tailored to the specifics of the project. The SOW should accurately describe the program's needs and requirements as intended by the Chancellor's Office, and must be consistent with the implementing statute (most likely in the Education Code) and/or the Budget Act. It should identify project representatives and key personnel. A Contractor/Work Statement (Exhibit A-1) should be attached to the SOW. The work statement should describe the goals and specific objectives

of the program and summarize the expected outcomes. If applicable, it should describe the overall strategy, methodology, and analyses to be used and should include how the data will be collected, analyzed, and interpreted as well as any resource sharing plans as appropriate. This would include potential problems, alternative strategies, and benchmarks for success anticipated to achieve the goals and objectives and should list tasks the grantee must perform.

3. The Budget Detail and Payment Provisions (Exhibit B) is also a very important section that is project specific. It explains the manner in which the grantee will be paid for services rendered under the agreement. The attached Contractor's Proposal (Exhibit B-1) provides the necessary detail and should be consistent with its scope of work.
4. The General Terms and Conditions (Exhibit C) are standard state contract provisions that would rarely be deleted or modified.
5. The Special Terms and Conditions (Exhibit D) should be tailored to program's needs and requirements. If a clause is unnecessary, it should be deleted. However, the grant's section numbering should be retained by inserting the term "Reserved" after the heading.

4003 Standard Language for Vendor Agreements

Vendor agreements are contracts that are entered into between a fiscal agent, on behalf of the Chancellor's Office, and a vendor to implement the program. These agreements are very important because often the majority of work for the program is implemented through vendor agreements. The Chancellor's Office has developed a template for vendor agreements that is located on the General Counsel's Intranet page. As with grant agreements, always look to the General Counsel's internet page for the most updated version of the template as it will be updated periodically by the Office of the General Counsel. Additional exhibits may be added depending on the nature of the vendor agreement.

4004 Amendments

Amendments to grants are required to be in writing and signed by both parties. A template for amendments (face sheet) can be found on the General Counsel's Intranet page. Amendments should clearly identify the nature of the amendment and explain the same. (See § 1006.)

4005 Board Approval

The Chancellor must obtain Board approval before entering into a grant that is:

1. In excess of \$100,000 or
2. Over three years in duration, unless the grant is with another governmental entity. (See § 1006.)

All grants requiring Board approval must be submitted for inclusion in the Grants and Contracts agenda item for a Board meeting prior to the commencement date of the grant. A summary for each grant should include, at a minimum:

1. The purpose of the grant and the funding source;
2. The proposed scope of work and expected deliverables;
3. The amount of the grant;
4. The time for performance of the grant, and
5. Information, if any, related to competitive bidding.

4006 Multi-Year Awards

In order to reduce the number of RFAs and grant amendments, staff should consider multi-year awards whenever possible and appropriate given the funding source. The RFA and grant agreement must make clear that funding in the second and subsequent years is contingent upon satisfactory performance and availability of funds. It is the responsibility of program staff to manage funding and coordinate with the Finance and Internal Operations Divisions as needed to account for the fact that funds in subsequent years are already committed to previously funded projects.

4007 Identification of Funding Priorities

Staff in the Chancellor's Office should make every effort to ensure that the funding resources available are used in a way which best supports the priorities of the Board of Governors, insofar as that is possible within the constraints imposed by statute and budget language. Staff should also consult the appropriate Chancellor's Office advisory committee(s) or other appropriate groups (e.g. intersegmental committees) when making decisions about funding priorities.

4008 Grant Reporting

The Chancellor's Office has various policies regarding grant reporting that should be followed. However, reporting requirements should always be tailored to the nature and requirements of the program and funding source and how best to ensure its success. Staff should work with their respective Vice Chancellors and Deans in developing a reporting schedule that is appropriate for the grant in question.

4009 Progress Reports

The general agency policy is that all grants will require two progress reports during each year of the project—one after six months and another after nine months. Vice Chancellors may authorize fewer reports where other methods (e.g., routine data collection) are available to adequately monitor grant performance. Quarterly reports are required for projects funded under the Carl D. Perkins Career and Technical Education Improvement Act where payments are made through the apportionment process. The Economic and Workforce Development Program also requires quarterly progress reports to meet legislatively established accountability and monitoring requirements. More than the standard two progress reports may also be required by a grant agreement where this is necessary to comply with federal or state law or contractual obligations to a funding

source. Please note that the report forms have been revised to permit electronic submission.

4010 Year End Reports

Multi-year grants will require a year-end report within 60 calendar days after the close of each year.

4011 Final Reports

Upon the completion of each project, a final report must be filed with the project monitor documenting the extent to which the objectives of the grant have been achieved.

Generally, the final report will be due within 60 calendar days after the end of the period of performance of the grant.

4012 Additional Reports

Some grant programs may require the filing of additional reports detailing expenditures.

4013 Grant Monitoring

Each grant must specify the Chancellor's Office staff member designated as the project monitor. The project monitor is responsible for reviewing reports submitted by the grantee and determining whether the objectives of the grant have been satisfactorily met in accordance with the statement of work. In the case of multi-year projects, funding for the second or subsequent years of the project may only be authorized if the project monitor determines that the grantee has made satisfactory progress toward achieving the grant objectives.

4014 Payments

The following best practices should be followed when expending grant funds.

1. Invoices or requests for advance payments (not to exceed 40 percent of the total dollar value of the grant) are emailed to accounting who then routes the invoice to the appropriate program unit for payment except in cases where payments are made through the apportionment process. ***Please note that the above 40 percent limitation does not apply to pure fiscal agent agreements. Full disbursement of the grant funds are allowed in this situation.***
2. District submission and agency approval of claims may be accomplished by use of a system involving electronic signatures, provided that the following internal controls are in place:
 - a. Competent, trustworthy people are assigned to process transactions with clear lines of authority and responsibility;
 - b. Procedures provide for adequate separation of duties;
 - c. Proper procedures are in place for authorizing financial transactions;
 - d. Adequate documents and records are maintained;
 - e. Appropriate software controls (e.g. password protections) are established and maintained;

- f. Independent checks on performance are conducted.
3. The term “separation of duties” means that one person’s work serves as a complimentary check on another’s work. The concept is that no one person should have complete control over any transaction from initialization to completion. Having adequate segregation of duties has a major impact on ensuring that transactions are valid and properly recorded.
4. The electronic capital outlay claim submittal process and FUSION Spreadsheet Interface for Claims Processing developed by the Facilities Planning Unit satisfies the requirements set forth in subsection (b) and would be a good model for implementation of electronic claims processing systems by other units.

4015 Subgrants or Subcontracts

If a grantee wishes to contract with a private or public entity to perform certain parts of the work required under the grant, the standard agency grant agreement requires that the grantee obtain the written approval of the grant project monitor prior to the selection of subcontractors or subgrantees to perform services under the grant. Approval may be granted based upon a written request which discloses the intended purpose and amount of such subcontracts or subgrants, agrees to follow locally applicable competitive bidding processes, and identifies the subcontractors or subgrantees chosen.

