

PROCUREMENT POLICY AND PROCEDURES

STANDARD OF CONDUCT

Proper procurement practices are essential to ensure fairness and that the best products and services are obtained at the best price.

PROCUREMENT POLICIES AND PROCEDURES USING SCHOOL DISTRICT FUNDS – not applicable for federal and school food service funds.

The District's purchasing program shall serve the interests of the School District and its educational program by providing the necessary supplies, equipment, and services. The purchasing procedures employed by the District shall comply with all applicable laws and regulations of the state as well as Board policies. Materials, supplies, equipment, and services will be purchased by bid whenever it is advantageous to the District. In cases where direct negotiation is in the best interest of the District, it will not be necessary to secure bids unless required by law.

The District shall obtain competitive bids when any school building is built, when any purchase of insurance, supplies or materials (other than textbooks), repairs, additions, or improvements to any building will cost more than Ten Thousand Dollars (\$10,000.00) and less than Twenty-Five Thousand Dollars (\$25,000.00).

If the cost will exceed Twenty-Five Thousand Dollars (\$25,000.00), a call for bids shall be published at least once in a newspaper of general circulation in the District. **No contract shall be divided to avoid this policy.** Items in the published call for bid may be described by stating the general requirements and making the detailed specifications available to the bidders at the District administrative office.

All contracts for procurement must go through the Coordinator of Business Services/Business Manager. Contracts for less than \$25,000.00 must be approved by the Superintendent or his/her designee. All contracts which require public advertising and competitive bidding shall be awarded by the Board. Recommendations for the award of these contracts shall be submitted to the Board by the purchasing agent.

DISCLAIMER: The District reserves the right to reject any and all bids and to waive irregularities and informalities in any bid.

The Coordinator of Business Services/Business Manager, under the direction of the Superintendent, shall serve as purchasing agent for the District and shall be responsible for developing and administering a purchasing program for the District. Purchasing procedures shall comply with all applicable laws and regulations of the State as well as the following District guidelines:

1. The approval of all purchases shall be directed by the availability of funds appropriated in the District's annual operating budget.
2. Purchase orders may be issued without prior approval of the Board when formal bidding procedures are not required by law and when budget appropriations are adequate to cover the obligations.
3. The purchasing agent shall always secure approval of the Board of Trustees for major purchases of equipment which are not included in the budget.
4. Residence or place of business of suppliers shall be a consideration in cases where identical or very close bids have been submitted with the exception of items purchased using federal funds.

The Board believes in patronizing local businesses; therefore, in purchasing procedure, when proposals are equal or nearly equal to or better than other vendors and meet the specifications of the District, the contract or purchase order shall be awarded to the firm whose location is within District boundaries.

In accordance with state law, the District will show preference to in-state bidders whenever required and may show preference when desirable. [W.S. 16-6-101 through 16-6-107].

5. The quantity of items purchased shall depend on the necessity of the items, storage space, availability, and economy of volume purchased.
6. The Superintendent shall make every effort to ensure that the District receives full value for dollars spent. The purchasing function shall be to buy required products which, during the products' period of usefulness, will be the most efficient and economical.
7. Whenever feasible, supplies shall be ordered in the spring for summer delivery in order to keep purchasing during the year at a minimum.

PROCUREMENT POLICIES AND PROCEDURES USING FEDERAL FUND MONIES – including all purchases from the school food service account.

The primary purpose of the federal procurement regulation is to ensure open and free competition regardless of the procurement method.

All procurements in the Child Nutrition Programs must meet all standards set forth in program regulations and the OMB Super Circular 2 CFR 200. The Federal Child Nutrition Programs are governed by the Code of Federal Regulations (CFR) under 7 CFR Parts 210, 215, 220, 225, 226, 245, 250 (as applicable), and all federal requirements following 2 CFR Part 200.317 Procurement Standards as outlined in the OMB Super Circular Guidance for Federal Awards.

In order to ensure that District meets all federal procurement guidelines, the District will adhere to the following procedures:

The District will purchase from small, minority and women’s business enterprises and labor surplus firms whenever possible, per 2 CFR 200.321.

Purchases and contract awards must be made only to responsive and responsible bidders.

Responsive means that the bidder and their offer meet the requirements of the procurement. **Responsible** means that the bidder has the means to execute the procurement – they have the ability to provide the goods and/or services required in accordance with the applicable specifications and contract terms.

