

TURKEYFOOT VALLEY AREA SCHOOL DISTRICT

SECTION: PROGRAMS

TITLE : FEDERAL PROGRAMS
PROCUREMENT

ADOPTED: June 20, 2016

REVISED:

148.3 FEDERAL PROGRAMS PROCUREMENT

The Turkeyfoot Valley Area School District maintains the following purchasing procedures.

A. Responsibility for Purchasing

The business manager delegates purchasing authority to responsible individuals within their department. The business manager will be responsible for processing contracts/purchase orders. The school Board will make the final determination on any proposed purchase where budgetary or other conditions may result in denial.

B. Purchase Methods

The type of purchase procedures required depends on the cost of the item(s) being purchased.

Procurement Documents

- Purchase orders or requisition are used.
- Detail how this procurement documentation is generated. Paper copies are kept and the business manager has access. The documents are pre-numbered.
- When a purchase is made what type of information must be contained on the purchase order or requisition.
 - a) Description of the services to be performed or goods to be delivered;
 - b) A location where the services are to be performed or goods to be delivered; and
 - c) The appropriate dates of service or delivery.
- Documentation is kept in business office once the purchase is made. All documentation is maintained in a file in the business office.

▪ Responsibilities

- a) If purchase order/requisition, the principal requests the document.
- b) The teacher or other fills it out and the business manager provides approval.
- c) If a contract, the business manager provides approval of a contract.

• Required Number and Types of Quotations

- a) Three bids are required for each purchase threshold.
- b) Bids are written or sent electronically.
- c) The business manager receives the bids when written or sent electronically.
- d) These bids must be received before a purchase order, requisition, or contract is made.
- e) The business manager is responsible for obtaining the bids.
- f) Detailed documentation is required for each bid and it is maintained in the business office.

Sub recipients must also follow both state and local procurement rules. State and local procurement rules are often stricter than federal requirements. Accordingly, this section should be revised to account for the appropriate thresholds and purchasing procedures within each threshold amount in accordance with any state and local procurement rules.

Purchases up to \$3,000.00 (Micro-Purchases)

Micro-purchase means a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed \$3,000.00. 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.

To the extent practicable, the District distributes micro-purchases equitably among qualified suppliers. District will determine the distribution of micro-purchases through the business office. Board approval is not warranted for purchases up to \$3,000.00.

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 the records of all micro-purchases. Please see page 1 for

2 C.F.R. 200.420-
200.475

written procedures on how to determine whether a price is reasonable and also page 1 of school board Policy 610 – Purchases Subject to Bid.

Purchases over \$150,000.00

Sealed Bids (Formal Advertising): For purchases over \$150,000.00 bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforms 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;
- 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 document factors such a 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 usually taken advantage of. Any or all bids may be rejected if there is a sound documented reason.

<p>2 C.F.R. 200.323(a)</p> <p>2 C.F.R. 200.323(a)</p> <p>2 C.F.R. 200.323(b)</p>	<p><u>Competitive Proposals:</u> 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:</p> <ul style="list-style-type: none"> • Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized request 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. <p>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 to 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.</p> <p>The School District's more formal bidding method used is outlined in School Board Policy 610 – Purchases Subject to Bid.</p> <p><u>Contract/Price Analysis:</u> The District performs a cost or price analysis in connection with every procurement action in excess of \$150,000.00, including contract modifications. 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.</p> <p>The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the business office must come to an independent estimate prior to receiving bids or proposals. Similar prior procurements are analyzed and there is a review process.</p> <p>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.</p>
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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.

The description of when and how the District uses the noncompetitive proposal method is described in a school board Policy 612 – Purchases not budgeted. This includes who is required to provide approval and what documentation is maintained to justify sole sourcing and defining “public exigency or emergency.”

A cost or price analysis will be performed for noncompetitive proposals when the price exceeds \$150,000.00.

2 C.F.R. 200.319

A. Purchase Cards

The school district business manager over sees all purchases on the school district credit card.

B. Full and Open Competition

All procurement transactions must be conducted in a manner providing full and open competition. 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 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

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 offers 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

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 allow ability of each purchase made with federal funds. Please see page 1 of school board Policy 602 – Budget planning, for written procedures on determining allow ability.

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 sub grants to any person or company who is debarred or suspended. For all contracts over \$25,000.00 the District verifies that the vendor with whom the District intends to do business with is not excluded of disqualified.

The business manager is responsible for verification of sub grants.

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. The business manager will hold all information on the District’s record policies.

Time and Materials Contracts

2 C.F.R. Part 200, Appendix II (1) and 2 C.F.R. 180.220 and 180.300.
2 C.F.R. Part 200, Appendix II(1) and 2 C.F.R. 180.220 and 180.300

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

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.

District's protest procedures are in accordance with state and local law. Issues that should be addressed including, but are not limited to, how potential vendors receive notice of ability to protest, the business office receives the protest; whether a report of the review is provided to the complainant; and timeframes for both making the protest and reviewing the protest. The Superintendent and School Board President will review the protest.

