



WINDHAM SCHOOL
DISTRICT

NUMBER: OP-11.06 (Rev. 1)
DATE: January 23, 2020
PAGE: 1 of 9
SUPERSEDES: OP-11.06
February 9, 1998

OPERATING PROCEDURES

SUBJECT: PURCHASING POLICY

AUTHORITY: Tex. Educ. Code §§ 19.004-19.007, 45.201-45.209; Tex. Gov't Code §§ §402.0212, 573.001-573.084, 2155.001-2155.510, 2161.001-2161.253, 2262.004, 2254.001-2254.154; Tex. Penal Code §§ 36.01-36.10; 2 CFR part 200; 34 CFR Parts 75-77, 79, 81, 82, 84, 86, 97-99; 34 Tex. Admin. Code §§20.82, 20.207, 20.281-20.298 20.306; WBP 2.00, 3.02

REFERENCE: Tex. Compt. Pub. 96-1809

APPLICABILITY: Windham School District (WSD)

POLICY:

The WSD Purchasing Office is part of the Department of Business Services and is responsible for the organization and administration of the purchasing functions for the district in accordance with the authority delegated by the Superintendent and Board of Trustees.

DEFINITIONS:

“Award” is the act of accepting a bid, thereby forming a contract between the WSD and a bidder.

“Best Value” is defined as procuring goods and services at the most advantageous combination of factors such as cost, quality, expertise, etc. through competitive bidding.

“Bid” is an offer to contract with the WSD, submitted in response to a bid invitation.

“Board of Trustees” is the governing board of the WSD.

“Emergency Purchase” is a situation requiring the WSD to make the procurement quickly to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the WSD. The time to remedy the issue may be so short as to preclude the normal bidding process.

“Goods” are supplies, materials, and equipment.

“Historically Underutilized Business (HUB)” is a historically underutilized business as defined by the Tex. Gov't Code § 2161.001.

“Interlocal Agreement” is a collaborative contract between public bodies aiming to provide more efficient, less costly public services.

“Purchase Order” is a legally binding contract between a buyer and a seller.

“Purchasing Cooperatives” are established between school districts, regional service centers, county departments of education, and other local government cooperatives to obtain goods and services at optimal value.

“Requisition” is a request submitted to the purchasing department from a user requesting the purchase of goods or services.

“Service” is the act of providing skilled or unskilled labor or professional work. This does not include professional or consulting services as defined by the Tex. Gov't Code §2254, services of an employee of an agency, or services of public utilities.

DISCUSSION:

A. The primary function of the Purchasing Office is to meet the product and service needs of the WSD by:

1. Obtaining goods and services for the WSD at the best value while complying with all federal, state, and local laws as well as WSD policies and guidelines.
2. Promoting competition among bidders.
3. Ensuring an equal opportunity for all vendors to secure WSD business.
4. Educating and informing all vendors regarding WSD rules, regulations, and methodologies that are applied for the basis of bid awards.
5. Educating and informing all WSD staff concerning WSD purchasing policy and procedures for the procurement of goods and services.

- B. The purchasing procedures in this policy are intended to comply with all applicable statutes, regulations, rules, and policies. In the event of a conflict or omission, the applicable statute, regulation, or rule will prevail over this policy.

PROCEDURES:

I. Ethics and Professional Standards

- A. It is the policy of the State of Texas that a state officer or state employee may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur an obligation of any nature that is in substantial conflict with the proper discharge of the officer or employee's duties in the public interest. All WSD purchasing staff who have been delegated the authority to purchase must sign a Conflict of Interest statement each fiscal year. One copy of the signed statement goes to the employee, one copy filed with the employee's supervisor, and one copy filed in the employee's personnel file.
- B. Nepotism is a form of conflict of interest that involves an explicit act of using one's position to favor a relative. A conflict is presumed to exist when awards are made to a person within the third degree of consanguinity or within the second degree by affinity. The definitions found in WBP 7.42, *Nepotism* shall apply to this policy.
- C. WSD employees may not accept a benefit from a person subject to their jurisdiction. This excludes gifts less than \$50 as long as the gift is not solicited and not offered or accepted in exchange for any action or decision on the part of the public servant. Any attempt to offer a gift in excess of \$50 shall be reported to the employee's supervisor.
- D. From time to time vendors will send promotional items or free samples to the Purchasing Office. It is appropriate to accept these items as long as they are handled in the correct manner.
 - 1. The employee that receives the items should take them to their supervisor so they can be distributed in a fair and consistent manner.
 - 2. These items will be reviewed by a committee of supervisors within the Department of Business Services to determine the best way to disperse the items.

