

3610 Purchasing Goods and Services

The Superintendent, or his/her designee, shall be the sole purchasing agent for the District.

Purchasing From District Employees

The Board shall not purchase equipment or supplies from an employee of the District, nor from a member of a household of an employee, nor from any firm in which an employee or member of his/her household holds a 10 percent or greater financial interest.

Purchases through the District

Board members and employees shall not make any purchase through the District for personal use. The name of the District or school, or an employee's position, shall not be used in such manner that discounts or cost preferences are given to such person. Purchasing equipment and supplies by the District for resale to employees is prohibited.

Emergency Purchases

Emergency purchases may be made without using the quotation or bidding process. Such emergencies may arise because of an accident or other unforeseen occurrence that could affect the life, health, welfare, or safety of the District's students or employees.

Approved: July 10, 2006

LEGAL REF: MCL [15.321-330](#); [380.1216](#); [380.1274](#)

3620 Administrative Leeway (Cf. 2750, 3660)

In the event of an emergency such as a power failure, severe cold weather or other such natural disasters, the Superintendent shall have the authority to purchase capital equipment needed to keep the schools of the District open or to reopen the schools. The Board, at a special or regular meeting as soon as possible after the purchase is made, shall approve any such purchases.

Such purchases shall not be made to circumvent the purposes of the competitive bid law.

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3625 Procurement - Federal Grants/Funds

Procurement of all supplies, materials, equipment, and services paid for from Federal funds or District matching funds shall be made in accordance with all applicable Federal, State, and local statutes and/or regulations, the terms and conditions of the Federal grant, Board of Education policies, and administrative procedures.

The Superintendent shall maintain a procurement and contract administration system, in accordance with the USDOE requirements (2 CFR 200.317-.326), for the administration and management of Federal grants and Federally-funded programs. The District shall maintain a contract administration system that requires contractors to perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Except as otherwise noted, procurement transactions shall conform to the provisions of the District's documented general purchasing policies.

All District employees, officers, and agents who have purchasing authority shall abide by the standards of conduct covering conflicts of interest and governing the actions of its employees, officers, and agents engaged in the selection, award and, administration of contracts as established in District policy.

The District will avoid acquisition of unnecessary or duplicative items. Additionally, consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. These considerations are given as part of the process to determine the permissibility of each purchase made with Federal funds.

To foster greater economy and efficiency, the District may enter into State and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services.

Competition

All procurement transactions shall be conducted in a manner that encourages full and open competition and that is in accordance with good administrative practice and sound business judgment. In order to promote objective contractor performance and eliminate unfair competitive advantage, the District shall exclude any contractor that has developed or drafted specifications, requirements, statements of work, or invitations for bids or requests for proposals from competition for such procurements.

Some of the situations considered to be restrictive of competition include, but are not limited to, the following:

- A. unreasonable requirements on firms in order for them to qualify to do business;
- B. unnecessary experience and excessive bonding requirements;
- C. noncompetitive contracts to consultations that are on retainer contracts;
- D. organizational conflicts of interest;
- E. Specification of only a "brand name" product instead of allowing for an "or equal" product to be offered and describing the performance or other relevant requirements of the procurement;
- F. any arbitrary action in the procurement process.

Further, the District does not use statutorily or administratively imposed State, local, or tribal geographical preferences in the evaluation of bids or proposals, unless (1) an applicable Federal statute expressly mandates or encourages a geographic preference; or (2) the District is contracting for architectural and engineering services, in which case geographical 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.

To the extent that the District uses a pre-qualified list of persons, firms or products to acquire goods and services, the pre-qualified list includes enough qualified sources as to ensure maximum open and free competition. The District allows vendors to apply for consideration to be placed on the list annually.

Solicitation Language

The District shall require that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurement, contain features, which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it shall conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which shall be met by offers shall be clearly stated; and identify all requirements which the offerors shall fulfill and all other factors to be used in evaluating bids or proposals.

