

## BIDDING/PURCHASING REQUIREMENTS

The Board expects all purchases made by Regional School Unit No. 26 (the “RSU” or “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. Purchasing Authority

- a. All purchases shall be initiated by completing a purchase request. All purchase requests require the signature of the Duly Authorized Administrator, as defined in section A.2, below, and the signature of the business manager. Purchase requests that are for more than \$5,000 must also be signed by the Superintendent or his/her designee.
- b. The Duly Authorized Administrator for purposes of authorizing a purchase shall be determined as follows: Purchases in the Regular Instruction, Other Instruction, Student & Staff Support and School Administration cost centers must be authorized by the principal of the building benefitted by the purchase. Purchases in Special Education cost center must be authorized by the Director of Special Education. Purchases in other cost centers must be authorized by the Superintendent or his/her designee.
- c. Any purchase request that is determined by the business manager to exceed the budget at the section level (intermediate between line items and cost centers) by more than \$5,000 must be authorized by the Superintendent or his/her designee. Any purchase request that exceeds the budget at the section level by more than \$10,000 must be authorized by the Board, except as provided in section A.4, below.
- d. During June, July and August, if a purchase requires Board authorization under section A.3, above, and if the Board is not scheduled to meet within two weeks of the receipt of the purchase request, the Superintendent shall send notice to all Board members by email with details of the intended purchase. If within 5 business days of such notification no Board member requests that the matter be placed on the agenda of the next regularly scheduled Board meeting or a special Board meeting, the Superintendent may authorize the purchase on behalf of the Board.
- e. Credit card accounts which obligate the school unit shall be opened, only upon prior authorization by the Board. Credit cards shall be issued only to a single, named individual. For each such authorization, the Board shall set clear limits regarding the maximum credit card limit and the types of acceptable purchases.

- f. For travel, field trips, non-standard vendors or other situations where the exact expenses are not known in advance, a purchase request with good faith, conservatively high estimates of the expected expenses will be submitted in advance for approval in accordance with the rest of this section A. If the purchase request is properly approved and actual expenses do not unreasonably deviate from the purchase request, including permitting reasonable purchase decisions in response to reasonably unanticipated circumstances, then the expenses will be deemed authorized and clause A(7) will not apply.
  - g. The school unit reserves the right to not authorize the payment or reimbursement of any purchases that were made in violation of this policy, including but not limited to purchases made without a properly authorized purchase request. Any such decision shall be made in the sole discretion of the Superintendent or his/her designee.
  - h. The board expects that the superintendent or designees will produce a more detailed set of guidelines for purchasing that will be put in writing and updated and circulated to faculty and staff annually. Examples of material that should be included in the guidelines would include a sample purchase request form, expected timelines for processing purchase requests and reimbursements, preferred vendors for the district, etc.
- B. Vendor Selection Process
- a. Competitive Bidding Required by Law - Maine law requires the 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); and bond anticipation notes for state-subsidized school construction projects. The competitive bidding process must follow the procedures required by law and section C of this policy.
  - b. Full Research of Other Purchases - Where competitive bidding is not required by law, it shall be the policy of the school unit to fully research purchases of equipment, supplies, materials or services over \$10,000, in accordance with subsection 2(i)-(vi), below. For purchases under \$10,000, the full research requirements set forth in subsection 2(i)-(vi), below may be relaxed in approximate proportion to the dollar amount of the purchase, as determined by the business manager and Duly Authorized Administrator in their discretion. Full research of a purchase for the purposes of this policy shall consist of the following:
    - i. Either a Request for a Quote (RFQ) or a Request for Proposals (RFP) must be used. A RFQ must be used when the items being purchased are well defined and easily comparable across quotes (e.g. weight of salt, square feet of grass mowed). A RFP must be used when the nature or quality of the products or services offered may vary substantially among the responses and quality and nature of product is to be considered as well as price.