3. Employees must review with their supervisor any situation where they receive a gift or other benefit from a third party or if there is any question about the ethical way to handle a situation.
4. An employee can accept a benefit that is a small token, routinely produced, and available to the general population from a trade show or convention.

II. Procurement Method Identification Process

Contract awards will only be made to responsive vendors providing best value to the WSD.

A. Procurement types and methods applicable to the WSD.

1. If the purchase is subject to a Declaration of Disaster by the Governor, follow the guidelines within the Texas Disaster Relief Act of 1975;
2. State Surplus Property Programs: WSD may utilize State Surplus Property Programs. State surplus may be acquired by direct transfer from another government entity or the Austin Storefront operated by the Texas Facilities Commission. Competitive bidding is not required for purchases through the State Surplus Property Program.
3. Texas Correctional Industries (TCI): TCI is a division of the Texas Department of Criminal Justice (TDCJ) that manufactures goods and services purchased by Texas governmental entities. The WSD may purchase goods made by and services offered by TCI. Competitive bidding is not required for items purchased from TCI.
4. Texas Purchasing from People with Disabilities Program (formerly TIBH Industries): The Texas Workforce Commission (TWC) oversees the purchasing from People with Disabilities Program. The WSD may purchase goods made by and services offered by an entity under contract with the TWC related to the program. Competitive bidding is not required for purchases under this section.
5. Bank Depository – Depository contract terms shall follow the guidelines of Tex. Educ. Code § 45.205.
 - a) A school district depository shall be a bank located in the state of Texas and insured by the Federal Deposit Insurance Corporation.
 - b) Request for Bank Depository Bid or Proposals:

- i. Not later than the 60th day before the date WSD's current depository contract expires, the WSD shall choose whether to select a depository through competitive bidding or through requests for proposals.
- ii. If WSD chooses under Subsection to use competitive bidding, the WSD shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the district and, if desired, to other banks, a notice stating the time and place in which bid applications will be received for selecting a depository or depositories. The notice must include a uniform bid blank in the form prescribed by State Board of Education rule.
- iii. If WSD chooses to use requests for proposals, the WSD shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the district and, if desired, to other banks, a notice stating the time and place in which proposals will be received for selecting a depository or depositories. The notice must include a uniform proposal blank in the form prescribed by State Board of Education rule.
- iv. The WSD may add to the uniform bid or proposal blank other terms that do not unfairly restrict competition between banks in or near the territory of the district.
- v. Interest rates may be stated in the bid or proposal either as a fixed rate, as a percentage of a stated base rate, in relation to a stated prevailing rate varying from time to time, or in any other manner, but in every case in a uniform manner that will permit comparison with other bids or proposals received.
- vi. If the WSD chooses to use requests for proposals, the WSD shall state the selection criteria in the request for proposals and shall select the proposal that offers the best value to the WSD based on the evaluation and ranking of each submitted proposal in relation to the stated selection criteria. WSD may negotiate with the bank that submits the highest-ranked proposal to determine any terms of the proposed depository contract other than the interest rates proposed.

c) Selection Criteria for determining Bank Depository awarding bid:

- i. the interest rate bid or proposed on time deposits;
- ii. charges for keeping district accounts, records, and reports and furnishing checks;
- iii. the ability of the bank submitting the bid or proposal to provide the necessary services and perform the duties as school district depository; and
- iv. Any other matter that would be to the best interest of the school district.

