

Superintendent Procedure 6220SP.D

Contracting for Services

Approved by: s/Dr. Brent C. Jones Date: 6/30/22

Dr. Brent Jones, Superintendent



I. APPLICATION

In all aspects of contracting for services, the District's goals are to:

- Maintain compliance with legal and statutory requirements, and review internal procedures as state or federal laws change from time to time,
- Use sound business practices and promote fair competition among vendors, to the extent practicable, as the best means to assure quality services and minimum costs,
- Promote and demonstrate ethics and integrity in dealings with customers, staff and contractors.

The District shall obtain contracted services which will provide the greatest assurance that the desired services will be provided on time and within budget, while minimizing cost and risk to the District.

This procedure applies to all contracts for services, including:

1. consultants,
2. testing, inspection and maintenance and other purchased services, and
3. rentals of equipment.

This procedure does not apply to:

1. construction (i.e., new buildings, major renovation or upgrades to permanent structures), whether done through a bid or the Small Works Roster process, (covered by Procedure 6220SP.E),
2. legal, insurance, and financial services (covered by Procedure 6220SP.F),
3. contracts with other public agencies, including interlocal agreements (covered by Procedure 6220SP.F),
4. architects and other professional services covered by RCW 39.80 (covered by Procedure 6220SP.C),
5. utility services (covered by Procedure 6220SP.F),
6. real property (covered by Procedure 6220SP.F),
7. grants (covered by Procedure 6220SP.F),
8. revenue-producing contracts (covered by Procedure 6220SP.F),
9. software and related services (covered by Procedure 6220SP.F),
10. contracts which do not involve costs or the exchange of money (covered by Procedure 6220SP.F).

In all cases, District staff must use prudent business practices, competition to the extent feasible, and contracts and contract forms which have been approved by the General Counsel's Office.

Work pursuant to covered contracts shall not commence until final contract execution.

II. PROCEDURES

A. Responsibilities:

1. The department seeking to obtain the services (the “Initiator”) shall:
 - a. provide all necessary support and information to Procurement as requested,
 - b. prepare a standard form requisition, and assure that sufficient budget authority is available and committed to pay for the services, and
 - c. prepare all documentation as required by Procurement.
2. The Finance Department shall:
 - a. provide necessary review and approval of budget availability, and
 - b. confirm that adequate budget is available.

B. Common steps for all contracts:

1. Define need or Statement of Work (Initiator).
2. Identify estimated cost of services and source of funds (Initiator).
3. Determine selection process (Procurement in conjunction with Initiator).
4. Determine contract format (Procurement in conjunction with Legal Office).
5. Conduct selection process (Procurement in conjunction with Initiator).
6. Prepare documentation for selection process (Initiator in conjunction with Procurement).
7. Obtain approvals (Initiator).

C. Competitive Process for Service Contracts under \$40,000:

1. The department manager or school principal shall obtain such competition as appropriate under the circumstances, although competition is not required under \$40,000, except for contracts paid using federal grant funds. **For contracts paid using federal grant funds, the Initiator must conduct a competition or receive sole source approval. This applies to all amounts that exceed the Simplified Acquisition Threshold in 2 CFR 200.88.**

The Initiator must also complete a purchase order through Procurement or must complete a Personal Services contract. Please see Procedures 6220SP.A, 6220SP.B, and 6220SP.G. **Note: A requisition is not a purchase order, and a requisition does not constitute a contract.**

2. Upon request, Procurement will provide the Initiator with a standard contract format for use.

D. Competitive Process for Contracts between \$40,000 and \$75,000:

1. In some cases, conducting an informal competition (“RFP lite”) for contracts between \$40,000 and \$75,000 is appropriate. Procurement will make a determination whether or not to use informal competition for a contract in this range on a case-by-case basis upon consultation with the Initiator.

If an informal competition is deemed appropriate, the Initiator shall provide Procurement with all required documentation, including a statement of work, the estimated cost of the contract, the proposed evaluation process, and the results of the evaluation process. Procurement shall conduct the informal competition in conjunction with the Initiator.

