

## VENTURA COUNTY OFFICE OF EDUCATION

### **SUPERINTENDENT**

**ADMINISTRATIVE REGULATION NO. 3311**

**ADOPTED: 10/03/16**

**CLASSIFICATION: General Administrative Policies**

**REVISED:**

**SUBJECT: BIDS AND PROCUREMENT**

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### PURCHASING FUNCTION

The Purchasing team within the business office is charged with procuring and receiving goods for the county office of education.

Legal requirements make it necessary to maintain a clean audit trail in the purchasing process. To ensure this process is done legally and expeditiously, all staff and departments shall adhere to this administrative regulation.

### PURCHASING AUTHORITY

All duties of purchasing for the county office are centralized under the Business Office with the procurement function being delegated by the County Superintendent. The County Superintendent as an elected official, has the ultimate authority and responsibility for all contracts of the county office of education.

The main purpose of the purchasing team is to procure goods and services for the county office. All expenditures must be necessary, allowable, reasonable, and auditable.

To accomplish this purpose, the following fundamental functions must be fulfilled:

1. Buy the proper product for the purpose required.
2. Have the proper quantity of the product available when and where needed.
3. Buy without favor or prejudice.
4. Pay the lowest possible price, consistent with the preceding principles.

The County Superintendent shall designate staff to be authorized to sign purchase orders and other contractual documents as agents of the county office of education. The following positions are designated to sign official documents including contracts and purchase orders: County Superintendent, Deputy Superintendent Student Services, Associate Superintendent Fiscal and Administrative Services, Associate Superintendent Educational Services and the Director of Internal Business Services.

The Director of Facilities is designated to sign facility related documents and purchase orders not to exceed \$5,000. The Purchasing Manager is authorized to sign purchase orders not to exceed \$5,000.

### PURCHASING OFFICE DUTIES

The Purchasing Office shall establish the following:

1. Procedures, reports, records, and systems for practical and efficient operation.
2. Conduct or supervise the procurement of all material, supplies, equipment, services and construction of the county office of education.
3. Conduct all transactions in accordance with federal and state laws, policies of the county office, and as approved by legal counsel.
4. Act as a center of information on sources of supply for items used by the county office.
5. Maintain a file of current trade catalogs, which shall be available to all county office departments.
6. Establish a purchasing calendar to consolidate orders and seek price benefits through proper timing and quantity buying.
7. Handle the disposal of all surplus, obsolete or scrap material, as authorized by the County Superintendent and in accordance with the government surplus disposal laws.
8. Maintain a current inventory of all fixed assets of the county office per the California Education Code.

### PURCHASING AND STAFF RELATIONSHIPS

Unauthorized purchases are not allowed. Caution: Any purchase made in the name of the county office for which no purchase order or approved request for reimbursement exists is the responsibility of the person making the purchase and will not be reimbursed by the county office. Sales people shall not be permitted in schools or departments for the purpose of making a sale. If contact with sales people is necessary regarding special or highly technical details of products, the school or department shall request such visits through the Purchasing Office.

Purchases made with a county office issued credit card shall comply with all provisions of Superintendent Policy 3350, Credit Card Use.

All communications with suppliers involving the purchase shall be through the Purchasing Office, except in special cases where the technical details make it advisable to delegate authority to others. A copy of pertinent correspondence shall be forwarded to the Purchasing Office.

In discussions with vendors, county office of education employees should be reminded that only the Purchasing Office has authority to commit the expenditure of funds for supplies, equipment, and services. Only the Purchasing Office should furnish information with regards to process paid for specific items.

The Purchasing Office shall constantly strive to increase its knowledge of new materials and services, and keep other departments informed.

Employees of the county office shall not have a financial interest in any contract for goods or services under any of the following conditions:

1. Officers or employees of the county office of education shall not be financially interested in any contract made by them in their official capacity nor shall any county office officer or employees be purchasers at any sale, or vendors of any purchase made by them in their official capacity.
2. No employee shall participate in the selection or award of a contract if any real or apparent conflict of interest would be involved.

#### PURCHASING AND VENDOR RELATIONSHIP

Opportunity shall be provided to all responsible vendors to do business with the county office of education. Solicitations by vendors on how to do business with the county office of education shall be handled by the purchasing team. Purchasing Office staff are not required to place their time absolutely and indiscriminately at the disposal of sales people. The responsible Purchasing Office team shall be the judge of this matter.

The Purchasing Office shall:

1. Not extend favoritism to any vendor. Each order shall be placed on objective criteria such as quality, price and delivery (with past service being a factor if all other considerations are equal).
2. Maintain a list of bidders. Bidders on the bid list shall receive copies of all applicable bids. As code provides, history of poor performance or lack of response to previous requests for bids shall be sufficient cause to remove a vendor from the bid list.
3. Conduct all price adjustment negotiations when necessary.
4. Not solicit funds or materials from vendors however worthy the purpose.

