DJE - BIDDING/PURCHASING REQUIREMENTS

The School Board expects all purchases made by the school department 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 department. It does not afford any vendor any property or contractual rights against the school department. No vendor shall have any enforceable rights against the school department based upon this policy or alleged violations of this policy. No vendor shall have any rights against the school department until such time as a written contract between the vendor and the school department is executed by the vendor and an authorized representative of the school department.

Bidding/Purchasing Required by Law

I. **Maine Law**

Maine law requires the Board to competitively bid property and casualty insurance; school bus and transportation contracts in excess of $4,000; certain school building construction, alterations and repairs over $100,000; bond anticipation notes for state-subsidized school construction projects; and lease purchase financing of buildings whose lease purchase costs qualify for state subsidy.

I. **Procurement Methods for Federally Funded Projects**

The Superintendent or his or her designee shall be responsible for developing, updating as necessary, and implementing written administrative procedures (hereafter, the "Federal Procurement Procedures") 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 Procedures shall be consistent with all applicable federal laws and rules.

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-thorough entity such as the State education department (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, it will be necessary to 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.

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 Procedures. Wherever this policy or any of the school department's administrative procedures are inconsistent with federal laws or rules, the provisions of the federal laws or rules shall control.

Bidding/Purchasing Not Required by Law

Where bidding is not required by law, it shall be the policy of the school department to competitively bid purchases of equipment, supplies, materials or services over $20,000 except contracts for professional architectural and engineering services); bond anticipation notes for state-subsidized school construction projects; and lease purchase financings of buildings whose lease purchase costs qualify for state subsidy, provided that it is practical and cost-effective to specify the materials or services with sufficient particularity to allow meaningful comparison of bids.

If competitive bidding is not utilized, the Superintendent may seek Requests for Proposals (RFP) for purchases over $10,000. Proposals may be negotiated in the best interest of the school department. An RFP identifies the need the school department 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.

The Superintendent may forgo the competitive bid or RFP process only when they determine that quality, expertise, time factors, or other important considerations outweigh the possible benefits of bidding or requesting proposals.

In each such case, the Board shall be informed of the Superintendent's decision and the reasons for it in advance of entering into a contract.

Procedures for Bidding and Requesting Proposals

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

Competitive Bid Procedures

Unless other bid procedures are required by law, the school department shall use the following procedures when soliciting competitive bids:

I. **Solicitation/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 department to reject any or all bids, and to waive technical or immaterial nonconformities in bids if in the best interest of the school department, and to exercise judgment in evaluating bids.

II. **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 department.

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

IV. **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 School Board member designated for the purpose by the Chair of the School Board.

V. **Reading**. If any members of the public who are not School Board members or employees of the school department or 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.

VI. **Awards**. In general, the School Board will award contracts to the lowest bidder that the Superintendent and School Board deem can satisfactorily fulfill the contract.

Request For Proposals (RFP) Procedures

Unless other RFP procedures are required by law, the school unit shall use the following procedures when soliciting requests for proposals:

I. **Solicitation/Notification**. The notification shall specify the deadline for submitting bids and the time and place of bid opening. The notification shall reserve the right of the school unit to reject any or all proposals, and to waive technical or immaterial non-conformities in proposals if in the best interest of the school department, and to exercise judgment in evaluating proposals.

II. **Written Proposals**. Proposals should be submitted in plain envelopes clearly marked "Proposal, not to be opened until (state time and date)." The RFP shall state the time and date that proposals shall be opened, and no proposals shall be opened before that time. Public opening is not required.

III. **Evaluation and Awards**. Proposals are to be evaluated based on criteria appropriate for the project in question, and the contract will be awarded to the vendor whom the Superintendent and/or School Board deem best able to meet the requirements of the school department.

IV. Proposals should be submitted in the manner specified in the RFP, which shall be appropriate for the goods or services being purchased. If requests for RFPs are made by telephone, at least three vendors shall be contacted.

Legal Reference:

- 5 MRSA § 1743-A
- 20-A MRSA §§ 1001(14), 5401(13)(D); 5402
- MDOE Rule Ch. 61 (Rules for Major Capital School Improvement Projects)
- MDOE Rule Ch. 64 (Rules for Maine School Facilities Program and School Revolving Renovation Fund Program)
- 2 CFR part 200 (Uniform Administrative Requirements)

Cross Reference:

- DJH - Purchasing and Contracting: Procurement Staff Code of Conduct

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