

Shelby County Board of Education

2006

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PURCHASING AUTHORITY

I. PURPOSE

To ensure Shelby County Schools are provided with goods and services at a fair and equitable cost; to fulfill the District's oversight responsibility of ensuring that resources are managed and allocated prudently in the best interest of students and the community while driving academic achievement and aligning with the goals of the Board and administration; and to provide the guidelines for interested parties to submit bids or Requests for Proposals (RFPs) for such goods and services.

Note: The manual for purchasing procedures is located on the District website at <http://www.scsk12.org/uf/procurement/files/2013/PS%20Manual%20SCS%2006252013.pdf>

II. SCOPE

This policy applies to the bid and purchase of goods such as supplies, furniture, fixtures, equipment, and material of every kind (including such purchases made by schools using site-based funding). It also applies to the purchase of services (see also, policy 2013 Professional Services), the lease of equipment and contracts for more than one year (including such purchases made by schools using site-based funding). In addition to the purchasing requirements set out in this policy, some purchases may also require a written contract. (See policy 2012 Contract Requirements, Approval, and Signatory Authority for contract requirements related to the purchase of goods and services.)

III. DEFINITIONS

- A. Non-Professional Service - Services of a general nature based on skill that is repetitive in nature, for which there is adequate competition in the marketplace to set a market price (e.g., painting, roofing, cleaning, etc.)
- B. Sole Source Provider – A supplier of goods and services exempt from the bid process in the absence of another supplier capable of performing the function of the sole source product or service.
- C. Single Source Provider – A single supplier of goods and services among others in a competitive marketplace which for an acceptable reason has predominant qualifications and unique attributes only possessed by that source. Factors that determine single source include availability of product, compatibility of product with existing District products, programs or resources, standardization of product with existing District products, programs or resources, and grant or contract requirements.
- D. Emergency Purchases - Emergency purchases are purchases made because of the existence of an emergency situation. An emergency situation is an unforeseen danger to life, health, safety, or property. The existence of such a situation creates an immediate and serious need for goods, services, or construction that cannot be met through normal procurement methods in a timely manner.
- E. Professional Services – Services provided by an individual or group of individuals with a professed expertise based on prolonged and specialized intellectual training over time which enables a particular service to be rendered. The term implies professional attainment in specialized knowledge as distinguished from mere skill. Professional services include, but are not limited to, insurance, auditing, accounting and financial services; professional development, business consulting services; educational consulting services; research services; seminar leaders; surveys and studies; legal services; medical services; technical services (e.g. technology); and software development.

IV. POLICY STATEMENT

In instances where federal and state purchasing requirements differ, the District shall adhere to the most restrictive requirement, unless otherwise provided in the applicable federal regulations.

A. Competitive Bid Requirements

All purchases of supplies, furniture, fixtures and material of every kind that are subject to the competitive bid requirements shall be purchased through the Board's Executive Committee (Chairperson and Superintendent). All single contracts for any of the aforementioned purchases exceeding one hundred thousand dollars (\$100,000) must be approved by the Board, except commodity products. Commodity products are defined as items normally used in the routine operation of the District. The Superintendent shall furnish the Board with a monthly report which includes commodity purchases and awards made pursuant to this policy that are equal to or in excess of one hundred thousand dollars (\$100,000) and maintain documentation on the District website that is readily available to the public (<http://www.scsk12.org/uf/procurement/tabulations.php>).

Specifically, competitive bid requirements apply to the purchase of equipment, supplies, materials and non-professional services according to the following guidelines:

Equipment, Supplies, and Materials – All purchases of supplies, furniture, fixtures, equipment, and material of every kind in excess of twenty-five thousand dollars (\$25,000),¹ including those of individual schools, shall be based on competitive bids.

Non-Professional Services – All contracts for non-professional services that exceed twenty-five thousand dollars (\$25,000) shall be based on competitive bids.

For all items subject to competitive bid, the requirements of the bid, the final award and, after the bid has been awarded, the amount of the bid award and name of bidder must be posted on the District website within 30 days of letting the contract.

For all items subject to competitive bid which exceed one hundred thousand dollars (\$100,000) the following information must additionally be provided on the District website, if applicable and/or obtainable:

- a. Total cost of purchase including any anticipated associated costs;
- b. Funding source;
- c. Sustainability of funding source;
- d. Number of students served and the student population in need of the item or service;
- e. Cost per student served and cost per total students in the school district;

- f. Cost for the previous three (3) years;
- g. Other options for addressing the need for the purchase;
- h. National annual cost trends for the past five (5) years;
- i. Measurable outcomes expected;
- j. Explanations for any assumptions (i.e., inflation rate) and any indices used (i.e., FCI);
- k. If the purchase relates to a “program”, the number of years the program will be needed.

