

FCMAT

FISCAL CRISIS & MANAGEMENT
ASSISTANCE TEAM

Procurement and Purchasing Review

May 24, 2023



Contra Costa Community College District

Michael H. Fine
Chief Executive Officer

May 24, 2023

Interim Chancellor Mojdeh Mehdizadeh
Contra Costa Community College District
500 Court Street
Martinez CA, 94553

Dear Interim Chancellor Mehdizadeh:

In August 2022, the Contra Costa Community College District and the Fiscal Crisis and Management Assistance Team (FCMAT) entered into an agreement for FCMAT to conduct a review of the district's purchasing and procurement processes and procedures. The agreement stated that FCMAT would perform the following:

1. Review the material weakness finding in the district's 2021 independent audit report (2021-001 Internal Controls Over Procurement), determine what changes are needed for the district to achieve compliance with best practices and state law to address this finding, and make recommendations for how the district can implement those changes.
2. Review the district's procurement processes and procedures and make recommendations for improved efficiencies, if any.

This final report contains the study team's findings and recommendations.

FCMAT appreciates the opportunity to serve the Contra Costa Community College District and extends thanks to all the staff for their assistance during fieldwork.

Sincerely,



Michael H. Fine
Chief Executive Officer

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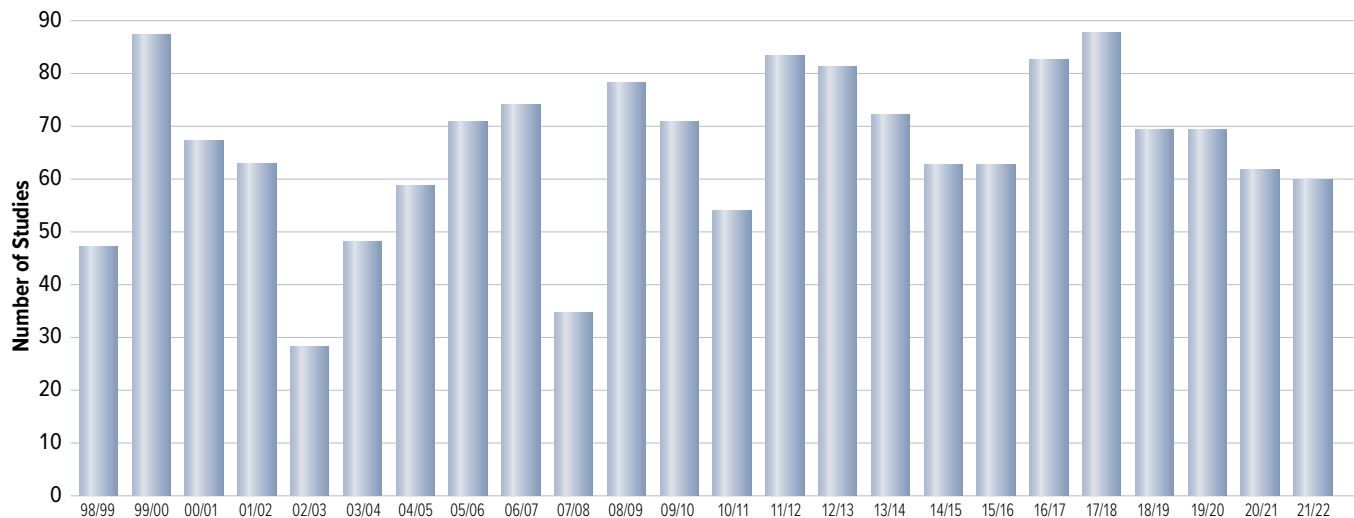
About FCMAT

FCMAT's primary mission is to assist California's local TK-14 educational agencies to identify, prevent, and resolve financial, human resources and data management challenges. FCMAT provides fiscal and data management assistance, professional development training, product development and other related school business and data services. FCMAT's fiscal and management assistance services are used not just to help avert fiscal crisis, but to promote sound financial practices, support the training and development of chief business officials and help to create efficient organizational operations. FCMAT's data management services are used to help local educational agencies (LEAs) meet state reporting responsibilities, improve data quality, and inform instructional program decisions.

FCMAT may be requested to provide fiscal crisis or management assistance by a school district, charter school, community college, county office of education, the state superintendent of public instruction, or the Legislature.

When a request or assignment is received, FCMAT assembles a study team that works closely with the LEA to define the scope of work, conduct on-site fieldwork and provide a written report with findings and recommendations to help resolve issues, overcome challenges and plan for the future.

Studies by Fiscal Year



FCMAT has continued to make adjustments in the types of support provided based on the changing dynamics of TK-14 LEAs and the implementation of major educational reforms. FCMAT also develops and provides numerous publications, software tools, workshops and professional learning opportunities to help LEAs operate more effectively and fulfill their fiscal oversight and data management responsibilities. The California School Information Services (CSIS) division of FCMAT assists the California Department of Education with the implementation of the California Longitudinal Pupil Achievement Data System (CALPADS). CSIS also hosts and maintains the Ed-Data website (www.ed-data.org) and provides technical expertise to the Ed-Data partnership: the California Department of Education, EdSource and FCMAT.

FCMAT was created by Assembly Bill (AB) 1200 in 1992 to assist LEAs to meet and sustain their financial obligations. AB 107 in 1997 charged FCMAT with responsibility for CSIS and its statewide data management work. AB 1115 in 1999 codified CSIS' mission.

AB 1200 is also a statewide plan for county offices of education and school districts to work together locally to improve fiscal procedures and accountability standards. AB 2756 (2004) provides specific responsibilities to FCMAT with regard to districts that have received emergency state loans.

In January 2006, Senate Bill 430 (charter schools) and AB 1366 (community colleges) became law and expanded FCMAT's services to those types of LEAs.

On September 17, 2018 AB 1840 was signed into law. This legislation changed how fiscally insolvent districts are administered once an emergency appropriation has been made, shifting the former state-centric system to be more consistent with the principles of local control, and providing new responsibilities to FCMAT associated with the process.

