

PURCHASING

The purchase of products and services by the School District of Volusia County shall be authorized by state law and must be in accordance with procedures prescribed by the school board.

I. Definitions

- A. “Competitive solicitation” shall be defined for the purposes of this policy to include purchases made through the issuance of an invitation to bid, request for proposals, and invitation to negotiate.
- B. “Invitation to bid” shall be defined for the purposes of this policy as a written solicitation for competitive sealed bids. The invitation to bid is used when the district is capable of specifically defining the scope of work for which a contractual service is required or when the district school board 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. “Request for proposals” shall be defined for the purposes of this policy as a written solicitation for competitive sealed proposals. The request for proposals is used when it is not practicable for the district to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required and when the district is requesting that a responsible vendor propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A written solicitation includes a solicitation that is publicly posted.
- D. “Invitation to negotiate” shall be defined for the purposes of this policy 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 district determines that negotiations may be necessary for it to receive the best value. A written solicitation includes a solicitation that is publicly posted.
- E. “Request for Quotation (RFQ)” shall be defined for the purposes of this policy as a written request for competitive quotes. This procurement method is used when the district is capable of specifically defining the scope of work for which a contractual service is required or when the 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.
- F. “Grants” shall be defined for the purposes of this policy as a grant award contribution, gift, or subsidy (in cash or in-kind services) bestowed by a government, foundation or other funding organization (called the grantor) for specified purposes to an eligible recipient (called the grantee). Grants are usually conditional upon certain qualifications as to the use; maintenance of specified standards, use of specified or approved vendors and/or products and

may or may not require proportional (matching) contribution by the grantee or other grantor(s).

- G. “Proposer” shall be defined for the purposes of this policy to include those vendors submitting bids or responses to a competitive solicitation.
- H. “Reverse auctions” shall be defined as an innovative technology tool used to drive down the prices of commodities and contractual services. Real time, on-line bidding ends at a specified time or when cost becomes too low for profit.
- I. “Superintendent” shall be defined for the purposes of this policy to mean “superintendent or designee”.
- J. “Contract” shall be defined for the purpose of this policy to mean an agreement between two or more parties that is intended to have legal effect. Contracts document the mutual understanding between the parties as to the terms and conditions of their agreement, contain mutual obligations, and clearly state the cost of the services or products to be provided by the vendor or service provider and any other obligations. All contracts shall be in the name of the “The School Board of Volusia County, Florida.” Subsequent reference may be made to the individual school or department in a manner such as the following: “The School Board of Volusia County, Florida, o/b/o [insert name of school or department].”

II. Authority

- A. The superintendent is authorized to expend monies for purchases of commodities and contractual services where the total is less than \$50,000 consistent with rule 6A-1.012, Florida Administrative Code that may be purchased without the bid process and which otherwise would be exempt from bidding by state law. The purchases are not to exceed the applicable appropriation in the district’s budget and shall be made in accordance with Board policy.
- B. No person, unless authorized to do so under the policy of the district school board, may make any purchase or enter into any contract involving the use of district and/or school funds, including internal accounts. No expenditures for any such unauthorized purchase or contract shall be approved by the school board. The payment for any unauthorized purchase or contract shall be the sole responsibility of the person placing the order or entering into such contract.
- C. Before making any purchase of commodities or contractual services, which the superintendent is authorized by the school board to make, or before recommending any purchase to the board, the superintendent shall, insofar as possible, propose standards and specifications. The superintendent shall see that all purchases and contracts conform to those standards and specifications, and shall take other such steps as are necessary to see that maximum value is being received for any money expended.

D. Superintendent/Designee Authority

The Superintendent is further authorized to delegate the authority to execute a contract, or approve the individual expenditure of funds through other purchasing methods, for goods and services, to the following individuals and corresponding limits:

1. School principals: not to exceed \$10,000.00. This limit may be extended up to \$19,999.99 when approved in writing by the area superintendent for that school or the superintendent.
2. District directors (other than the Director of Purchasing): not to exceed \$10,000.00 . This limit may be extended up to \$19,999.99 when approved in writing by a cabinet member or the superintendent.
3. Cabinet members: not to exceed \$19,999.99.
4. Superintendent or designee: not to exceed \$49,999.99.