The District is responsible for ensuring that allowable costs are net of all discounts, rebates, and applicable credits, and also that all expenditures are necessary, reasonable, and allocable.

The District must have a clear and accurate description of the material, product, or service to be procured. All requirements, which must be fulfilled, have to be identified and cannot contain features which unduly restrict competition.

When it is impractical or uneconomical to make clear and accurate descriptions of the technical requirements, a “**brand name or equal**” description may be used as a means to define the performance or other requirements. The specific features of the named brand, which must be met by suppliers, shall be clearly stated per 2 CFR 200.319(c)(1).

Restricting procurement to a brand name or a specific product is not permitted, however, situations do arise when the District has a compelling need or reason to purchase a brand specific item. The District would then need to document all

reasons for this requirement but must still maximize competition even in the brand specific procurements.

Sole Source for the Purposes of Procurement for the National School Meals Program. A sole source procurement must have prior approval by the Wyoming Department of Education (WDE). Federal rules allow for a sole source when only one supplier is available nationally. The **State Agency (WDE) can authorize** the SFA to conduct a noncompetitive negotiation with that one supplier, if noncompetitive negotiation is allowed under applicable State and local rules. *This is a rare occurrence.*

PRE-PROCUREMENT PROCESS

- Step 1 – Identify what will be purchased
- Step 2 – Estimate the cost and determine the **purchase type**
- Step 3 – Identify **procurement method** to be used
- Step 4 – Follow the proper **purchase procedures**

PURCHASE TYPES:

- **Micro** purchase – Any purchase below the federal threshold [this is currently Three Thousand Five Hundred Dollars (\$3,500.00)] may be awarded without soliciting competitive quotes **if the price is considered reasonable. To the extent feasible, however, the District must distribute micro-purchases equitably among qualified vendors. The micro-purchase threshold will periodically be adjusted for inflation, therefore, the District shall follow the most current threshold as defined at 2 CFR 200.67.**
- **Small** purchase – Purchases that have a total value that exceeds the federal **micro-purchase threshold** but are less than or equal to Ten Thousand Dollars (\$10,000.00).
 - Do not require a formal procurement process, however, the District shall make the purchase on a competitive basis (soliciting at least two vendors, if possible).
- **Competitive** bid purchase – Any total purchase that exceeds Ten Thousand Dollars (\$10,000.00) but less than Twenty-Five Thousand Dollars (\$25,000.00).
 - Do not require a formal procurement process, however, the District shall make the purchase on a competitive basis (soliciting more than two vendors, if possible).
- **Formal** procurement – Total purchase or contract value that equals or exceeds Twenty-Five Thousand Dollars (\$25,000.00).

PROCUREMENT METHODS – There are several ways to meet the fundamental principles of procurement – fair, open, and competitive purchasing.

Request for Information (RFI) – An RFI is used when the District is unsure what to include in the procurement and needs to identify the range of possibilities

available. The RFI must be open to all potential respondents and can be used to prequalify vendors moving forward. An award cannot be made from the RFI, but must issue a subsequent IFB or RFP that is more exact.

Request for Quotation (RFQ) – A non-formal method. In some cases it is simply calling several vendors and asking for a price quote on goods or services. The District must keep adequate documentation (vendor name, contact name, phone number, time, date, and quote amount for each vendor). A RFQ is commonly used when the District knows what it wants but needs information on how vendors would meet the District requirements and/or how much it will cost.

- RFQ may be used for **micro-purchases** (solicit information from at least one vendor), **small purchases** (solicit information from at least two vendors if possible), and **competitive bid purchases** (solicit information to more than two vendors, if possible).
- Micro-purchases and small purchases may use phone quotes (use attached document).
- Competitive bids – must use a written Request for Quotation.

Micro-Purchase Procedure – Micro purchases (under the current federal threshold) can be purchased without soliciting competitive quotes if the price is considered reasonable. To the extent feasible District staff must distribute the micro-purchases equitably among qualified suppliers.

1. Call or check prices of at least one vendor.
2. Use different vendors when the value/quality is comparable to ensure competition.
3. Make purchase – **After a pre-approved requisition (under \$500) or pre-approved PO (\$500 or over) is received.**
4. Keep procurement documentation (attach a copy of the documentation to the Requisition or PO).