## REQUESTS FOR PURCHASES

Purchases shall be requested using requisition forms and shall be filled out completely. Only one vendor is to be used on a purchase requisition. The Purchasing Office will select the vendor if not indicated by the requestor. The requisition shall identify the item by a reasonable description or by utilizing the vendor item or catalog number.

The Purchasing Office will review all requisitions to determine the best possible price for equal quality and select the vendor based on the best price in accordance with Public Contract Code. The County Superintendent authorizes the Purchasing Office to select the vendor with the best price even if it is a different vendor than the department preselected so long as the item is the same.

Selection of the material, supplies or equipment needed is the prerogative of each department. However, the Purchasing Office shall have the authority to question the quality and kind of supply or material requested and make recommendations relative to safety, health, economy, and substitute materials as deemed appropriate.

If an employee has a need for a specific item, material, software or equipment that is not available from any vendor, the employee shall do the following:

1. Discuss the need with their supervisor.
2. Develop specifications for the item, material, software or equipment in consultation with purchasing. Purchasing shall work with the department staff to study and recommend adoptions and revisions of specifications for materials and equipment most suited for the intended purpose. In no instance shall an employee confer with any vendor for the purpose of developing needed items, material, software or equipment, which is not currently manufactured.
3. The Purchasing Office shall submit specifications to vendors for quotations.

Requisitions for educational specialty items from vendor catalogs will normally be processed as requested. The Purchasing Office may check with the originator of the requisition if there is a concern on the cost of an item.

Purchase requisitions will be signed by the primary Branch administrator responsible for the budget utilized and verified by the Business Office for adequate budget availability.

## CAPITAL OUTLAY PURCHASES

A county superintendent shall purchase a capital outlay item involving an expenditure of more than two thousand five hundred dollars (\$2,500) through the county purchasing agent, or shall make the purchase directly from a vendor only after having secured in writing from responsible vendors at least three estimates of the cost of the item. The county superintendent of schools shall purchase the capital outlay item at the estimated cost from the vendor who submits the lowest

estimate meeting the prescribed specifications, or shall reject all estimates. The provisions of this section shall not apply to the purchasing of films, filmstrips, and books. (Title 5 CCR § 17291)

### INSTRUCTIONS AND PROCEDURES FOR ADVERTISED BIDS

The County Superintendent or designee shall call for bids by placing a notice at least once a week for two weeks in a local newspaper of general circulation published in the county. The County Superintendent or designee may also post the notice on the county office's web site. The notice shall state the work to be done or materials or supplies to be furnished and the time and place and web site where bids will be opened. The county office of education may accept a bid that has been submitted electronically or on paper. (Public Contract Code 20112)

The notice shall contain the time, date, and location of any mandatory pre-bid conference, site visit, or meeting and details regarding when and where project documents, including the final plan and specifications, are available. Any such mandatory visit or meeting shall occur not less than five calendar days after the publication of the initial notice. (Public Contract Code 6610)

Bid instructions and specifications shall include the following requirements and information:

1. All bidders shall certify the minimum, if not exact, percentage of post-consumer materials in products, materials, goods, or supplies offered or sold. (Public Contract Code 22152)
2. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security: (Public Contract Code 20107, 20111)
  - a. Cash
  - b. A cashier's check made payable to the county office of education
  - c. A certified check made payable to the county office of education
  - d. A bidder's bond executed by an admitted surety insurer and made payable to the county office of education

The security of unsuccessful bidders shall be returned in a reasonable period of time, but in no event later than 60 days after the bid is awarded. (Public Contract Code 20111)

3. When a standardized proposal form is provided by the county office, bids not presented on the standard form shall be disregarded. (Public Contract Code 20111.5)

4. Bids shall not be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time. (Public Contract Code 20112)
5. When two or more identical lowest or highest bids are received, the County Superintendent may determine by lot which bid shall be accepted. (Public Contract Code 20117)
6. If the county office requires that the bid include prices for items that may be added to or deducted from the scope of work in the contract, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method provided in item #6a below shall be used. (Public Contract Code 20103.8)
  - a. The lowest bid shall be the lowest total of the bid prices on the base contract without consideration of the prices on the additive or deductive items.
  - b. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.
  - c. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that, when taken in order from a specifically identified list of those items in the solicitation, and added to or subtracted from the base contract, are less than or equal to a funding amount publicly disclosed by the county office before the first bid is opened.