Authority under this section shall comply with any applicable competitive solicitation requirements set forth in section IV of this policy. The limits contained within paragraph D do not apply to the administration of claims and settlements of the district's self-insurance liability programs, which are established by separate action of the Board, or authorized expenses related to the defense of said claims or litigation under the district's self-insurance programs when provided under contracts previously approved by the Board.

E. All purchases of commodities and contractual services with a value of \$50,000.00 or more shall be authorized by the School Board with the following exceptions:

1. Emergency purchases consistent with the requirements of rule 6A-1.012(12)(e), Florida Administrative Code.
2. Contracts for commemorative items that are purchased as a service to students and where substantially all of the costs of the contract will be recouped from students. Examples include, but are not limited to, class rings, caps and gowns, yearbooks, school pictures, graduation cards and announcements.
3. Contracts for the purchase of gasoline and/or diesel fuel in order to allow the school district to obtain the best prices available, provided the superintendent has given notice to the members of the school board. The board shall ratify the contract at the next regular meeting of the board.

F. Contract Review

All contracts with a value exceeding \$19,999 shall be reviewed and approved by the Director of Purchasing and/or Chief Counsel for legal sufficiency and

compliance with Board policy unless a lower threshold is directed by the Superintendent.

G. Form of Contract

All contracts shall be in written form.

III. Methods of Purchase/Requisitions

- A. Insofar as practicable, all purchases shall be based on contracts, purchasing card systems, electronic procurements, or purchase orders. Within the dollar thresholds identified in section II.D. of this policy, the Superintendent, and/or designees identified therein, shall be authorized to approve purchases under rules set by the Board, provided that in so doing, he or she shall certify that funds to cover the expenditures are authorized by the budget and have not been encumbered.
- B. Each requisition shall be properly financed, budgeted prior to the issuance of a purchase order. The acquisition of the commodities or contractual services shall not precede the requisition date.
- C. Splitting of Requisitions and/or Purchase Orders: Districts may not divide the procurement of commodities or contractual services so as to avoid the monetary threshold requirements set by law or policy.
- D. The Superintendent may utilize any appropriate electronic methods, such as procurement cards, to purchase commodities and contractual services as deemed to be in the best interest of the district and consistent with other parts of this policy.
- E. In addition to the traditional competitive bid methods, reverse electronic auctions, (eAuctions) may be used to acquire commodities or services when it is advantageous for the district and significant cost savings may be realized.

IV. Competitive Solicitations

- A. Competitive solicitation threshold requirements. The following standards for acquiring commodities and contractual services will be established by the district at the following dollar limits:

- 1. Small Purchases (up to \$9,999.99)

- Goods and services under \$9,999.99 are purchased on the open market. The superintendent has the authority to change selected vendors if it is in the District's best interest to do so. The District's purchasing card is encouraged for all expenditures as outlined in the Purchasing Card Users Manual.

- 2. Informal Quotes (\$10,000.00 to \$19,999.99)

Goods and services from \$10,000.00 to \$19,999.99 are purchased after securing a minimum of three (3) written quotes from selected vendors. A copy of the written quotes shall be forwarded to the Purchasing Department at the time the requisition or request to purchase is made. The superintendent has the authority to change selected vendors if it is in the District’s best interest to do so.

3. Requests for Quotation RFQ (\$20,000.00 to \$49,999.99)

Goods and services from \$20,000.00 to \$49,999.99 are purchased after requesting a formal Request for Quotation. The Purchasing Department shall obtain written competitive quotes from a minimum of three (3) qualified vendors. The Purchasing Department will review the responses and select the lowest and best responsive and responsible quotation received.

4. Requests for Formal Sealed Competitive Solicitations \$50,000.00 or greater)

Purchases for amounts \$50,000.00 or greater are acquired through formal sealed competitive solicitations, with the exception of sole (single) source vendors, emergency purchases, or other purchases which are expressly exempted from the competitive solicitation process by law (see Section V – Exceptions to Competitive Solicitations).

B. Maintenance of the Bidders List:

1. The Purchasing Department shall maintain a list of all potential bidders by category of commodity or service and shall include the names of all persons or firms that requested placement on the list.
2. Should a vendor fail to respond to a request for bid or proposal, the Purchasing Department may remove that vendor’s name from the bid mailing list, for future bids concerning that commodity.
3. The Director of Purchasing may remove the name of any person or firm from the list based upon prior documented unsatisfactory experience with the person or firm. However, the person or firm may apply to the Director of Purchasing for reinstatement to the vendor list after being removed for one (1) year. The decision regarding reinstatement shall be at the discretion of the Director of Purchasing.