In addition, the standard agency grant agreement requires grantees to include certain specific provisions in their subcontract or subgrant agreements and makes subcontracts and subgrants subject to audit. Subcontractors or subgrantees specifically identified in either a grant or grant exhibits and that are secured in accordance with applicable legal requirements and the grant provisions (such as those discussed above) are deemed approved upon execution of the grant agreement.

Staff should use the Vendor Agreement form on the General Counsel’s Intranet page. (See §§ 1013, 4003.)

4016 Modifications and Amendments

The conditions under which a grant agreement may be modified or amended are set forth below, as well as the procedures that must be followed. Amendments must be in writing and signed by both parties. A template for amendments (face sheet) can be found on the General Counsel’s Intranet page. Amendments should clearly identify the nature of the amendment and explain the same.

4017 Changes in Work to be Performed

The work to be performed under a grant is set forth in a concise scope of work developed by the project monitor, working with the grantee. Separate from the scope of work, a grantee may be required to prepare a work plan that provides a more detailed description of the work. The grantee, vendor, or subcontractor may make changes in the work plan with the written approval of the project monitor. If the project monitor determines that a modification to the work plan would materially affect the outcomes of the grant, the project monitor may require the completion of a formal amendment to the grant.

4018 Budget Changes

All grant funds must be spent consistent with the requirements specified in the grant agreement. For most program areas, the grantee may make changes to any budget category amounts without the approval of the project monitor, so long as budget categories are not added or deleted, the total dollar amount of the grant is not affected, and the outcomes of the grant will not be materially affected. However, all such budget changes shall be reported to and approved by the project monitor. Additionally, the next progress report must show the new budget changes.

For grants administered by the Facilities Planning Unit, approval by the project monitor is required in advance of any budget changes.

4019 Recovery of Unused Funds

If a grantee cannot use or account for all funds received, the grant agreement authorizes the Chancellor's Office to recover the unused funds.

5000 PROCUREMENT

5001 Role of Business Services

The Business Services Unit is responsible for procurement of goods and services within the Chancellor's Office.

5002 Board of Governors Review

Approval by the Board of Governors is required for agreements for the procurement of goods and services in excess of \$100,000.^{xlv}

5003 Purchase Orders and Service Orders

A purchase order or service order may be used to obtain goods or services in an amount of less than \$5,000.

5004 Multiple Awards; CMAS

Multiple awards are contract awards of an indefinite quantity for one or more similar goods, information technology, or services to more than one supplier.^{xlvi} Multiple awards may be used in instances where awarding to a single contractor would fail to meet the requirements of the Chancellor's Office. Multiple awards must comply with all other requirements of statute and policy, including Standing Order section 318.

Before placing orders under the CMAS program, the Chancellor's Office must first consider offers from small businesses that have established multiple award schedules whenever practicable.^{xlvii}

6000 PROCUREMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS GOODS AND SERVICES

Pursuant to Public Contract Code section 12100.5, and section 321 of the Procedures and Standing Orders of the Board of Governors, the Chancellor is authorized to establish and maintain policies and procedures for procuring IT and telecommunications goods and services for the Chancellor's Office without the involvement of the Department of General Services, the Department of Technology, or the Department of Finance. Those policies and procedures, which are set forth below, are intended to further the legislative policies set forth in chapter 3 (commencing with section 12100) and chapter 3.5 (commencing with section 12120) of part 2 of division 2 of the Public Contract Code.

Please note that the below processes are unique to the acquisition of IT and telecommunications goods and services. The Chancellor's Office general policies for agreements are set forth in the other sections of this manual and should be followed, including exemptions from competitive bidding outlined in section 2009. If there is a conflict between the general policies and procedures and those related to IT and telecommunications acquisitions, the latter controls.

6001 Scope of Section

This section addresses the following types of procurement of IT and telecommunications goods and services by the Chancellor's Office.

1. **Equipment.** Acquisition of hardware and other capitalized tangible property items obtained by means of awarded purchase orders, master purchase agreements, lease/purchase agreements, or rental agreements. Acquisition of large-scale integration items (e.g., mainframe computers, network, voice, video and telecommunications infrastructure installations) may employ the use of a standard agreement to accommodate specific and unique terms and conditions.
2. **Materials.** Materials are normally non-capitalized items. They are expendable supplies and low-value assets that can be readily replaced. These items are usually obtained through the issuance of a purchase order or by direct charge, rather than by the issuance of a standard agreement.
3. **Services.** Vendor or contractor services normally require the issuance of standard agreements. They include such things as installation of hardware or software products, modifications or upgrades, equipment maintenance, repairs, network and database subscriptions, and consultant services.
4. **California Multiple Award Schedules (CMAS).** IT and telecommunications goods and services can also be obtained through CMAS. (See § 5004)

6002 Competitive Bidding

For general information regarding the competitive bidding policies of the Chancellor's Office, please see section 2000 of this manual. In addition to these policies, procurement of IT and telecommunications goods and services should be conducted through

competitive means consistent with the policies outlined in sections 6003 through 6008 below.

6003 Value-Effective Methodology

The value-effective methodology should be used for acquisitions of IT and telecommunications goods and services to the maximum extent possible. Any solicitation that employs value-effective selection criteria should be awarded to the respondent that provides the most value-effective solution to the agency's requirements, based on life cycle costing. There is no specific formula or methodology for conducting a best value determination, but it is important that the award is consistent with the terms of the solicitation and that any price premium is justified by specific technical or value-added enhancements, as determined by the evaluation criteria contained in the solicitation document.

6004 Solicitations Not Based on Cost

Solicitations for acquisitions based on evaluation criteria other than cost alone should include a sealed cost proposal that will be opened at a time and place designated in the solicitation. Evaluation of all criteria, other than cost, should be completed prior to the time designated for public opening of cost proposals, and the results of the completed evaluation should be published immediately before the opening of cost proposals. The person designated by the Chancellor's Office to administer the procurement must be identified in the solicitation for bids and proposals. When an acquisition is based upon cost alone, an award shall be made to the lowest responsible bidder meeting the specifications.

6005 Hardware Purchases

The acquisition of hardware purchased independently of a system integration project may be made based on lowest cost, assuming that the bid meets all other specifications.

6006 Best Financing Alternatives

For all transactions formally advertised, evaluation of bidders' proposals for the purpose of determining the award of a contract for IT and telecommunications goods should consider a bidder's best financing alternatives, including lease or purchase alternatives, if any bidder so requests, not less than 30 days prior to the date of final bid submission, unless the Chancellor determines that a particular financing alternative should not be considered.

6007 Purchase of Additional Items

To the extent practical, the solicitation documents should provide for a contract to be written to enable acquisition of additional items to avoid essentially redundant acquisition processes when it can be determined that it is economical to do so.

