
BIDDING FOR CONSTRUCTION WORK

Policy Code:

9120

The board strives to obtain high quality services at a reasonable price through the bidding process employed by the school system.

A. STANDARDS FOR PARTICIPATION IN CONSTRUCTION CONTRACTS

All contracts formally or informally bid will be awarded to the lowest responsible bidder, taking into consideration quality, performance, reliability and the time specified in the bids for performance of the contract. To be eligible for an award of a contract subject to G.S. 143-129, the contractor and its subcontractors, if any, must demonstrate compliance with all applicable provisions of G.S. Chapter 64, Article 2, including the responsibility to use E-Verify.

The board prohibits discrimination against any person or business on the basis of race, color, ethnic origin, sex, disability or religion. In addition, in accordance with G.S. 143- 133.5, the board prohibits discrimination against a bidder or contractor for being party to, refusing to be party to, adhering to, or refusing to adhere to an agreement with a labor organization. The superintendent is required to conduct contracting and purchasing programs so as to prevent such discrimination.

The superintendent, on behalf of the board, must certify that good faith efforts have been made to increase the participation in construction contracts by minority-owned and female-owned businesses, as required by policy 9125, Participation by Women- and Minority-Owned Businesses.

The board will grant a North Carolina resident firm providing architectural, engineering, surveying, construction management at-risk service, design-build services, or public-private construction services a preference over a nonresident firm, if the home state of the nonresident firm has a practice of granting a preference to its resident firms over North Carolina resident firms. Any preference granted to a resident firm will be in the same manner, on the same basis, and to the same extent as the preference granted by the nonresident firm's home state. The school system's bid documents will require that nonresident firms disclose and describe any construction contract preferences granted by the firm's home state.

B. BIDDING METHODS

The board may request bids for contracts for building projects using either single prime, multi-prime (separate prime), construction management at-risk, dual bidding, design- build, design-build bridging, and public-private partnership methods, as permitted by law. The superintendent shall make a recommendation to the board as to the method(s) that should be used for a particular project for projects requiring Board of Education approval.

If the superintendent believes the project cannot be reasonably completed under the methods authorized by G.S. 143-128, the superintendent shall so inform the board and make the recommendation to the board that it approve the use of alternative methods. Upon board approval, the superintendent shall submit to the State Building Commission a request to use an alternative contracting method along with supporting documentation.

C. FORMAL BIDDING

In order to ensure that the school district contracts with highly qualified firms, it is the policy of the Buncombe County Board of Education to require formal bidding procedures for projects below the legal threshold. Therefore, construction and repair work requiring the estimated expenditure of \$500,000 or more will be advertised for bid and will be awarded through formal bidding procedures. Dividing contracts to lower the expenditure amounts so as to evade these requirements is prohibited. The superintendent shall establish formal bidding procedures consistent with this policy and applicable law and make the procedures available to all bidders or potential bidders. The formal bidding process must be carried out by the school system's Purchasing Division.

D. INFORMAL BIDDING

Informal bids will be obtained for construction and repair contracts between \$30,000 and \$500,000. Quotations from contractors may be solicited by telephone or in writing, including by electronic means. Informal bids are recommended, but not required, for construction and repair work costing less than \$30,000.

Dividing contracts to lower the expenditure amounts so as to evade the informal bidding requirements is prohibited. The superintendent shall develop informal bidding procedures consistent with this policy and applicable law and make the procedures available to all bidders and potential bidders.

E. BONDS

Construction and repair bids \$300,000 or higher require a bid bond or deposit (5% of the bid amount) at the time of the bid opening. If the winning bid is \$300,000 or higher the bidder will be required to provide a performance and payment bond before the contract is awarded. Bonds and deposits may be requested with bids of a lower amount. The Superintendent may require a bid, performance or payment bonds for projects less than \$300,000 if it is determined to be in the best interest of the school district.

F. APPROVAL

The Superintendent is hereby authorized to award and execute all contracts for construction and repair work in an amount less than \$500,000 provided that there is an existing, unencumbered balance for the project or project(s) in the Capital Outlay Budget, lottery or Article 39 funding sources. The Superintendent shall report to the Board of Education at the next regular meeting following both the award of the contract and execution of the contract for those contracts in excess of \$100,000. All contracts for any capital outlay purposes in an amount of \$500,000 or more must be approved by the Board of Education.

In addition, the Board of Education hereby delegates to the Superintendent the authority to enter into change orders related to any contract for construction or repair work involving, additive, or deductive amounts up to \$50,000, so long as funding for the change order is available within the established project budget. For all change orders in excess of \$10,000, the Superintendent shall report the change order to the Board of Education at the next regular meeting following the execution of the change order. All change orders in excess of \$50,000 shall be approved by the

Board of Education.

All formally bid construction contracts must be reviewed by the board attorney prior to, or as a condition subsequent to, Board approval. The superintendent shall consult with the board attorney in developing standard form contracts for informally bid construction projects.

G. RECORDS AND REPORTING REQUIREMENTS

Records of all informal or formal bids received will be maintained and will be available for public inspection. Such records should include the date the bid is received, from whom it is received, and what project it is for. The records will document why the selected contractor was the lowest responsive, responsible bidder if the contractor was not the low bidder.

The superintendent must submit required reports to the State and provide reports to the board on the progress being made towards reaching the board's goals.

H. DISPUTE RESOLUTION PROCESS

The board establishes the following dispute resolution process to resolve issues arising out of construction and repair projects or contracts related to such projects. The dispute resolution process may be used by any party involved in the construction project for those disputes in which the amount in controversy is at least \$15,000.

Prior to initiating litigation concerning a dispute, parties to the dispute must do the following: (1) submit the dispute for review by the superintendent or other designated school official and the project architect, as appropriate, and (2) participate in mediation, if the matter cannot be resolved by school officials and the architect. The cost of the dispute resolution process will be divided between the parties to the dispute. If the board is a party to the dispute, the board will pay at least one-third of the cost.

I. Advertising

Advertisement is not required for construction and repair projects of the informal bidding range. The Board approves the use of the school system's web site as the required source for advertising of construction and repair projects in the formal bidding range. Advertisement in local newsprint and/or a State provided web site may be used at the school system's discretion.

Legal References: G.S. 64 art. 2; 115C-521, -522; 143-64.31 and art. 8; 147 art. 6E, art. 6G

Cross References: Contracts with the Board (policy 6420), Facility Construction (policy 9030), Prequalification of Bidders for Construction Projects (policy 9115), Participation by Minority Businesses (policy 9125)

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