A comprehensive vendor list for the purpose of soliciting competitive bids may be used; provided, that the vendors on the list are given notice to bid; and provided further, that the Purchasing Department shall at least annually advertise in a newspaper of general circulation in Shelby County for vendors and shall update the list of vendors following the advertisement. At anytime, however, a vendor may become a registered vendor by completing the application process through the District website. If a comprehensive vendor list is not used, bids shall be solicited by advertisement in a newspaper of general circulation in Shelby County, except that the newspaper advertisement may be waived in the event of emergency.

The bid process shall be provided in the SCS Purchasing Manual in accordance with state law and Board policy. Unless governed by the policy on Local Preference Purchasing (#2011), the best and lowest bid shall be accepted, provided that the District reserves the right to reject any or all bids or any part of any bid and, if applicable, to accept that bid which is best as evidenced by reasons relative to the purpose of the purchase.

The bidder to whom the award is made may be required to enter into a written contract governed by the Contract Requirements, Approval, and Signatory Authority policy (#2012).

Splitting an order in order to avoid the use of bidding or other purchasing procedures is prohibited. Employees found in violation of this provision may be subject to discipline up to and including dismissal from employment.

Exceptions To Competitive Bidding

The following are exceptions to the competitive bidding requirement:

1. Professional service contracts such as contracts for legal services and educational consultants shall not be based upon competitive bids but shall be awarded on the basis of recognized expertise, competence and integrity or other unique qualities.³ This may be facilitated through a request for qualifications (RFQ) or request for proposals (RFP) process;

2. Liability Insurance purchased through a plan authorized and approved by any organization of governmental entities representing cities and counties;⁴
3. Purchases of goods or contracts for services from sole source and single source providers;
4. Purchases of equipment under the same terms of a legal bid initiated by any other Local Education Agency (LEA) in Tennessee.⁵ The District shall provide a rationale documenting a justifiable benefit to the District; or
5. Purchases of supplies, equipment, and services under a competitive bid issued by any municipality, county, utility district, or other local governmental unit of the state for the District (the “procuring entity”), such as applicable purchasing co-operatives, subject to the following requirements:
 - a. The purchases shall be made on the same terms and under the same rules and regulations as regular purchases of the procuring entity.
 - b. Where the District would otherwise be required to advertise and receive bids, it shall be sufficient for these purposes that the procuring entity has complied only with its own purchasing requirements.⁵
 - c. The District shall provide a rationale documenting a justifiable benefit to the District.

B. Purchasing Process

All purchases of less than twenty-five thousand dollars (\$25,000) may be made in the open market without newspaper notice, but shall, whenever possible, be based upon at least three (3) quotes. Such purchases are subject to the provisions outlined below.

Invoice Purchasing (Items up to \$500)

Individual purchases of five hundred dollars (\$500) or less in the aggregate do not require a purchase order prior to purchase and invoices for such purchases should be sent directly to the Shelby County Schools Accounts Payable Office. **Exception:** The administrator responsible for federal programs has internal control over developing and approving non-purchase order expenditures, including equipment purchases. For all non-purchase order expenditures, the budget center manager and the management level above the budget center manager must approve invoices for payment, as provided in the Purchasing Manual and maintain documentation on the District website that is readily available to the public.

(<http://www.scsk12.org/uf/procurement/files/2013/PS%20Manual%20SCS%2006252013.pdf>).

Purchase Orders (Items over \$500)

All purchases over five hundred dollars (\$500) shall be by purchase order, and no purchase over five hundred dollars (\$500) shall be made nor payment approved unless covered by an approved purchase order, except for (i) emergency purchases as defined in this policy and approved by the Director of Purchasing or Superintendent's designee or (ii) financial transactions exempted from the purchase order process in accordance with this policy.

Emergency Purchases

Emergency purchases approved by the Director of Purchasing or Superintendent's designee may be made without a purchase order; however, these purchases shall be documented in accordance with procedures established by the Purchasing Department and approved by the Superintendent. If these purchases fall within the amounts that require Board approval, they shall be presented to the Board at the next regular meeting.

Financial Transactions Exempted From the Purchase Order Process

Certain financial transactions are exempted from the purchase order process and do not require a purchase order. Financial transactions exempted from the purchase order process include but are not limited to: payment of (i) athletic official fees and school reimbursements for sports; (ii) telephone service; (iii) utilities; (iv) service utilities; and (v) expense reimbursements to individuals. These and other such financial transactions shall be identified in the "Purchase Order Exemption List" approved by the Superintendent and located in the purchasing department and maintain documentation on the District website that is readily available to the public. (<http://www.scsk12.org/uf/procurement/files/2014/Financial%20Transactions%20Exempted%20From%20the%20Purchase%20Order%20Process%2001.28.pdf>)

Expenditures and/or purchases made using the "Purchase Order Exemption List" shall be documented in accordance with procedures established by and approved by the Superintendent and/or his/her designee. Any other transactions not identified in the "Purchase Order Exemption List" must be processed using an invoice, a purchase order, procurement card, or as an emergency purchase, as defined by this policy.