The Board will not approve any expenditure for an unauthorized purchase or contract.

Procurement Methods

The District shall utilize the following methods of procurement:

A. Micro-Purchases

Procurement by micro purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,500.

To the extent practicable, the District shall distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be made without soliciting competitive quotations if Superintendent considers the price to be reasonable. The District maintains evidence of this reasonableness in the records of all purchases made by this method.

B. Small Purchases

Small purchase procedures provide for relatively simple and informal procurement methods for securing, supplies, and other property that does not exceed the competitive bid threshold established by the State of Michigan MCL [380.1274](#). Small purchase procedure requires that price or rate quotations shall be obtained from an adequate number of qualified sources.

C. Sealed Bids

Sealed, competitive bids shall be obtained when the purchased of, and contract for, single items of supplies, materials, or equipment which amounts to the amount allowed by Michigan statute and when the Board determines to build, repair, enlarge, improve, or demolish a school building/facility the cost of which will exceed the amount allowed by Michigan statute.

In order for sealed bidding to be feasible, the following conditions shall be present:

1. a complete, adequate, and realistic specification or purchase description is available;
2. two (2) or more responsible bidders are willing and able to compete effectively for the business; and
3. the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

When sealed bids are used, the following requirements apply:

1. Bids shall be solicited in accordance with the provisions of State law and Policy [3660](#). Bids shall be solicited from an adequate number of qualified suppliers, providing sufficient response time prior to the date set for the opening bids. The invitation to bid shall be publicly advertised.
2. The invitation for bids will include product/contract specifications and pertinent attachments and shall define the items and/or services required in order for the bidder to properly respond.
3. All bids will be opened at the time and place prescribed in the invitation for bids; bids will be opened publicly.
4. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle

costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine the low bid when prior experience indicates that such discounts are usually taken.

5. The Board reserves the right to reject any or all bids for sound documented reason.

D. Competitive Proposals

Procurement by competitive proposal, normally conducted with more than one (1) source submitting an offer, is generally used when conditions are not appropriate for the use of sealed bids or in the case of a recognized exception to the sealed bid method.

If this method is used, the following requirements apply:

1. Requests for proposals be publicized and identify all evaluation factors and their relative importance. Any response to the publicized requests for proposals shall be considered to the maximum extent practical.
2. Proposals shall be solicited from an adequate number of sources.
3. The District shall use its written method for conducting technical evaluations of the proposals received and for selecting recipients.
4. Contracts shall be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The District may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E that firms are a potential source to perform the proposed effort.

E. Noncompetitive Proposals

Procurement by noncompetitive proposals allows for solicitation of a proposal from only one (1) source and may be used only when one (1) or more of the following circumstance apply:

1. the item is available only from a single source (this must be documented and submitted to the Superintendent or designee for approval in advance)
2. the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
3. the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the District
4. after solicitation of a number of sources, competition is determined to be inadequate

Contract/Price Analysis

The District shall perform a cost or price analysis in connection with every procurement action in excess of \$150,000, including contract modifications. A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the District shall come to an independent estimate prior to receiving bids or proposals.

When performing a cost analysis, the District shall negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Time and Material Contracts

The District uses a time and materials contract only (1) after a determination that no other contractor exceeds at its own risk. Time and materials type contracts means a contract whose cost to the District is the sum of the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, the District sets a ceiling price for each contract that the contractor exceeds at its own risk. Further, the District shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

Suspension and Debarment

The District will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. All purchasing decisions shall be made in the best interests of the District and shall seek to obtain the maximum value for each dollar expended. When making a purchasing decision, the District shall consider such factors as (1) contractor integrity; (2) compliance with public policy; (3) record of past performance; and (4) financial and technical resources.

The Superintendent shall have the authority to suspend or debar a person/corporation, for cause, from consideration or award of further contracts. The District is subject to and shall abide by the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180.

