

PURCHASING PROCEDURES

All procurements made by the school division are in accordance with the Virginia Public Procurement Act.

Certification Regarding Sex Offenses

As a condition of awarding a contract for the provision of services that require the contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities, the school board requires the contractor to provide certification that all persons who will provide such services have not been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child.

This requirement does not apply to a contractor or his employees providing services to the school division in an emergency or exceptional situation, such as when student health or safety is endangered or when repairs are needed on an urgent basis to ensure that school facilities are safe and habitable, when it is reasonably anticipated that the contractor or his employees will have no direct contact with students.

Unauthorized Aliens

The School Board provides in every written contract that the contractor does not, and shall not during the performance of the contract for goods and services in Virginia, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

Discrimination by Contractor Prohibited

The School Board includes the following provisions in every contract of more than \$10,000:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
2. The contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

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Amended: August 14, 2006
Amended: August 13, 2007
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Amended: June 8, 2009
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Legal Ref.: Code of Virginia, 1950, as amended, §§ 2.2-4300 et seq., 2.2-4311, 2.2-4311.1, 22.1-296.1.

Cross Refs.:	GCD	Effect of Criminal Conviction
	IGA	Online Courses and Virtual School Programs
	KN	Sex Offender Registry Notification

PURCHASING PROCEDURES

- A. By adopting these regulations the School Board intends to promote flexibility and efficiency in procurement while at the same time ensuring that School Board employees use competition to enable the school system to obtain best value in its purchases. The School Board shall approve all payments consistent with law and existing practices and shall be made aware of all material expenditures prior to any obligation or commitment being made on behalf of the school system.
- B. Unless otherwise authorized by law or otherwise provided in these regulations, all public contracts with non-governmental contractors for the purchase or lease of goods or for the purchase of services, insurance, or construction will be awarded after competitive sealed bidding or competitive negotiation as provided below.
1. Professional services shall be procured by competitive negotiation, subject to C(2) below.
 2. Upon a determination made in advance by the school board and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, for a specific procurement of goods, services, insurance, or construction, then that specific procurement may be made by competitive negotiation. The writing shall document the basis for this determination, as required by the Code of Virginia. Absent any other writing, the minutes of the School Board meeting may serve as the written basis for this determination.
 3. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination, as required by the Code of Virginia.
 4. A contract for the purchase or lease of goods or for the purchase of services, insurance, or construction which is not expected to exceed \$100,000 is not required to be let in accordance with competitive sealed bids or competitive negotiation, but will provide for competition wherever practicable and be let in accordance with these regulations.
- C. The following contracts may be let without competition
1. Purchase of goods or services which are performed or produced by persons, or in schools or workshops, under the supervision of the Virginia Department for the Blind and Vision Impaired; or employment services organizations that offer transitional or supported employment services serving individuals with disabilities.
 2. Contracts for legal services, expert witnesses, and other services associated with litigation or regulatory proceedings without competitive sealed bidding or competitive negotiation, provided that the pertinent provisions of state law remain applicable.
 3. Extension of the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.
 4. Contracts for insurance if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance by use of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

