

BIDDING / PURCHASING REQUIREMENTS

The RSU 23 Board of Directors expects all purchases made by the school unit to be consistent with applicable laws and sound business practices. The Superintendent shall be responsible for developing and implementing administrative procedures for bidding and purchasing consistent with this policy.

This policy is intended solely as an internal guide to purchasing by the school unit. It does not afford any vendor any property or contractual rights against the school unit. No vendor shall have any enforceable rights against the school unit based upon this policy or alleged violations of this policy. No vendor shall have any rights against the school unit until such time as a written contract between the vendor and the school unit is executed by the vendor and an authorized representative of the school unit.

A. Bidding Required by Law

Maine law requires the RSU 23 Board to competitively bid property and casualty insurance; school bus and transportation contracts in excess of \$4,000; school building construction, alterations and repairs over \$250,000 (except contracts for professional architectural and engineering services); bond anticipation notes for state-subsidized school construction projects; and lease purchase financing of buildings whose lease purchase costs qualify for state subsidy.

B. Competitive Bidding of Other Purchases

The Bidding Policy is established to ensure that where high value items are concerned, the District has an established set of guidelines for ensuring that fair and equitable procedures are followed in procuring the best quality item(s) for the dollar spent. Where bidding is not required by law, it shall be the policy recommended practice of the school unit to seek competitive bids for the purchases of equipment, supplies, materials or services over ~~\$125,000~~ \$25,000 provided that it is practical and cost-effective to specify the materials or services with sufficient particularity to allow meaningful comparison of bids. The Finance Committee, Superintendent and/or Finance Director will determine if competitive bidding, RFP's or RFQ's are appropriate for any purchase. In the event of an emergency situation, the Superintendent will have the right to waive this provision. It is absolutely prohibited for a purchase to be broken into separate components for the purpose of circumventing the Bidding Policy.

If competitive bidding is not utilized, the Superintendent may seek Requests for Proposals (RFP), or Request for Quotes (RFQ) for purchases of equipment, supplies, materials or services. An RFP/RFQ identifies the need the school unit intends to meet, but permits the vendor to propose the manner in which the work is to be performed and the materials to be used.

C. Sole Source/Single Source Procurement

Occasions may arise when competition among potential vendors is not possible or desirable for a particular procurement. These situations may occur when there is clearly and legitimately only one source capable of supplying the product or service in a timely fashion such that seeking competitive prices would be impractical. The Finance Committee shall be informed of the Superintendent's decision

to seek sole source or single source procurement and the reasons for it in advance of entering into a contract.

A Sole Source procurement is one for which only one vendor can supply the commodities (equipment, supplies, materials), technology and/or perform the services required by the District.

A Single Source procurement is one for which there might be an alternative source available, but for reasons, which are deemed in the best interest of the District, the Superintendent selects one vendor over the others to supply the commodity (equipment, supplies, materials), technology and/or to perform the services required by the District.

Circumstances leading the District to select a Sole/Single Source method of procurement may include instances where procurement through competitive bidding or competitive proposals/quotes would be impracticable or contrary to the public interest or would not be feasible, cost-effective, or in the best interest of the District. Examples include, but are not limited to situations when:

1. Competitive bids or quotes are solicited and no responsive bid or quote is received.
2. Products or services can be obtained from only one person or firm.
3. Competition is precluded because of the existence of patents, copyrights, confidential processes, proprietary information or the need for specially designed parts or specialized technology exists.
4. Experience with similar projects at other districts or at other levels of government, and when the vendor's demonstrated expertise, capacity, past performance and/or willingness to respond to the situation is a primary consideration.
5. Compatibility of equipment, accessories, or replacement parts is required.
6. Equipment failure, dictates that the need for immediate repair is essential.
7. Time Constraints and potential delays could negatively impact the completion of a project.
8. A provider of services has unique qualifications.
9. Emergency conditions, including fire, flood, storm damage, epidemic, environmental accident, or a similarly compelling reason exists.

D. Preferred Vendor Status

The Board of Directors recognizes the importance of developing strategic partnerships with critical suppliers and vendors when the benefit to the District is clearly demonstrated. Preferred Vendor status may be conferred upon a vendor by recommendation of the Superintendent and Finance Director and with the approval of the Finance Committee.

Below are some of the reasons why a vendor may be considered for Preferred Vendor Status:

1. Leveraged volume purchasing contract is offered by vendor.
2. Vendor's willingness to offer discounted government pricing or to provide an acceptable level of cost control.
3. The need for standardization of programs; services; systems; products or equipment.
4. Exceptional past performance or quality of work provided.
5. Excellent customer service and ease of ordering or obtaining product or service.

6. Favorable return/replacement policy.

E. Procedures for Bidding and Requesting Proposals

The method of notification that the school unit uses to solicit bids and proposals/quotes shall be reasonably designed to attract qualified vendors. Depending upon the circumstances, such notification may include public advertising and/or mailing of notices to potential vendors and/or telephone calls to potential vendors.

