

Policy: Procurement	Category: Division of Federal Programs - PDE	Number: 656
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The District maintains the following purchasing procedures.

A. Responsibility for Purchasing

In regards to Federal Grant funds, purchasing is initiated through a purchase order and vendor quote provided by an administrative employee with their authorization. This purchase order is then reviewed and authorized by the Business Manager or designee after an allowability of cost determination has been made in accordance with Division of Federal Programs Allowability of Cost policy and budget funds availability has been determined.

B. Purchase Methods

The type of purchase procedures required depends on the cost of the item(s) being purchased. The following applies only to purchases with federal funds. State law and Pennsylvania school code will apply to all other purchases. Where state law and Pennsylvania School Code are more restrictive, those regulations will apply.

Purchases up to \$3,000 (Micro-Purchases)

Micro-purchase means a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed \$3,000. The micro-purchase method is used in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold.

The following process will be used unless State law or Pennsylvania School Code provides more restrictive guidelines. To the extent practicable, the District distributes micro-purchases equitably among qualified suppliers. The District will distribute purchases to the most qualified local vendors with the lowest price with at least two bids gathered by facsimile, phone or email. A District employee at the Administration level can request bids. The Business Manager will sign all purchase orders at this level along with proper documentation of the bids received.

Micro-purchases may be awarded without soliciting competitive quotations if the District considers the price to be reasonable. The District maintains evidence of this reasonableness in

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the records of all micro-purchases. Reasonableness is determined by using prior purchase costs from alternate vendors or other local districts if no similar purchases were made within the District.

Purchases between \$3,000 and \$150,000 (Small Purchase Procedures)

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than \$150,000. If small purchase procedures are used, price or rate quotations are obtained from an adequate number of qualified sources. The following process will be used unless State law or Pennsylvania School Code provides more restrictive guidelines.

- Required Number and Types of Quotations
 - o Three bids are required for each purchase at this threshold
 - o Bids must be written or documents by the person receiving the bid
 - o Final bids or documentation of bid received by phone must be sent to the Business Office
 - o These bids must be received before a purchase order, requisition, or contract is made.
 - o Bids may be requested by any Administrator with the location for the receipt to be the Business Office.
 - o All quotation and bid documents will be maintained in the Administration Office.

Purchases Over \$150,000

The following process will be used unless State law or Pennsylvania School Code provides more restrictive guidelines.

Sealed Bids (Formal Advertising): For purchases over \$150,000, bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the following conditions apply:

- A complete, adequate, and realistic specification or purchase description is available;

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- Two or more responsible bidders are willing and able to compete effectively for the business; and
- 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.

If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publically advertised;
- The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- A firm fixed price contract award must 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 must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usual. Any or all bids may be rejected if there is a sound documented reason.

Competitive Proposals: The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- Proposals must be solicited from an adequate number of qualified sources; and
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

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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 firms are a potential source to perform the proposed effort.

- Required Number and Types of Quotations
 - o Required for purchases over the Competitive Bid Limit set in PA School Code 807.1
 - o Request for Qualifications will be advertised in two local/regional newspapers for one time in each of three consecutive weeks
 - o At least two bids are required for each qualifications-based purchase, however, at least three companies who can provide the service must be solicited for bids
 - o Bids must be written
 - o Seal bids must be sent to the District Administration Office in a sealed envelope or box with clear marking for the project being submitted on and to the attention of the Business Office
 - o Bids must be received before a purchase order, requisition, or contract is made
 - o If a Board Resolution is required, it is up to the submitting company to provide a Resolution that may be modified based on the District Solicitor's review
 - o Bids may be requested by Superintendent or Board with the location for the receipt to be the Business Office.
 - o All quotation and bid documents will be maintained in the Administration Office.

Technical evaluation of proposals will be performed and documented by the Facilities Director (when related to facilities or equipment), the Technology Coordinator (when related to computer hardware, networking hardware, software or other technology driven equipment or services) or Curriculum Director or Principal (when related to curriculum materials or educator needs). Evaluations will be performed at least one week prior to the vendor selection. Review will be performed by the Business Manager and/or Superintendent.

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Contract/Price Analysis: The District performs a cost or price analysis in connection with every procurement action in excess of \$150,000, including contract modifications. 2 C.F.R. § 200.323(a). 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, Superintendent and Business Manager must come to an independent estimate prior to receiving bids or proposals. 2 C.F.R. § 200.323(a). In order to estimate, similar prior procurements are analyzed along with other local district or government requests for prices on similar purchases.

When performing a cost analysis, the Business Manager negotiates 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. 2 C.F.R. § 200.323(b).

Noncompetitive Proposals (Sole Sourcing)

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

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

When noncompetitive proposals are sought, a Board motion with a majority vote must support the purchase approval. Proper documentation must be provided to the Board to show that one or

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more of the above criteria were met. The Business Manager will provide support to the Board any Board member wish to verify the documentation provided.

A cost or price analysis will be performed for noncompetitive proposals when the price exceeds the Competitive Bid threshold in PA School Code §807.1.

C. Purchase Cards

No purchase cards are maintained by the District at this time. Future development of a purchase card policy will be enacted prior to the acquisition and use of purchase cards.

D. Full and Open Competition

All procurement transactions must be conducted in a manner providing full and open competition consistent with 2 C.F.R § 200.319. 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.

EDGAR further requires the following to ensure adequate competition.

Geographical Preferences Prohibited

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The District 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.

Prequalified Lists

The District 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.

Solicitation Language

The District must ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, 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, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

- A. 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 must be met by offers must be clearly stated; and identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. 2 C.F.R Federal Procurement System Standards

Avoiding Acquisition of Unnecessary or Duplicative Items

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The District must avoid the acquisition of unnecessary or duplicative items. Additionally, consideration is given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis must be made of leases versus purchase alternatives, and another other appropriate analysis to determine the most economical approach.

These considerations are given as part of the process to determine the allowability of each purchase made with federal funds. Please Board Policy No. 650 for written procedures on determining allowability.

Use of Intergovernmental Agreements

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

Use of Federal Excess and Surplus Property

The District considers the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Debarment and Suspension

The District awards contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

The District may not subcontract with or award subgrants to any person or company who is debarred or suspended. For all contracts over \$25,000 the District verifies that the vendor with whom the District intends to do business with is not excluded or disqualified. 2 C.F.R. Part 200, Appendix II and 2 C.F.R. §§ 180.220 and 180.300.

Debarred or suspension is verified by checking the excluded parties list on Sam.gov and/or collecting state and federal clearances. The District Administration including, but not limited to the Business Manager, is responsible for this verification and retaining adequate documentation.

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Maintenance of Procurement Records

The District must maintain 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, the basis for the contract price (including a cost or price analysis), and verification that the contractor is not suspended or debarred.

Procurement records are maintained in accordance with PA School Code 24 P.S. 5-518 regulations requiring a period of not less than six years.

Time and Materials Contracts

The District may use a time and materials type contract only (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract 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, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the District must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

Settlements of Issues Arising Out of Procurements

The District alone is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the District of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

Protest Procedures to Resolve Dispute

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

All Bid Protests must be sent to Business Manager, at Lackawanna Trail School District, P.O. Box 85, Factoryville, PA 18419 with proper documentation supporting of claim.

Business Manager will properly respond to protests within ten (10) business days of receipt.

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