6008 Bid Protest Process

Bidders should be given the opportunity to protest any formal, competitive acquisition conducted in accordance with this policy. Protests must be filed no later than (5) five business days after the issuance of an intent to award. Authority to protest may be limited to participating bidders. The Chancellor or his/her designee shall consider and decide on protests. A decision by the Chancellor or his/her designee regarding a protest shall be final.

6009 Evaluating Bids

The solicitation document for procurement of IT and telecommunications goods and services should set forth the evaluation criteria to be used in evaluating proposals. This should include the following:

1. The operational cost that the agency would incur if the bid or proposal were accepted.
2. Quality of the product or service, or its technical competency.
3. Reliability of delivery and implementation schedules.
4. The maximum facilitation of data exchange and systems integration.
5. Warranties, guarantees, and return policy.
6. Vendor financial stability.
7. Consistency of the proposed solution with the agency's planning documents and announced strategic program direction.
8. Quality and effectiveness of business solution and approach.
9. Industry and program experience.
10. Prior record of vendor performance.
11. Vendor expertise with engagements of similar scope and complexity.
12. Extent and quality of the proposed participation and acceptance by all user groups.
13. Proven development methodologies and tools.
14. Innovative use of current technologies and quality results.

6010 Surplus Goods

IT and telecommunications goods that have been determined to be surplus to agency needs shall be disposed of in a manner that will best serve the interests of the agency. Procedures governing the disposal of surplus goods may include auction or transfer to community college districts or other local governmental entities.

6011 Division of Telecommunications, DGS

The Chancellor's Office grant DGS' Division of Telecommunications the opportunity to bid whenever the agency solicits bids for telecommunications goods and services.^{xlviii}

6012 Grants for Systemwide Provision of Goods or Services

The provisions of this section concerning procurement of IT and telecommunications goods and services need not be applied when the Chancellor's Office utilizes services that are available as an incidental benefit resulting from a grant awarded to a community

college district or other entity to provide IT or telecommunications goods or services for the California Community College system as a whole.

6013 Accessibility for Persons with Disabilities

All agreements for the procurement or development of IT or telecommunications equipment or software (including software, equipment, or other resources) developed, procured, or maintained by a contractor, whether purchased, leased or provided under some other arrangement for use by the Chancellor's Office shall comply with the regulations implementing Section 508 of the Rehabilitation Act of 1973, as amended, set forth at 36 Code of Federal Regulations, sections 1194.1 et seq.

Design of computer or web-based materials, including instructional materials, shall conform to guidelines of US Section 508 Standards (<https://www.access-board.gov/guidelines-and-standards/communications-and-it/about-the-ict-refresh>) and/or the WCAG 2.0 Level AA criteria (<https://www.w3.org/TR/WCAG20/>) or similar guidelines developed by the Chancellor's Office.

7000 RECORDS MANAGEMENT

7001 Records Depository

The Contract Analyst will retain all documents associated with the agreements (grants, contracts, vendor agreement, MOUs). To the extent that the Contract Analyst does not receive the below documents directly, the Project Monitor is responsible for providing the documents to the Analyst in a timely fashion. The Analyst will keep a log of all agreements (see section 6002) and create a folder for each agreement. These documents include:

- RFA/RFP, if applicable. Please note that this does not include the responsive applications, award notices, or appeal. The RFA/RFP is included in the file to understand the basis of the agreement.
- Agreements (contracts, grants, MOUs, vendor agreements). This includes the face sheet, all exhibits, and any other attachments to the agreement.
- Amendments to Agreements.
- All reports. This includes all progress and final reports.
- Revised work plans.
- Correspondence. This should not include routine emails, but rather substantive correspondence, including email to reflect approvals, including approvals to deviate from the procedures indicated in this Manual. Please ask for assistance from the Contract Analyst if you have any questions regarding a specific document.
- Completed routing slips.

7002 Agreement Log

The Contract Analyst will maintain a separate agreement log for contracts, grants, vendor agreements, and MOUS. The log should provide a one-line description of the agreement with the applicable agreement number and term. It should also indicate when the routing slip was first created and when the agreement was signed by the Deputy Chancellor or designee, with the exception of vendor agreements as they are executed by our fiscal agents.

List of Documents on General Counsel's Intranet Page

Grants/Contracts Board Approval Item

Agreement Summary (coming soon)

Chancellor's Office Agreement Approval Routing Slip

Fiscal Agent Vendor Agreement Routing Slip

Grant Amendment – Face Sheet – Districts

Grant Amendment – Face Sheet – Non Community College Entities

Contract – Face Sheet

Contract Amendment – Face Sheet

General Counsel Request for Advice Form

Contractor Evaluation Form CCC 4 (coming soon)

Grant Reader Application\Nomination Form

**Application Reader Conflict of Interest/Confidentiality Statement
(coming soon)**

Grant Template

1. Scope of Work (Exhibit A)
2. Grantee Application/Work Plan (Exhibit A-1)
3. Budget Detail and Payment Provisions (Exhibit B)
4. Application Budget (Exhibit B-1)
5. General Terms and Conditions (Exhibit C)
6. Special Terms and Conditions (Exhibit D)

Vendor Fiscal Agent Agreement Template

Interagency Agreement Template

1. Scope of Work (Exhibit A)
2. Contractors Proposal (Exhibit A-1)
3. Budget Detail and Payment Provisions (Exhibit B)
4. Contractors Cost Proposal (Exhibit B-1)
5. General Terms and Conditions (Exhibit C)

Chancellor's Office Standard Contract Template:

1. Scope of Work (Exhibit A)
2. Contractors Proposal - Work Plan (Exhibit A-1)
3. Budget Detail and Payment Provisions (Exhibit B)
4. Contractors Cost Proposal (Exhibit B-1)
5. General Terms and Conditions (Exhibit C)
6. Special Terms and Conditions (Exhibit D)
7. Contractor Certification Form - CCCC-1005 (Exhibit E)

Interjurisdictional Exchange Template

1. Face Sheet (CCC 213)
2. Scope of Work (Exhibit A)
3. Duty Statement (Exhibit A-1)
4. Budget Detail and Payment Provisions (Exhibit B)
5. Contractors Cost Proposal (Exhibit B-1)
6. General Terms and Conditions (Exhibit C)

COTOP Template

1. Scope of Work (Exhibit A)
2. Chancellor's Office Tax Offset Program, Program Description, and Scope of Work (Exhibit A-1)
3. Data Submittal Specifications New Accounts File (Appendix A)
4. Transmittal Document (Appendix B)
5. Sample of Required Notification to Debtor (Appendix C)
6. SAM – Miscellaneous Accounting Procedures (Appendix D)
7. Budget Detail and Payment Provisions (Exhibit B)
8. General Terms and Conditions (Exhibit C)

Instructions

- Explanation of Special Contract Terms – Appendix A
- Instructions and Definitions for Standard Agreement Templates – Appendix B
- DGS - How to write a Statement of Work
- Sample Purpose Statements & Scope of Work – Appendix C
- Sample Vendor Agreement, Scope of Work and Budget Provisions – Appendix D
- Steps for Creating Agreements – Appendix E
- Timeline for Agreements
- Frequently Asked Questions (FAQs)

Appendix A – Explanation of Special Contract Terms

The contract and grant templates developed by the Office of General Counsel include “special terms” that are intended to be adapted as appropriate to the Chancellor’s Office’s needs. This document the terms that are most likely to require special thought and adjustment to programmatic needs.