Since 1992, FCMAT has been engaged to perform more than 1,400 reviews for LEAs, including school districts, county offices of education, charter schools and community colleges. The Kern County Superintendent of Schools is the administrative agent for FCMAT. The team is led by Michael H. Fine, Chief Executive Officer, with funding derived through appropriations in the state budget and a modest fee schedule for charges to requesting agencies.

Introduction

Background

The Contra Costa Community College District was founded by a public vote in December 1948 and first opened its doors in 1949. The district now has three colleges and two centers, with a combined approximate enrollment of 45,000 students. It is one of the largest multi-community-college districts in California. Contra Costa College is located in San Pablo; Diablo Valley College is located in Pleasant Hill and has a center in San Ramon; and Los Medanos College is located in Pittsburg and has a center in Brentwood. The district serves an area with a population of 1,165,927, and its boundaries encompass all but 48 of the 734-square-mile area of Contra Costa County. The district office is located in downtown Martinez.

For the fiscal year ending in 2021, the district received a material weakness finding in its 2021 independent audit report: 2021-001 Internal Controls Over Procurement. The finding centered on a contract with a third-party vendor for an enrollment recovery plan in April 2021, for a total aggregate cost of \$10 million.

The vendor initially selected as the successful bidder was first contracted by the district to develop the request for qualification (RFQ) and request for proposal (RFP) for the enrollment recovery plan. The district allowed the vendor to prepare the RFQ and RFP as well as submit a proposal in response to the RFP, and then awarded the contract to the same vendor.

Upon receipt of whistleblower complaints regarding these circumstances, the district's board of trustees rescinded the contract with the vendor in May 2021. The district's internal controls did not prevent the award of a contract that deviated from written policies and procedures regarding procurement and vendor selection.

Study and Report Guidelines

In August 2022, the Contra Costa Community College District and the Fiscal Crisis and Management Assistance Team (FCMAT) entered into an agreement for FCMAT to conduct a review of the following district processes and procedures:

1. Review the material weakness finding in the district's 2021 independent audit report (2021-001 Internal Controls Over Procurement), determine what changes are needed for the district to achieve compliance with best practices and state law to address this finding, and make recommendations for how the district can implement those changes.
2. Review the district's procurement processes and procedures and make recommendations for improved efficiencies, if any.

FCMAT visited the district virtually starting in October 2022 to conduct interviews with district and department staff, collect data and review documents. Following fieldwork, FCMAT continued to review and analyze documents. This report is the result of those activities.

FCMAT's reports focus on systems and processes that may need improvement. Those that may be functioning well are generally not commented on in FCMAT's reports. In writing its reports, FCMAT uses the Associated Press Stylebook, a comprehensive guide to usage and accepted style that emphasizes conciseness and clarity. In addition, this guide emphasizes plain language, discourages the use of jargon and capitalizes relatively few terms.

Study Team

The study team was composed of the following members:

Marcus Wirowek, CFE
FCMAT Intervention Specialist

Cambridge West Partnership, LLC
FCMAT Consultant

John Lotze
FCMAT Technical Writer

Members of this study team who are otherwise employed were not representing their respective employers but were working solely as independent contractors for FCMAT.

Each team member reviewed the draft report to confirm accuracy and achieve consensus on the final recommendations.

Executive Summary

During a review of the district's contracts and procurement functions, FCMAT found processes, procedures and policies in several areas that could be improved to help the district maintain compliance with federal and state laws. Policies and procedures need to be updated to bring the procurement functions up to date and make them more relevant.

The district would benefit from updating its contract and request for proposal or quote templates. Training department staff in these updates will be essential to ensure the district manages its risk appropriately and legally. In addition, in some areas, the internal audit department can help ensure employees are trained on fraud prevention, conflicts of interest, and ethics.

Policies, procedures, handbooks and templates help guide the district. Updates and changes to these need to be made in a timely manner to protect the district and funds received from the state of California, the federal government, and local taxpayer-approved bonds. The district should seek guidance from outside experts, such as legal counsel, about how to bring its operations into compliance and provide the training required to support the changes needed.

Efficiencies will be achieved through training, updating policies and procedures, implementing new legally-reviewed templates, purchasing new technology for purchasing and contracts, and using improvements available in its enterprise resource planning (ERP) software system. A well-documented and updated workflow will reduce redundancies, the use of paper documents, and a slow approval process.

Addressing the items detailed in this report will help strengthen the district's controls and operations. Stronger controls and processes will allow the board of trustees to have the information they need to support their decisions and fiduciary responsibilities.

The Fiscal Crisis and Management Assistance Team (FCMAT) is committed to making informed recommendations that are in compliance with relevant laws and regulations. In situations where clear legal guidance is available, FCMAT will carefully reference and adhere to applicable laws and regulations to ensure that its actions align with legal requirements. However, there may be instances in which no clear legal guidance exists or where regulations are open to interpretation.

In these situations, FCMAT will rely on best practices and professional judgment to guide decision-making. FCMAT's decision-making process will be informed by a comprehensive understanding of the context and needs of the organization in question, as well as the team's experience and expertise in relevant areas. In all cases, FCMAT will prioritize the best interests of our clients and stakeholders and strive to make decisions that will promote fiscal responsibility, transparency, and accountability.

Findings and Recommendations

Scope and Method

FCMAT's review determined whether specific practices or processes comply with legislative requirements and are adequate and effective. To conduct this review, FCMAT relied on information gathered during interviews with staff and the review of numerous documents provided by the district, such as organizational charts, policies and procedures, audit reports, and legal updates.

Information Provided to Governing Board

FCMAT requested and reviewed information from board agendas, as well as what is publicly available on the district's website. The documents were reviewed to determine if the trustees were provided with correct and sufficient information upon which to base a decision and uphold their fiduciary responsibility.