Suspension is an action taken by the District that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR Part 180 Subpart G)

Debarment is an action taken by the Superintendent to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (2 CFR Part 180 Subpart H)

The District shall not subcontract with or award subgrants to any person or company who is debarred or suspended. For contracts over \$25,000, the District shall confirm that the vendor is not debarred or suspended by either checking the Federal government's System for Award Management, which maintains a list of such debarred or suspended vendors at www.sam.gov; collecting a certification from the vendor; or adding a clause or condition to the covered transaction with that vendor. (2 CFR Part 180 Subpart C)

Bid Protest

The District maintains the following protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency.

A bidder who wishes to file a bid protest shall file such notice and follow procedures prescribed by the Request for Proposals (RFPs) or the individual bid specifications package, for resolution. Bid protests shall file such notice in writing with the Superintendent within seventy-two (72) hours of the opening of the bids in protest.

Within five (5) days of receipt of a protest, the Superintendent shall review the protest as submitted and render a decision regarding the merits of the protest and any impact on the acceptance and rejection of bids submitted. Notice of the filing of a bid protest shall be communicated to the Board and shall be so noted in any subsequent recommendation for the acceptance of bids and awarding of contracts.

Failure to file a notice of intent to protest, or failure to file a formal written protest within the time prescribed, shall constitute a waiver of proceedings.

Maintenance of Procurement Records

The District maintains records sufficient to detail the history of all procurements. These records will include, but are not necessarily 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 (including a cost or price analysis).

Approved: June 19, 2017

LEGAL REF: 2 C.F.R. 200.317-326

3650 Cooperative Purchasing (Cf. 3660)

The Superintendent is authorized to consider, and recommend for Board approval, membership in cooperative purchasing organizations that would be of benefit to the District.

Cooperative purchasing also pertains to what is commonly referred to as “third party bids.” Third party bidding shall constitute a competitive bid for purposes of policy 3660 - Competitive Bids.

Approved: July 10, 2006

3660 Bid Requirements

All purchases requiring competitive bids shall be made in accordance with current statutes and in compliance with specific rules and regulations that govern the procurement process for federal grants, the creation of bid specifications, and adherence to the District's bidding procedure by the District's purchasing agent.

The purchasing agent shall develop and maintain lists of potential bidders for various types of materials, equipment, and supplies. Such bid lists shall be used in the development of mailing lists for distribution of specification and invitations to bid.

Any supplier may be included in the list upon request. The purchasing agent shall review all bid lists annually.

A copy of this policy shall be given to all bidders upon creation of bid lists and upon request.

All bids and supporting documentation shall be retained in the District office with the Superintendent for a period of one year after bids have been opened.

Procurement under Federal Grants

Federal guidance for use of competitive processes will be used at all times for this purchase of materials and services. The purchasing agent will be responsible to ensure that the District complies with procurement rules, regulations and guidelines required by the federal government and state granting agencies. Such compliance will be reported to the Board as a part of the recommendation to make the purchase.

Competitive Bids

No purchases shall be made of supplies, materials or equipment in a single transaction costing more than allowed under current law unless competitive bids for those goods and services are obtained and the Board approves the purchase.

Bid Specifications

The District's purchasing agent shall write all bid specifications in a clear and concise manner. Such specifications shall include, when necessary: required performance, surety, bid and statutory bond information; compliance with preferential bid law; financial statements; the Board's right to reject any or all bids; compliance with all federal, state and local laws, ordinances and regulations; the date, time and place for the opening of bids; and other items as the Board directs.

Approved: July 10, 2006

Revised: June 19, 2017

LEGAL REF: MCL [380.1267](#); [380.1274](#)

3690 Local Purchasing (Cf. 3660)

The Board shall purchase school equipment and supplies from local vendors whenever possible, providing that price, quality, and service of the local vendor compare favorably with those from non-local vendors. Bids shall be solicited from non-local vendors in order to establish a fair market price for equipment and supplies.

Approved: December 10, 2007