Competitive Bid Procedures

A. In general, the Finance Committee will award contracts to the lowest responsible bidder, which the Superintendent and Finance Director deem can satisfactorily fulfill the contract requirements. The guiding principle for accepting a bid for products or services is best value for the dollar. This means that while price is important, it is not the only factor, nor even the deciding factor, by which acceptance of a bid will be based. These factors include, but are not limited to:

1. Operations costs.
2. Quality or competency of the bidder's product or service.
3. Delivery and implementation timetables.
4. Warranties, guarantees, and return policies.
5. Responsiveness of vendor;
6. Costs associated with financing provisions or alternatives.
7. Vendor's financial stability.
8. Quality and effectiveness of the proposed product or service.
9. Vendor's past performance record with similar products or installations.

The criteria to be used in the acceptance of a bid will be determined on a case-by-case basis. It must be clearly understood that the Finance Committee reserves the right to accept or reject any bid on any basis (or no basis) as it deems appropriate.

B. The notification shall specify the deadline for submitting bids and the time and place of bid opening. Bid alternates shall be permitted at the discretion of the Superintendent. The notice shall reserve the right of the school unit to reject any or all bids, to waive any informality or irregularity, to award a proposal wholly or in part, to call for re-bid or to negotiate with any bidder, if it is deemed to be in the best interest of the District, and to exercise judgment in evaluating bids.

C. **Written bids.** Bids shall be in writing, sealed with outside envelope or wrapper plainly marked "Bid, not to be opened until (insert appropriate date)," and mailed or filed with the Superintendent/designee of the unit.

D. **Time of opening.** A Board member or employee of the school unit may not open a bid until the appointed time.

E. Public opening. At the time and place stated in the public notice, and open to the public, all bids shall be opened by the Superintendent or, his or her designee.

F. Reading. If any citizens who are not Board members or employees of the school unit or if any representatives of the press are present, bids shall, at that time, either be made available for examination by them or shall be read aloud in a manner to be heard plainly by those in attendance.

Procurement Methods for Federally Funded Projects

The Superintendent or his or her designee shall be responsible for developing, updating as necessary, and implementing a written administrative procedures manual (hereafter, the “Federal Procurement Manual”) to govern the procurement and purchase of property, goods, and services using any federal award¹ that is subject to the Uniform Grant Guidance, codified at 2 CFR Part 200 (“UGG Federal Award”). The Federal Procurement Manual shall be consistent with all applicable federal laws and rules.

Notwithstanding any policy provision to the contrary, the procurement and purchase of property, goods, and services using a UGG Federal Award, in whole or in part, must comply with the Federal Procurement Manual. Wherever this policy or any of the school unit’s administrative procedures are inconsistent with federal laws or rules, the provisions of the federal laws or rules shall control.

RFP/RFQ Procedures

A. Proposals should be submitted in plain envelopes clearly marked “Proposal/Quote” not to be opened until (state time and date).” The RFP/RFQ shall state the time and date that proposals shall be opened, and no proposal/quote shall be opened before that time. Public opening is not required.

B. Proposals/Quotes are to be evaluated based on criteria appropriate for the project in question (as defined in Section A above), and the contract will be awarded to the vendor whom the Superintendent, Finance Director and Finance Committee deem best able to meet the requirements of the school unit.

Legal Reference: 5 MRSA § 1743-A 20-A MRSA §§ 1001(14), 5401(13)(D); 5402 20-A MRSA § 1492 30-A MRSA § 6006-E Maine State Board of Education Rules/or Major Capital School Improvement Projects (Chapter 61; § 11(5)) Maine Department of Education and Maine Municipal Bond Bank Rules/or Maine School Facilities Program and School Revolving Renovation Fund Program (Chapter 64, § 6)

Legal Reference: 34 CFR Parts 74 and 80 (Education Department General Administrative

¹ A “federal award” is any federal financial assistance (including cost-reimbursement contracts) that a school unit receives either directly from a federal agency or indirectly from a pass-through entity such as the State education department. *See* 2 CFR § 200.38. Most, but not all, federal awards received by a school unit are subject to the Uniform Grant Guidance. To confirm whether a federal award is subject to the Uniform Grant Guidance, review the terms and conditions of the applicable grant agreement or cooperative agreement and the applicability provisions of the Uniform Grant Guidance, codified at 2 CFR § 200.101.

Regulations (“EDGAR”)) (for federal awards made prior to 12/26/2014)

2 CFR Part 200 (Uniform Administrative Requirements) (for federal awards made on or after 12/26/2014)

Cross Reference: DJH – Purchasing and Contracting: Procurement Staff Code of Conduct
DJ-R – Federal Procurement Manual

Revised: June 8, 2017

Revised: January 25, 2017