Special Terms	Explanation
Definitions	Identify unique or special project definitions. Consider whether the definitions should be incorporated into the contract individually or whether more clarity would be achieved by incorporating a list of defined terms.
Scope of Work (Fiscal Agent)	<p>The scope of work describes what the Chancellor’s Office needs to have performed by the other party to the agreement.</p> <p>If the agreement is a grant document establishing only a fiscal agency with a community college district, the scope of work will describe the services of a fiscal agent. For example, receiving funds, paying invoices, accounting for funds, following the specified directions of the Chancellor’s Office, and entering into vendor contracts on behalf of the Chancellor’s Office.</p>
Scope of Work (Service Provider)	<p>The scope of work describes what the Chancellor’s Office needs to have performed by the other party to the agreement.</p> <p>When the agreement is with the party who will perform programmatic services: for example advertising, educational programming, consulting, implementation of guided pathways, etc., the scope of work should include a description of the work. Because the Chancellor’s Office often requires complex services, this scope of work will require careful consideration of the nature of the services, including deliverables, key personnel, the timeline, reporting and monitoring requirements, and any additional information warranted by the project.</p> <p>This kind of scope of work will appear most frequently in vendor agreements executed between our fiscal agent (on behalf of the Chancellor’s Office) and a vendor. They also may appear in a grant document when community college district is acting as both a fiscal agency and a service provider.</p>
Funding Source	Identify the implementing statute for the program the Agreement implements, and/or the operative language in the Budget Act that provides funding.
Grantee or Contractor’s Budget	The budget should describe the compensation received by the contracting party, a payment schedule, and invoicing requirements, if applicable. Please note that the first invoice cannot be submitted until at least 30 days after the contract is executed.
Travel	<p>Indicate whether the contractor will travel for the project and describe what that travel is expected to entail.</p> <p>Estimate the travel costs that are anticipated during the term of the contract using state travel reimbursement rates, and include that amount in the contract amount. Do not require contractors to seek prior approval for travel, or to submit travel reimbursement claims to the Chancellor’s Office.</p>
Liability	The Chancellor’s Office does not indemnify contractors. No clause should state otherwise. The Chancellor’s Office should be indemnified by the contractor.
Conflicts of Interest	The Chancellor’s Office wants to avoid real or apparent conflicts of interest on the part of all parties and their respective employees. Consider preexisting

Special Terms	Explanation
	conflicts and those that may arise during the implementation phase.
Dispute Resolution	Does the project call for any unique or special administrative steps to resolve disputes should they arise in the course of the agreement.
Termination	Consider whether there is something unique or special about the contractor or contract that may necessitate early cancelation. Consider checking in with legal.
Confidential Information or Data	Consider confidential information. This could be pre-existing information or information that is developed over the course of the contract. The state does not favor confidentiality clauses, but certain data should be protected (eg. student, proprietary, and personally identifying information). Consider checking in with legal.
Subcontractors	Consider the role of subcontractors and whether the special terms should address their role.
Audits	Does the project require any special or unique audits.
Reporting Requirements	Consider the scope and timing of reporting as warranted by the project.
Project Management	Consider any terms or clauses that may help with project management.
Right to Publish	If the agreement involves publication of materials, consider whether the Chancellor’s Office should exercise quality control.
Publications	If the agreement involves the publication of materials, online or otherwise, the agreement must consider accessibility, and coordinate with the Communications Division.
Data	If the agreement requires an exchange of data, legal obligations will be triggered if the data involves student or other personally identifiable information. Consult with the Office of General Counsel
Copyrights, Patents, Licenses, Permits, Antitrust	Consult with the Office of General Counsel.
Use of Name & Publicity	If the contractor will make written or verbal public statements in connection with their work under the agreement that reference the Chancellor’s Office, the California Community Colleges system, and/or community college districts, the contractor must in its work.
Working with Chancellor Office Employees	<p>Consider the extent to which the contractor will work with the Office, and how much control or direction the Chancellor’s Office will need.</p> <p>State law provides that when an individual contractor is given substantial direction by the other contracting party an employment relationship may be created.</p>

Appendix B – Instructions and Definitions for Standard Agreements

Exhibit A - Scope of Work

1. *Services to be Provided* – This is one of the most important sections of the agreement that will be project specific. It is essential that the scope of work accurately describe the program’s needs and requirements as intended by the Chancellor’s Office, and consistent with the implementing statute (most likely in the Education Code) and/or the Budget Act. Please pay particular attention to the Contractor’s Proposal (Exhibit A-1) to make sure it is consistent with the program’s needs and requirements.

Term. The scope of work should include the term of the agreement, and include sufficient time to allow the work to be completed, including any required reporting, to minimize the need for amendments. Chancellor’s Office agreements should not be subject to an automatic renewal.

2. *Project Representatives* – These are the individuals responsible for the day-to-day administration of the agreement.
3. *Contractor’s Project Director and Key Personnel* – Requires contractor to notify the Office if there is a change in personnel
4. *Chancellor's Office Project Monitor* – Explains the scope of authority of the project monitor.

Exhibit B – Budget Detail and Payment Provisions

1. *Payments and Invoicing* – This is a very important section that will be project specific. Explains the manner in which the contractor will be paid for services rendered under the agreement. Payment should be through invoicing. Requires certain information related to payment. This section should be clear and accurate, and the Contractor’s Proposal (Exhibit B-1) should be consistent with its scope of work.
2. *Travel* – Outlines the process for reimbursement of authorized travel expenses. If no travel is required under the agreement, this provision can be deleted.
3. *Project Budget Changes* – Indicates the way in which a contractor can change budget line items.
4. *Budget Contingency Clause* – This is a standard clause that should never be deleted or changed. Payment cannot be made until there is an appropriation, and the Budget Act has been signed by the Governor. Violating this state mandate may subject individuals to personal liability.

5. *Contractor's Expenses* – Gives the Office the authority to request and receive a detailed itemization of direct expenses reimbursed to the contractor.
6. *Prompt Payment Clause* – Explains that certain contractors fall under the Prompt Payment Act and must receive payment within forty-five days of receipt of an undisputed invoice.

Exhibit C - General Terms & Conditions

These are standard provisions that would rarely be deleted or modified.

