

CHAPTER 7.00 - BUSINESS SERVICES

PURCHASING AND COMPETITIVE SOLICITATIONS

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The Superintendent is directed to centralize the purchasing activities of the District within the guidelines and requirements of the State Board of Education. All purchases shall be made through the Purchasing Department of the District except to the extent expressly noted hereinafter.

The Superintendent shall publish a purchasing manual defining guidelines and procedures for conducting the function of purchasing in accordance with the policy stated herein and consistent with the State Board of Education rule.

I. Purchase Orders and Contracts

A. School Board Approval Required

All contracts equal to or exceeding the amount requiring competitive solicitations according to the rules of the State Board of Education must be approved in advance by the School Board.

B. Purchase Orders

All purchases, except petty cash purchases and those otherwise authorized herein shall be based on purchase orders issued by the Purchasing Department of the School District. The Purchasing Department shall review and approve all purchase requisitions and issue all purchase orders that involve the expenditure of funds which are not internal funds, and shall review and approve all internal account purchase requisitions for purchases equal to or greater than three thousand dollars (\$3,000).

1. Pursuant to State Board of Education rule, the School Board designates the Superintendent and his designees in the Purchasing Department of the School District to approve purchase orders. All purchase orders must be issued through the School District Purchasing Department, and approved in writing by the Superintendent or his authorized designee in the Purchasing Department. The Superintendent or designee will not execute any purchase orders or contracts unless funds to cover the expenditure are authorized by the budget, have not been encumbered, and the purchase and purchasing procedure comply with all applicable rules and regulations. Purchase orders shall not be executed for transactions requiring a School Board-approved contract under Paragraph I.A. above unless and until the School Board has approved the contract.

CHAPTER 7.00 - BUSINESS SERVICES

2. Notwithstanding the above, principals and other District level administrators are authorized to issue purchase orders from internal accounts. Internal accounts purchase orders of three thousand dollars (\$3,000) or more must be approved by the Purchasing Department.

C. Contracts

1. Principals and District Level Administrators are authorized to enter into contracts to be paid from or into internal funds up to the amount requiring competitive solicitations, and contracts which do not involve the expenditure of funds, so long as those contracts comply with this rule and other rules of the School Board or the Superintendent. The principal or District level administrator is authorized to enter into contracts, which involve the expenditure of school or Department budget funds which are not internal funds so long as those contracts do not exceed three thousand dollars \$3,000 in monetary impact. If the contract involves the expenditure of funds which are not internal funds and the monetary impact is greater than three thousand dollars (\$3,000) and less than the amount requiring competitive solicitations according to State Board of Education rule then the Superintendent or a person designated by the Superintendent in writing is authorized to approve the contract. If the monetary impact is greater than or equal to the amount requiring competitive solicitations according to State Board of Education rule, then all contracts must be approved in advance by the School Board.
2. The Superintendent is authorized to approve non-monetary contract amendments and contract amendments in the amount of ten (10) percent or \$25,000, whichever is less, of the original contract's amount that was previously approved by the School Board.
3. Contracts will be consistent with the best interests of the School District and will provide adequate financial protection for the District. The terms of the contracts will not violate the code of ethics for public officers and employees, Chapter 112, Florida Statutes. The School Board may adopt standard contract provisions which will be circulated to principals and administrators. If a contract is not consistent with the standard contract provisions, it must be approved by the School Board.

CHAPTER 7.00 - BUSINESS SERVICES

D. State Price List

As required by Florida Statutes, consideration shall be given to the lowest price available under regulations of the Department of Management Services, Division of Purchasing.

E. Responsibility in the Development of Specifications and Evaluation Criteria for Commodities and Services Procured Through Competitive Solicitations

The Purchasing Department of the School District shall coordinate the development of specifications and evaluation criteria for the purchase of commodities, services, and construction projects through the competitive solicitation process and shall promote competition in order to obtain the best value for the District. The Purchasing Department shall work in consultation with other employees of the District and its consultants where necessary to develop specifications and evaluation criteria, and it shall be the responsibility of the Purchasing Department to assure to the greatest extent possible the standardization of specifications on a District-wide basis so that the greatest efficiency in volume purchasing may be achieved.