Limited information regarding purchase orders (POs), contracts and payments is being provided to the trustees. FCMAT found that the information provided to the board and the public through the board agendas lack clarity in the following areas:

- The purchasing and contract documents, and their amendments on the board agenda, do not clearly identify the sources of funds for some departments.
- The term "renewal contract," which appears on board agendas, is confusing and incorrect. If a contract is being renewed, the original contract term and new contract term dates are not provided. There is no way to know if the entire contract term is exceeding Education Code Section 81644, which limits a contract term to three years for materials and supplies and five years for work or services, regardless of any amendments or extensions to the original contract.
- FCMAT found limited information on how contracts that exceed the annual bid limit were awarded (e.g., RFQ, RFP, bid).
- When a change order or contract amendment is submitted for board approval, the board is not given information about how much that vendor has been paid since the beginning of the contract.
- When an amendment to a public works contract is listed, no information regarding the change order percentage to date is included. Thus the board has no way to know if the total change orders are approaching the 10% threshold as required in Board Policy 6002.
- No POs for less than \$10,000 are reported.
- No total encumbered or paid-to-date amounts for each PO are listed.

The district should be aware of Senate Bill (SB) 1439, which went into law on January 1, 2023. Although the law was not in effect at the time of fieldwork, it is in effect at the time of this report. SB 1439 amends California Government Code Section 84308 to apply to members of local elected bodies and extends the covered period from three months to 12 months. If a party (or an affiliated party, such as an agent or employee) has made a campaign contribution of \$250 or more within the preceding 12 months to a member of a community college board, the board member will be required to recuse herself or himself from voting on a matter involving a license, a contract, a permit or other entitlement if the member knows or has reason

to know that the participant has a financial interest in the matter. SB 1439 also extends from three months to 12 months the time frame after an approval during which a member (elected or unelected) is prohibited from receiving a campaign contribution from a party.

It would benefit the district to contact other community college districts for best practices regarding what information should be provided to the board. In addition, it would be helpful to identify other colleges that use the ERP system and review how they have used the system to provide reports.

Recommendations

The district should:

1. Ensure that its purchase order report on each board agenda is updated to include the original encumbrance, paid-to-date and remaining balance amounts, PO number, original date created, amendments including dates, and funding source(s).
2. Ensure that all POs are included in a report approved or ratified by the board.
3. Ensure that the contracts report on the board agenda is updated to include the process for award of the contract, including bid number, RFP or RFQ number, piggyback contract number, number of proposals received, and whether the award is being made to the lowest responsive bidder.
 - a. Also ensure that the report includes term dates of the original contract, new term dates if an amendment occurs, original contract amount, and additional contract amount if an amendment occurs.
4. Ensure that board agenda items for awards of contracts and bids for both construction and nonconstruction list the number of responses received.
5. Eliminate the term “renewal” from POs and contracts.
6. Seek legal advice on what information needs to be provided to its board of trustees so they can comply with SB 1439, which was passed in fall 2022 and became law January 1, 2023.
7. Request copies of board reports from other community colleges that use an ERP software to see what types of reports can be developed using a similar system.

Purchasing and Contract Templates, and Contract Renewals and Extensions

At the time of interviews, the district’s purchasing and contract templates were outdated, and staff stated they had not been updated by a legal expert in at least 10 years. Purchase orders and bid documents do not include federal procurement procedures or up-to-date California legal references. FCMAT found many purchasing and contract documents and processes to be outdated and lacking up-to-date legal language and code references. In addition, the district uses two different legal firms to advise on contracts, bids, RFPs, and other such documents. Two different legal firms can cause confusion, double the work for staff, add additional costs, and even provide a conflicting interpretation of the laws and guidance.

Staff interviewed described the process for developing an RFP/Q, bid, PO, or contract as cumbersome and error-prone, and they were concerned about the risk that each new document produced may be incorrect

or lack up-to-date information. The templates for RFP/Q processes are Microsoft Word documents. District staff have used an outdated RFP/Q document in the district's internal SharePoint site or one from another institution. Staff stated that there is no legal review during the development of an RFP/Q.

General contracts and public works bid documents and contracts on the district's website were outdated and lacked state and federal legal references. In addition to purchasing and contract documents and interviews with staff, FCMAT confirmed that the public works and general contract templates had not been reviewed and fully updated by legal counsel in more than 10 years. These include public works bids, public works contracts, RFP/Qs for public works related professional services (e.g., architects, engineers, inspector of record), and public works POs for less than \$60,000. Although the documents were prepared by a legal firm, the firm that updated the forms is no longer the district's legal counsel.

FCMAT found public works contracts that did not reference the process provided under Public Contract Code Section 9204, which became law in 2017. Public Contract Code Section 9204 provides that for any claim remaining unresolved, the parties must agree on a mediator, mediators or other facilitated dispute resolution procedure. The statute provides that mediation is nonbinding, but otherwise does not address the specifics of confidentiality, mediator qualifications, time or place. The process in this code section needs to be outlined in the appropriate public works documents, contract, and/or plan sets. Staff interviewed were unfamiliar with Public Contract Code Section 9204 and did not know whether the relevant changes had been made to the documents.

The district's management of existing contracts is also problematic. Education Code Section 81644 limits a contract term to three years for materials or supplies and five years for work or services. These term lengths include any amendments or extensions to the original contract. However, documents found on multiple board of trustees meeting agendas show contracts are renewed or extended beyond the term limits in Education Code Section 81644.

For example, the district and the local construction trades negotiated and signed an original services agreement titled Project Stabilization Agreement in October 2012. The language was modified at the end of the initial five-year term in October 2017 and extended for an additional five-year term until October 2022. In October 2022, amendment three for this same contract was issued for an additional five-year term. The contract language was also modified in amendment three so the term will automatically renew at the end of the five-year term; therefore, there is no term end date. This type of contract language is not allowed under Education Code Section 81644.

Recommendations

The district should:

1. Have qualified legal experts provide training to all staff and its board of trustees in applicable areas of California Government Code, Education Code, Public Contract Code, and federal procurement policies and procedures.
2. Interview legal firms that have the experience needed to update all documents, provide ongoing updates, and train the district's purchasing and contracts employees and key staff on the new forms and laws as needed. Consider legal firms that offer an annual subscription model that provides updates to templates and ongoing training as an option.
3. Once the new legal firm is identified, update all bids, public works documents, contract templates, PO templates, glossary of contract terms and conditions, and related documents. Ensure that the joint powers authority for insurance is involved in this process

to make sure the documents are in accordance with underwriters' requirements and the risk coverage is appropriate.

