

PROCUREMENT POLICY AND PROCEDURES

THE SCHOOL RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART.

POLICY:

To ensure that the school will obtain the maximum value for each dollar expended and that all equipment, materials, and services are procured in a systematic manner, the school must employ selective competitive solicitation by qualified manufacturers and suppliers. The goal is to ensure the best interest of the school is guaranteed through intelligent action and fair dealing.

PROCEDURES:

General Information

Any product, service or other expenditure of school funds must be processed in accordance with this policy. The level of competitive solicitation varies by dollar amount.

Individuals shall not commit any school funds before a purchase order is issued, except as otherwise noted in the *Accounts Payable policy*. Individuals that authorize materials or services to be delivered or performed before a purchase order is issued may be subject to discipline.

Objectives

The school adheres to the following objectives:

- Procurements will be completely impartial based strictly on the merits of supplier and contractor proposals and applicable related considerations such as delivery, quantity, etc.
- Make all purchases in the best interests of the school and its funding sources.
- Obtain quality supplies/services needed for delivery at the time and place required.
- Buy from responsible and dependable sources of supply.
- Obtain maximum value for all expenditures.
- Deal fairly and impartially with all vendors.
- Be above suspicion of unethical behavior at all times; avoid any conflict of interest, related parties or even the appearance of a conflict of interest in the school supplier relationships.

Conflict of Interest

All school employees and members of the school's Board of Directors are expected to use good judgment, to adhere to high ethical standards, and to act in such a manner as to avoid any actual or potential conflict of interest. A conflict of interest occurs when the personal, professional, or business interests of an employee or Board Member conflict with the interests of the organization. Both the fact and the appearance of a conflict of interest should be avoided.

Standards of Conduct

The school maintains the following standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of the school may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, unless the gift is an unsolicited item of nominal value. See school Conflict of Interest Policy and Procedures for definitions of "nominal value" and "anything of value."

Mandatory Disclosure-Federal Awards

Upon discovery of any potential conflict, the school will disclose in writing the potential conflict to the federal awarding agency in accordance with applicable federal awarding agency policy. The school also discloses in writing to the federal awarding agency or pass-through all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award.

Small Purchases

The school will provide a systematic and businesslike method of obtaining and supplying materials and equipment. Any single procurement not exceeding fifty thousand dollars (\$50,000.00) may be made in accordance with this paragraph; provided however that such procurement shall not be artificially divided to constitute a small purchase. A purchase order is required for all purchases other than for incidentals where purchase orders are not accepted.

Small purchases not exceeding **five thousand dollars (\$5,000) in total value** may be accomplished without quotes if the price is considered to be reasonable. The school shall annotate the purchase requisition as follows: "Price is fair and reasonable" and sign such purchase requisition. Such purchases shall be distributed equitably among qualified suppliers. The purchase must be approved by the school principal, operations director, and Accounting Office.

Small purchases from **five thousand and 1/100 dollars (\$5,000.01) to twenty-five thousand (\$25,000.00) in total value** may be accomplished if verbal or written quotes from a minimum of three qualified sources of supply are made and it is documented that the procurement is to the advantage of the school, price and other factors considered, including administrative costs of the purchase. Such documentation shall be attached to the purchase requisition. The purchase must be approved by the school principal, operations director and Accounting Office. The school principal will list the purchase as an informational item to the school Board of Directors.

Small purchases from **twenty-five thousand and 1/100 dollars (\$25,000.01)+** must be accomplished with a publicly advertised Request for Proposal. The purchase must be documented that the procurement is to the advantage of the school price and other factors considered, including the administrative costs of the purchase. Such documentation shall be attached to the purchase requisition. The purchase must be approved by the school principal, operations director and Accounting Office. The school principal will list the purchase as an informational item to the school Board of Directors.

Recommendations for engaging a consultant(s) or purchasing of services or products exceeding the total annual cost of \$25,000.01 **MUST** be brought to the Board for approval. The board will make the final decision.

