



MARION TECHNICAL COLLEGE
PLANS AND PROCEDURES MANUAL

EMERGENCY PURCHASES

EFFECTIVE SCHOOL YEAR: 2023-2024

REVISED: OCTOBER 2022

A DIVISION OF THE MARION COUNTY PUBLIC SCHOOLS
AN EQUAL OPPORTUNITY SCHOOL DISTRICT

6320 - PURCHASING AND CONTRACTING FOR COMMODITIES AND CONTRACTUAL SERVICES

Any School Board employee who has purchasing authority will consider first the interests of the Board in all purchases and seek to obtain the maximum value for each dollar expended; not solicit or accept any gifts or gratuities from present or potential suppliers which might influence or appear to influence purchasing decisions; and refrain from any private business or professional activity that might present a conflict of interest in making purchasing decisions on behalf of the Board.

No person, unless authorized to do so under this policy, may make any purchase or enter into any contract involving the use of school funds. The Board will not approve any expenditure for an unauthorized purchase or contract.

Purchases may be made through an online procurement system, an electronic auction service, or other efficient procurement tool.

Scope

This policy will generally apply to the District's purchase of commodities and contractual services, except it will not apply to:

- A. employment contracts;
- B. acquisition of architectural, engineering, landscape architectural, construction management at risk, registered surveying and mapping, or other services pursuant to Policy 6330 - Acquisition of Professional Architectural, Engineering, Landscape Architectural, or Land Surveying Services;
- C. acquisition of auditing services pursuant to F.S. 218.391;
- D. acquisition of professional consultant services, including but not limited to services of lawyers, accountants, financial consultants, and other business or operational consultants, which will be governed by Policy 6540 - Consultant Agreements;
- E. contracts which are exempted, in whole or in part, from this policy's requirements, as set forth below;
- F. proposals and agreements for public-private partnerships with private entities for qualifying projects pursuant to F.S. 287.057(12).

Definitions

- A. "Competitive solicitation" means purchasing made through the issuance of an invitation to bid, request for proposals and invitation to negotiate. Competitive solicitations are not required for purchases made through the pool purchase provisions of F.S. 1006.27.
- B. "Invitation to bid" means a written or electronic solicitation for competitive sealed bids. The invitation to bid is used when the Board is capable of specifically defining the scope of work for which a contractual service is required or when the Board is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation that is publicly posted.
- C. "Invitation to negotiate" means a written or electronically posted solicitation for competitive sealed replies to select one (1) or more vendors with which to commence negotiations for the procurement of commodities or contractual services. The invitation to negotiate is used when the Board determines that negotiations may be necessary for it to receive the best value. A written solicitation includes a solicitation that is publicly posted.
- D. "Proposer" means those vendors submitting bids or responses to a competitive solicitation.

- E. "Request for proposals" means a written or electronically posted solicitation for competitive sealed proposals. The request for proposals is used when it is not practicable for the Board to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required and when the Board is requesting that a responsible vendor propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A written solicitation includes a solicitation that is publicly posted.
- F. "Superintendent" means the "Superintendent or designee".
- G. "Request for Quotations" means an informal process to solicit three (3) or more price quotes on commodities or contractual services with standard specifications and valued under the threshold requiring formal competitive solicitations. Quotations may be obtained verbally or via facsimile or e-mail.

Development of and Adherence to Specifications

Competitive solicitations will include clear, complete, and unambiguous specifications. Such specifications must foster fair and open competition and be conducive to securing the most economical price for the highest quality product that best meets the needs of the end user. In order to promote efficiency and economy in the operation of the district, items and services commonly used in schools and departments must be standardized whenever possible. Preferential bidding is not permitted. Schools and departments that request or use the products must assist the Purchasing Department in the preparation of specifications and the evaluation of bids or replies received.

Pre-Purchasing Review of Available Purchasing Agreements and State Term Contracts for Nonacademic Commodities and Contractual Services

Before purchasing nonacademic commodities and contractual services, the Board authorizes the Superintendent to review the purchasing agreements and State Term Contracts available under F.S. 287.056 to determine whether it is in the Board's economic advantage to use the agreements and contracts.

