

FREDERICK COUNTY PUBLIC SCHOOLS	Reg. No. 200-7
Subject: PURCHASING REGULATIONS	Date of Issue: 2/1/82
Preparing Office: Office of the Superintendent	Amended: 7/8/11

I. Policy 205.2

II. Procedures

A. Responsibility

The purchasing department shall be responsible for procuring all materials, supplies, equipment and/or services essential to the operation of the school system when the cost exceeds the established threshold of \$25,000.

All negotiations between the board of education and contractors and vendors involving new school construction, materials, equipment, supplies, and/or services shall be conducted by or with the approval of the purchasing department.

All contractual agreements between the board of education and a contractor involving financial consideration of public funds in exchange for materials, equipment, supplies, and/or services must be made on purchase orders, agreements, or contract forms that specify all of the contractual obligations and must be signed by a corporate official and by the superintendent of schools or authorized representative.

B. Function of the Purchasing Department

The function of the purchasing department is to procure without favor or prejudice, the proper amount of the desired item and/or service; at the best possible price and to have it available when it is needed. Each order shall be placed on the basis of quality, safety, price, delivery, and with fast service being a factor. The purchasing department will conduct all procurement transactions in accordance with federal and state laws, the rules and regulations of the board of education, and as approved by legal counsel.

C. Purchasing Methods

Purchasing is accomplished by utilizing various methods of procurements.

1. Competitive Procurements

- a. Competitive procurements occur when bids are solicited from multiple vendors through an advertised bidding process for the purchase of any school building, school improvements, supplies, equipment or service exceeding \$25,000. In addition, the board of education requires that when the cost of any school improvements, supplies, equipment, or services exceeds \$12,500 but is not more than \$25,000, telephone or written quotations will be solicited from at least three vendors.

Quotations may be obtained for procurements over \$12,500 yet not exceeding \$25,000, by departments other than the purchasing department, yet will be subject to review and verification by the purchasing department. The purchasing department should be contacted for advice regarding the procedures for obtaining and documenting quotations. Bidding of procurements exceeding \$25,000 shall occur only through the purchasing department.

- b. Specifications may describe the functional characteristics or the nature of an item to be procured. Specifications may provide for the submission of samples, inspection, or testing of the item before procurement. Specifications that use one or more manufacturer's product(s) to describe the standard of quality, performance, or other characteristics needed to meet the requirements, must allow for the submission of equivalent products, except as noted below in 2.c.
 - c. Materials of instruction and textbooks are excluded from quoting or bidding by state law. Computer software is excluded from quoting or bidding.
 - d. Contracts for goods or commodities that are awarded by other public agencies or by intergovernmental purchasing organizations may be used in lieu of quoting or bidding if the lead agency for the contract followed public bidding procedure. Participation in cooperative bidding is also permitted.
 - e. All technology based instructional products (instructional software, on-line resources, and computer-based equipment) must be consistent with the federal Rehabilitation Act, Maryland Subpart B Technical Standards, Section 508, for accessibility by students with disabilities unless doing so would fundamentally alter the nature of the instructional activity or result in undue financial and administrative burdens. Requests for bids, proposals, procurement contracts, and grants will follow established procedures for evaluating compliance to accessibility standards in all purchase decisions.
 - f. Domestically grown and processed foods are to be purchased to the maximum extent practicable. A waiver may be granted if the product is not available in the U.S. in sufficient quantity or is not of satisfactory quality, or if competitive bids reveal the cost is significantly higher than the foreign product.
2. Single and Sole Source Procurements
- a. Single Source Procurements - A single source procurement occurs when staff actively seeks one supplier although more than one is available.
 - b. Sole Source Procurements - A sole source procurement occurs when only one supplier is available.
 - c. The requirement for submission of equivalent products does not apply if it is determined in the written specification that a particular manufacturer's product must maintain compatibility of service or equipment, must meet the health needs of students, must consider replacement parts or after purchase maintenance, or is to be purchased for resale.

- d. The approval process for single source procurements will consist of the following:

<u>Dollar Value</u>	<u>Approved By</u>
Less than \$12,500	Purchasing Manager or designee
Between \$12,500 and \$25,000	Executive Director of Fiscal Services or designee
Exceeding \$25,000	Superintendent or designee

Sole source procurements, regardless of dollar value, are approved by the purchasing manager.