4. Conduct business process reviews and develop a process map of its procedures and workflows from request to board approval or ratification. Do this using process mapping to view how many people are involved with each process. This will provide both full documentation of the current processes and insight into what can be done to streamline the processes.
5. Evaluate accessible electronic technology for purchasing that offers contract authoring and creation, a terms and conditions library, electronic bid processing, electronic RFP/Q processing, and a contract library.
6. Review its project stabilization agreement and negotiate an end date that complies with Education Code Section 81644.

Blanket Purchase Orders

The best practices *Purchasing and Contracts Manual* provided by Foundation for California Community Colleges explains that a blanket PO (also called standing order or open PO) is to “continue purchases of miscellaneous low-cost supplies.” Blanket POs should be used for supplies and should not be used for services, construction, repairs, professional services, or public works. Issuance of a PO for construction or public works must be in accordance with California Uniform Public Construction Cost Accounting (CUPCCA) and is limited to a total cost of \$60,000; for any purchase costing more than this amount, a contract is required. The PO becomes a short form construction document and includes, when appropriate, information regarding bonds, a description and scope of work, timeline for the work to be completed, California Department of Industrial Relations language, and specific insurance requirements. Legal counsel customarily provides this template and training on its use.

No PO should ever be issued for general work, such as “plumbing repairs as needed to the district’s facilities for fiscal year 22-23 for a total not-to-exceed \$10,000.” Such a PO would be what is known as a job order costing award, and specific public contract laws define that process and which entities may use it. Under these laws, the district does not qualify to use job order costing.

The district’s board agenda for its November 9, 2022, meeting included a list of 24 POs in excess of the district’s \$10,000 threshold listed in its commodities and services matrix. Contracts for less than this amount are not provided to the board. Nineteen of the POs were titled “Blanket Purchase Orders,” and nine of those were issued for work that is public works, construction, or maintenance, which is an incorrect use of a blanket PO. The district uses the term blanket purchase order for most purchases, even if they do not qualify.

The below POs are examples of improper use of blanket POs.

- Blanket PO (B0010667) for heating, ventilation and air conditioning efficiencies, updates to the system and network analysis was issued July 1, 2022, for \$22,200. This is a professional service and should be arranged for using a contract for services.
- Blanket PO (B0010850) for roofing repairs was for a roofing repair or modification project, which is a public works project and falls under CUPCCA. No detailed vendor-supplied scope of work was included. Both parties attached terms and conditions in the documents provided. The PO states that the parties agree to the supplementary terms and conditions attached that belong to the vendor. It does not specify the order of precedence or state

that the district's terms and conditions are to have precedence. The required bonds are not included in the paperwork, nor were they referenced in the supporting documents provided to the Board.

The board of trustees is not given the original PO or contract number in the report titled, "Ratification of Vendor Payments," so there is no way to see if the original contract or PO was board-approved.

Recommendations

The district should:

1. Obtain legal guidance and training on the appropriate use of blanket POs, and follow it.
2. Develop board policy or procedure so the board can review all transactions to ensure they meet their fiduciary duty.
3. Have legal counsel update its PO contract template for public works costing less than \$60,000 and its maintenance and repair PO contracts and templates.
4. Use contracts instead of POs to hire professional service providers. If in doubt, seek legal counsel for contract language or templates.
5. Ensure its contracts staff are given ongoing training regarding contracts and purchasing by legal experts to stay up to date on changes to laws and updates to purchasing and contract documents.

District and Federal Policies and Procedures

The Accrediting Commission for Community and Junior Colleges and the Community College League of California recommend that all board policies and related procedures be reviewed and updated no less than every seven years or as changes are made to state laws or district operations. Changes to state laws are codified in Government Code, Education Code, or Public Contract Code, which should be referenced accurately in board policies.

FCMAT requested and reviewed copies of board policies related to the scope of this study as well as those available on the district's website.

The district has a written multiyear plan titled, *Policies and Procedures of the Contra Costa Community College District Desk Manual*, which covers fiscal years 2015-16 through 2024-25. The most recent desk manual is dated January 2017 and provides a yearly schedule of when policies will be updated, including what years the reviews will occur, the steps for review, and estimated timeline for each update. According to the review cycle in the manual, policy reviews were supposed to take place each fiscal year. The desk manual is not available on the district's public website, and staff FCMAT interviewed were not familiar with the estimated timelines for updating the policies and procedures related to purchasing and contracts.

Staff interviewed stated that they refer to the district's website only when they are looking for information regarding policies. Staff also stated that the documents were cumbersome and sometimes confusing.

In common and best practice, the intent of board policies is to provide general guidance for legally and effectively operating a college district. These statements reflect laws that can guide the public, staff and students. Administrative procedures are developed and approved to support the board policies; they provide specific procedural steps to carry out a policy. Procedures are specific rather than general, translating

the basic policy into action by designating how, by whom, where and when certain actions are to be carried out or limited.

FCMAT reviewed documents provided and found the following:

- The district has approximately 128 board policies posted but only 17 corresponding administrative procedures.
- The district has approximately 121 business procedures in a separate set of documents from its administrative procedures.
- Four board policies, 5010, 5013, 5014, and 5019, which are related to purchasing and contracts, were listed as “Rev” between February 2012 and February 2013. It unclear whether they were reviewed or revised.
- The district has 15 business procedures related to the above four board policies. Twelve of these 15 procedures have not been updated in more than six years, and the remaining three date back as far as 2006.

Understanding how the district’s board policies, administrative regulations and business policies work together to guide workflow and procedures is difficult, cumbersome and time consuming. A person must read the initial policy, then go to the bottom corner of the page to see the footnote with the related administrative or business procedure(s), then go to the website, open the administrative or business procedure site, search for the document outlining the procedures, open it and review it. If multiple procedures are referenced, this process has to be repeated. No federal procurement policies or procedures could be found online or in the documents the district provided to FCMAT.