1. *Amendment* - A written modification to the agreement.
2. *Assignment* - A written contract for transfer of one's title, right, or property to another.
3. *Audit* – Requires various state agencies the right to audit and/or review and copy records supporting documentation pertaining to the performance of the agreement.
4. *Indemnification* - Indemnification is a way for the state to protect itself from being financially liable for another's actions or negligence. If a party agrees to an indemnification clause, it is agreeing to hold another party harmless against future legal claims. The state does not generally indemnify others, but we do expect contractors to indemnify the state. These clauses are written with great care and precision so it is important to understand the limitations and scope of the indemnity before signing a contract.
5. *Settlement of Disputes* – A process to resolve informally any dispute under the agreement.
6. *Termination of Agreement* – Outlines the ways in which the agreement can be terminated, with or without cause, with certain notice. Reasons include: (1) bankruptcy on the part of the contractor; (2) termination option at the desire of the Chancellor's Office; (3) actual or anticipated breach; (4) gratuities.
7. *Independent Status of Contractor* – The contractor acts in an independent capacity under the agreement.
8. *Recycling Certification* – Requires use of certain recycled products on the part of the contractor.
9. *Nondiscrimination* – Section 12990 of the Government Code requires that every state contract contain a nondiscrimination clause prohibiting discrimination on the bases of legally- protected classes.
10. *Certification Clause* – This is a standard certification clause that is modeled after the one required by DGS. It is attached as Exhibit E to the agreement and outlines state contracting requirements imposed on contractors such as a drug free work environment, etc.

11. *Antitrust Claims* – This clause only applies if the goods or services are obtained through competitive bidding.
12. *Child Support Compliance Act* – This clause only applies if the contract exceeds \$100,000, and requires the contractor to comply with an earnings assignment.
13. *Priority Hiring Considerations* – This clause only applies if the contract exceeds \$200,000, and provides for priority considerations in filling vacancies with qualified aid recipients under certain situations.
14. *Excise Tax* – Explains that the state is exempt from federal excise (use) taxes.
15. *Notice* – Explains that all notices permitted or required under the agreement shall be in writing and shall be transmitted to the mailing address and email address of the Project Monitor. In emergencies, the contractor must contact the Project Monitor immediately by telephone.
16. *Waiver of Rights* - The intentional or voluntary yielding or relinquishment of a known legal claim, right or privilege.
17. *Conflicts of Interest* – Explains that the Office intends to avoid any real or apparent conflict of interest.
18. *Standards of Conduct* – Outlines standards of conduct that are required on the part of the contractor.
19. *Unenforceable Provision* – Explains that in the event that any provision of the Agreement is unenforceable, the other provisions are in full force and effect.
20. *Governing Law* – States that if there is a dispute the agreement is governed by, and interpreted in accordance with, the laws of the State of California.
21. *Timeliness* – Performance of the agreement is expected upon signing.
22. *Force Majeure* - A clause in contracts that excuses a party from not performing their contractual obligations due to unforeseen events beyond their control.
23. *Captions* – Headings within the agreement are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer.

Exhibit D - Special Terms & Conditions

These clauses should be tailored to the program’s needs and requirements. If a clause is unnecessary, it should be deleted. HOWEVER, to preserve the numbered order of the sections and to avoid errors in cross-referencing section numbers, preserve the section number and insert the term “Reserved” after the heading.

1. *Subcontractors* – This is a fairly standard provision pertaining to the contractor’s responsibilities as they relate to subcontractors. If there are no subcontractors, then the clause should be deleted. Conversely, if there are special provisions related to subcontractors under the agreement, they should be added.

2. *Reports* - This section should be tailored to the project. Included in this clause are some standard reporting requirements that may or may not apply to the project at hand.
3. *Copyrights and Intellectual Property* - This is a very extensive provision and may not apply in every circumstance. It may be tailored to the project depending on what services we are requiring from the contractor. However, the Board of Governors' Standing Orders specify that the Chancellor's Office should reserve licensing rights and to make intellectual property developed with public funds available for public use.
4. *Public Hearings* – Requires contractor participation if a public hearing is anticipated or required.
5. *Disclosure and Confidentiality of Student Data* - Provisions related to the receipt, retention, security, disclosure, and confidentiality of student and other personally identifiable or confidential data should be attached as an additional Exhibit to the agreement. Consult with the Office of General Counsel.
6. *Approval of Products and Deliverables* – Explains what deliverables are required under the agreement.
7. *Work by Chancellor's Office Personnel* – Explains the working relationship between Office staff and the contractor if the agreement envisions the two working side-by-side.
8. *Changes in the Timing of Performance of Tasks* – If permitted by the program, this clause allows for changing the timing for performance of tasks by written approval of the Project Monitor.
9. *Undocumented Aliens* – Only applies if federal funds are involved and the contractor is a sole proprietor. Contractor certifies that it has not, in the preceding five years, been convicted of violating a state or federal law respecting the employment of undocumented aliens.
10. *Performance Evaluation* – Provides for use of the Contract/Contractor Evaluation form at the discretion of the project monitor.
11. *Licenses and Permits* – Applies if the agreement requires certain licenses or permits.
12. *Follow-on Contracts* – Consider if contractor has prior dealings with the Office.
13. *Surveys* – Applies if agreement involves conducting a survey of community college faculty, staff, students, or administrators.
14. *Safety and Accident Prevention* – Applies if there are particular safety requirements required under the agreement.
15. *DVBE Reporting Requirements* – Applies only if a 3 percent Disabled Veterans Business Enterprise (DVBE) participation goal has been established.

Appendix C – Sample Purpose Statements and Scopes of Work

Two sections of written agreements typically appear at the beginning, and are important to a reader’s understanding of the purpose of the document. The first section will be a purpose statement, that could be entitled “Purpose of the Agreement,” “Background” or something similar. The other section is the “Scope of Work,” which is going to establish the principal obligations the contracting party is undertaking.

I. Purpose Statements

The following are sample purpose statements that provide context to readers in concise language without jargon or ambiguity.

- A. From a Grant Agreement to establish a community college district as the Chancellor’s Office’s fiscal agent:

“Background.

“This Grant Agreement between the Chabot Los Positas Community College District and the California Community Colleges Chancellor’s Office establishes the district as the Chancellor’s Office fiscal agent to fund Guided Pathways programming authorized by Education Code § _____. Funding for this grant is provided by an appropriation in the 2020 Budget Act in section _____, and similar appropriations are anticipated in subsequent years throughout the term of this agreement.”

- B. From a Vendor Agreement drafted by the Chancellor’s Office, to be executed by a community college district as the Chancellor’s Office fiscal agent:

“This Agreement is made between the Chabot Las Positas Community College District (“Fiscal Agent”), acting on behalf of the California Community Colleges Chancellor’s Office, and Educational Results Partnership (“Vendor”), located at 428 J Street Suite 320 Sacramento CA 95814. This Vendor Agreement is funded through the Application Student Personalization Services Fiscal Agent grant (18-085) between the Fiscal Agent and the California Community Colleges Chancellor’s Office.

Background

The purpose of this Vendor Agreement is to establish the terms under which the Vendor will study how to integrate various technology systems that interact with students, faculty, and other community college stakeholders and to design and create a seamless experience for students along their student journey from recruitment to completion.