- e. At the superintendent's discretion the appropriate board members will be informed of single source procurements for services exceeding \$25,000 that are not handled as competitive quotations or bids.
- f. Single source procurement should only occur on an exception basis through intentional approval as directed in 2.d above. Single source procurements will be scrutinized carefully by the purchasing department. Whenever possible, quotations will be obtained. The reasons for the single source procurement must be documented in a memo accompanying the purchase requisition or in internal notes and shall remain with the requisition in the files.
- g. In the case of a bid recommendation for award, the reasons for recommending the acceptance of a single bid procurement will be incorporated in the recommendation and reviewed by the superintendent and the board, as part of the routine recommendation review process.
- D. The procedures for obtaining architectural/engineering services and pre-qualifying general contractors for new school construction, renovation and major repair services where the budget exceeds \$250,000 in scope are covered under separate regulations.

E. Advertising of Competitive Procurements

Competitive procurements are to be advertised in a medium accessible to the general public, which includes: a newspaper of general circulation in the region, the Maryland Contract Weekly or comparable state publication, or an electronic posting on a bid board and physical posting on the school system bid board, at least two weeks prior to the date of when the bids are to be filed/opened.

For major construction, formal bids shall be taken by the purchasing department in consultation with the facilities staff, architect and/or construction manager. If the estimated cost of the contract is \$500,000 or more and if state funds will be 50% or more, the project must be advertised and bid with prevailing wage rates.

F. Award of Competitive Procurements

The lowest responsible bidder conforming to the specifications established in the solicitation shall be the basis for award of the contract with consideration given to the quantities involved, time required for delivery, purpose for which required, competency and responsibility of bidder and his ability to render satisfactory service and the plan for utilization of minority contractors. In the event of tie bids/quotations where all other factors, such as

past performance, are considered comparable, the award shall be made to the Frederick County based vendor; the Maryland out-of-county based vendor; and the out-of-state based vendor; in that order of preference.

1. Approval of bid awards exceeding \$25,000 will be made by the board of education or designee based upon recommendation of staff.

These recommendations, including all bidders who are recommended for award, and the reasons for rejection of low bids shall be submitted to the executive director of fiscal services, superintendent, and the facilities and finance committee for review. After careful analysis by these individuals, the recommendation shall be forwarded to the board of education, who will review the recommendation for award of the contract.

2. Approval of bid and quotation awards less than \$25,000 will be made by the purchasing department.

G. Bid Protests

On those occasions whereby bidders have objections to any aspect of the bid process, the following procedures will be followed in order to assist the board in processing the information made available to them pertaining to the objection.

1. Objections to Award Recommendation

A vendor objecting to the purchasing department's recommendations for award may file a protest, in writing, to the executive director of fiscal services five (5) days prior to the award being reviewed and approved at the next scheduled board meeting. It is the vendor's responsibility to ascertain the date and time of the pertinent board meeting. The executive director of fiscal services will consider the protest and provide a written response prior to the board's final action on the staff's recommendation.

2. Objections to Awards

A bidder may appeal a decision of the board directly to the state board in accordance with board Policy 105 and Maryland law.

H. Vendor Selection/Review Debarment

Vendor selection and the maintenance of a bidders list will be the function of the purchasing department. Quality, reliability, responsiveness, and fair pricing are factors, which will be considered when selecting or continuing a vendor on the bidders list. Potential bidders must have adequate financial standing and facilities to discharge their commitments. Before any purchases are finalized or bid/quotation awards are made, a satisfactory financial report on the prospective vendors may be obtained. An attempt will be made to determine the capability of the firm to satisfy the contractual relationship.

The bidders list is reviewed annually. Applications on file for more than three years will be subject to renewal. Vendors who violate the contract terms of procurements and are

unwilling or unable to resolve the conflict to the satisfaction of the contract administrator, purchasing manager, and the executive director of fiscal services, shall be debarred from the bidders list for a period of at least one (1) year. Thereafter, the debarred vendor may reapply to be included on the bidders list. Approval will be subject to the vendor's ability to demonstrate that similar problems in a contractual relationship are not likely to recur. Vendors recommended for debarment will be notified in writing by the executive director of fiscal services. Legal counsel and the superintendent may be consulted before making this decision.

I. Sales Representatives in Schools

Sales representatives should not be permitted in schools for the purpose of conducting sales, which commit the board of education. As it is necessary for schools to consult sales representatives regarding special or highly technical details of their product, the sales representatives should request such visits through the purchasing department. The purchasing department may discuss the merits of the products with the applicable curriculum specialists, department supervisors or instructional directors prior to authorizing visits to the schools. Schools are not obligated to meet with sales representatives who have been authorized to visit the schools. Nonschool-based personnel may consult with sales representatives without the prior approval of the purchasing department.