C. Competitive solicitations shall be requested by the superintendent from a minimum of three (3) sources for any authorized purchase or contract for services exceeding the maximum amount allowed by law, which are not otherwise exempt from bidding by Florida law.

- D. Preference to Florida businesses. Competitive solicitations mandated by state law shall be subject to the requirements of section 287.084, Florida Statutes, relating to Florida businesses.
- E. Resolution of Bid Protests:

The School Board hereby adopts the procedure specified in Florida Statutes, section 120.57(3) for the resolution of bid protests subject to the following requirements and exceptions:

- 1. District Notice of Decision or Intended Decision
 - a. The Notice of Intended Decision shall be electronically posted by the Purchasing Department.
 - b. The District's Notice of Intended Decision 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."
- 2. Notice of Protest
 - a. Any person who is adversely affected by the agency decision or intended decision shall file with the Director of Purchasing as agent for the School Board a notice of protest in writing within 72 hours after the posting of the notice of decision or intended decision. With respect to a protest of the terms, conditions and specifications contained in a solicitation, including any provisions governing the method of ranking, bids, proposals or replies, awarding contracts, reserving of rights to further negotiations or modifying or amending any contracts the notice of protest shall be filed in writing within 72 hours after the receipt of notice of the project plans and specifications or intended project plans and specifications in an invitation to bid, invitation to negotiate, or request for proposals.
 - b. The notice of protest must actually be received by the Purchasing Department before the 72 hour period expires. The 72 hour period excludes Saturdays, Sundays, holidays and all other days when the District office is closed. The 72 hour period is not extended by service of the notice of protest by mail.
 - c. The notice of protest shall identify the procurement by solicitation number and title or any other language that will

clearly enable the District to identify it; and it shall state the person intends to protest the decision.

- d. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under chapter 120, Florida Statutes.
- e. 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.

3. Formal Written Protest

The protester shall file a formal written protest within ten (10) days after the date the notice of protest is filed, excluding Saturdays, Sundays, holidays and all other days the District office is closed. The 10 day period for filing the formal written protest is not extended by service of the protest by mail. The formal written protest shall state with particularity the facts and law upon which the protest is based. Failure to file a formal written protest shall constitute a waiver of proceedings under chapter 120, Florida Statutes.

4. Staying the Procurement Process

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

5. Posting the Bond

Any person who files a timely request for an administrative hearing under paragraph 7 shall post with the Director of Purchasing, a bond, payable to the School District of Volusia County, Florida, in an amount equal to one percent (1%) of the estimated total value of the contract; or \$20,000.00, whichever is greater. The bond shall be conditioned on the payment of all costs, which may be adjudged against the protester in an administrative hearing in which the action is brought and in any subsequent appellate court procedures. If, after the completion of the administrative hearing process and any appellate court proceedings the school district prevails, then the school district shall recover all costs and charges which shall be included in the final order or judgment, including charges made by the division of administrative hearings, but excluding attorneys fees. Upon payment of such costs and charges by the protester, the bond shall be returned. If the protester prevails then the protester shall recover from the school district all costs and charges,

which shall be included in the final order or judgment, excluding attorney's fees.

6. Informal Resolution

The Director of Purchasing shall schedule an informal meeting to attempt to resolve the protest by mutual agreement between the parties within seven (7) days, excluding Saturdays, Sundays, holidays and all other days the District office is closed, after receipt of the formal written protest. All affected parties shall be notified of the Notice of Protest.

Should the disputed issue not be resolved by mutual agreement of the Director of Purchasing and the protester, the protester must file with the Director of Purchasing a notice of intent for administrative hearing within seven (7) days of the informal meeting, excluding Saturdays, Sundays, holidays and all other days the District office is closed. If no timely notice of intent for administrative hearing is received by the Director of Purchasing, the protest shall be deemed dismissed with prejudice.

7. Hearing

If the protest is not resolved informally the aggrieved party may file a formal written protest for an administrative hearing (if such request was not already included in the formal written protest). All procedures as delineated in Florida Statute 120.57(3) shall be followed.