II. Scopes of Work

The following are sample scopes of work that explain the obligations of our agreement partners.

- A. From a Grant Agreement to establish a community college district as the Chancellor's Office's fiscal agent:

"Scope of Work.

The Grantee commits to perform the following activities as the Chancellor's Office fiscal agent:

- 1. Grantee will receive up to \$15 Million in funds, and hold them in an appropriate account pending direction from the Chancellor's Office.*
 - 2. Grantee will conduct competitive processes to identify appropriate vendors to perform services required by the Chancellor's Office.*
 - 3. Grantee will execute vendor contracts with vendors selected by the Chancellor's Office as the fiscal agent for the Chancellor's Office. The vendor agreement shall be on a form provided by the Chancellor's Office, or otherwise approved by the Chancellor's Office.*
 - 4. Grantee will pay invoices to approved vendors upon approval by the Chancellor's Office.*
 - 5. Grantee will account for all funds received and expended according to generally accepted accounting principles."*
- B. Vendor Agreement drafted by the Chancellor's Office, and executed by a community college district as fiscal agent for the Chancellor's Office.

Note how the "Workplan" is referenced as an element of the Scope of Work, but is not itself the Scope of Work. A Workplan, if one is used, should be a living document that provides more granular detail, and is subject to subsequent revisions with the authorization of the Chancellor's Office.

"Scope of Work.

Vendor will provide personnel and services as described below:

- 1. Project Management and Leadership. A research specialist will provide overall project leadership of Vendor staff, and is responsible for ensuring successful outcomes in collaboration with the Chancellor's Office.*
- 2. Research support. Vendor will provide data analytics services to the Chancellor's Office related to the implementation of the statewide MMAP and AB705 implementation projects.*
- 3. Professional Development Materials. Vendor will develop written and audio/visual content for professional development materials to be used in training community college campus stakeholders.*
- 4. Training. Vendor will provide appropriate staffing to conduct stakeholder trainings at day-long regional meetings related to the implementation of the statewide MMAP and AB705 implementation projects. These trainings will be conducted quarterly in each of the seven community college regions, and will*

be designed to build upon prior trainings to ensure that local expertise in MMAP and AB705 implementation has been established by the end of the Vendor Agreement's term.

- 5. Vendor will be required to travel throughout the state to attend quarterly regional stakeholder meetings, and to attend monthly meetings at the Chancellor's Office. Vendor shall attend meetings by videoconference when appropriate to limit contract costs and the carbon footprint of this program.*
- 6. Data. The Vendor's activities will involve the receipt of personally-identifiable information. Vendor will abide by the Exhibit A, which governs the data sharing obligations of the parties.*
- 7. Reporting. The Vendor agrees to provide periodic reports to the Chancellor's Office that describe its own activities, and the results achieved by its work according to the measures described more fully in Section ## of this Vendor Agreement related to Reporting and Deliverables.*
- 8. Workplan. The Workplan, dated March 1, 2020, and attached as Exhibit B to this Vendor Agreement has been negotiated between the Vendor and the Chancellor's Office, and provides details related to each of the Scope of Work items listed above. The Workplan is incorporated into this Vendor Agreement by reference. It is subject to periodic review and revision by written agreement of the Vendor and the Chancellor's Office to address changed circumstances and to ensure to purposes of this Vendor Agreement are met.*

Appendix D – Sample Vendor Agreement Scope of Work & Budget Provisions

This sample will be useful in developing vendor agreements for services.

The scope of work is concise, written in plain language without jargon, focused on the services to be delivered, and avoids lengthy narratives describing broad programmatic purposes.

The budget section is expressly and transparently tied to the scope of work, and provides an estimate of the time and staffing resources the vendor will devote to each item identified in the scope of work.

All cost information should be made available by the vendor. If a competitive process has not been used, project monitors should validate the billable rates proposed by a vendor by conducting a survey, or other research including checking with vendor references, to establish that rates are reasonable based on the nature of the work and the experience of the vendor's staff.

Sample Scope of Work

Vendor agrees to provide expert consultation and research services as follows:

A. Dashboard Support.

Vendor's services will support the effective development and implementation of electronic dashboards used by the California Community Colleges. The work relates to four dashboards known as the Student Success Metrics Dashboard, the Strong Workforce Program Dashboard, the Community College Pipeline Dashboard, and the Guided Pathways Dashboard. Vendor will perform the following activities at the direction of the Chancellor's Office:

- Conduct user integration and user experience testing to ensure the dashboards produce a user experience consistent with user expectations
- Conduct training, professional development, and communications activities for the California Community Colleges
- Align Community College Pipeline metrics with Student Success Metrics, update user interface, ensure dashboard includes all data from 2011-12 to 2018-19.
- Ensure the data produced by dashboard is consistent with known data values produced by other sources
- Create and/or update resources to support new release
- Provide other, similar dashboard support activities as required.

B. Miscellaneous Research.

Vendor will also provide other, reasonably-related research services at the request and direction of the Chancellor's Office.

Sample Budget

The amount paid under this agreement shall not exceed \$100,000. The following tables demonstrate how the budget amount was calculated.

Deliverable: Dashboard Support		SM-A	SM-B	SM-C	SM-D	SM-E	SM-F	SM-G
Student Success Metrics	Tasks	Approximate Staff Hours						
Conduct user integration and user experience testing to ensure the dashboards produce a user experience consistent with user expectations	Work with the Foundation Team to review and discuss UI proposals		8	8	8			
	Meet with ERP to review feasibility of UI design elements			4	4			
	Assist in conducting June meeting of the Student Metrics Workgroup to discuss UI options and undertake any UI feedback from the field	2	4	3	3			
Conduct training, professional development, and communications activities for the California Community Colleges	Continue to write and revise key resources to accompany release		2	2	1			
	Collaborate with the Foundation in branding and accessibility compliance		2					
	Execute CO plan to host 1-2 webinars and take lead on responding to inquiries to dashboard data		12	11	11			
Subtotal		2	28	28	27	0	0	0
Community College Pipeline	Tasks	Approximate Staff Hours						
Align CCP metrics with SSM	Definitions are consistent and rationale for differences are explained in the MDD			11				
Add metrics from SSM	Dashboard includes metrics and student characteristics found in SSM			11				
Update User Interface (UI)	UI includes splash page tiles are aligned with SSM categories, drilldowns and choices, and easier navigation of tables and charts				11			
Dashboard includes all years of data from 2011-12 through 2018-19	Integrate an additional year of data (2018-19)		4	4				
Ensure the data they produce is consistent with known data values produced by other sources	Conduct validity and accuracy testing of data			11		11		

Deliverable: Dashboard Support		SM-A	SM-B	SM-C	SM-D	SM-E	SM-F	SM-G
Create and/or update resources to support new release	Create documents and other information for users in order to program or sector level planning, reporting, and review of activities		12	11	11			
Conduct user integration and user experience testing to ensure the dashboards produce a user experience consistent with user expectations	Conduct User Acceptance testing			6	6		5	5
	Design a User Acceptance Testing Reporting form		4		3			
	Conduct final CO UI walkthroughs	2	2	2	1			