J. Catalog File

The purchasing department will maintain, for the use of all departments and offices, a file of current trade catalogs to keep other departments informed of new materials, equipment, services, sources, prices and processes in manufacturing. Where it is not practicable to maintain all catalogs of interest to be used by staff, the purchasing department will forward such information to the appropriate departments for their information.

K. Active Contracts Listing

The purchasing department will maintain a list of current contracts with ordering information on the purchasing department intranet page, including the name of the contractor, item description, unit price, delivery point, warranty information and special instructions for ordering and receipt. Updates of contracts and addendum will be issued periodically to insure current and valid information.

L. Procedures in Writing

The purchasing department will maintain written procedures, which reflect the policies and procedures under which it operates. In addition, instructions for implementing these and other procedures will be documented. These written procedures will be maintained on the FCPS website intranet, purchasing department. Periodic additions, changes, and deletions will ensure current and valid information.

M. Procurement Card

The purchasing department has established a procurement card program to enable employees with certain job responsibilities to make low dollar purchases quickly and

efficiently at the point of sale. Use of the card will facilitate small dollar purchases, expedite payment to vendors, and improvement administrative cost controls. All cardholders will be required to sign a cardholder user agreement prior to issuance of the card and must abide by the FCPS rules and procedures.

N. Requisitioning Procedures

1. All equipment, supplies, and most services shall be purchased by schools and departments through the purchasing department using the automated procurement system as prescribed by the purchasing department. The originators of the requisitions are responsible for expediting all changes to them. Correspondence to vendors affecting price or model changes, or substitutions, should be copied and sent to the accounts payable department. Rotation among vendors in Frederick County is encouraged, where feasible, with availability, price difference and service given consideration. Schools or other departments may contact the purchasing department for advice in handling vendor relations. Forms of contractual agreement shall be as follows:

a. Standard Purchase Orders for Fixed Amounts

Standard purchase orders must include specific information about each item to be purchased. When appropriate, requisitions for services shall include the contracted services purchasing agreement form #A-45, signed by the prospective contractor and the order originator.

b. Open Purchase Orders

These purchase orders do not identify specific items to be purchased. Equipment shall not be purchased under the open purchase order process. Specific information about each item and quantity to be purchased is considered "an order release" and may be communicated by telephone, in writing or in person. The dollar amount shall be no more than \$12,400 for supplies and services.

c. Blanket Purchase Orders

These purchase orders may be used to procure items under contract through telephone quotation, written quotation or formal bid. Specific information about each item and quantity to be purchased is considered "an order release" and may be communicated by telephone in writing or in person. The dollar amount for quotations shall be limited to \$25,000; the dollar amount for formal bids is unlimited but cannot exceed budget availability through the close of requisition processing at the end of the fiscal year.

d. Emergency Purchase Orders

These purchase orders may be required under special circumstances where standard procedures are not utilized because the procurement requires immediate action.

2. Services and products not processed on requisitions shall be expensed using payment request forms, i.e., vouchers, timesheets (payroll), travel form, mileage form and procurement card logs. Approval from the immediate supervisor is required prior to using these forms of contractual agreement.

O. Boiler Plates

Each bid for supplies, equipment, construction and selected services will contain instruction to bidders known as a boilerplate. There are three standard boilerplates to select from: one for supplies and equipment; one for maintenance and small construction contracts; and one for professional services. Examples of information contained within these instructions include: time and receipt of opening bids/quotations; warranty; bonding; objections to award recommendations and awards; and other regulations governing the procurement transaction. Prior to making changes the purchasing manager may consult the executive director of fiscal services and legal counsel.

When applicable, minor modifications to the standard boilerplate as well as terms and conditions not covered in the boilerplate, will be contained within the bid in an accompanying section entitled Special Notices. When the standard boilerplate is not appropriate at all, applicable instructions will be written instead to accompany the bid.

P. Contract Administration

Contract administration includes expediting, enforcing provisions for price reductions, handling requests for price increases, assuring compliance to contract terms and conditions, resolving disputes, inspecting the work or materials, authorizing payment, and maintaining contract documentation for a period of five (5) years. In cases of breach, these records shall be maintained for six (6) years after the contract terminates.

Each procurement shall designate the lead contract administrator. This person has the prime responsibility of overseeing inspections and assuring compliance to contract specifications. The purchasing department shall have the responsibility to fully explain the elements of contract administration to the lead contract administrator or designee and to insure that the plan is followed.