Each bid specification for nonacademic commodities and contractual services must include a statement indicating that the purchasing agreements and State Term Contracts available under F.S. 287.056 have been reviewed. The Board may use the cooperative State purchasing programs managed through the regional consortium service organizations pursuant to F.S. 1001.451. This policy does not apply to services that are eligible for reimbursement under the Federal E-rate program administered by the Universal Service Administrative Company.

Competitive Solicitation Requirements for Commodities and Contractual Services Other Than Construction Contracting

When practical, all equipment, materials, supplies, and contractual services used in quantity must be bid and purchased on a countywide basis.

Except as authorized by law or policy, competitive solicitations must be requested from three (3) or more sources for the purchase of any authorized commodities or contractual services in an amount greater than \$50,000.

The procurement of commodities or contractual services may not be divided so as to avoid this monetary threshold requirement.

A. Bid Solicitation

The Superintendent is authorized to issue invitations for bids.

B. Bid Publication

Notice of the invitation for bids or requests for proposals may be electronically, by direct delivery, or other means

which are appropriate under the circumstances. The required bid return date is to be announced at the time of the bid offering and will not be less than ten (10) working days from the bid offering date.

C. Bid Opening

Bids will be opened in the office designated in the bid advertisement with the Superintendent's designee and at least one (1) other District employee present.

D. Bid Rejection

The Board may reject any or all bids and request new bids.

E. Bid Award

In acceptance of responses to invitations to bid, the Board may accept the proposal of the lowest responsive, responsible proposer. The Board may also choose to award contracts to the lowest responsive, responsible bidder as the primary awardee of a contract and to the next lowest responsive, responsible bidder(s) as alternate awardees, from whom commodities or contractual services would be purchased, should the primary awardee become unable to provide all of the commodities or contractual services required by the Board during the term of the contract. Nothing herein is meant to prevent multiple awards to the lowest responsive and responsible bidders, when such multiple awards are clearly stated in the bid solicitation documents.

For a bidder to be considered responsive, the proposal must respond to all bid specifications in all material respects and contain no irregularities or deviations from the bid specifications which would affect the amount of the bid or otherwise provide a competitive advantage.

For a bidder to be deemed responsible, the Board may request evidence from the bidder concerning:

1. the experience (type of product or service being purchased, etc.) of the bidder;
2. the financial condition;
3. the conduct and performance on previous contracts (with the District or other agencies);
4. the bidder's facilities;
5. management skills;
6. the ability to execute the contract properly;
7. a signed affidavit ensuring that neither the bidder nor any subcontractor has entered into an agreement with any labor organization regarding the public improvement project.

Award of a bid by the Board will only represent an indication by the Board that a bid represents the lowest responsive bid from a responsible and responsive bidder meeting the requirements and criteria set forth in the invitation to bid. Award of a bid will not create a binding obligation on the Board, and no obligation will be created or imposed on the District until such time as the Board Chair/designee executes a contract.

Identical/Tie Low Bids

When identical low bids are received from an out-of-District vendor and a local vendor, the local vendor will be recommended for award. The term "local vendor" means a vendor who has an established business presence in the District

indicated by the following:

- A. Has a physical business location within the District for at least six (6) months immediately prior to issuance of the competitive solicitation.
- B. Provides customer access at the business location.
- C. Holds any required business license through a jurisdiction in the District.
- D. Employs one (1) full-time or two (2) part-time employees in the District, or if the business has no employees, is at least fifty percent (50%) owned by one (1) or more persons whose primary residence(s) is located within the District.

When two (2) or more local vendors present tie low bids on the same items, the company receiving the larger dollar award of the total bid will be recommended for tie items.

In the event two (2) or more local vendors present exact tie low bids and the dollar award is not a criterion, the successful bidder will be selected by applying the following criteria in order:

- A. drug-free workplace program in accordance with Florida law
- B. minority business enterprise (MBE) certified by the State of Florida Office of Supplier Diversity
- C. veteran business enterprise, certified by the State of Florida Department of Management Services
- D. by lot or other method the Board may select

When two (2) out-of-District vendors submit identical low bids, the criteria noted above will be used to determine the successful bidder.