Staffing	Daily Rate	Hourly Rate	Year 1 (Total)
Staff Member A	\$1,123	\$140	\$37,065
Staff Member B	\$1,516	\$189	\$9,094
Staff Member C	\$869	\$109	\$19,979
Staff Member D	\$910	\$114	\$1,820
Staff Member E	\$910	\$114	\$1,824
Staff Member F	\$1,205	\$151	\$22,898
Staff Member G	\$1,097	\$137	\$2,181
		Subtotal	\$94,861
External Consultant Cost	\$1,040	\$130	\$5,139
		TOTAL	\$100,000

Appendix E – Steps for Creating Chancellor’s Office Agreements

Steps	Description of Work	Employees/Divisions
Planning Phase		
Identify Program and Program Requirements and/or Office Needs	<p>Identify the need for an agreement whether it stems from a legislative program or Office need. Consider past practices as well as a fiscal agent relationship. Determine if Board approval is necessary and plan accordingly.</p> <p>Identify the implementing statute or Budget Act provision. Be specific. Each statute or Budget Act provision has a numerical reference. This information ensures that employees are looking at the same information.</p> <p>What are the program requirements that compel a grant or contract? Be specific. Identify the scope of work, including a detailed description of the work, funding, deliverables, key personnel, timeline, and any additional information warranted by the project.</p> <p>Confirm the availability of funds and amount.</p> <p>Does the program require unique terms or performance requirements (i.e., fiscal accountability; program deliverables and reporting; monitoring and oversight; data privacy and security)?</p> <p>Do the required goods/services benefit the Community College System, the Chancellor’s Office, or both?</p>	Primarily Program Staff assigned to the project with assistance from Division Vice Chancellor Legal and others with expertise, if necessary Accounting to confirm funding
Grant or Contract	What is the best way to deliver the required goods/services? Grant or Contract? Consider the nature of the services, funding, flexibility, and timing.	Program Staff Budget Legal
Competitive Bidding or Non-Competitive Bidding.	Consider both competitive and non-competitive bidding options. Look at the program and past experiences. Think about how the Chancellor’s Office can implement the program in the most effective and efficient manner.	Program Staff Legal Budget
Identify Term of Agreement	Determine the term for the agreement based on program requirements. This should be developed in a manner to avoid ongoing extensions. Consider other time constraints such as the budget cycle and workload.	Program Staff Contract Analyst Budget

Steps	Description of Work	Employees/Divisions
Board Approval	Consider whether the item needs Board approval (exceeds \$100,000 or 3 year term). Either through approval of an expenditure or a grant summary.	Program Staff Contract Analyst
Competitive Bidding (If Applicable)	Prepare RFP/RFA. Review past proposals and follow Chancellor's Office procedures. Consider the best approach to deliver the intended services to the community. Avoid unnecessary and cumulative information. Identify the key components of the bid and consider implementation options. Consult with legal counsel if necessary.	Program (Monitor and Division VC) Legal (Attorney) Others with program expertise
Draft Agreement	Draft agreement using most current version of Chancellor's Office templates. Work with Contract Analyst. The scope of work, budget, accountability elements, and other provisions should be tailored to the agreement. Avoid unnecessary and cumulative terms. Confirm appropriate budget coding and certification of fund availability with accounting staff.	Program Staff Legal (Analyst/Attorney) Accounting Staff to confirm funding and coding
Agreement Routing & Execution	Route agreement to appropriate individuals for approval and execution. Board preparation can be done early on in the process. Employ non-dilatory processes.	Program Staff
Monitoring	Ensure agreement goals and objectives are being met, funds are being expended on schedule, reports are timely, and the Board is informed of progress, as appropriate.	Program Staff
Problem Evaluation	Consult with legal counsel in the event of breach or other concerns related to whether the goals and objectives are being met.	Program Staff Legal
Closure	Close agreement upon completion. Finish required reporting obligations.	Program Staff Accounting Staff

Appendix F – Glossary of Terms –Chancellor’s Office Agreements

Advance payment	Any payment made to a contractor/grantee before work has been performed or goods have been delivered. Advance payments are permitted only if authorized by statute. (For example, interagency agreements may provide for advance payments under GC § 11257 of the Government Code.
Agreement	A contract, grant, or memoranda of understanding.
Amendment	A formal modification or change of a material term, such as the term, cost, or scope of work, in one or more provisions of an existing agreement.
Application	A potential grantee’s response to a solicitation for grant funds.
Assignment	Transfer of contractual rights from one person to another.
Bid	A potential contractor’s reply to a solicitation for purchase of goods or services, which represents what the contractor would charge to provide those goods or services.
Bidder	An individual, sole proprietorship, firm, partnership, corporation, or any other business venture that responds to an Invitation for Bids or Request for Proposals by submitting a bid to the contracting agency.
Bidder’s conference	A meeting with potential bidders before the bid submission date.
California State Contracts Register	The State publication (now electronic) containing advertisements for contract solicitations and a list of contracts for which exemptions from bidding have been approved.
Certified small or microbusiness	A business that has been certified by the Office of Small Business and DVBE Certification, Department of General Services, as a small or microbusiness as defined in GC § 14837 and 2 CCR § 1896. DGS/OSDS issues the business a letter of certification that allows the business to claim the small business preference when submitting bids and to obtain statutory penalties for late payments on contracts (SCM 1, chapter 8).
Circumvention	The act of avoiding the effect or intent, going around, defeating by ingenuity or strategy, or nullifying the purpose.
Terms	definitions
Competitive bidding	An acquisition process in which the opportunity to make offers to supply goods or services is not limited to any one bidder. All bidders are evaluated on the same fixed criteria.
Consulting services contract	A contract for services of an advisory nature, which provides a recommended course of action or personal expertise
Contract	A contract is an agreement to do or not to do a certain thing. Grants are a type of contract.
Contractor	A party contracting with the awarding agency. Vendor is often used synonymously, with contractor .
Contractor identification number	The number assigned to the contractor for tax purposes. This may be the social security number or the Federal identification number.
Corporation	A fictional entity, created by or under the authority of the laws of a State, which has the legal authority to engage in certain activities.