The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the county office before the ranking of all bidders from lowest to highest has been determined. (Public Contract Code 20103.8)

7. The county office shall consider only responsive bids from responsible bidders in determining the lowest bid.
8. Any subsequent change or alteration of a contract shall be governed by the provisions of Public Contract Code 20118.4.
9. After being opened, all submitted bids become public records pursuant to Government Code 6252 and shall be made available for public review pursuant to law, policy, and administrative regulation.
10. When a bid is disqualified as nonresponsive based on county office investigation or other information not obtained from the submitted bid, the County Superintendent or designee shall notify the bidder and give him/her an opportunity to respond to the information.

## AWARD OF CONTRACT

The county office of education shall award each contract to the lowest responsible bidder except in the following circumstances:

1. When the contract is for the procurement and/or maintenance of electronic data processing systems and supporting software, in which case the County Superintendent may contract with any one of the three lowest responsible bidders. (Public Contract Code 20118.1)
2. When the contract is for any transportation service which involves an expenditure of more than \$10,000 and which will be made with any person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of students who are to be transported, in which case the County Superintendent may contract with other than the lowest bidder. (Education Code 39802)
3. When the contract is one for which the County Superintendent has established goals and requirements relating to participation of disabled veteran or small business enterprises in accordance with Public Contract Code 2000-2002, in which case the County Superintendent may contract with the lowest responsible bidder who submits a responsive bid and complies or makes a good faith effort to comply with the goals and requirements. (Public Contract Code 2000-2002)
4. When procuring a design-build contract for a public works project in excess of \$1,000,000 in accordance with the section "Design-Build Contracts" below, in which case the County Superintendent may award the contract to either the low bid or the best value to the county office of education, taking into consideration, at a minimum, price, technical design and construction expertise, and life-cycle costs. (Education Code 17250.20, 17250.25)

## PROTESTS BY BIDDERS

A bidder may protest a bid award if he/she believes that the award is not in compliance with law, policy, or the bid specification. A protest must be filed in writing with the County Superintendent or designee within five working days after receipt of notification of the contract award and shall include all documents supporting or justifying the protest. A bidder's failure to file the protest documents in a timely manner shall constitute a waiver of his/her right to protest the award of the contract.

The County Superintendent or designee shall review the documents submitted with the bidder's claims and render a decision in writing within 30 working days. The County Superintendent or designee may also convene a meeting with the bidder in order to attempt to resolve the problem.

## ALTERNATIVE BID PROCEDURES FOR TECHNOLOGICAL SUPPLIES & EQUIPMENT

Rather than seek competitive bids, the County Superintendent may use competitive negotiation when it makes a finding that a county office procurement is for computers, software, telecommunications equipment, microwave equipment, or other related electronic equipment and apparatus. Competitive negotiation shall not be used to contract for construction or for the procurement of any product that is available in substantial quantities to the general public. (Public Contract Code 20118.2)

The competitive negotiation process shall include, but not be limited to, the following requirements: (Public Contract Code 20118.2)

1. The County Superintendent or designee shall prepare a request for proposals (RFP) that shall be submitted to an adequate number of qualified sources, as determined by the county office, to permit reasonable competition consistent with the nature and requirement of the procurement.
2. Notice of the RFP shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.
3. The County Superintendent or designee shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the RFP is received.
4. The RFP shall identify all significant evaluation factors, including price, and their relative importance.
5. The County Superintendent or designee shall provide reasonable procedures for the technical evaluation of the RFPs received, the identification of qualified sources, and the selection for the award of the contract.
6. The County Superintendent shall award the contract to the qualified bidder whose proposal meets the evaluation standards and will be most advantageous to the county office of education with price and all other factors considered.
7. If the County Superintendent does not award the contract to the bidder whose proposal contains the lowest price, then the County Superintendent shall make a finding setting forth the basis for the award to another bidder.
8. The County Superintendent, at his/her discretion, may reject all proposals and request new RFPs.
9. Provisions in any contract concerning utilization of small business enterprises that are in accordance with the RFP shall not be subject to negotiation with the successful proposer.



## DESIGN-BUILD CONTRACTS

When it is in the best interest of the county office of education, the County Superintendent may approve a contract with a single entity for both design and construction of any school facility in excess of \$1,000,000, awarding the contract to either the low bid or the best value as determined by evaluation of objective criteria. (Education Code 17250.20)

The procurement process for design-build projects shall be as follows: (Education Code 17250.25)

1. The county office of education shall prepare a set of documents setting forth the scope and estimated price of the project. The documents may include, but are not limited to, the size, type, and desired design character of the project; performance specifications covering the quality of materials, equipment, workmanship, preliminary plans, or building layouts; or any other information deemed necessary to describe adequately the county office's needs. The documents may include operations during a training or transition period, but shall not include long-term operations for a project. The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.
2. The county office shall prepare and issue a request for qualifications in order to prequalify or develop a short list of the design-build entities whose proposals shall be evaluated for final selection. The request for qualifications shall include, but is not limited to, all of the following elements:
  - a. Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the county office to evaluate proposals, the procedure for final selection of the design-build entity, and any other information deemed necessary by the county office to inform interested parties of the contracting opportunity
  - b. Significant factors that the county office reasonably expects to consider in evaluating qualifications, including technical design and construction experience, acceptable safety record, and all other non-price-related factors
  - c. A standard template request for statements of qualifications prepared by the county office, which shall contain all of the information required pursuant to Education Code 17250.25

The county office of education may also identify specific types of subcontractors that must be included in the statement of qualification and proposal.