6. Legal Services: A contract for legal services must have prior written approval from the Superintendent and The Attorney General in compliance with Tex. Gov't Code §402.0212.
 7. Information Technology: Purchases for information technology, such as Automated Information Systems products or services including but not limited to, computer hardware, software or telecommunications may use contracts established by the Texas Department of Information Resources (DIR). Purchases within this section are indicated within the National Institute of Governmental Purchasing (NIGP) Commodity Book from the Comptroller's website with an asterisk (*). Competitive bidding is not required for items purchased from DIR contracts.
- B. If the purchase can be completed by the use of interagency cooperation contracts, interlocal cooperation contracts, contracts established by another state agency, federal government purchases, or interstate compacts and cooperative agreements, see the agreement or contract for procedures for the use of the agreement or contract. The WSD may utilize contracts with regional education service centers, institutions of higher education, county departments of education and other local governments to provide goods or services. Competitive bidding is not required for items purchased under this section.
- C. A proprietary purchase is one where the specifications or conditions of the proposed purchase are proprietary to a sole source vendor and do not permit an equivalent product or service to be supplied. All proprietary purchases over \$5,000 must be approved by the Superintendent or designee and must include a proprietary purchase justification that includes the following information in order to document best value to the WSD:

1. The vendor shall provide a sole source letter describing their product or service and justifying why they are the sole source provider.
 2. The WSD shall document why specifications for the product or service are written as they are, and why those specifications are necessary to accomplish the district's goal for the procurement; and
 3. The WSD shall document the reason that no other competing products or services will satisfy the need of the district and provide examples of the technical, practical, or operational risks that would occur if competing products or services were selected;
- D. All other purchases except for emergency purchases use the listed procurement methods based on dollar amount of the purchase. Purchases cannot be split to avoid using the prescribed method.

<u>For purchase</u>	<u>Procurement Method</u>
\$0.00 to \$4,999.99	Competitive process not required
\$5,000.00 to \$25,000.00	Informal Competitive Solicitation
greater than \$25,000.00	Formal Competitive Solicitation

III. Procurement Methods

A. Informal competitive solicitation

Opportunities must be provided to vendors active on the Comptroller's Centralized Masters Bidders List (CMBL) within the National Institute of Governmental Purchasing (NIGP) Class and/or Class/Item designated for the solicitation. These vendors may be chosen in the geographic region that serves the district. Bids must be solicited from a minimum of three vendors, two of which must be current Texas-certified HUBs. The acceptable methods for receiving informal responses are in person, via direct mail, via facsimile transmission, or via email.

B. Formal competitive solicitation

1. If the total value of a solicitation is greater than \$25,000, a bid request must be posted on WSD website for fourteen calendar days. In addition to posting the sealed bids, the informal competitive sealed bid process can be followed to notify and solicit additional bids from vendors.

- C. In addition to the procurement methods above, WSD may solicit bids from vendors not active on the CMBL for formal and informal competitive solicitation.

IV. Best value standard

- A. In determining the best value for the WSD, the purchase price and whether the goods or services meet specification are the most important considerations. However, the WSD may consider other relevant facts. Other relevant facts must be included in the bid request. Other relevant facts include but are not limited to:

1. installation costs;
2. life cycle costs;
3. the quality and reliability of the goods or services;
4. the delivery times;
5. indicators of probable vendor performance under the contract such as past performance, vendor's financial resources and ability to perform, vendor experience or demonstrated capability and responsibility, and the vendor's ability to provide reliable maintenance agreements and support;
6. the cost of employee training; the effect of the purchase on district productivity;
7. the vendor's anticipated economic impact on the district; and
8. other factors to determine the best value for the district.

B. Tie Bids

1. Tie bids are considered when two or more bids, after evaluation, are determined to be equal. Additional factors contained in 34 Tex. Admin Code, §20.306 shall be used to determine to whom the bid is awarded.
2. If two or more bids remain tied after applying the above preferences the bid is awarded by drawing lots, by tossing a coin or drawing names with two witnesses to oversee the actual occurrence and initial bid tabulation.

V. Purchaser Training & Certification

In order to keep up to date with purchasing office guidelines and best practices, the WSD purchasers shall attend state government and school district training courses.

VI. Signing Authorities

The Superintendent of Schools shall designate signing authorities for budgeted funds within the WSD on an annual basis or at other appropriate times.

VII. Purchasing Timelines

- A. It is the goal of the Purchasing Office to process all requisitions as they are received in a timely manner.
- B. WSD employees are encouraged to plan ahead to allow time for the purchasing process, receiving and shipping of goods and services.
- C. The Department of Business Services will communicate end of year purchasing deadlines to all WSD employees in April of each year for open market, credit card, and warehouse purchases.

Signature on File

Robert O'Banion, Director
Division of Operations