



9492 West Emerald Street | Boise, ID 83704

**LEA 566**

**PROCUREMENT SYSTEM PROCEDURES**

The LEA maintains the following purchasing procedures.

**A. Responsibility for Purchasing**

The Executive Director submits contracts and purchase orders for approval. The Business Manager processes approved contracts and purchase orders.

**Overview**

Procurement involves the planning that goes into purchasing food, supplies, goods, and services. In terms of federal programs (such as Child Nutrition, Education grants under ESSA, IDEA Part B and Preschool), the LEAs must comply with federal procurement standards found in 2 CFR Part 200, as well as any additional applicable state and local procurement regulations (which may be more restrictive than federal standards). The LEA must follow whichever regulations are the most restrictive. These standards are meant to prevent fraud, waste, and program abuse.

See procurement policy 7400 and 7400P.

**B. Purchase Methods**

\$0 to \$3,500	<p>Micro Purchases</p> <p>To the extent practicable, the LEA distributes micro-purchases equitably among qualified suppliers. Micro Purchases may be awarded without soliciting competitive quotations if the LEA considers the price to be reasonable. The LEA maintains evidence of this reasonableness in records of all micro-purchases.</p>	<p>2 CFR 200.320 (a)</p> <p>and defined by</p> <p>2 CFR 200.67</p>
\$3,501 - \$24,999	<p>Small Purchase Procedures</p>	<p>2 CFR 200.320 (b)</p> <p>Procurement by small</p>

	No sealed bids, but quotations are obtained from at least 2 numbers of qualified sources - we suggest three, but if there are not that many in the area, then 2 will suffice. If small purchase procedures are used, <b>verbal</b> price or rate quotations must be obtained from an adequate number of qualified sources. Document all verbal responses.	purchase procedures IDAPA 38.05.01
\$25,000 to \$49,999	Large Purchase Procedures  Semi-Formal bidding: Issue written requests for bids describing goods or services desired to at least three vendors. Allow 3 days for written response, unless an emergency exists; 1 day for objections.	IC 67-2806 (1)
\$50,000 and above	Formal bidding  See procedures below	IC 67-2806 (2) Idaho requirements.  2 CFR Part 200.319

### ***Purchases over \$50,000***

*Sealed Bids (Formal Advertising)*: For purchases over \$50,000, bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction services, if the following conditions apply:

- A complete, adequate, and realistic specification or purchase description is available;
- Two or more responsible bidders are willing and able to compete effectively for the business; and
- The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally based on price.

If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, and the invitation for bids must be publicly advertised;
- The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- A firm fixed price contract award must be made in writing to the lowest responsive and responsible bidder.

Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used

to determine the low bid when prior experience indicates that such discounts are usually taken advantage of. Any or all bids may be rejected if there is a sound documented reason.

*Competitive Proposals:* The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- Proposals must be solicited from an adequate number of qualified sources; and
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The LEA may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

For competitive proposals:

- 1) The Cardinal Academy Executive Director seeks approval from the Board of Directors to request proposals
- 2) The Executive Director (or delegate) sends a Request for Proposal to potential vendors, with 30 days to respond
- 3) Once the RFP period is closed, the Executive Director will review all proposals. The proposals are scored based on four criteria, each scored on a scale of 1 to 3, 1 being the lowest score:
  - a. Price
  - b. References
  - c. Project timeline and completion time frame
  - d. Bid quality-does the bid address all requirements
- 4) Once the Executive Director has reviewed and scored all the proposals, the proposals and scoring rubric are presented to the Board of Directors for review and approval at the next scheduled Board of Directors meeting.

*Contract/Price Analysis:* The LEA performs a cost or price analysis in connection with every procurement action in excess of \$50,000, including contract modifications. A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the Executive Director must come to an independent estimate prior to receiving bids or proposals, based on recent comparable projects in Boise and surrounding cities, if available. If no comparable data is available, the Executive Director will attempt to find state data from professional organizations . 2 C.F.R. § 200.323(a).

When performing a cost analysis, the Executive Director negotiates profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of

subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. 2 C.F.R. § 200.323(b).

### ***Noncompetitive Proposals (Sole Sourcing)***

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- The item is available only from a single source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the LEA; or
- After solicitation of several sources, competition is determined inadequate.