A design-build entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the county office of education that the entity and its subcontractors at every tier will use a skilled and trained workforce, as defined in Education Code 17250.25, to perform all work on the project or

contract that falls within an apprenticeable occupation in the building and construction trades. The entity may demonstrate such commitment through a project labor agreement, by becoming a party to the county office's project labor agreement, or through an agreement with the county office to provide evidence of compliance on a monthly basis during the performance of the project or contract. (Education Code 17250.25)

3. The county office shall prepare a request for proposals that invites prequalified or short-listed entities to submit competitive sealed proposals in a manner prescribed by the county office. The request for proposals shall include the information identified in items #2a and 2b above and the relative importance or weight assigned to each of the factors. If the county office uses a best value selection method, the county office may reserve the right to request proposal revisions and hold discussions and negotiations with responsive proposers, in which case the county office shall so specify in the request for proposals and shall publish separately or incorporate into the request for proposals applicable procedures to be observed by the county office to ensure that any discussions or negotiations are conducted in good faith.
4. For those projects utilizing low bid as the final selection method, the bidding process shall result in lump-sum bids by the prequalified or short-listed design-build entities, and the contract shall be awarded to the lowest responsible bidder.
5. For those projects utilizing best value as a selection method, the following procedures shall be used:
  - a. Competitive proposals shall be evaluated using only the criteria and selection procedures specifically identified in the request for proposals. Criteria shall be weighted as deemed appropriate by the county office and shall, at a minimum, include price, unless a stipulated sum is specified; technical design and construction experience; and life-cycle costs over 15 or more years.
  - b. Following any discussions or negotiations with responsive proposers and completion of the evaluation process, the responsive proposers shall be ranked on a determination of value provided, provided that no more than three proposers are required to be ranked.
  - c. The contract shall be awarded to the responsible entity whose proposal is determined by the county office to have offered the best value to the public.
  - d. The county office shall publicly announce the contract award, identifying the entity to which the award is made and the basis of the award. This statement and the contract file shall provide sufficient information to satisfy an external audit.

## SOLE SOURCING

In any contract for the construction, alteration, or repair of school facilities, the County Superintendent or designee shall ensure that the bid specification: (Public Contract Code 3400)

1. Does not directly or indirectly limit bidding to any one specific concern
2. Does not call for a designated material, product, thing, or service by a specific brand or trade name, unless the specification is followed by the words "or equal," so that bidders may furnish any equal material, product, thing, or service

In any such case, the bid specification shall provide a time period, before and/or after the award of the contract, for the contractor to submit data substantiating the request for substituting the designated material, product, thing, or service. If no such time period is specified, the contractor may submit the data within 35 days after the award of the contract.

However, the County Superintendent or designee may designate a specific material, product, thing, or service by brand or trade name (sole sourcing) if the County Superintendent has made a finding, described in the invitation for bids or RFP, that a particular material, product, thing, or service is designated for any of the following purposes: (Public Contract Code 3400)

1. To conduct a field test or experiment to determine its suitability for future use
2. To match others in use on a particular public improvement that has been completed or is in the course of completion
3. To obtain a necessary item that is only available from one source

## BIDS NOT REQUIRED

Without advertising for bids and upon a determination that it is in the best interest of the county office of education, the County Superintendent may authorize another public corporation or agency, by contract, lease, requisition, or purchase order, to lease data-processing equipment or to purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the county office in the manner that the other public corporation or agency is authorized to make the leases or purchases from a vendor ("piggyback"). Alternatively, if the public corporation or agency has an existing contract with a vendor for the lease or purchase of personal property, the county office may authorize the lease or purchase of personal property directly from the vendor and make payments under the same terms that are available to the public corporation or agency under the contract. (Public Contract Code 20118)

Supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals may be purchased in any amount without taking estimates or advertising for bids. (Public Contract Code 20118.3)

Bids shall not be required for day labor under circumstances specified in Public Contract Code 20114. Day labor shall include the use of maintenance personnel employed on a permanent or temporary basis. (Public Contract Code 20114)

The county office of education may purchase any surplus property from the federal government or any of its agencies in any quantity needed for the operation of its schools without taking estimates or advertising for bids. (Education Code 17602)