- ii. The Superintendent or his/her designee shall prepare the solicitation containing a description of what is desired to be purchased (the RFQ or RFP). The solicitation shall be provided in writing (including by postal mail, email, or notice posted on the school unit's website or other websites) to potential vendors. The RSU may instead or in addition to the written solicitation publicly advertise the RFQ or RFP, but this is not required and shall be at the discretion of the Superintendent.
- iii. The Superintendent must solicit responses from at least three potential vendors unless time constraints or availability of vendors in the region prevent this, in which case the Superintendent must request responses from at least two potential vendors. The vendor responses must be provided to the RSU in writing (electronic documents are acceptable). Notwithstanding the above requirements concerning how many potential vendors must be solicited, if only one potential vendor responds to the solicitation, that vendor may be selected as the successful vendor as long as the solicitation provided potential vendors with at least two weeks to respond.
- iv. For an RFQ, the successful vendor must be chosen solely based on the lowest price. For an RFP, proposals are to be evaluated based on criteria appropriate for and relevant to the project in question as determined by the Superintendent. For RFP purchases under \$25,000, the Superintendent shall select the successful vendor based on appropriate and relevant criteria. For RFP purchases of \$25,000 or more, the Superintendent shall recommend to the Board a vendor based on appropriate and relevant criteria, and the Board shall have the final say, except that if the Board is not scheduled to meet within two weeks of the deadline for selecting the successful vendor, the Superintendent shall send notice to all Board members by email with details of vendor responses received, the Superintendent's recommendation and reasoning. If within 5 business days of such notification no Board member requests that the matter be placed on the agenda of the next regularly scheduled Board meeting or a special Board meeting, the Superintendent may select the recommended vendor on behalf of the Board.
- v. The Superintendent may forego the RFQ or RFP process only when he/she determines that quality, expertise, time factors, or other important considerations outweigh the possible benefits of such forms of solicitation. In each such case, the Superintendent shall send notice to all Board members by email of his/her decision and the reasons for it in advance of entering into a contract. If within 5 business days of such notification no Board member requests that the matter be placed on the agenda of the next regularly scheduled Board meeting or a special Board meeting, the Superintendent may enter into a contract with the selected vendor.
- vi. The dollar thresholds set forth in this section B.2 apply to the purchase of a single product or a group of products from a single vendor that are intended for a single purpose for use during any calendar year. Except for breaking purchases out by

fiscal year, breaking a single purchase into smaller purchases to avoid triggering said dollar thresholds is not allowed.

- c. Local Contracts - In addition to other policies and laws on conflicts of interest, no contract may be awarded (i) to an RSU Board member or RSU administrative employee or their spouse, child or parent, regardless of the amount of the purchase, or (ii) to an RSU employee or his/her spouse, child or parent for over \$500 without competitive bidding as set forth in section B.1, above, or full research as set forth in section B.2(i)-(iv) and (vi), above. Moreover, no Duly Authorized Administrator or Superintendent may choose a vendor if his/her spouse, parent or child responded to the solicitation. In such instances, vendor selection must be made by the person or persons to whom the Duly Authorized Administrator or Superintendent reports.
- d. For purchases using federal funds, the following rules on conflict of interest shall also apply and supersede those in (3) above if in conflict. All employees of the school unit shall perform their duties in a manner free from conflicts of interest to ensure that the school unit's business transactions are made in compliance with applicable laws and regulations and in a manner that maintains public confidence in the schools. No employee, officer, or agent of the school unit may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A conflict of interest would arise when the employee, officer, or agent—or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein—has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. For the purpose of this policy, “immediate family” is defined as spouse, brother, sister, parent, son, or daughter.

All employees, officers, or agents with real or apparent conflicts of interest as defined above must disclose the conflict of interest to the Superintendent who will investigate the circumstances of the proposed transaction. The Superintendent will exercise due diligence in investigating the circumstances of the transaction and, if necessary, will make reasonable efforts to find alternatives to the proposed transaction or arrangement that would not give rise to a conflict of interest. If the Superintendent determines that the proposed transaction is in the best interest of the school unit and is fair and reasonable, he or she may proceed with the transaction. In the event that the Superintendent may have a conflict of interest, an ad hoc subcommittee of the School Board will investigate and make a determination regarding the transaction.