If the Executive Director determines that the above circumstances apply, the Executive Director will write a memo explaining the circumstances requiring sole sourcing and will request approval from the Board of Directors to solicit a proposal from a sole-source vendor.

A cost or price analysis will be performed for noncompetitive proposals when the price exceeds \$50,000.

### **C. Purchase Cards (LEA-Issues Credit Cards)**

Cardinal Academy uses two credit cards, one issued to the Executive Director, and one issued to the Business Manager, to pay for pre-approved expenditures. All purchases are subject to the purchasing rules outlined in these procurement policies, including pre-approval of expenditures.

The Business Manager reconciles all credit card statements and ensures compliance with all procurement rules.

### **D. Full and Open Competition**

All procurement transactions must be conducted in a manner providing full and open competition consistent with 2 C.F.R. §200.319. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants that are on retainer contracts;
- Organizational conflicts of interest;
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- Any arbitrary action in the procurement process.

EDGAR further requires the following to ensure adequate competition.

### ***Geographical Preferences Prohibited***

The LEA must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

### ***Prequalified Lists***

The LEA must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the LEA must not preclude potential bidders from qualifying during the solicitation period.

### ***Solicitation Language***

The LEA must ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and identify all requirements which the offers must fulfill and all other factors to be used in evaluating bids or proposals. 2 C.F.R § 200.319(c).

## **E. Federal Procurement System Standards**

### ***Avoiding Acquisition of Unnecessary or Duplicative Items***

The LEA must avoid the acquisition of unnecessary or duplicative items. Additionally, consideration is given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis must be made of leases versus purchase alternatives, and another other appropriate analysis to determine the most economical approach.

These considerations are given as part of the process to determine the allowability of each purchase made with federal funds.

### ***Use of Intergovernmental Agreements***

To foster greater economy and efficiency, the LEA enters into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services.

### ***Use of Federal Excess and Surplus Property***

The LEA considers the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

### ***Debarment and Suspension***

The LEA awards contracts only to responsible contractors possessing the ability to perform

successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

The LEA may not subcontract with or award subgrants to any person or company who is debarred or suspended. For all contracts over \$25,000 the LEA verifies that the vendor with whom the LEA intends to do business with is not excluded or disqualified. 2 C.F.R. Part 200, Appendix II(1) and 2 C.F.R. §§ 180.220 and 180.300. LEA checks Excluded Parties List System database maintained by the Federal government at <https://www.epls.gov>, and checks the Idaho State Repository: <https://www.idcourts.us/repository/start.do> to ensure the person or company is neither debarred or suspended prior to awarding the contract.

### ***Maintenance of Procurement Records***

The LEA maintains records sufficient to detail the history of all procurements. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, the basis for the contract price (including a cost or price analysis), and verification that the contractor is not suspended or debarred.

### ***Time and Materials Contracts***

The LEA may use a time and materials type contract only: (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the LEA is the sum of: the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the LEA must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

### ***Settlements of Issues Arising Out of Procurements***

The LEA alone is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the LEA of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

## **F. Conflict of Interest Requirements**

### ***Standards of Conduct***

In accordance with 2 C.F.R. §200.18(c)(1), the LEA maintains the following standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family (parents, siblings, spouses of siblings, children, spouses of children,

grandchildren), his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of the LEA may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, unless the gift is an unsolicited item of nominal value (less than \$10).

Board of Directors members review the conflict of interest policy and sign a statement identifying conflicts of interest, if any.

Real and perceived conflicts of interest must be reported to the Chairperson of the Board of Directors within 5 business days of being identified. If the Chairperson is the person in question, then the report must be made to the Secretary of the Board.

Board members are required to recuse themselves from any discussions and voting related to a contract where they have a conflict of interest.

### ***Disciplinary Actions***

See Disciplinary Action policy.

### ***Mandatory Disclosure***

Upon discovery of any potential conflict, the LEA will disclose in writing the potential conflict to the federal awarding agency in accordance with applicable federal awarding agency policy.

## **G. Contract Administration**

The LEA maintains the following oversights to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders:

The Executive Director or their delegate reviews all requests for payment against actual work completed, contract terms, received goods or service requirements before approving the payment. The business manager reviews the documentation provided before processing payments and ensures compliance with procurement requirements.

### **Policy History:**

Adopted on: June 2, 2021

Revised on: