

BIDDING-PURCHASING REQUIREMENTS

The MSAD#44 Board (hereafter, the District, expects all purchases made by the District 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 District. It does not afford any vendor any property or contractual rights against the District. No vendor shall have any enforceable rights against the District based upon this policy or alleged violations of this policy. No vendor shall have any rights against the District until such time as a written contract between the vendor and the District is executed by the vendor and an authorized representative of the District.

A. Procurement Methods for Federally Funded Contracts

The Superintendent or his/her designee shall be responsible for developing, updating as necessary, and implementing written administrative procedures (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.

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 (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.

B. Bidding Required by 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 \$250,000 (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.

C. Competitive Bidding of Other Purchases

Where bidding/purchasing is not required by law, it shall be the policy of the school unit to competitively bid purchases of equipment, supplies, materials or services over \$7,500 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 equal to or over \$7,500. An RFP identifies the need the school unit 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 forego the competitive bid or RFP process only when he/she determines 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.

D. Procedures for Bidding and Requesting Proposals

The method of notification that the District 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.

E. Bid Procedures

1. 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 District to reject any or all bids, and to waive technical or immaterial non-conformities in bids if in the best interest of the school unit, and to exercise judgment in evaluating bids.
2. **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 District.
3. **Time of opening.** A School Board member or employee of the school unit may not open a bid until the appointed time.
4. **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.
5. **Reading.** If any citizens who are not School Board members or employees of the District 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.

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

F. RFP Procedures

1. Proposals should be submitted in a manner specified in the RFP, which shall be appropriate for the goods and services being purchased. If the requests for RFP's are made by telephone, at least three vendors shall be contacted.
2. 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(s) deem best able to meet the requirements of the District.

G. Non-budgeted Items

The Superintendent is authorized to purchase items not budgeted up to \$5,000. The Finance Committee is authorized to pre-approve all non-budgeted expenditures between \$5,000 and \$10,000. The Board must pre-approve non-budgeted items in excess of \$10,000. In emergency situations, telephone or electronic approval by the majority of the Board will be sufficient.

Legal Reference: 5 MRSA § 1743-A

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

20-A MRSA § 1314

Maine State Board of Education Rules for Major Capital School Improvement Projects (Chapter 61, §11(5))

Me. Department of Education and Maine Municipal Bond Bank Rules
Maine School Facilities Program and School Revolving
Renovation Fund Program (Chapter 64, § 6)

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

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

Cross Reference: DJ-R – Federal Procurement Manual
DJH – Purchasing and Contracting: Procurement Staff Code of
Conduct

Adopted: August 20, 2004

Amended Effective: October 14, 2020