Exception to Competitive Bidding Requirements

Notwithstanding anything in this policy to the contrary, the Board may make certain purchases without the requirement for competitive solicitations, under the following conditions:

- A. In lieu of requesting competitive solicitations from three (3) or more sources, the Board may make purchases at or below the unit prices in contracts awarded by other Federal, State, city or county governmental agencies, other school boards, community colleges, or State university system cooperative bid agreements, not for profit agencies, or educational consortia, when the proposer awarded a contract by another entity will permit purchases by the Board at the same terms, conditions, and unit prices (or below such prices) awarded in such contract, and such purchases are to the economic advantage of the Board.
- B. The Superintendent together with the Board Chair are authorized to purchase commodities and contractual services where the total amount is less than \$50,000 and does not exceed the applicable appropriation in the budget.

The Superintendent together with the Board Chair are authorized to purchase commodities and contractual services under the Department of Management Services State term contracts.

- C. Competitive solicitations are not required for pool purchases made as provided in F.S. 1006.27.

- D. The State Board has waived the requirement for requesting competitive solicitations from three (3) or more sources for purchases by the Board of:
1. Professional services which must include, without limitation, artistic services; academic program reviews; lectures by individuals; auditing services not subject to F.S. 218.391; legal services, including attorney, paralegal, expert witness, court reporting, appraisal or mediator services; and health services involving examination, diagnosis, treatment, prevention, medical consultation or administration; provided nothing herein will be deemed to authorize the superintendent to acquire professional consultant services without Board approval as required by Board Policy 6540;
 2. Educational services and any type of copyrighted materials including, without limitation, educational tests, textbooks, printed instructional materials, computer software, films, filmstrips, videotapes, DVDs, disc or tape recordings, digital recordings, or similar audio-visual materials, and for library and reference books, and printed library cards where such materials are purchased directly from the producer or publisher, the owner of the copyright, an exclusive agent within the state, a governmental agency or a recognized educational institution;
 3. Commodities and contractual services when:
 - a. competitive solicitations have been requested in the manner prescribed by this policy; and
 - b. the Board has made a finding that no valid or acceptable firm proposal has been received within the prescribed time.

When such a finding has been officially made, the Board may enter into negotiations with suppliers of such commodities and contractual services and may execute contracts with such vendors under whatever terms and conditions as the Board determines to be in its best interests.

4. Commodities and contractual services when fewer than two (2) responsive proposals are received. The Board may then negotiate on the best terms and conditions or decide to reject all proposals. The Board will document the reasons that negotiating terms and conditions with the sole proposer is in the best interest of the District in lieu of re-soliciting proposals.
- E. Information technology resources, whether by purchase, lease, lease with option to purchase, rental, or otherwise as defined in F.S. 282.0041(19), may be acquired by competitive solicitation or by direct negotiation and contract with a vendor or supplier, as best fits the needs of the District as determined by the Board.
- F. Purchases of insurance, risk management programs, or contracting with third party administrators for insurance-related services may be through competitive solicitation or by direct negotiation and contract with a vendor or supplier.
- G. The Board may dispense with requirements for competitive solicitation for the emergency purchase of commodities or contractual services when the Superintendent determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the District requires emergency action. After the Superintendent makes such a written determination, the Board may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without requesting competitive solicitations. However, such an emergency purchase must be made by obtaining pricing information from at least two (2) prospective vendors, which must be retained in the contract file, unless the Superintendent determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the District.

- H. Commodities or contractual services available only from a single source may be exempted from the competitive solicitation requirements. When the Board believes that commodities or contractual services are available only from a single source, the Board will electronically post a description of the commodities or contractual services sought for a period of at least seven (7) business days. The description will include a request that prospective vendors provide information about their ability to supply the commodities or contractual services described. If it is determined in writing by the Board, after reviewing any information received from prospective vendors, that the commodities or contractual services are available only from a single source, the Board will provide notice of its intended decision to enter a single source contract in the manner specified in Policy 6326 - Bid Protests, and may negotiate on the best terms and conditions with the single source vendor.
- I. The Board may make purchases of construction project materials directly from vendors, on behalf of the awarded construction contractor/manager, to take advantage of the District's "sales tax" exempt status.
- J. A contract for commodities or contractual services may be awarded without competitive solicitations if State or Federal law, a grant or a State or Federal agency contract prescribes with whom the Board must contract or if the rate of payment is established during the appropriations process.
- K. A contract for regulated utilities or government franchised services may be awarded without competitive solicitations.