Small (can be via phone) and Competitive Purchase Procedures (must be written).

1. Solicitation documents:
 - a. Describe what goods or services are needed
 - b. Due dates
 - c. Other relevant factors
2. Contact an adequate number of available, qualified sources to achieve competition (if possible). **Solicit two vendors for Small Purchases and three for Competitive Purchases.**
 - a. A non-response from a vendor counts as a solicitation (be sure to document).
3. Receive price/rate quotes – evaluate quotes.

4. Make purchase – **after a pre-approved PO has been received.**
5. **Contract is to be issued** as a result of Procurement for Competitive Purchases.
6. Keep Procurement documentation – attach a copy of the documentation to the PO.

Invitation for Bid (IFB) – Formal method used when the only significant point of differentiation between vendors is the price. An IFB must have clear, concise specifications and should describe the minimum standards expected of a respondent in measurable terms. Bids will be solicited from an adequate number of known suppliers providing them with sufficient time to respond prior to the date set for the bid opening. Bids shall be sealed and require a fixed price contract with or without adjustment factors.

- The **sealed bids** will be publicly opened at the time/place specified in the IFB. The contract will be awarded to the bidder whose bid conformed to all the terms and conditions of the IFB and has the lowest price.
 - Can award only a Fixed Price Contract and the successful bidder can be determined only on the basis of price.
 - Must have adequate and realistic specifications or purchase descriptions.
 - Must provide sufficient time for response.
 - Must have at least two or more responsible bidders that are willing and able to compete effectively.

Request for Proposal (RFP) - Formal method where other factors than price may be considered in making an award when using a RFP. Price must remain the primary consideration when awarding the contract under this method. The RFP identifies the goods, products, and/or services needed by the District, and all significant evaluation factors. Competitive proposals may be used if conditions are not appropriate for the use of competitive sealed bids.

- RFP must include all evaluation factors and their relative importance (number of points). The contract will be awarded to the proposer that is most advantageous with price (this being given the highest evaluation weight) and all other factors being considered.
 - Awarded contract may be either Fixed Price, Cost Reimbursable, or a combination of the two.
 - Generally used when conditions are not appropriate for the use of Sealed Bid.

Formal Purchase Procedures

If the purchase amount will cost \$25,000.00 or more, the District will contract through a formal bid process. No contract shall be divided for the purpose of

avoiding this procedure. A call for bids shall be published at least once in a newspaper of general circulation in the District, as well as in a newspaper generally circulated state-wide. The call for bid shall also be posted on the District's website, and any other form of advertisement that is deemed applicable.

- More rigorous and prescriptive:
 - Invitation for Bids (IFB) i.e., Competitive Sealed Bidding
 - Request for Proposals (RFP) i.e., Competitive Negotiation
 - Allows the identification of evaluation factors and their relative importance.
- **Contract is to be** issued as a result of Procurement.

1. **Identify allowable** methods – IFB or RFP (see *Procurement methods above*).
Prepare Solicitation and Contract documents – mailed to prospective bidders, posted on web site, and made available at the central office. Potential bidders may provide information for the specifications but cannot prepare documents.

Identical bid specifications must be provided to all potential vendors. This must include all important information such as delivery schedules, quantities, product specifications, and purchase conditions.

- a. **IFB** – Must have complete, adequate, and realistic specification or purchase descriptions.
 - b. **RFP** – Scoring (evaluation) criteria must be included in the RFP.
 - c. Some of the situations considered to be restrictive of competition include, but are not limited to:
 - i. Placing unreasonable requirements on contractors in order for them to qualify to do business.
 - ii. Requiring unnecessary experience and/or excessive bonding.
 - iii. Noncompetitive pricing practices between contractors or between affiliated companies.
 - iv. Organizational conflicts of interest.
 - v. 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.
 - vi. Any arbitrary action in the procurement process.
 - vii. The use of state or local geographical preferences in the evaluation of bids or proposals, except for Farm to School.
2. **Advertise Bids** – Bids/Proposals must be solicited to as many bidders as possible. Publish at least once in newspaper of general circulation and once in a newspaper generally circulated state-wide, the District web site, and other form of advertisement deemed applicable. Solicitations will be sent directly to known vendors.