F. Scope of Transactions Covered by this Policy

For the purpose of this policy, the term *contract* shall mean any contract agreement, lease, or other pledge or encumbrance, and the term *purchase order* shall mean a purchase order on a form approved and signed by the Superintendent. In the case of both a *contract* and a *purchase order* the School Board is obligated to pay a sum of money in consideration of its receipt of any goods or products whether tangible or intangible, or services, except services performed by employees in the course of their employment with the Board, and travel reimbursements which are excluded from the scope of this policy. In determining whether a purchase exceeds any applicable threshold dollar value stated in this policy, including the value requiring competitive solicitations, it shall be improper to breakout into separate purchase orders any goods or services or combination of goods or services, which should reasonably be viewed as a single acquisition at the time of the initial purchase order.

CHAPTER 7.00 - BUSINESS SERVICES

- G. Vendors, contractors, consultants, or their representatives shall not meet with, speak individually with, or otherwise communicate with School Board members, the Superintendent, or School District staff, other than the designated purchasing agent, and School Board members, the Superintendent, or School District staff, other than the designated purchasing agent, shall not meet with, speak individually with, or otherwise communicate with vendors, contractors, consultants, or their representatives, about potential contracts with the School Board once a competitive solicitation has been issued. Such communication with any party other than the designated purchasing agent shall be prohibited until the School Board has awarded the competitive solicitation.

Any such communication shall disqualify the vendor, contractor, or consultant from responding to the subject competitive solicitation.

II. Price Quotations

Except for items specifically exempted or provided for by the State Board of Education rules and items already on bid, written quotes shall be received from at least three (3) responsive vendors for all purchases between three thousand dollars (\$3,000) and the amount requiring competitive solicitations pursuant to the rules of the State Board of Education. Such quotes may include facsimile and email quotes.

III. Competitive Solicitations

- A. An Invitation to Bid shall be requested for all authorized purchases equal to or exceeding the amount requiring competitive solicitations according to State Board of Education rule, or such lesser amount as may be established by the Superintendent, except those specifically exempted by State Board of Education rules, Department of Education guidelines, or Florida Statutes, unless the Superintendent deems it to be in the best interest of the District to solicit bids for these exempted items/services. Bids shall be publicly opened by the Purchasing Department at a preannounced time and place. The Purchasing Department shall evaluate the bids, in some cases with District staff members, departments, schools, and the District's consultants where necessary, and make a written recommendation to the Superintendent as to the acceptance of the bid from the lowest responsive, responsible bidder.

CHAPTER 7.00 - BUSINESS SERVICES

- B. The School Board may award contracts to the lowest, responsible bidder as the primary awardee and to the next lowest and responsible bidder(s) as alternate awardees provided that the awarding of multiple contracts is clearly stated in the bid solicitation documents.
- C. A Request for Proposal may be utilized if the Purchasing Director determines in writing that the use of an Invitation to Bid is not practicable and that a Request for Proposal is in the best interest of the School District. The Purchasing Director shall publish procedures for the development and evaluation process of Request for Proposal documents as a part of the Purchasing Manual published by the Superintendent. The School Board may award contracts to one or more responsive, responsible proposers in accordance with the selection criteria published in the Request for Proposal solicitation document.
- D. An Invitation to Negotiate may be utilized if the Purchasing Director determines in writing that the use of an Invitation to Bid and a Request for Proposal are not practicable and will not result in the best value to the School District. The Purchasing Director shall publish procedures for the development and evaluation process of Invitation to Negotiate documents as a part of the Purchasing Manual published by the Superintendent.
- E. A Request for Qualifications shall be utilized for services as outlined in Sections 255.103, 287.055, and 1013.45, Florida Statutes, and State Requirements for Educational Facilities (SREF), Chapter 4, as the same shall be amended from time to time. The Purchasing Director shall publish procedures for the development and evaluation process of Request for Qualifications documents as a part of the Purchasing Manual published by the Superintendent.
- F. Design-build contracts for construction projects shall be awarded in accordance with procedures issued by the Superintendent that provide for both a qualifications-based selection process that complies with the applicable subsections of section 287.055 of the Florida Statutes and a competitive proposal selection process. The Chief Facilities Officer or his designee shall recommend which selection process shall be utilized for each proposed construction project, subject to Board approval.