- F. The Notice of Intended Decisions shall be presented to the school board for approval before any monies are expended. The school board shall have the authority to reject any or all proposals submitted in response to any competitive solicitation and to request new proposals or to purchase the required commodities or contractual services in any other manner as authorized in this policy.

In acceptance of responses to competitive solicitations, the district may accept and award contracts to one or more responsive, responsible proposers in accordance with the selection criteria published in the solicitation. As an alternative, the School Board may also choose to award contracts to the lowest responsive, responsible bidder(s) as the primary awardee of a contract and to the next lowest responsive, responsible bidder(s) as alternate awardees from whom commodities or contractual services would be purchased should the primary awardee become unable to provide all the commodities or contractual services required by the district during the term of the contract. Nothing herein is meant to prevent multiple awards to the lowest responsive and responsible bidders when such multiple awards are clearly stated in the bid solicitation documents.

- G. Cone of Silence Period

Communication by any party that has submitted a response to a competitive solicitation to any Board member or district employee after the Purchasing Department releases the solicitation to the general public is prohibited until the notice of intended decision is posted by the Director of Purchasing unless otherwise permitted in this paragraph. Communication by any party that has submitted a response to a competitive solicitation that is substantiated by the Superintendent in violation of this paragraph may result the rejection of the proposal by the district. Any communication by a party that has submitted a proposal in response to a competitive solicitation may only communicate with the purchasing department during this period.

- H. If identical low and best bids are submitted the following criteria shall be utilized to determine which vendor shall be recommended for the awarding of the bid.
 - 1. Certification under Florida Statutes as a drug-free workplace.
 - 2. In-county preference.
 - 3. Company receiving larger dollar award of the bid.
 - 4. Coin toss.

V. Exceptions to Competitive Solicitations

The District may waive the requirements for competitive quotes or solicitations for the purchase or acquisition of commodities and contractual services stated below, and/or in the following circumstances:

- A. Educational Materials: educational services and any type of copyrighted materials including, without limitation, educational tests, textbooks, printed instructional materials, computer software, films, film strips, videotapes, dvds, disc or tape recordings, digital recordings, or similar audio-visual materials, and for library and reference books and printed library cards where such materials are purchased directly from the producer or publisher, the owner of the copyright, an exclusive agent within the state, a governmental agency or a recognized educational institution.
- B. Emergency Purchases: Notwithstanding this policy, emergency purchases are authorized when consistent with the requirements of rule 6A-1.012(12)(e), Florida Administrative Code.
- C. Contracts for commemorative items that are purchased as a service to students and where substantially all of the costs of the contract will be recouped from students. Examples include, but are not limited to, class rings, caps and gowns, yearbooks, school pictures, graduation cards, and announcements.
- D. Gasoline and Diesel: In order to allow the school district to obtain the best prices available, the superintendent shall be authorized to enter into contracts for

the purchase of gasoline and/or diesel fuel, and such contracts shall not require school board approval, provided the superintendent has given notice to the members of the school board. The board shall ratify the contract at the next regular meeting of the board.

- E. Grants or State or Federal Agency Contracts: A contract for commodities or contractual services may be awarded without competitive solicitations if state or federal law, a grant or a state or federal agency contract prescribes with whom the district school board must contract or if the rate of payment is established during the appropriations process.
- F. Information Technology Resources: The District when acquiring, whether by purchase, lease, lease with option to purchase, rental or otherwise, information technology as defined in section 282.0041(15), Florida Statutes, may make any acquisition through the competitive solicitation process as described herein or by direct negotiation and contract with a vendor or supplier, as best fits the needs of the district as determined by the school board.
- G. Insurance and Risk Management: Except as otherwise required by statute, the school board when purchasing insurance, entering risk management programs, or contracting with third party administrators, may make any such acquisitions through the competitive solicitation process as described herein or by direct negotiations and contract.
- H. No Response(s) Received From Solicitations: The requirements for requesting competitive solicitations for commodities and contractual services from three (3) or more sources is hereby waived, as authorized by section 1010.04(4)(a), Florida Statutes, and the superintendent may enter into negotiations with suppliers of such commodities and contractual services and shall have the authority to execute contracts with such vendors under whatever terms and conditions the District determines to be in its best interest, when the following conditions are met:
 - 1. Competitive solicitations have been requested in the manner prescribed by this policy, and
 - 2. The School Board has made a finding that no valid or acceptable firm proposal has been received within the prescribed time.
- I. Purchases Under Other Contracts:
 - 1. The District may, in lieu of requesting competitive solicitations from three (3) or more sources, make purchases at or below the specified prices from contracts awarded by other city or county governmental agencies, other district school boards, community colleges, federal agencies, public or governmental agencies of any state, state university systems, or other cooperative agreements, when the proposer awarded a contract by another entity defined herein will permit purchases by the School Board at the same or better terms and conditions, and prices at or

below those awarded in such contract, and such purchases would be to the economic advantage of the Board.