Contract

Each Board contract for services must include a provision that requires the contractor to comply with public records laws, specifically to:

- A. keep and maintain public records that ordinarily and necessarily would be required by the Board in order to perform the service under the contract;
- B. provide the public with access to its public records on the same terms and conditions as the Board would provide the records, and at a cost that does not exceed the cost provided in Policy 8310 - Public Records;
- C. ensure that any of its public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law;
- D. meet all requirements for retaining public record and, upon termination of the contract, transfer to the Board, at no cost, all public records in its possession and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Board in a format that is compatible with the Board's information technology systems;
- E. the contractor must furnish a copy of any public records request or request for records in any way relating to the District, immediately upon receipt to the District's Purchasing Specialist.

Each contract must also include the following statement, in substantially the following form, identifying the contact information of the District's custodian of public records in at least fourteen (14) point boldface type: **"IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF F.S. CHAPTER 119 TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (352) 671-7555, PUBLIC.RELATIONS@MARI0N.K12.FL.US OR IN PERSON AT 1614 E. FORT KING STREET, OCALA, FLORIDA 34471."**

- A. If sharing of student information or personal information of staff is involved in any relationship with a third party entity or Vendor, the School Board's Legal Department and the District's Technology Department must review

the category of data and elements to determine whether a Data Sharing Template Agreement is necessary regardless of the dollar value of the usage.

- B. Multi-year Purchase Agreement – No obligation may be created by contract, purchase order, maintenance agreement, lease-purchase agreement, lease agreement, or other instrument that exceeds a period of twelve (12) months, or that includes a provision that requires the Agreement to automatically renew. Only School Board approved Template Agreements and/or competitive solicitation may exceed a period of twelve (12) months, and must contain a provision, which permits the School Board to terminate the Agreement at any time and for any reason, upon giving thirty (30) days' notice to the Vendor.

Contracts must be approved and executed as follows:

A. Superintendent/Designee Authority

The Superintendent or designee, and School Board will be responsible for all purchases of materials, equipment, and services from District school funds. Contracted services (excluding day-to-day operational purchase orders) less than \$50,000 must be signed by the Superintendent and Board Chair. Any expenditures of District funds in an amount of \$50,000 or more must have prior School Board approval. For purposes of this policy, any group of contracts purchase orders to the same provider which are connected in terms of time, location and services such that a reasonable person would view them as a single contract will be deemed to be a single contract. The Superintendent must not divide the procurement of commodities or contractual services so as to avoid the monetary cap imposed by this policy. Designations of contracting authority by the Superintendent will be in writing and will specify the maximum obligation permitted less than \$50,000.

B. Outside Counsel Agreements

Outside Counsel Agreement for the Superintendent's legal representation not to exceed \$175.00 per/hour for Attorney; \$125.00 per/hour for Associate; and \$65.00 per/hour for Paralegal, cooperation with other governmental agencies in circumstances in which the expenditure of funds in question is less than \$50,000, consultants for in-service programs, student activities, and short-term use of school facilities. Payment for the contracts entered into by the Superintendent and together with the School Board Chair must be included in the School Board's next monthly expenditure report. All contracts (excluding competitive solicitations) must be reviewed and approved by the School Board's Legal Department before contracting with a Vendor.

C. Emergency Purchases

Notwithstanding the general limit on the Superintendent's authority to enter into contracts involving expenditure of public funds in an amount less than \$50,000, the Superintendent and Board Chair are authorized to approve and execute contracts on behalf of the District involving expenditure of public funds in an amount of \$50,000 or more when the Superintendent determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the School District requires emergency action.

D. Board Approval

Except as expressly provided herein, the Board will approve and execute all contracts on behalf of the District involving expenditure of public funds of \$50,000 or more.