- D. All small purchases shall adhere to the following procedures:
1. Single item purchases up to \$10,000.00 do not require competitive bidding or advance price quotations but school system employees shall be mindful of all opportunities to obtain best value at a reasonable price.
 2. Single item or bulk purchases from \$10,000.01 to \$30,000.00 require at least three telephone price quotations.
 3. Single item or bulk purchases from \$30,000.01 to \$60,000.00 require at least three written price quotations. Evidence of these quotes must be submitted along with the purchase order.
 4. A contract for the purchase of goods or for the purchase of services, insurance, or construction which are expected to exceed \$100,000 is required to be let in accordance with competitive sealed bids or competitive negotiation.
- E. When safety and/or emergencies are prime factors or equipment is required to match or replace existing equipment, the requirement for these quotations are waived. This applies only to cases where bidding either formal or informal is impracticable due to time constraints or the nature of the equipment, at which time the purchasing agent would be required to furnish a sole source justification and attach the same to the purchase order. The Board will subsequently comply with notice procedures of the Code of Virginia.
- F. Before a bid is considered for award, the bidder may be requested by the school system employee to submit a statement regarding previous experience in performing comparable work, business and/or technical organization, financial resources, and plant available to be used in performing the work or in supplying materials, supplies, and equipment.
- G. A contractor may be debarred from contracting with the board for the following reasons:
1. default on quotations;
 2. fraud;
 3. violation of anti-trust laws;
 4. unsatisfactory performance for a public bid;
 5. failure to perform;
 6. violation of the Virginia Public Procurement Act; and
 7. debarment by the Commonwealth of Virginia or any of its agencies.
- The school system employee in charge of purchasing for any given item shall determine if a contractor is debarred and the length of the debarment. The purchasing employee will notify the contractor in writing of his determination. Such notice shall state the reasons for the debarment. The right of a contractor to contest the determination is governed by state law. A contractor who is debarred will be disqualified from receiving invitations for bids or requests for proposals and from receiving awards of contracts.
- H. The board, through its central office staff will consider small and minority businesses in all phases of procurement. Minority person means a person who is a citizen or lawful permanent resident of the United States, and who is Black, Hispanic, Asian American, American Indian, Alaskan Native, or a member of other groups or other individuals found to be economically and socially disadvantaged by the Small Business Administration.
- I. Should a bidder desire to submit a complaint or request, an explanation with regard to the meaning or interpretation of the invitation for bids or request for proposal, the complaint or the request for explanation shall be submitted in writing to the Division Superintendent in sufficient time to allow a reply to reach the bidder prior to the date for submission of bids. Explanations will be in the form of an amendment to the invitation for bids or request for proposal and will be furnished all prospective bidders. Bidders must acknowledge receipt of all amendments with their bids.
- J. Unless canceled or rejected, a responsive sealed bid from the lowest responsible bidder shall be accepted as submitted, except that if the bid from the lowest responsible bidder exceeds available funds, the school board may, at its discretion, select such items or item as it deems appropriate to obtain a contract price within available funds.

Items to be considered for negotiating purposes are: time, methods, change in quality and type without compromising the intended end product, all in the best interest of the school board. The procedures and conditions for such negotiations shall be summarized in the invitation to bid as follows:

1. The Division Superintendent or his designee will notify the lowest responsible bidder that his bid exceeds the funds available and request a conference to negotiate the price downward.
 2. The low bidder confirms the negotiated price to the purchasing agent.
 3. If within the funds allocated and the end product is not compromised, a purchase order is issued based on negotiations.
 4. If negotiations do not come within funds available, the bidder shall be notified and additional funds shall be solicited.
 5. Should additional funds not be available, specifications may be changed to reflect lower costs and re-advertising for bids initiated.
- K. A bidder may withdraw a bid from consideration if the price bid was substantially lower than other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetical error or an unintentional omission which can be clearly shown by objective evidence drawn from inspection of the original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn. This bidder shall give notice in writing of the claim of right to withdraw the bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.
1. No bid may be withdrawn under section (K) when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent (5%).
 2. If a bid is withdrawn under the authority of section (K), the lowest remaining bid shall be deemed to be the low bid.
 3. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
 4. If the bidder is not allowed to withdraw the bid under section (K), the purchasing agent shall notify the bidder of the decision in writing and such notice shall state the reasons for the decision.
- L. Upon award of any construction contract exceeding \$100,000 awarded to any prime contractor, a performance bond and a payment bond each in the sum of the contract amount shall be furnished by the contractor unless such requirement is waived by the School Board and such waiver can be done consistent with the Code of Virginia.
- M. Contractual claims, whether for money or other relief, shall be submitted in writing to the School Board within sixty (60) days after final payment; however, written notice of the contractor's intent to file such claim must be submitted to the purchasing agent at the time of occurrence or beginning of work. The purchasing agent shall render a decision in writing to the contractor within thirty (30) days after receipt of the claim.
- N. For the purposes of the Board's Purchasing Policies, the following definitions apply:
1. "Responsible bidder" or "offeror" shall mean a person who, in the School Board's sole discretion has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been prequalified, if required.
 2. "Responsive bidder" shall mean a person who, in the School Board's sole discretion has submitted a bid which conforms in all material respects to the Invitation to Bid.
- O. Each school within the division may enter into contracts providing that caps and gowns, photographs, class rings, yearbooks, and graduation announcements will be available for purchase or rental by students, parents, faculty or other persons using non-public money through the use of competitive negotiation as provided in these regulations.

Legal Refs. Code of Virginia, 1950, as amended, Sec. 2.1-117, et seq

Amended: July 24, 2002

Amended: August 13, 2007