Debarment	Under Federal contracting law, a process in which a contractor is precluded from bidding on or entering into contracts with the Federal government. Federal rules also prohibit Federal contractors from contracting with debarred businesses.
Default	Failure to perform an obligation in an agreement.
Disabled Veteran Business Enterprise (DVBE)	A business that meets all of the following criteria: (1) at least 51% of the business is owned by one or more disabled veterans or, in a business whose stock is publicly held, at least 51% or more of the stockholders are disabled veterans; (2) the management and control of the business are exercised by one or more disabled veterans; (3) the business is domestically owned and its home office is in the United States; and (4) the business has been certified as a DVBE by DGS/OSDS (Military and Veterans Code § 999(g)).
Encumbrance	A commitment of funds guaranteeing a source of payment for a specific transaction.
Execution of a contract	The act of signing a contract/grant, which provides a legal basis for required performance by parties to the contract.
Exemption	A formal waiver. In the case of the Chancellor's Office by statute or by the Chancellor or Board of Governors.
General provisions	Terms and conditions that generally apply to all contracts/grants and are included in any final document.
Goods	Commodities (tangible items, such as movable or personal property), as opposed to services
Grant	To bestow or confer a benefit on another. Grants are authorized by the Legislature.
Indemnification	Contractual provision in which one party will reimburse the other party for settlements or judgments on claims arising from the contract.
Independent contractor	A person working for an entity under contract and not an employee of the contracting agency. The contracting entity does not pay unemployment, disability, or workers' compensation insurance or withhold taxes from payments to the person. In retaining and using independent contractors, the Chancellor's Office should establish that the contractor (1) is free from the control and direction of the Office in connection with the performance of the work, both under the contract for the performance of the work and in fact; (2) the work is outside the usual course of the Office's business; and (3) the contractor is customarily engaged in an independently established trade, occupation, or business.
Information Technology (IT)	A contract for the acquisition of goods or services related to information technology: computer hardware, software licenses, software development, and maintenance of hardware and software.
Responsive bid	A bid that meets the specifications and other requirements contained in the IFB or RFP
Interagency agreement	An agreement between two (2) or more State agencies (GC §§ 11256 – 11263.
Invitation For Bids (IFB)	A type of solicitation document used in a formal competitive bidding process, which contains a detailed statement of what the agency is attempting to purchase. Qualifying bidders compete solely on the basis of cost.

Legal services	Services rendered by an attorney.
Microbusiness	See certified small or microbusiness
Small business	See <i>certified small business</i> .
Progress payments	Partial payments related to steps or phases toward the completion of the required services under a contract.
Prompt Payment Act	Statutory provisions that establish late payment penalties for late payments made by State agencies or State contract. (GC § 927, et seq.)
Protest	A formal challenge by a bidder to the intended award of a contract solicited by an Invitation for Bids or a Request for Proposals.
Protestant	A bidder who files a protest.
Request for application	A document that solicits potential grantees to apply for a grant.

ⁱ Ed. Code, §§ 70900, 71090(a).

ⁱⁱ Ed. Code, § 70901(b)(15); Pub. Contract Code, §§ 10295, 10335, 10430(c), 12100.5, and 12120.

ⁱⁱⁱ Pub. Contract Code, § 10295.

^{iv} Ed. Code, § 70901(d).

^v Procedures and Standing Orders of the Board of Governors (Standing Orders), §§ 318(b).

^{vi} Standing Orders, §§ 318(b).

^{vii} SAM, § 1208; SCM, Vol. 1, § 2.06; Standing Orders, §§ 318(a).

^{viii} Budget Act, § 32; Gov. Code, § 13324.

^{ix} Cal. Const., art. XVI, § 8; Ballot Pamp., Gen. Elec. (Nov. 8, 1988) p. 78.; *California Teachers Assn. v. Hayes* (1992) 5 Cal.App.4th 1513.

^x Cal. Const., art. XVI, § 8; 74 Ops.Cal.Atty.Gen.10 (1991).

^{xi} Civil Code, § 1633.1 et seq.; SAM, § 1240.

^{xii} Gov. Code, §§ 81000, et seq. and 87100 et seq. (Political Reform Act); Cal. Code Regs., tit. 2, §18700, et seq. (conflicts of interests); Pub. Contract Code, § 10410, et seq. (restrictions on current and former state employees in state contracts); Gov. Code, § 1090 et seq. (prohibition against "self-dealing" in contracts).

^{xiii} Gov. Code, § 87100; Cal. Code Regs., tit. 5, §50500

^{xiv} Gov. Code, §§ 1090, 1091.5(a)(9).

^{xv} Gov. Code, §§ 1090, 1091.5(a)(7)-(9); Cal. Code Regs., tit. 5, §50500.

^{xvi} Pub. Contract Code, §§ 10300 et seq., 10430(c), and 12100 et seq.

^{xvii} 10335(a), 10295(c), 10335.5.

^{xviii} Pub. Contract Code, § 20662.

^{xix} Pub. Contract Code, §§ 10335(a), 10335.5(c)(5).

^{xx} Pub. Contract Code, § 14838.5(a).

^{xxi} Pub. Contract Code, § 10340(b)(2).

^{xxii} Pub. Contract Code, § 10348(c); SCM, V1, § 580(b)(2).

^{xxiii} Gov. Code, § 14835 et seq.; Mil. & Vet. Code § 999 et seq.

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- xxiv Mil. & Vet. Code, § 999.10(a)(1), (2); SCM, V1, §§ 8.12(D), (C), 8.13(B).
- xxv Gov. Code, § 14826; SCM, V1, §§ 8.20 et seq., 8.21(B), 8.22.
- xxvi Pub. Contract Code, §10303.
- xxvii Gov. Code, § 11000.5
- xxviii SCM, V1, § 6.10; Pub. Contract Code, §§ 10342, 10344.
- xxix Standing Order § 318(b).
- xxx Standing Orders, § 318(a) and (b).
- xxxi Pub. Contract Code, § 10346, SCM, V1, § 7.33.
- xxxii Ed. Code, § 71025.
- xxxiii Gov. Code, §§ 11256-11263, and 11019; SCM, V1, § 7.32.
- xxxiv Pub. Contract Code, § 10365.5.
- xxxv Cal. Code Regs., tit. 2, § 547.59(a).
- xxxvi Gov. Code, § 19130(a) and (b); Cal. Code Regs., tit. 2, § 547.59 et seq.; SCM, V1, § 7.05.
- xxxvii Gov. Code, §§ 191301, 19132, 10337; Cal. Code Regs., tit. 2, §§ 547.60, et seq.
- xxxviii Gov. Code, §§ 191301, 19132, 10337; Cal. Code Regs., tit. 2, §§ 547.60, et seq.
- xxxix Cal. Const., art. VII, § 4; Gov. Code, § 19130; Cal. Code Regs., tit. 2, §§ 547.59 et seq.; *Dynamex Operations W. v. Superior Court* (2018) 4 Cal.5th 903.
- xl SAM, § 8422.190; SCM, §§ 1.07, 4.08(A)(2), and 7.25.
- xli Pub. Contract Code, §§ 10369 and 10370; Gov. Code, § 6272.12.
- xlii Gov. Code, § 11040.
- xliii Gov. Code, § 19133; SCM, V1, § 3.22.
- xliv Gov. Code, § 19050.8.
- xlv Standing Order, § 318.
- xlvi Pub. Contract Code, §§ 10290, 10290.1, 10298, 10299 and 12101.5(b).
- xlvii Gov. Code, § 14846(b))
- xlviii Pub. Contract Code, § 12120.