Information Technology Acquisitions - Approval Required

All acquisitions of information technology (equipment, software, etc.) not on the SCS approved standards list, through purchase, donation, or otherwise, must be approved in advance by the Purchasing Department.

Review of Internal Controls and Non-Purchase Order Expenditures

The Superintendent shall appoint an internal review committee, which shall include but not be limited to a representative from the department responsible for internal auditing and/or the Superintendent and/or his/her designee, to review the purchasing processes and procedures contained in the manual and recommend changes, if necessary. This committee shall also monitor internal controls related to the different types of purchases.

Purchases Requiring Board of Education Approval

Board of Education approval shall be required for all service contracts, including Professional Service Contracts, equal to or exceeding one hundred thousand (\$100,000); and contracts for purchases of supplies, furniture, fixtures, equipment, and material of every kind or service contracts, including Professional Service Contracts, extending beyond one year. Purchases shall not be broken down into individual components nor shall service contracts, including Professional Service Contracts, be divided for the purpose of falling outside these limits.

Purchases Not Requiring Board of Education Approval

Board of Education approval is not required for fund transfers, non-expenditure transactions, recurrent expenditures such as debt service, utilities and telephones, or master purchase orders where such expenditures have previously been approved and/or budgeted. Approval is not required for budgeted purchases of textbooks purchased through the State Depository or budgeted purchases of standardized testing materials. The Director of Purchasing or Superintendent's designee is authorized to issue purchase orders and/or authorize payments for expenditures not requiring Board of Education approval.

Disclaimer

Purchases made that are not in compliance with this policy may become the personal responsibility of the person making the purchase. The Board will not, under any circumstances, be responsible for payment for any services, equipment, furniture, fixtures, materials or supplies purchased by unauthorized individuals or in an unprescribed manner. Employees who authorize or contract for any obligation in violation of this policy or any other Board policy may be required to assume personal responsibility for the payment of the obligation and may be subject to discipline, up to and including dismissal from employment.

C. Presentation of Bids and Purchase Requests

In accordance with this policy, any request for the purchase of items and services equal to or exceeding one hundred thousand dollars (\$100,000) must be approved by the Board. When making a request to the Board for approval, administration shall provide specific information including, but not limited to the following:

- a. District goal the request serves;
- b. Measurable outcomes expected;
- c. Cost for the previous three (3) years, where applicable;
- d. Cost per student served, where applicable;
- e. Explanation of expected benefits and why specific item or service is the best purchase;
- f. Other options for addressing the need for the purchase;
- g. Sustainability Plan;
- h. Implementation Plan;
- i. Adverse impact on students and/or the district if not approved at the level requested; and
- j. Number and description of staff positions to be created, where applicable.

V. RESPONSIBILITY

- A. The "users" of services are responsible for furnishing an objective evaluation of their needs and for identifying the specifications of the services to be delivered.
- B. The Purchasing Department/Superintendent (or designee) is responsible for developing final specifications and obtaining all bids, request for proposals (RFP), and requests for qualifications (RFQ) for goods and services.
- C. The Purchasing Department/Superintendent (or designee) is responsible for issuing purchase orders for all approved purchases requiring a purchase order under this policy and for ensuring appropriate board approval procedures are followed in accordance with this policy.
- D. The Superintendent's designee and General Counsel are responsible for ensuring that procedures for reviewing contracts are developed.
- E. The Superintendent's designee and/or General Counsel are responsible for drafting, reviewing and, when necessary, revising the terms and conditions of the purchase order and bidding standards. This shall occur annually, periodically, or upon request of the Board, Superintendent, or the General Counsel; or upon the recommendation of the Purchasing Department.
- F. The Superintendent is responsible for making recommendations to the Board to approve the purchase of goods and the acquisition of all services meeting the requirements for Board approval.

G. The Superintendent is responsible for ensuring that this policy is adhered to.

Legal References:

1. TCA 49-2-203(a)(3)(A)
2. TCA 49-2-203(a)(3); TCA 49-2-203(a)(3)(A)(B); TCA 49-2-206
3. TCA 12-4-106
4. TCA 29-20-407
5. TCA 12-3-1004

Cross References:

1. 2012 Contract Requirements, Approval, and Signatory Authority
2. 2013 Professional Services Contracts
3. 2011 Local Preference Purchasing