DATE: August 28, 2003

TO: Board of Trustees

FROM: Dr. Philip R. Day, Jr., Chancellor

SUBJECT: POLICY MANUAL
Notice of Intention to Amend the SFCCD Policy Manual
Section 8.06a – Procurement of Supplies, Equipment, and Services
(Resolution No. 030828 – P1)

BACKGROUND INFORMATION:

The City College Board of Trustees desires to increase opportunities for small local businesses to contract with the College for professional and other services. The Board also wishes to use competitive processes whenever feasible and thereby limit the number of sole source contracts the College awards to the smallest possible number.

Several portions of state law speak to the College’s authority to enter into contracts. California Government Code Section 53060, provides broad authority for contracting and states that:

“The legislative body of any public or municipal corporation or district may contract with and employ any persons for the furnishing to the corporation or district special services and advice in financial, economic, accounting, engineering, legal, or administrative matters if such persons are specially trained and experienced and competent to perform the special services required.”

The College has used this particular statute as for many years as its source of authority for hiring firms or persons on an as needed basis in specialized areas.

The California Education Code also addresses the area of contracts and was recently amended, so that Section 88003.1(b) (2) now states that personal services contracts may be entered when:

“The services contracted are not available within community college districts, cannot be performed satisfactorily by community college district employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the community college district.”
This section also states:

“…This section shall apply to personal service contracts entered into after January 1, 2003. This section shall not apply to the renewal of personal services contracts subsequent to January 1, 2003, where the contract was entered into before January 1, 2003, irrespective of whether the contract is renewed or rebid with the existing contractor or with a new contractor.”

Finally, the California Public Contracts Code Section 20651 states that:

(a) The governing board of any community college district shall let any contracts involving an expenditure of more than fifty thousand dollars ($50,000) for any of the following:
   1. The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district.
   2. Services, except construction services.
   3. Repairs, including maintenance as defined in Section 20656, that are not a public project as defined in subdivision (c) of Section 22002.
   The contract shall be let to the lowest responsible bidder …

(c) This section applies to all equipment, materials, or supplies, whether patented or otherwise. This section shall not apply to personal services or advice, insurance services, or any other purchase or service otherwise exempt from this section, or to any works done by day labor or by force account pursuant to Section 20655.

The $50,000 figure is adjusted for inflation each year by the State Chancellor’s Office in accordance with state regulations, and now stands at $59,600. For items covered by this statute, it is, and has been, the standard practice of the College’s Purchasing Office to award College business to the lowest responsible bidder for items greater than the threshold. This resolution would amend the College’s policy manual and extend the jurisdiction for the state threshold requiring competitive contracts. It would eliminate for City College the exception for personal services and advice. However, it is important to note that such decisions would not be based solely on price. Exceptions would be created for contracts with other government agencies, contracts related to a grant when the grantor has established a deadline or guidelines that do not allow adequate time for competition, maintenance for hardware or software provided by the manufacturer, and for emergencies affecting the health and safety of the College’s students and workforce.
RECOMMENDATION:

RESOLVED: That notice is hereby given that the following proposed amendment to the San Francisco Community College District Policy Manual, Section 8.06a – Procurement of Supplies, Equipment, and Services, shall be acted upon at the September 25, 2003 meeting of the Board of Trustees;

That SFCCD Policy Manual Section 8.06a – Procurement of Supplies, Equipment, and Services, shall be amended read as follows:

PM 8.06a  Procurement of Supplies, Equipment, and Services

Any contracts for personal services involving an expenditure of more than fifty thousand dollars, or any more recent figure established by the State Chancellor’s Office pursuant to California Public Contracts Code Section 20651, shall be awarded only after the completion of a competitive process. While cost shall be considered in awarding such contracts, other factors including but not limited to demonstrated expertise and availability shall be considered as well. The award process shall also provide, to the full extent permitted by law, preference to Small Local Business Enterprises.

Exceptions to this requirement shall only be made for contracts with other government agencies, contracts related to a grant when the grantor has established a deadline or guidelines that do not allow adequate time for competition, contracts for maintenance for computer hardware or software provided by the manufacturer, and for emergencies affecting the health and safety of the College’s students and workforce.

This section shall apply to personal service contracts entered into after September 25, 2003. This section shall not apply to the renewal of personal services contracts subsequent to September 25, 2003, where the original contract was entered into before September 25, 2003.

Peter Goldstein, Originator