Every procurement requires some administering and a few calls for continuous interaction between the Frederick County Public Schools and the supplier(s). The development of working relationships between the Frederick County Public Schools and suppliers begins with the pre-bid conference. This conference offers a forum for discussion of bid terms and conditions, budget constraints and specifications. In addition, a post-award conference may be necessary to review specific requirements, expectations and schedules. Construction procurements or procurements involving highly technical specifications may necessitate a series of progress meetings and checkpoints for action. Documentation of these meetings is required and should be on file in the office of the contract administrator.

The primary method of contract completion is the acceptance of the final invoice for payment approval. Construction type bids define a more involved process of payment approval. Indefinite delivery contracts having a series of standard or blanket purchase

orders issued against them utilize the electronic receiving function of the purchase requisition as the sole means of releasing payment. The finance department is not authorized to make payment without receipt of electronic authorization. Deviation in invoicing from the encumbered amount is not to be accepted without authorization in writing from the purchasing department or, in the case of construction contracts, from the facilities or maintenance departments.

The contract administrator will be consulted and informed if the contract is requested to be used by other departments or governmental agencies/organizations.

Q. Quality Assurance

The major activities of the quality assurance program are: standardization, specification writing, inspection, quality control and safety, and testing. The purchasing department relies upon the complete and timely documented information (negative and positive) from the ultimate users of the products and services that it procures. Personal preference is not appropriate in governmental purchasing. User complaints will be reviewed and given consideration in making procurement decisions.

1. Standardization

The standardization of specifications can be developed where items that have similar usage are needed frequently or repetitively by a particular user department(s). This allows the Frederick County Public Schools to establish standardized performance and quality levels for common usage, which reduces the varieties of items purchased, simplifies inventories, facilitates the consolidation of requirements into larger volume bids and contracts, and eliminates duplicative specification writing.

2. Specification Writing

Procurement specifications shall be written to provide for and encourage full competition among vendors. Responsibility for the final accuracy, competitiveness and suitability of the specifications is an integral function of the purchasing department. Specifications may be originated by a user/contract administering department, an independent architect, engineer or consultant, another governmental entity, a professional society or association, or the purchasing department itself.

3. Inspection

Timeliness is critical in the inspection and acceptance of the merchandise and construction activities, and in the processing of the receiving reports. This requires the cooperation of user departments, inspectors, the purchasing department and the accounts payable department. When noncompliance with the specifications, contractual terms and conditions or other types of complaints concerning suppliers performance occur, they should be recorded and maintained in the files of the contracting or purchasing department. Records of complaints, actions taken, and final resolution will be filed and accessible to all who have the need to review them.

Specific inspection procedures and the frequency of progress reports will be prescribed, as applicable, within each procurement.

A final close out of the project shall include documentation by the lead inspector verifying that the specifications have been complied with, except where documented.

4. Quality Control and Safety

At the discretion of the contract administrator a qualified safety officer, employed by the general contractor, will be required to be on site. This requirement will be stipulated in the procurement. In addition, at the discretion of the contract administrator, construction/maintenance specifications will require the general contractor to provide certified quality performance tests and/or reports.

5. Testing

Products purchased on the basis of qualified product(s) lists, as may apply to such items as printer ribbons and carpets, go through certain tests for approval or rejection prior to issuance of the request for bids. Following the opening of bids, tests may be made of the bidders' samples to determine whether specifications are met, or to evaluate the various performance capabilities of competing products. Upon delivery, testing may be necessary to ascertain compliance with the specifications. Finally, tests conducted after an item has been placed in service can be helpful in solving problems associated with complaints by the user department about the product or its performance.

R. Procurement During Crises

Crises requiring emergency repairs qualify as an exception to the state law on bidding, (reference Annotated Code 5-112). In such cases, the executive director of fiscal services and superintendent or designee, in conjunction with the department supervisors involved in the crisis, will be authorized to make single source procurements when time is of the essence in securing the safety of the building, occupants or nearby residents. When time permits the solicitation of competitive quotes will be obtained. The purchasing manager shall be notified and involved in this decision-making.

Thorough records will be maintained and procurement decisions documented and on file in the purchasing department. The board of education and superintendent are to be notified of the status of the situation and the need for single source procurements over \$25,000.

S. Records Retention & Review Process

The Annotated Code of Maryland and the Maryland State Department of Education define what documents are considered public records and the procedures for records retention and disposition. (Refer to Records Retention and Disposition Manual for Public Education in Maryland, 1999).

T. Public Access to Information

In accordance with the Regulation 200-42, "Public Information Act Requests," the purchasing department will provide vendors, the media and the general public with access to purchasing files and records.

Approved:

original signed by

Theresa R. Alban
Superintendent