- a. **IFB** – Must have two or more responsible bidders.
 - b. **RFP** – Must be solicited to an adequate number of qualified bidders to ensure competition.
3. **Clarification to bids** – Clarifications, addendums, and questions must be provided to all prospective bidders during the solicitation phase.
4. **Receive Bids** – Must be received by a specified date and time. May be accepted electronically when specified in bid advertisement.
 - a. IFB bids will be publicly opened at a predetermined time and place as stated in the IFB.
5. **Evaluate Submissions** – Measure and document why one company's response to a particular criterion is better than another using the advertised scoring system.
 - a. **IFB** – Based on lowest price only.
 - b. **Scoring for RFP** (see How to Score Proposals) – **not to be done publicly.**
 - i. Clearly list the factors that will be used to evaluate and determine the winner of the bid. *IFBs are based only on price and are publically opened.*
 - ii. Evaluation scores should reflect their importance; therefore, factors should be weighted.
 - iii. Price should always have the highest weight.
6. **Award contract** – A recommendation shall be made to the Board of Trustees at its next regular meeting to accept/deny contract.
 - a. Any or all bids may be rejected but can only be rejected for sound, documented reasons.
 - b. **IFB** – A firm, fixed price contract award will be made in writing to the lowest priced, responsive, and responsible bidder. When setting the price, consideration must be given to all discounts, rebates, credits, or additional costs by the bidder.
 - c. **RFP** – A Fixed Price or Cost Reimbursable (**or combination**) award will be made to the responsive and responsible party whose proposal is most advantageous. Price and other factors must be considered with price having the highest weight.
 - d. Notification is to be sent to all bidders.
 - e. If the contract is a Cost Reimbursable contract, the following provisions will be included in the contract:
 - i. Only allowable costs will be paid from the nonprofit school food service account to the Contractor net of all discounts, rebates, and other applicable credits accruing to or received by the Contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school Food Authority.
 - ii. The SFA shall ensure that the Contractor fully discloses all discounts, rebates, allowances, and incentives received by

the Company from its suppliers. If the Company receives a discount, rebate, allowance, or incentive from any supplier, the Company must disclose and return to the SFA the full amount of the discount, rebate, or applicable credit that is received based on the purchases made on behalf of the SFA. All discounts, rebates, allowances, and incentives must be returned to the SFA during a mutually agreed upon time frame that is beneficial to the District.

- iii. Sufficient detail and information must be supplied to the SFA to identify allowable and unallowable costs, as well as the amount of all discounts, rebates and other applicable credits on invoices.

7. Execute the contract – all contracts must go through the Coordinator of Business Services/Business Manager.

- a. No contract shall be for more than five (5) years and should have an annual renewal when in place for longer than one (1) year.

8. Make the purchase – after a pre-approved PO is received.

9. Administer contract – see contract administration.

10. Maintain documentation – see Documentation.

HOW TO SCORE PROPOSALS (RFP):

The District shall ensure that cost is the primary factor for award.

- A point system, percentage-based system, or a different weighted system may be used.
- The solicitation must clearly define and describe the evaluation criteria to be used.
- The method chosen cannot unreasonably limit free and open competition.

CONTRACT ADMINISTRATION:

The District will maintain a contract administration system which will ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. The Coordinator of Business Services/Business Manager will review all aspects of any contractor bid documents, expenditures, processes, and procedural aspects to ensure compliance with all federal, state, and school district regulations.

The District's contract administration system will address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms. Appropriate sanctions and/or penalties will be included.

All contracts in excess of \$10,000.00 must address termination for cause and for convenience and include the manner by which it will be effected and the basis for settlement.

Contracts made under a federal award (such as with funding from the USDA Child Nutrition Programs) will also contain all applicable federal provisions as referenced under *Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards*.

DOCUMENTATION:

The District shall retain all required records for at least three (3) years after final payments and all pending matters have been closed and completed. The District will adhere to all 2 CFR 200.333 record retention requirements.

Documentation to be retained will include all solicitation documents, responses, evaluation records, and contracts. These records should detail the history of any procurements and should also include, but are not limited to, the following:

- Rationale for the method of procurement used
- Selection of contract type
- Contractor selection or rejection
- And the basis for the contract price.

NON-PERFORMANCE:

The District retains the right to terminate any contract for cause or convenience.