Under no circumstances, shall the Board delegate their responsibilities to third party.

Federal Fund Procurement

Any purchases exceeding **two thousand five hundred and 1/100 dollars (\$2,500.01) in total value** must be accomplished by written quotes from a minimum of three qualified sources (Request for Proposal if the amount exceeds \$10,000.01 in total value) of supply is made and it is documented that the procurement is to the advantage of the school, price and other factors considered, including administrative costs of the purchase. Such documentation shall be attached to the purchase requisition. The purchase must be approved by the school principal, operations director, and Accounting Office. The recommendation must be brought to the Board for approval.

The school will follow Federal Fund Procurement process unless the specific federal funding source has a more restrictive procurement policy involving expenditures. The school will also comply with all federal laws and regulations that are mandatory and that are not otherwise contained herein.

Exceptions to the Procurement Policy

The school may exempt specific supplies or services from this Policy. The following supplies and services are exempted from this Policy:

- Books, periodicals, newspapers, technical pamphlets, standardized tests and other testing materials, copyrighted educational materials
- Public utilities, such as electricity, water or sewer
- Workshops, seminars, and conferences
- Professional journals
- Employment
- Taxes, social security, annuities, and credit unions
- Life insurance, health insurance or supplemental insurance
- Refunds on health insurance
- Professional dues, registration and membership fees
- Diplomas
- U.S. postage stamps and post office boxes
- Graphic Design
- Professional Training
- Related services for Special Education
- Temporary Facility Rentals

Sole Source Procurement

This method of procurement is the least competitive and, therefore, should have limited use. In those instances, however, where the school's needs can only be met by one method, means or item, sole source is an appropriate and necessary method of procurement. Such determination as to whether a procurement shall be made as a sole source shall be made by the school. Such determination and the basis thereof shall be in writing and shall include an explanation as to why no other source will be suitable or acceptable to meet the need.

A contract may be awarded for a supply, service or construction item without competition when the school determines in writing that there is only one source for the required supply, service or construction item.

Emergency Procurement

Notwithstanding any other provision of this policy, the school may make or authorize others to make emergency procurements when there exists a threat to public health, welfare or safety under emergency conditions, or where normal daily operations are affected; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. If emergency considerations exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may also be made. A written determination shall be made stating the basis for an emergency procurement and for the selection of the particular vendor. Emergency procurements shall be limited to that of supplies, services or construction items necessary to meet the emergency. Such procurement shall be presented to the school's Board of Directors at its next meeting.

Noncompetitive Procurement (Federal Funds)

All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;

- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants that are on retainer contracts;
- Organizational conflicts of interest;
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- Any arbitrary action in the procurement process.

There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

- Minor-purchases
- The item is available only from a single source;
- The emergency requirement will not permit a delay resulting from publicizing a competitive solicitation;
- The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the school; or
- After solicitation of a number of sources, competition is determined inadequate.

When using federal funds, the following must also be met to ensure adequate competition.

- **Geographical Preferences Prohibited:** The school must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- **Domestic Preference for Procurement:** The school, to the greatest extent practicable, provides a preference for the purchase, or acquisition, of goods and products produced in the United States. The school includes this preference in all contracts and purchase orders for work or products using federal funds.
- **Prohibition on Certain Telecommunications Companies:** The school will not procure, enter into a contract to procure, or extend or renew a contract to procure covered telecommunications and video surveillance equipment or services described in Public Law 115-232, section 889. Covered telecommunications and video surveillance equipment or services are those produced by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company, or any subsidiary or affiliate of such entities. 2 C.F.R. § 200.216. To ensure compliance, the school will check sam.gov and make certain the vendor for telecommunications and video surveillance equipment is not excluded under this prohibition.
- **Never Contract with the Enemy:** The school complies with the regulations implementing Never Contract with the Enemy in 2 CFR part 183 prohibiting contracts, grants and cooperative agreements that exceed \$50,000, are performed outside the U.S. and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities. 2 C.F.R. §200.215.
- **Prequalified Lists:** The school must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the District must not preclude potential bidders from qualifying during the solicitation period.