Purchase Order Approval

Each purchase order will be based upon a requisition originating from the principal or district department head. Each requisition or contract will be properly financed, budgeted, and encumbered prior to issuing a purchase order. Under the Superintendents guidelines or under extreme emergencies, the purchase agent or designee may grant permission for a purchase without a requisition; provided, however, any emergency purchase will be followed immediately with an emergency requisition. A purchase will not proceed a requisition except under emergency provisions.

Vendor Approval Process

- A. All Vendors doing business with the School Board must be registered with the Division of Corporation of the State of Florida, or must be registered with the Division of Corporations from the State in which the entity resides. The Vendor must provide proof of corporate status, and proof of its corporate officers from the appropriate Division of Corporations.
- B. If a Vendor's business resides in the City of Ocala, the Vendor must provide District staff with proof of the Vendor's current business license on the Vendor Application form.
- C. All Vendor Applications or District Template Agreements must be signed by a Vendor's corporate officer as registered with the appropriate Division of Corporations.
- D. Unless otherwise exempted through established procedures, if a Vendor does not enter a District Template Agreement they must have a current Vendor Application on file for purchases greater than \$2,500. All Vendor applications must be approved by the School Board Legal Department.

Debarment

The Purchasing Specialist will have the authority to debar a person/corporation, for cause, from consideration or award of further contracts. The debarment will be for a period commensurate with the seriousness of the cause, generally not to exceed three (3) years. If a suspension precedes a debarment, the suspension period will not be considered in determining the debarment period. When the offense is willful or blatant, a longer term of debarment may be imposed, up to an indefinite period.

A. Cause of Debarment

The term "debar" or "debarment" means to remove a vendor from bidding on District work. Causes for debarment include, but are not limited to the following:

- 1. conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or sub-contract, or in performance of such contract
- 2. conviction under State or Federal statutes for embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property, or any other offense indicating lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a vendor
- 3. conviction under State or Federal anti-trust statutes arising out of submission of bids or proposals
- 4. violation of contract provisions, including:
 - a. deliberate failure, without good cause, to perform in accordance with specifications or within the time limits provided in the contract(s); and

- b. a recent record of failure to perform, or of unsatisfactory performance, in accordance with the terms of one (1) or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor will not be considered to be a basis for debarment
5. refutation of an offer by failure to provide bonds, insurance or other required certificates within the time period as specified in bid/RFP response
6. refusal to accept a purchase order, agreement, or contract, or to perform thereon, provided such order was issued timely and in conformance with the offer received
7. presence of principals or corporate officers in the business of concern who were principals within another business at the time when the other business was suspended within the last three (3) years under the provisions of this section
8. violation of the ethical standards set forth in State law
9. providing or offering to provide anything of value, including, but not limited to, a gift, loan, reward, promise of future employment, favor or service to any employee to influence the award of contract or purchase items from a contractor
10. existence of unresolved disputes between the contractor and the District arising out of or relating to prior contracts between the District and the contractor, work performed by the contractor, or services or products delivered
11. any other cause the Purchasing Specialist determines to be so serious and compelling as to affect credibility as a District vendor, including debarment by another governmental entity for any cause listed in this policy

B. Notice of Recommended Decision

The Purchasing Specialist or designee will issue a notice letter that advises the party that it is debarred or suspended. The letter will:

1. state the reason(s) for the action taken; and
2. inform the vendor of its right to petition the Board for reconsideration.

C. Right to Request a Hearing

Any person who is dissatisfied or aggrieved with the notification of the determination to debar or suspend must, within ten (10) calendar days of such notification, appeal such determination to the Board.

D. Hearing Date

The Board will schedule a hearing at which time the person will be given the opportunity to demonstrate why the debarment/suspension by the District's Purchasing Specialist should be overturned. All parties will be given notice of the hearing date.

Book	Policy Manual
Section	6000 Finances
Title	PURCHASING AND CONTRACTING FOR COMMODITIES AND CONTRACTUAL SERVICES
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	F.S. 255.05
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	F.S. 287.133
	F.S. 295.187
	F.S. 1001.43
	F.S. 1001.451
	F.S. 1010.04
	F.S. 1010.07(2)
	F.S. 1010.48
	F.A.C. 6A-1.012, Purchasing Policies
	F.A.C. 5P-1.003, Responsibilities for the School Food Service Program
Adopted	July 12, 2022