2. The District shall receive and give consideration to the prices available to it under rules of the Department of Management Services, Division of Purchasing. The district may use prices established by the Division of Purchasing through its state purchasing agreement price schedule with the same or better terms and conditions, for use by those imposed on state agencies.
- J. Pool Purchases: Competitive solicitations are not required for purchases made through the pool purchase provisions of section 1006.27, Florida Statutes.
- K. Food & Food Products, Except Milk: may be purchased without competitive solicitations. Milk may be exempt under the following conditions: (a) The district has made a finding that no valid or acceptable firm bid has been received within the prescribed time; or (b) The district has made a finding that an emergency situation exists and may enter into negotiations with suppliers of milk and shall have the authority to execute contracts under whatever terms and conditions as the board determines to be in the best interest of the school system. Procedures shall be established to assure that all food purchased conforms to the federal food, drug and cosmetic act, the federal meat inspection act, and the meat inspection law of Florida, and any other federal or state safeguards relating to wholesomeness of specific items being purchased.
- L. Professional Services: which shall include, without limitation, artistic services; academic program reviews; lectures by individuals; auditing services not subject to section 218.391, Florida Statutes; legal services, including attorney, paralegal, expert witness, court reporting, appraisal or mediator services; and health services involving examination, diagnosis, treatment, prevention, medical consultation or administration.
- M. Single Source Suppliers
1. Commodities or contractual services available only from a single source may be exempted from the competitive solicitation requirements when the school district believes that the commodities and contractual services are available only from a single source. The district shall electronically or otherwise publicly post a description of the commodities or contractual services sought for a minimum of seven (7) business days. The description must include a request that prospective vendors provide information regarding their ability to supply the commodities or contractual services described, and
 2. If it is determined, in writing by the district, after reviewing any information received from prospective vendors, that the commodities or contractual services are available only from a single source, the district shall provide notice of its intended decision to enter a single source contract in the manner specified in section 120.57(3), Florida Statutes,

and may negotiate on the best terms and conditions with the single source vendor.

- N. Sole Proposals: If less than two (2) responsive proposals for commodity or contractual services are received, the district may negotiate on the best terms and conditions, or may elect to reject all proposals. The district shall document the reasons that negotiating terms and conditions with the sole proposer is in the best interest of the district in lieu of resoliciting proposals.
- O. Utilities or Governmental Franchised Services: A contract for regulated utilities or government franchised services may be awarded without competitive solicitations.

VI. Small Business Opportunity

The purchasing department will actively recruit small businesses capable of supplying the goods and services necessary to operate our school system. The school board will publish on its Purchasing website a Vendor’s Guide outlining the procedures by which to become a qualified bidder and the prerequisites for placement on the bidder mailing list. The Purchasing Department will initiate or participate in seminars and training sessions to familiarize small business owners with school board purchasing policies and procedures. These programs will provide opportunity for and encourage small businesses to participate in the district-purchasing program.

VII. Conflict of Interest

The provisions of F.S. 112.313 shall apply regarding conflict of interest. Any violation of these provisions by a school board employee may be grounds for disciplinary action.

VIII. Public Records

All competitive solicitations shall be subject to the public records requirements of state law or rule, including section 119.071(b), Florida Statutes.

IX. Implementation

The Superintendent may implement the terms of this policy as deemed appropriate by manual or procedures.

Legal Authority:

Section 1001.41(2), Florida Statutes

Laws Implemented:

Sections 1001.43(2), 1001.42(12)(j), 120.53(5) 120.57(1), 255.04, 287.057, 287.073(4) 287.087, Florida Statutes
State Board of Education Rules, 6A-1.012, 6A-1.013, 6A-1.091, 6A-7.042(5)(g), Florida Administrative Code

References:

The School Board of Volusia County

(Food Services Manual)
(Purchasing Manual)
(Purchasing Card Manual)

History:

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