Procurement(Non-Federal Funds)

Competitive Sealed Bidding

Competitive Sealed Bidding is used to initiate competitive procurement in excess of \$25,000. Competitive Sealed Bidding is a basic process used in instances when price is the sole decision-making variable among firms. It is most applicable for the purchase of everyday a ubiquitous good or service, readily available from multiple vendors, such as Chromebooks, cleaning supplies, etc. An Invitation for Bids (or Request for Quotes) is publicly posted detailing the school's specific requirements, as well as contractual terms and conditions set by the school. Bids may be emailed or hard copy mailed to the school, then publicly opened at a time and place outlined per the terms of the Invitation. All things being equal, the contract should award to the lowest responsive and responsible bidder. The final decision rests with the Board.

Competitive Sealed Proposals

Competitive Sealed Proposals are used when the school has a need that exceeds \$25,000 in cost, but the school's selection of a vendor selection requires the flexibility of evaluating both qualitative and quantitative factors. While price is an important factor, it is not the only factor. Rather, factors such as quality, timing, reputation, staffing, or other terms may play an important role. The ultimate purpose of this method of procurement is to provide flexibility to the school while taking into consideration various options and the costs of each. Proposals are solicited through a publicly posted Request For Proposal.

Request for Proposal

The request for proposal shall be the document used to initiate small purchase over \$25,000.01 and a competitive sealed proposal procurement and shall include the following:

- Instructions and information to vendors concerning the proposal submission requirements, including the time and date set for receipt of the proposal, the individual to whom the proposal is to be submitted, the address of the office to which proposal is to be delivered, and any other special information
- The purchase description, specifications, delivery and performance schedule, and such inspection and acceptance requirements as are not included in the purchase descriptions
- All contract terms and conditions, including warranty and bonding or other security requirements as applicable
- Instructions to vendors to visibly mark as confidential each part of their proposal which they consider to be proprietary information
- A statement of a vendor's right to protest

Public Notice

Public notice of the invitation for proposal shall be given. Such notice may include publication on the school's website. Proposal time will be set to provide the vendors a reasonable time to prepare their proposals. A minimum of seven (7) days shall be provided by the school.

Bid Opening

Proposals over \$25,000 shall be publicly opened, but only the names of the offerors disclosed at the proposal opening. Contents of competing proposals shall not be disclosed during the process of opening or negotiation. All proposals shall be recorded at the time of opening and shall be opened for public inspection after contract award. Proprietary or confidential information marked as such in each proposal shall not be disclosed without written consent of the offeror.

Request for Qualifications

Prior to soliciting proposals, and after giving adequate public notice, the school may issue a request for qualifications, experience, and ability to perform the requirements of the contract from prospective offerors. At a minimum, the request shall contain a description of the goods or services to be solicited by the invitation for proposal and the general scope of the work. The request shall also contain the deadline for submission of information and how prospective offerors may apply for consideration.

After the school receives the responses, it will rank prospective offerors from most qualified to least qualified on the basis of the information provided. The school shall then invite vendors from at least the top two prospective offerors.

Negotiations with responsible offerors and revisions to proposals

As provided in the request for proposals, negotiations may be conducted with any offeror submitting a proposal appearing to be eligible for contract award pursuant to the selection criteria set forth in the request for proposals. All apparently eligible offerors shall be afforded the opportunity to submit best and final proposals if negotiations with any other offeror result in a material alteration to the request for proposals and such an alteration has a cost consequence that may alter the order of offerors' price quotations contained in their initial proposals. In conducting negotiations, there shall be no disclosure of information derived from proposals submitted by any competing offerors.

Evaluation

The request for proposals shall state the evaluation factors in relative order of importance. Price may not be an initial evaluation factor. Each responsive and responsible offeror's proposal shall be evaluated. The proposal shall then be ranked in accordance with the results of such evaluation.

Award

The award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous to the school, taking into consideration the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

Document History

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