CHAPTER 7.00 - BUSINESS SERVICES

- G. All solicitations for school construction projects shall be the immediate responsibility of the Chief Facilities Officer. The centralized Purchasing Department shall conduct all purchasing activities pursuant to the requirements of this Rule 7.70, Florida Statutes, and the State Requirements for Educational Facilities adopted by the State Board of Education, including without limitation the Advertising, Bidding, and Awarding Contracts requirements of Chapter 4 thereof. The Purchasing Department shall consult with the Facilities and Maintenance Department staff for the development of scope and evaluation criteria for construction project solicitation documents. Preference may be made to materials, contractors, builders, architects, and laborers who reside within the county and state, whenever such materials can be purchased at no greater expense, or whenever location of the bidder/proposer is a factor in the selection process and undue weight is not given to this factor. All educational facility contractors must be pre-qualified or qualified during the solicitation process to place construction bids.
 - H. The Board shall have the authority to reject any or all bids or proposals and request new ones. In the acceptance of bids or proposals, the Board shall act in compliance with State Board of Education rules.
 - I. All awards equal to or exceeding the threshold requiring competitive solicitations that relate to an Invitation to Bid, Request for Proposal, Invitation to Negotiate, or Request for Qualifications must be awarded by the School Board.
 - J. Items for which a District bid or contract has been awarded shall be purchased from the vendor to whom the bid has been awarded except in the situations and under the conditions as provided in procedures and manuals approved and authorized by the Superintendent.
- IV. Electronic Competitive Solicitations
- A. Electronic competitive solicitations may be utilized when the School Board determines it to be in the best interest of the District. All requirements for advance notification of the competitive solicitation specifications and date and time of the opening of the responses shall be met. All awards shall be made pursuant to the procurement policies of the School Board.
 - B. Multiple awards may be made provided that the solicitation documents clearly state this option.

CHAPTER 7.00 - BUSINESS SERVICES

- C. Documentation of the competitive solicitation process shall be maintained for audit purposes.
- V. Resolution of Competitive Solicitation or Contract Award Protests
 - A. The School Board shall follow the procedure specified in Florida Statutes, Section 120.57(3) and as the same may be amended from time to time for the resolution of protests arising from the competitive solicitation or contract award process.
 - B. The Purchasing Department shall provide notice of a decision or intended decision concerning a solicitation, contract award, or exceptional purchase by electronic posting.

The notice shall contain the following statement:

Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

- C. Any person who is adversely affected by the intended award of a solicitation or contract by the School Board or the recommendation of the Director of Purchasing or other responsible employee of the School Board shall file with the Director of Purchasing as agent for the School Board a notice of protest in writing within 72 hours after the electronic posting of the award or intended decision, and shall file a formal written protest within ten (10) days after the date he or she has filed the notice of protest. With respect to a protest of the specifications contained in a solicitation, the notice of protest shall be filed in writing within 72 hours after the electronic posting of the solicitation, and the formal written protest shall be filed within ten (10) days after the date the notice of protest is filed. All formal written protests must be filed with a bond payable to the School District equal to 1% of the estimated contract amount (Florida Statute 287.042(2)(c)). Failure to file a notice of protest or failure to file a formal written protest and bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. The School Board may, in its discretion, waive any procedural irregularity or defect in procedures so long as any opposing party is not materially prejudiced by such waiver. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72-hour and ten (10) day time periods provided by this paragraph. The notice of protest and formal written protest shall be filed in the Purchasing

CHAPTER 7.00 - BUSINESS SERVICES

Department between the hours of 8:00 a.m. and 4:30 p.m. upon any day the office is open for business.

The provisions specified herein constitute the exclusive remedy for any adversely affected party with respect to a protest. The formal written protest shall state with particularity the facts and law upon which the protest is based.

- D. Upon receipt of the formal written protest which has been timely filed, the Purchasing Director shall stop the competitive solicitation process or the contract award process until the subject of the protest is resolved by final agency action, unless the School Board, by duly enacted resolution sets forth in writing the particular facts and circumstances which require the continuance of the competitive solicitation process or the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety or welfare.

The School Board finds that a substantial interest in the public welfare is the timely award of contracts when required as a condition of receiving grants or funds from outside sources which will be in addition to the regular school budget.

- E. The Purchasing Director shall schedule a meeting to provide an opportunity to resolve the protest by mutual agreement between the parties within seven (7) days, excluding Saturdays, Sundays, and state holidays, after receipt of a formal written protest and bond.
- F. If the Purchasing Director cannot resolve the protest by mutual agreement within the seven (7) day period referred to in Paragraph V.E above, the School Board shall conduct an informal administrative hearing, under Section 120.57(2), Florida Statutes, acting as the agency head, where there are no disputed issues of material fact. The informal hearing shall be held with notice of no less than 72 hours, excluding Saturdays, Sundays, and legal holidays within thirty (30) days of receipt of the formal written protest and bond, unless the parties, with the consent of the School Board, agree to extend the time for the hearing. The School Board shall have the right to schedule the hearing subject to these provisions.