The district is required to develop and maintain purchasing and contracts policies if it receives and uses federal funds. Specifically, purchases funded by federal grants must comply with the procurement standards under The Office of Management and Budget’s uniform administrative requirements, cost principles, and audit requirements for federal awards (Title 2, Code of Federal Regulations (CFR), Part 200) as a condition of receiving funds and to meet annual audit compliance. Individual federal grants may contain additional terms and conditions specific to the grant.

As identified in the CFR, the district is required to comply with at least the following principles when purchasing with federal funds:

- Purchases must be necessary, not duplicative, and must fulfill grant requirements.
- Where appropriate, an analysis of lease and purchase options, and any other appropriate analysis, must be performed to determine the most economical and practical procurement.
- Where appropriate and to the extent required by each procurement method, analysis and selection must ensure open competition, objective contractor performance, and elimination of unfair competitive advantage.

During FCMATs interviews and document review, it became evident that the district also does not have a federal cost policy statement. This is different from the federal procurement language discussed previously. In accordance with Title 2, CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, nonfederal entities are to develop a “Cost Policy Statement for Federal Programs.”

A federal cost policy statement is intended to be used as guidance for nonprofit organizations that seek reimbursement from federal awards for indirect costs. Under federal programs, institutions can negotiate an indirect cost rate with the federal government. Indirect costs are the administrative overhead costs of

doing business that cannot be charged directly to grant programs, such as costs for business services, information technology, maintenance and operations, and human resources functions. Because it is difficult to determine how much staff time in these areas is spent on a particular federal program, the costs are included in an indirect cost pool.

If the district does not have a negotiated rate, the federal government allows districts to charge the minimum rate of 10%, which will not cover all indirect costs. To charge an indirect cost rate to grants, the district must have a federal cost policy that identifies direct and indirect costs and that aligns with the federal Office of Management and Budget's circulars and the CFR.

The federal cost policy should at least describe what is considered an allowable and unallowable cost and what is considered a direct and indirect cost. The allowable costs should include expenses that are considered reasonable, allocable, allowable, and not identified as unallowable.

Unallowable costs could include but are not limited to the following:

- advertising and public relations
- entertainment and alcoholic beverages
- capital expenditures
- defense claims by or against the federal government
- interest
- lobbying and fundraising

The approach to charging an indirect cost rate to the federal government also needs to be included in the district's federal cost policy statement.

Recommendations

The district should:

1. Immediately begin reviewing and updating its board policies and related procedures. Begin with the policies and procedures related to purchasing and contracts to bring them into compliance with current state and federal laws.
2. Ensure that its board adopts a federal cost policy and federal procurement policies and procedures.
3. Review the structure and numbering of its board policies, administrative procedures and business procedures to make sure they are in accordance with other California community colleges.
4. Train staff on any newly-adopted or revised policies and administrative procedures.
5. Research what indirect cost reimbursement rates other community college districts have been able to negotiate with federal grant agencies.
6. Develop a federal cost policy statement, and ensure its governing board approves it.
7. Ensure that employees in positions responsible for or affected by the federal cost policy statement are aware of it and adhere to it.

8. Ensure its accounting processes adhere to the newly-adopted federal cost policy statement.

Section 508 of the Americans with Disabilities Act

Requirements for compliance with the Americans with Disabilities Act (ADA) Section 508 apply to all technology the district purchases. Section 508 language requires that any technology purchased that is not accessible have a documented plan to provide equal access to students, faculty, staff, or community members.

Significant risk is involved in not fully complying with Section 508 requirements for accessibility. Being noncompliant may invite extensive state and federal audits and put future grants and federal funding at risk. Most important, it may prevent students from having an equal chance at succeeding in their academic pursuits, create inequities in the workplace for employees, or create impediments to the public's use of the resources the district provides.

The district's Board Policy 5030, titled, "Acceptable Technology Use Policy," does not include any information regarding Section 508 or a requirement for accessible technology. FCMAT found no separate Section 508 policies or procedures on the district's website.

Interviews with staff and documents reviewed indicated the following:

- A lack of understanding of the laws regarding Section 508, and a lack of training regarding purchasing or contracting and Section 508.
- A lack of a representative committee of stakeholders to review Section 508 issues.
- A lack of legally reviewed contract language requiring accessible technology.
- A lack of documentation of processes, decisions and training materials related to accessibility. This documentation is necessary to defend any claims regarding accessibility.

The district's Section 508 compliance review for technology purchases was performed by the Information Technology Department before the documents reached the purchasing department. Once these items were purchased, the Information Technology Department and Disabled Students Programs and Services developed an accommodation plan. However, interviews with staff indicated they were unaware if any Section 508 language was included where appropriate in public works bids or contracts..

In addition, staff interviews confirmed that during a construction project, the district purchased and had the contractor install technology that was not reviewed for accessibility or compliance with Section 508. In this case, the Information Technology and Purchasing departments were not part of the purchasing process, and no district-approved Section 508 language protecting the district would be sent to the vendor, nor would the technology be reviewed for accessibility. This would be in conflict with the requirements of Section 508. The district needs to develop policies and procedures to ensure it adheres to Section 508.

The district needs to form a Section 508 work group that includes individuals from the Purchasing Department and contracts staff, the Information Technology Department, Disabled Students Programs and Services, risk management, Human Resources, and instruction, because all of these departments have a significant role in Section 508 compliance.

The roles of the work group need to include but not be limited to making sure all technology (e.g., software, hardware, printers, copiers, electronic documents, videos and websites) is evaluated for accessibility, that

mitigation and accommodation plans for noncompliant items are implemented, and that the process followed for each item purchased is documented.