- e. The employees, officers, and agents of the school unit may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. Employees, officers, and agents of the school unit may accept unsolicited items of nominal value such as those that are generally distributed by a company or organization through its public relations program.

- f. Employees of the school unit who violate this code of conduct (on conflict of interest in (3) and (4) and on gifts (5) may be subject to discipline, up to and including termination of employment and, if appropriate, referral to law enforcement.
- C. Competitive Bid Procedures When Required by Section B.1
- a. Content of Notification. 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, and to waive technical or immaterial non-conformities in bids or with bid procedures if in the best interest of the school unit, and to exercise judgment in evaluating bids.
  - b. Method of Notification. The method of notification that the school unit uses to solicit bids and proposals 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.
  - 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 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, in the Superintendent's absence or disability, by any Board member designated for the purpose by the Chair of the Board.
  - 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.
- D. Authority to Execute Contracts For purchases made in accordance with all requirements of this policy, the following persons are hereby delegated to execute and deliver contracts on behalf of the Board:
- a. The business manager, for contracts with a total value less than or equal to \$5,000 and committing the RSU for less than 1 year;
  - b. The Superintendent, for contracts with a total value less than or equal to \$50,000 and committing the RSU for less than 4 years; and

- c. Otherwise, the Chair of the Board shall sign and execute contracts on behalf of the Board, unless the Board expressly delegates such authority to the Superintendent or his/her designee.
- E. Authorization of Payments No payments shall be made without a disbursement warrant authorized by a majority of the Board or a finance committee appointed or otherwise duly elected by the Board. Warrants shall be presented to Board or finance committee members at least 48 hours before payments are due, or in unusual circumstances at least 24 hours before payments are due.

Once the warrants have been duly authorized, the payments may be made. Payments may be made with advance signatures by a majority of the approving body (made physically or by email) on the warrant, but any such warrant must be brought to the Board or finance committee for ratification at the next regularly scheduled meeting following payment.

Payments for regularly scheduled payroll to RSU employees may be made without advance signatures on the warrant, but any such warrant must be brought to the Board or finance committee for ratification at the next regularly scheduled meeting following payment. Any reimbursement or payment to the superintendent, not including regular salary and benefits, greater than \$500 shall be authorized in writing (email printed and saved is acceptable) by the board chair (or the vice-chair in the event the chair is unreachable) before being paid.

#### F. Purchases with Funds From Federal Awards

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.

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 award 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.

#### G. DISPUTE RESOLUTIONS

A bidder or respondent to a request for a proposal (RFP) may protest a procurement or contract award if he/she believes that it was made in a manner inconsistent with Board policy, specifications, law or

regulations. A protest must be submitted to the Superintendent in writing within five (5) business days after receipt of notification of the award being made, with all documents supporting the protest.

The Superintendent shall review the protest and supporting documents and render a decision in writing within twenty (20) business days of receipt of the protest. The Superintendent may also convene a meeting with the bidder or respondent to attempt to resolve the problem.

If the bidder or respondent is not satisfied with the Superintendent's decision, he/she may appeal to the Board. The Superintendent will provide reasonable notice to the bidder or respondent of the time for the Board's consideration of the protest. The Board's decision shall be final.

Legal References: 5 MRSA § 1743-A

20-A MRSA §§ 1001(14), 5401(13)(D); 5402

20-A MRSA § 1492

20-A MRSA § 15006

34 CFR Parts 74 and 80 (Education Department General Administrative Regulations (“EDGAR”)) (for federal awards made prior to 12/26/2014)

2 CFR § 200.318 (Uniform Administrative Requirements—General Procurement Standards) (for federal awards made on or after 12/26/2014)

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

Maine State Board of Education Rules for School Construction Projects, Ch. 61 § 13 c

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