BID SPECIFICATIONS:

District contracts will not be awarded to any potential vendor who writes any of the bid specifications, the solicitation documents, or any of the contract language. Identical bid specifications and/or request for proposals will be provided to all potential vendors.

GEOGRAPHIC PREFERENCE (applies to National School Lunch/Breakfast Program purchases):

No geographic preference (advantage based on location) is allowed with federal funds except for documented Farm to School (Farm to Plate) efforts. Therefore, as part of Farm to School, the District may choose to apply a geographic preference when procuring unprocessed locally grown or locally raised products only.

BUY AMERICAN (applies to National School Lunch/Breakfast Program purchases):

The District is required to purchase, to the maximum extent possible, domestic products for use in meals served in its National School Lunch and School Breakfast programs. The “Buy American” requirement [7 CFR Part 210.21(d)] specifies that the District should purchase domestically produced food and food products.

A “domestic commodity or product” is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S.

The Buy American provision also applies to entities that purchase on behalf of the District.

If the District is unable to purchase a domestic item, documentation must be kept justifying the exemption(s) and maintained for review by the SA.

The District will include a “Buy American” clause in all product specifications, bid solicitations, requests for proposals, purchase orders, and any other type of procurement documents issues.

DEBARMENT AND SUSPENSION:

For all contracts to be paid with federal assistance, the District will obtain verification regarding debarment, suspension, ineligibility, and voluntary exclusion.

- To meet this requirement, the District will include a suspension and debarment statement within the text of all contracts.

STANDARD OF CONDUCT:

The District maintains the following code of conduct for any employees engaged in award and administration of contracts supported by federal funds:

- No District employees will engage in any procurement when there is a conflict of interest, real or perceived, and District employees cannot solicit or accept any gratuities, favors or anything of monetary value from prospective vendors.
- No District employee shall participate in the selection, award, or administration of a contract when any of the following persons have a financial interest in the firm selected for award:
 - The employee
 - Any member of his/her immediate family
 - People with whom there is an affectionate personal relationship
 - An organization which employs or is about to employ any of the above.
- District employees will behave with the utmost integrity and never be self-serving, be fair in all aspects of the procurement process, be alert to conflicts of interest, and avoid any compromising situations.
- Employees found to be in violation of this policy are subject to disciplinary action. Based on the severity of the infraction, the penalties could include a written reprimand to their personnel file, a suspension with or without pay, or termination.

DISCOUNTS, REBATES, CREDITS: (applies to National School Lunch/Breakfast Program purchases):

The District will verify that all federal contracts and procurements are net of all applicable discounts, rebates, and credits. All contractors will maintain records and applicable discounts, rebates, and credits. All contractors will maintain records and source documents in support of all costs, discounts, rebates, and credits.

RECORD RETENTION: (applies to National School Lunch/Breakfast Program purchases):

The District will allow access to all records per 2 CFR 200.336.

The District will retain all Food Program records for three (3) years after final payments and/or three (3) years after any pending matters have been closed and completed. The District will also maintain records sufficient to detail the history of any procurements. These records will include, but are not limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. Record retention will adhere to all 2 CFR 200.333 requirements.

BID PROTEST PROCEDURES:

Any bidder, person, or entity may file a protest with the District relating to a bid, contractual or administrative issue. The protest shall specify the reasons and facts upon which the protest is based and shall be filed, in writing, to the Coordinator of Business Services/Business Manager no later than three (3) business days after the date of the bid award or notice of unsuccessful bid or for contract or administration protests, within three (3) days of the incident giving rise to the protest.

The District will investigate the basis for the protest and analyze all facts. The District will notify the bidder/contractor of the evidence found as a result of the investigation, and afford the bidder/contractor an opportunity to rebut such evidence, and permit the bidder/contractor to present any evidence that the bid and/or contract award, or the administration of the contract, was done in an unfair or biased manner. If necessary, the District will then hold an informal hearing before the School Board, which will include the Superintendent and Coordinator of Business Services/Business Manager, who will present information in response to the protest. The District will issue a written decision within fifteen (15) business days following receipt of the protest, unless factors beyond the District's reasonable control prevent such a resolution, in which event such decision will be issued as expeditiously as circumstances reasonably permit.

The decision will state the reasons for the action taken by the District. A copy of this decision will be furnished to the protestor and any other parties affected.

Adopted: 3/20/14

Amended: 01/20/16

Revised: 01/15/18