The vendors will need to provide compliance testing reports that list if the technology “partially meets,” “meets,” or “does not meet” the requirements of Section 508. Appropriate documents need to be reviewed by a district staff member trained in evaluating the vendor-provided compliance testing reports. This is normally done by staff who work with vendors. The next step is meeting with staff to see how the technology will be implemented. Any lack of accessibility can be reviewed and assessed for potential accommodations. Nonaccessible aspects may need testing and evaluation by Disabled Students Programs and Services or the district’s Title IX officer to help develop the accommodation plan. Other community colleges have already formed similar work groups and can be consulted to save time in forming the group. Resources are also available through the California Community Colleges Chancellor’s Office and the Community College Accessibility Center.

Recommendations

The district should:

1. Form a Section 508 work group that includes individuals from the Purchasing Department and contracts staff, the Information Technology Department, Disabled Students Programs and Services, risk management, Human Resources, and instruction.
2. Update its PO terms and conditions, bid documents, and contract templates to include Section 508 language, and a review and update process.
3. Prior to vendor selection, require vendors to provide evaluation of technology and compliance testing reports for Section 508 compliance.

Purchasing and Contracts Handbook

Staff stated that they refer to the third edition of the *Best Practices Handbook*, which was compiled and published by a group of purchasing professionals from California community colleges and the FCCC. This *Best Practices Handbook* does not provide references to the district’s own purchasing and contract policies, including the required federal procurement policies and procedures, as previously identified. The *California Community College Budget and Accounting Manual* (BAM) developed by the Chancellor’s Office should also be used as a guide in developing the handbook. The referenced *Best Practices Handbook* is not specific to the district, does not include references to district policies and procedures, does not include appropriate purchasing and contract forms, and is not available to staff.

In addition, the district could provide no updated workflows starting with the originator through the purchase-to-pay cycle. Department staff interviewed stated that the three campuses had each developed a set of unofficial how-to guides, but these have not been reviewed by purchasing or contracts staff. The three campuses work independently and only recently started to meet quarterly to solve common issues. Individuals interviewed also indicated that the director of purchasing and contracts is not part of the quarterly meetings.

Recommendations

The district should:

1. Obtain copies of handbooks from other community college districts to use as examples, and create its own best practices handbook for use by appropriate district staff.
2. Develop a process map of the workflows of the purchasing and contracts processes before writing the handbook to help make sure nothing is missed in the handbook.
3. Update its best practices handbook at least annually, and make it available on its website to employees at the district and college campuses.
4. Ensure that its three colleges continue to work on resolving common purchasing and contract issues and identify common solutions. Invite the director of purchasing and contracts to the quarterly meetings.

Internal Audit Guidance

The district's Board Policy 5034 – Internal Audit Services defines the role of the director of internal audit and states that the district is required to have this position and to provide the services outlined in the policy. At the time of FCMAT's fieldwork, the district's director of internal audit position had been vacant for more than two years. The Internal Audit Services Department is functioning with only a fiscal operations specialist. The district has no acting or interim internal audit director managing the department.

Board Policy 5034 defines how internal audit services should support areas such as purchasing, contracts and accounts payable. Staff indicated that internal audit services has minimal interaction with the procurement-to-payment processes and functions unless the work falls within the four-year audit plan.

When staff were asked about the review of fiscal or procurement functions, they stated that the purchasing card process was about to be audited but no other area of fiscal services or procurement was on the list to be audited by internal audit services.

Individuals interviewed referred to the district's three-year internal audit plan many times, but the plan is not available on the district's website.

FCMAT asked internal audit services staff about new employee training regarding fraud prevention, conflicts of interest, and ethics. The fiscal operations specialist confirmed that their position does not conduct training. The director of internal audit position may conduct this training, but this could not be confirmed.

Several staff stated they were aware of the district's fraud prevention hotline; however, staff admitted they did not feel fully trained in fraud prevention or conflict of interest policies. Staff also stated that they were unaware of how deviations from procedural norms could be reported to the fraud prevention hotline even though this is an area covered by the hotline.

Recommendations

The district should:

1. Prioritize the hiring of a director of internal audit.
2. Develop and implement an annual internal audit plan that aligns with Board Policy 5034.
3. Post the internal audit plan on its website.

4. During new employee orientation, implement training in areas such as fraud prevention, misappropriation of district assets, conflicts of interest, and ethics.
5. Include internal audit in the review of fiscal and procurement operations and processes.

Oversight of Direct Pay Vouchers for Purchases Less Than \$3,000

Purchasing is not involved in the direct pay voucher process. District departments process payments of less than \$3,000 to vendors using a direct payment voucher. A department obtains a written quote or invoice, fills out the form, has it approved at the campus level, and then it is sent to accounts payable for payment.

Interviews with staff indicated that a different process for reviewing and approving the vouchers occurs at each of the three campuses. FCMAT found no written procedures for processing these vouchers, to prevent bid splitting, or to prevent the total purchases for one vendor from exceeding the annual bid limit outlined in Public Contract Code 20651. Bid splitting is the intentional dividing of orders for supplies and equipment into smaller quantities to avoid a statutory threshold for advertised competition.

Controls regarding the use of direct pay vouchers are extremely limited. Interviews with internal audit services staff confirmed that they are not part of the review or audit process related to the use of the vouchers. No controls were identified to prevent bid splitting or to prevent the total purchases for one vendor from exceeding the annual bid limit outlined in Public Contract Code 20651 and district policy. Bid splitting is the intentional dividing of orders for supplies and equipment into smaller quantities to avoid the statutory threshold for advertised competition.

The district has no controls or procedures to prevent the total purchases using federal funds from exceeding the micropurchase limits or other requirements listed in the federal policy. Purchasing needs to be able to review a report showing vendors paid using direct pay vouchers at least monthly to ensure compliance with appropriate policy and procedure.

Recommendations

The district should:

1. Implement a system to audit the direct pay vouchers throughout the fiscal year.
2. Ensure that if the total payments to a vendor using direct pay vouchers are found to exceed the bid limits, employees are instructed to use a PO.
3. With advice from legal counsel and external auditors, develop and implement training for campuses on the direct pay vouchers so state and federal codes and policies are followed.