CHAPTER 7.00 - BUSINESS SERVICES

VI. Competitive Solicitation Requirements Waivers

The Purchasing Director may waive the requirements for competitive solicitations pursuant to the exemptions included in the rules of the State Board of Education; however, proposals in writing shall be requested for all such services.

Proposals shall also be requested for contract services to students, including those for school pictures, graduation supplies and such items as class rings. Procedures for the procurement of such services shall conform to the Purchasing Manual published by the Superintendent.

VII. Pool Purchases

Pool purchases with other districts, the State Department of Education, or other governmental agencies are authorized if such purchasing is an advantage to the District. Pool purchases shall require agreements as stated in State Board of Education rule.

VIII. State Online Procurement

Purchases, when appropriate, may be made through approved state online procurement.

IX. Multi-year Contracts

Term contracts are subject to the availability of lawfully appropriated funds. Term contracts may be written from fiscal year to year where the following statement is included in the contract: The School Board's performance and obligation to pay under this contract is contingent upon an annual appropriation by the School Board.

The term *contract* when used in this section shall not apply to intergovernmental or inter-local agreements.

X. Hazardous Purchases

The purchase of chemicals must be approved by the Health/Safety Department. The purchase of specific athletic and playground equipment must be authorized through the Facilities Division Plan review and permit process. Department to ensure that proper safety standards are met. Procedures shall be included in the Purchasing Manual published by the Superintendent.

CHAPTER 7.00 - BUSINESS SERVICES

XI. Emergency Purchase

The requirements for competitive solicitations may be dispensed with for the emergency purchase of commodities or contractual services when the Superintendent determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the District requires emergency action. After the Superintendent makes such a written determination, the School Board may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without requesting competitive solicitations. However, such an emergency purchase shall be made by obtaining pricing information from at least two prospective vendors, which must be retained in the contract file, unless the Superintendent determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the District.

XII. Purchasing Cards

The Superintendent, or his designee, is authorized to issue procedures governing the use of purchasing cards and to delegate authority to individuals to make purchases using the cards.

XIII. Suspension of Vendors

When a vendor has been found to be non-compliant with a contract, the Director of Purchasing or designee shall issue a letter to the vendor that identifies the issues and gives reasonable notice to correct. If the identified issue warrants immediate suspension or if the vendor continues to fail to perform in accordance with the contract terms, the Director of Purchasing may suspend the vendor for a period of up to 180 days where the vendor may not participate in any new business with the School District. The vendor may appeal the suspension to the Superintendent or designee within ten (10) business days of the receipt of the notice of suspension. Upon continued non-compliance with a contract or multiple contracts, the Director of Purchasing may recommend to the School Board to find the vendor in default. Whenever the School Board finds a vendor to be in default of a contract which the vendor has been previously awarded, then the vendor will be removed, for a period of up to two years, from all bid lists and will not be considered for any new awards during this period. At the end of this period, the vendor may re-apply for inclusion on bid lists and may be considered for any new awards.

CHAPTER 7.00 - BUSINESS SERVICES

XIV. Definitions

- A. “Competitive solicitation” shall be defined for the purposes of this rule to include purchasing made through the issuance of an invitation to bid, request for proposals, invitation to negotiate and request for qualifications. Competitive solicitations are not required for purchases made through the pool purchase provisions of Section 1006.27, F.S.
- B. “Invitation to bid’ shall be defined for the purposes of this rule as a written solicitation for competitive sealed bids. The invitation to bid is used when the School District is capable of specifically defining the scope of work for which a contractual service is required or when the School District is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation that is publicly posted.
- C. “Invitation to negotiate” shall be defined for the purposes of this rule as a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. The invitation to negotiate is used when the Purchasing Director determines that negotiations may be necessary for the School District to receive the best value. A written solicitation includes a solicitation that is publicly posted.
- D. “Proposer” shall be defined for the purposes of this rule to include those vendors submitting bids or responses to a competitive solicitation.
- E. “Request for proposals” shall be defined for the purposes of this rule as a written solicitation for competitive sealed proposals to select one or more vendors for the procurement of commodities or contractual services. . The request for proposals is used when the Purchasing Director determines that proposals may be necessary for the School District to receive the best value. A written solicitation includes a solicitation that is publicly posted.

CHAPTER 7.00 - BUSINESS SERVICES

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