Procurement shall consult with the Legal Department if there are questions about whether this informal process should be used.

2. Typically, a notice of the informal competition would not be advertised in a daily newspaper, but rather would be sent electronically to two or more vendors, who would be required to respond by a specific deadline with their proposal.
3. Procurement shall be responsible for maintaining the contract documentation.

NOTE: The informal competitive process (“RFP lite”) cannot be used for selecting Architects and Engineers.

E. Competitive Process for Service Contracts above \$75,000:

1. Advertisements Procurement shall use the combination of advertising in the Daily Journal of Commerce or other newspapers, letters to vendors, and notices in other locations which it believes will assure the most competitive selection. The initiator shall be responsible for advertising costs.
2. Competitive Bids, Request for Proposals (RFPs) and Request for Qualifications (RFQs) Procurement, in consultation with the Initiator, shall choose from the following methods to select a contractor, using the method deemed most likely to produce a competitive selection in a timely manner. Procurement may utilize any of the following competitive processes, as appropriate:
 - a) RFPs This is the primary means of obtaining consulting services. Vendors are requested to submit proposals for the specific services desired, showing qualifications and content of their proposal. The proposals are evaluated by a team of Initiators and Procurement (and Legal Counsel where appropriate). Typically, a short list of vendors is then interviewed. The District selects the proposal that is in its best interest, all factors considered. Criteria are set forth in the RFP, and the results are documented in the Procurement file.

Contract awards from Requests for Proposals are typically done via a personal services contract.

- b) Competitive Bids \$75,000 and Over: Formal Written Bids Primarily to be used for routine services, such as testing or maintenance, which usually are billed at an hourly or unit rate.

- c) Competitive Quotes (from \$40,000 to \$75,000) Quotations may be used for contracts for testing, inspection, maintenance and other purchased services from \$40,000 to \$75,000 which are billed at an hourly or unit rate. An informal competitive quote process may include quotes obtained by fax, email, or phone. Documentation describing the process used and quotes obtained must be maintained in the contract file.
- d) Sole Source Items: Justification Required Competition is not required for contracts for unique items, or sole source services (services for which it is not practicable to obtain competition, or the services of a specific individual who has specialized skills or where time limitations make it impractical to obtain competition).

In such cases, the Initiator shall provide sole source documentation and receive appropriate approval.

- e) RFQ Where the District requires the same or similar services for several unrelated projects over an extended period, it may solicit statements of qualifications from vendors in the field. The statements are evaluated, and vendors who have the necessary qualifications and are available when the services are needed are selected. This process should be performed every three to five years, to assure open competition among vendors.
- f) Competitive Negotiations. The District may elect to negotiate with more than one vendor at a time, in order to obtain the best overall proposal for both quality of services and price. This process is usually conducted as part of an RFP but may also be used for RFQs.

F. Preparation of Solicitation Documents. Procurement is responsible for preparation of the solicitation documents in conjunction with the Initiator. A standard format shall be utilized. Each Initiator shall be responsible for providing information to be incorporated into the solicitation documents regarding the exact services to be provided, including a scope of work, a schedule, and a list of potential contractors/vendors to be contacted, along with contact names and addresses. All Bids, Quotes, RFPs and RFQs shall be approved and issued by Procurement.

G. Aggregate Services and the Competitive Procurement Process. When determining the threshold for using competitive procurement processes, the following guidelines shall apply:

- a) Two contracts performed at or about the same time, at the same building, and by the same vendor are considered part of a single contract.
- b) A contract cannot be split into two or more parts to avoid bidding requirements.
- c) Once the aggregate amount for the contract is determined, the procurement may be split into more than one contract, as long as procurement processes are followed as if each contract were for the aggregate amount.

- d) When it is brought to the attention of Procurement that multiple schools are hiring vendors or contractors for the same service without competition, Procurement shall work with the Initiator to seek competition for future contracts.