Surplus Process

The district's Business Policy 10.01 states, "District employees may not buy property declared to be surplus, unless it is offered by public auction." The problem with this policy is that district employees declare an item surplus, with the approval of the director of purchasing. This can create a conflict of interest or potential for fraud if they intend to bid on an item at the district's public auction.

The district needs to conduct a thorough review and update its policy to prohibit employees and board members from purchasing district property, even if it is offered at a public auction. It is also essential that the updated policy be communicated to staff.

Recommendations

The district should:

1. Revise Business Policy 10.01 to state that employees and board members are prohibited from purchasing district property, including at a public auction.
2. Ensure staff receive and are aware of the newly approved policy.

Training

Interviews with district staff revealed a need for additional in-person or online training. Every group interviewed recognized a need for training, and it was clear that the district would benefit from it. The purchasing and contracts staff and others involved in purchasing and contracts identified the need for additional written purchasing and contracts training resources. If these resources are developed, the district should provide them to staff. It would also benefit the college to develop training documents for vendors to help them understand the contract and procurement process, including requirements for compliance with relevant policy and law.

The colleges identified a need for more documentation of workflow, including who is responsible for each step and short training videos. Informal training was also identified as a need, including topics for staff meetings or collaborative meetings between purchasing staff and the college staff. Employees stated that time constraints often do not allow continued professional development but that if time were available they would attend.

In interviews staff indicated they do not interact with legal counsel and do not attend meetings in which advice on contracts, bids and other purchasing-related topics are discussed.

Recommendations

The district should:

1. Ensure that the director of purchasing sets aside time at staff meetings or allows weekly release time for staff to participate in professional development.
2. Identify opportunities and topics for legal counsel to provide training on contracts and purchasing.
3. When appropriate, allow staff to attend conference calls or in-person meetings with legal counsel during which direction is provided to the leadership.
4. Start recurring training for employees on fraud prevention and conflicts of interest.
5. Create a mandatory new employee training on tools available for fraud prevention and reporting, including deviations from policies and business practices.
6. Create an ethics in procurement training for district staff.
7. Create training guides for vendors.

8. Provide training for cabinet members and the board of trustees on procurement and contracts so they understand the information being provided on the board agendas.

Planning Participation

Purchasing Department staff indicated that they have not been asked to contribute to the development of goals. In addition, if department goals exist, they were unaware of the location of these goals. The staff also stated that they were not involved in an annual program review process.

Staff also stated that they can submit budget resource requests only during the accreditation cycle, which is every four years. Staff stated that previously they submitted requests for technology upgrades; however, they were unaware of how that process occurred or works. Individuals interviewed also overwhelmingly indicated that additional training funds and internal training was needed, but no one understood how to make the request.

Recommendations

The district should:

1. Ensure that the Purchasing Department is involved in the district's integrated annual planning process.
2. Institute a process for annual or biannual updates to the resource requests based on changes in technology needs or training needs.
3. Ensure that its integrated planning process includes a list of goals or outcomes that can be measured and tracked for all departments, including purchasing and contracts.

Appendices

Appendix A: Resources

Association of Community College Trustees: www.ACCT.org

California Community Colleges Accessibility Center: www.cccaccessibility.org

California Community Colleges BAM: <https://www.cccco.edu/-/media/CCCCO-Website/Files/Finance-and-Facilities/budget-and-accounting-manual-2012-edition-ada.pdf?la=en&hash=97696D7DAA8FDFD0240EFD9267C83405E00AAE0B>

California Association of School Business Officials: www.casbo.org

Community College League of California: www.ccleague.org

Foundation for California Community Colleges College Buys: <https://foundationccc.org/CollegeBuys>

National Association of Educational Procurement: <https://www.naepnet.org/>

United States General Services Administration Section 508: www.section508.gov

Appendix B: Study Agreement



FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM STUDY AGREEMENT August 3, 2022

The Fiscal Crisis Management and Assistance Team (FCMAT), hereinafter referred to as the team, and the Contra Costa Community College District, hereinafter referred to as the district, mutually agree as follows:

1. BASIS OF AGREEMENT

The team provides a variety of services to local educational agencies. The district has requested the team to provide for the assignment of professionals to study specific aspects of the district's operations, based on the provisions of Education Code Section 84041. These professionals may include staff of the team, county offices of education, the California Department of Education, school districts, charter schools, community colleges, or private contractors. All work will be performed in accordance with the terms and conditions of this agreement.

2. SCOPE OF THE WORK

A. Scope and Objectives of the Study

- 1) Review the material weakness finding in the district's 2021 independent audit report (2021-001 Internal Controls Over Procurement), determine what changes are needed for the district to achieve compliance with best practices and state law to address this finding, and make recommendations for how the district can implement those changes.
- 2) Review the district's procurement processes and procedures and make recommendations for improved efficiencies, if any.

B. Services and Products to be Provided

- 1) Orientation Meeting – The team will conduct an orientation session at the district to brief district management and supervisory personnel on the team's procedures and on the purpose and schedule of the study.
- 2) On-site Review – The team will conduct an on-site review at the district office and at college sites if necessary.
- 3) Exit Meeting – The team will hold an exit meeting at the conclusion of the on-site review to inform the district of significant findings and recommendations to that point.
- 4) Exit Letter – The team will issue an exit letter approximately 10 days after the exit meeting memorializing the topics discussed in the exit meeting.

- 5) Draft Report – Electronic copies of a preliminary draft report will be delivered to the district’s administration for review and comment.
- 6) Final Report – Electronic copies of the final study report will be delivered to the district following completion of the review. The final report will be published on the FCMAT website.