H. Contract amendments and modifications:

1. All contract amendments and modifications must include an explanation with details appropriate to the circumstances. The documentation shall include an explanation regarding the reason for the change, as well as justification for the amount of the change, in sufficient detail to enable an experienced professional in the field covered by the service – e.g., an Architect, Engineer, Construction Management professional, or Information Technology professional – to understand the basis for the decision, including both the reason for the increase and the amount.
2. In addition to the above requirements, for any contract change or modification:
 - a) where the original value was more than \$500,000 and the cumulative increase in the contract amount exceeds the lesser of 25% or \$500,000, and again each time the cumulative increase exceeds an additional \$500,000; or
 - b) where the original value was between \$100,000 and \$500,000 and the cumulative increase is more than 50% of the original contract value, the documentation shall explain the changes with details appropriate to the circumstances. The memo shall explain the reasons for the cumulative increase of the contract amount, and state whether the added work or services could effectively be competed separately. Factors to be considered include the relationship of the added costs to the scope of work, timing, location, skill needed, or opportunities for competition.

For example, where the original contract value was \$500,000, and the cumulative increase would be \$200,000, the memo is required even though the increase is less than \$500,000, because the percentage is more than 25%. For a services contract of \$5 million, a memo would be required for cumulative changes of more than \$500,000, even though the percentage increase (5%) is much less than the 25% threshold.

3. School Board guidelines for modifications/amendments:
 - a. If a single modification is over \$500,000, full Board action is required for modification approval.
 - b. If one or more modification causes the combined total contract modification amount to exceed \$1,000,000, full Board action is required for the aggregate contract value.
 - c. After the \$1 million threshold is reached and approved by the Board, two or more additional modifications causing the modification to exceed \$500,000 requires full Board action.

4. A listing of contracts and modifications, brief description of services, and values, excluding sales tax and contingencies between \$250,000 and \$1,000,000 will be taken to the Audit and Finance Committee on a quarterly basis as an information item.

I. Interim Contracts

Please see Superintendent Procedure 6220SP.H.

J. Contact with Competitors Prohibited: Exception for Delegation of Responsibility:

1. In order to assure fair competition and to avoid any appearance of impropriety, only Procurement personnel shall have any contact with potential contractors and vendors, from the time the Bid, RFP or RFQ is advertised until the final selection is made, except as part of the interview process. All interviews will be arranged by Procurement. Exceptions may be made for informal competitions in the \$40,000 to \$75,000 range; in those cases, the Initiator may have limited contact with the vendor.
2. In specific situations, Procurement may delegate to the Initiator the responsibility for conducting part or all of the competitive process. In each case, Procurement retains final responsibility for maintaining adequate documentation of the process used and for the final contract in conjunction with the Legal Office.

K. Documentation Required. Each Initiator shall be responsible for providing Procurement with documentation as required for the competitive solicitation, which typically includes the following: a memo from the Initiator recommending an award to the vendor or contractor, the evaluation results for the RFP or RFQ, reference checks for the successful vendor, a copy of the Board minutes approving the contract, and a copy of the final, executed contract.

L. Standard Contract Forms Required – Exceptions.

Standard forms of contracts shall be developed by Legal Counsel for use by Procurement. Exceptions shall be approved by Legal Counsel.

M. Role of Legal Counsel.

1. Legal Counsel shall advise and assist as requested in preparing contract forms, approve all standard forms and exceptions, and review unique contract provisions. As requested by Procurement, Counsel shall (i) assist in preparation of solicitation documents and contracts, (ii) advise on selection procedures and pricing formats, and (iii) serve as a member of the negotiation team for complex procurements.
2. Counsel shall provide advice on statutory requirements and sole source determinations and shall be responsible for handling all bid protests. Counsel shall (i) approve the form of all solicitation documents, (ii) approve final contract language for all non-standard contracts, and (iii) approve contracts according to the Responsibilities for Review, Approval, and Execution of Contracts and Other Agreements (the “matrix”).

III. EXCEPTIONS AUTHORIZED

Only the Superintendent or Assistant Superintendent for Business and Finance may authorize exceptions to this procedure.

Approved: February 2012

Revised: June 2022

Cross Reference: Board Policy No. 6220