3. PROJECT PERSONNEL

The FCMAT study team may include:

<i>A. To be determined</i>	<i>FCMAT Staff</i>
<i>B. To be determined</i>	<i>FCMAT Community College Consultant</i>
<i>C. To be determined</i>	<i>FCMAT Community College Consultant</i>

4. PROJECT COSTS

The cost for studies requested pursuant to EC 42127.8(d)(1) shall be:

- A. \$1,100 per day for each FCMAT staff member while on site, conducting fieldwork at other locations, preparing or presenting reports, or participating in meetings. The cost of independent consultants will be billed at the actual daily rate for all work performed based on the provisions of EC 84041
- B. All out-of-pocket expenses, including travel, meals, lodging, etc. The district will be invoiced at actual costs, with 50% of the estimated cost due following the completion of the on-site review and the remaining amount due upon acceptance of the final report by the district.

Based on the elements noted in section 2A, the total not-to-exceed cost of the study is \$65,200.

- C. Any change to the scope will affect the estimate of total cost.

Payments for FCMAT’s services are payable to Kern County Superintendent of Schools - Administrative Agent, located at 1300 17th Street, City Centre, Bakersfield, CA 93301.

5. RESPONSIBILITIES OF THE DISTRICT

- A. The district will provide office and conference room space while on-site reviews are in progress.
- B. The district will provide the following (if requested):
 - 1) Policies, regulations and prior reports addressing the study request
 - 2) Current or proposed organizational charts
 - 3) Current and two prior years’ audit reports

- 4) Any documents requested on a supplemental listing
 - 5) Any documents requested on the supplemental listing should be provided to FCMAT in electronic format; if only hard copies are available, they should be scanned by the district and sent to FCMAT in an electronic format.
 - 6) All documents should be provided in advance of fieldwork; any delay in the receipt of the requested documentation may affect the start date and/or completion date of the project. Upon approval of the signed study agreement, access will be provided to FCMAT's SharePoint document repository, to which all requested documents shall be uploaded by the district.
- C. The district's administration will review a draft copy of the report resulting from the study. Any comments regarding the accuracy of the data presented in the report or the practicability of the recommendations will be reviewed with the team prior to completion of the final report. The final report will be published on the FCMAT website.

6. PROJECT SCHEDULE

The following schedule outlines the planned completion dates for key study milestones and will be established upon the receipt of a signed study agreement:

<i>Orientation:</i>	<i>To be determined</i>
<i>Staff Interviews:</i>	<i>To be determined</i>
<i>Exit Meeting:</i>	<i>To be determined</i>
<i>Draft Report Submitted</i>	<i>To be determined</i>
<i>Final Report Submitted:</i>	<i>To be determined</i>
<i>Board Presentation</i>	<i>To be determined</i>

7. COMMENCEMENT, TERMINATION AND COMPLETION OF WORK

FCMAT will begin work as soon as it has assembled an available and appropriate study team consisting of FCMAT staff and independent consultants, taking into consideration other jobs FCMAT has previously undertaken and assignments from the state. The team will work expeditiously to complete its work and deliver its report, subject to the cooperation of the district and any other parties from which, in the team's judgment, it must obtain information. Once the team has completed its fieldwork, it will proceed to prepare a draft report and a final report. Prior to completion of fieldwork, the district may terminate its request for service and will be responsible for all costs incurred by FCMAT to the date of termination under Section 4 (Project Costs). If the district does not provide written notice of termination prior to completion of fieldwork, the team will complete its work and deliver its report and the district will be responsible for the full costs. The district understands and agrees that FCMAT is a state agency and all FCMAT reports are published on the FCMAT website and made available to interested parties in state government. In the absence of extraordinary circumstances, FCMAT will not withhold preparation, publication and

distribution of a report once fieldwork has been completed, and the district shall not request that it do so.

8. INDEPENDENT CONTRACTOR

FCMAT is an independent contractor and is not an employee or engaged in any manner with the district. The manner in which FCMAT's services are rendered shall be within its sole control and discretion. FCMAT representatives are not authorized to speak for, represent, or obligate the district in any manner without prior express written authorization from an officer of the district.

9. INSURANCE

During the term of this agreement, FCMAT shall maintain liability insurance of not less than \$1 million unless otherwise agreed upon in writing by the district, automobile liability insurance in the amount required under California state law, and workers' compensation as required under California state law. Upon request of the district and the receipt of the signed FCMAT study agreement, FCMAT shall provide certificates of insurance, with Contra Costa Community College District named as additional insured, indicating applicable insurance coverages.

10. HOLD HARMLESS

FCMAT shall hold the district, its board, officers, agents, and employees harmless from all suits, claims and liabilities resulting from negligent acts or omissions of FCMAT's board, officers, agents and employees undertaken under this agreement. Conversely, the district shall hold FCMAT, its board, officers, agents, and employees harmless from all suits, claims and liabilities resulting solely from negligent acts or omissions of the district's board, officers, agents and employees undertaken under this agreement.

11. COVID-19 PANDEMIC

Because of the existence of COVID-19 and the resulting shelter-at-home orders, local educational agency closures and other related considerations, at FCMAT's sole discretion, the Scope of Work, Project Costs, Responsibilities of the District (Sections I, IV and V herein) and other provisions herein may be revised. Examples of such revisions may include, but not be limited to, the following:

- A. Orientation and exit meetings, interviews and other information-gathering activities may be conducted remotely via telephone, videoconferencing, etc. References to on-site work or fieldwork shall be interpreted appropriately given the circumstances.
- B. Activities performed remotely that are normally performed in the field shall be billed hourly as provided as if performed in the field (excluding out-of-pocket costs).
- C. The district may be relieved of its duty to provide conference and other work area facilities for the team.

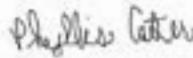
12. FORCE MAJEURE

Neither party will be liable for any failure of or delay in the performance of this study agreement due to causes beyond the reasonable control of the party, except for payment obligations by the district.

13. CONTACT PERSON

Name: Phyllis Carter
Telephone: (925) 229-6944
E-mail: pcarter@4cd.edu

Digitally signed by Phyllis Carter
Date: 2022.08.22 13:17:17 -07'00



8/22/22

Phyllis Carter, Associate Vice Chancellor and CFO
Contra Costa Community College District

Date



8/23/22

Michael H. Fine
Chief Executive Officer
Fiscal Crisis and Management Assistance Team

Date