CONNEAUT SCHOOL DISTRICT
DISTRICT ADMINISTRATION OFFICE

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SUPERINTENDENT'S REGULATION

POLICY 626
Effective November 11, 2021

Procedures for Procurement – Federal Programs

This document is intended to integrate standard district purchasing procedures with additional requirements applicable to procurements that are subject to the federal Uniform Grant Guidance regulations and/or U.S. Department of Agriculture (USDA) regulations governing school food service programs. The district maintains the following purchasing procedures, in accordance with federal and state laws, regulations and Board policy. (2 CFR 200.318- 200.325; 7 CFR 210.16, 210.19, 210.21, 215.14a, 220.16; 24 P.S. 120, 24 P.S. 504, 24 P.S. 508, 24 P.S. 521, 24 P.S. 607, 24 P.S. 609, 24 P.S. 751, 24 P.S. 807.1; 62 Pa. C.S.A. 4601 et seq; Pol. 610, 611, 612, 613, 808)

Responsibility for Purchasing

The Board has outlined standard district purchasing responsibility, methods of purchasing, price quotations, cooperative purchasing, budget compliance, and bid requirements in adopted Board policies and their accompanying administrative regulations or procedures.

Purchase Methods

When a request for purchase of equipment, supplies, or services has been submitted and approved as outlined below, the procurement method to be used will be determined based on the type of purchase and the total cost of the purchase as further outlined below. This procedure outlines how the cost thresholds for determining when the quote or formal bidding procedures that are required by state law must be modified when making purchases for federally funded purposes to which the Uniform Guidance or USDA regulations apply, so as to comply with both state and federal requirements. At each point where requirements for food service-related procurement under USDA regulations differ, a note will refer to the Food Service Notes at the end of this procedure. Final determination of which purchasing procedures are to be applied is delegated to the Business Manager under the authority of the Board.

Standard Procurement Documents and Purchase Request Process

The district shall use requisitions and purchase orders for purchase requests in accordance with the applicable purchase method. The district shall use paper and electronic purchasing records, which are pre-numbered and are accessible to designated purchasing staff in the Business Office. Purchase requests by an employee must be submitted to the building administrator or immediate supervisor. Purchase of all budgeted items or items approved by an administrator or supervisor

must be initiated by use of a requisition submitted to the Business Manager.

Purchase orders and requisitions shall contain information including, but not limited to:

1. Description of the services to be performed or goods to be delivered.
2. Location of where services will be performed or goods to be delivered.
3. Appropriate dates of service or delivery.

Documentation on purchase orders and requisitions shall be maintained in accordance with the district's Board policy and records retention schedule.

Contracts shall be reviewed by the Business Manager and School Solicitor prior to submission to the Board for approval.

Contracts to which the Uniform Guidance apply shall contain the clauses specified in Appendix II to 2 CFR Part 200 (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards), when applicable.

Micro-Purchases Not Requiring Quotes or Bidding

For purposes of this procedure, micro-purchase means a purchase of equipment, supplies, or services for use in federally funded programs using simplified acquisition procedures, the aggregate amount of which does not exceed a base amount of $10,000. The micro-purchase dollar threshold is adjusted periodically by the Federal Government, and the threshold most recently established and published in the Federal Register shall apply if other than $10,000. (48 CFR Subpart 2.1)

The micro-purchase method is used in order to expedite the completion of its lowest dollar small purchase transactions and minimize the associated administrative burden and cost. Procurement by micro-purchase is the acquisition of equipment, supplies, or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold.

To the extent practicable, the district distributes micro-purchases equitably among qualified suppliers when the same or materially interchangeable products are identified and such suppliers offer effectively equivalent rates, prices, and other terms. The Business Manager will be responsible to determine the equitable distribution of micro-purchases.

Micro-purchases may be awarded without soliciting competitive quotations if the district considers the price to be reasonable. The district will maintain evidence of this reasonableness in the records of all micro-purchases. Reasonable means that sound business practices were followed and the purchase is comparable to market prices for the geographic area. Such determinations of reasonableness may include comparison of the price to previous purchases of the same item or comparison of the price of items similar to the item being purchased.

Even if the cost of a purchase qualifies it as a micro-purchase, bidding or small purchase procedures may be used optionally when those procedures may result in cost savings.

Small Purchase Procedures

For purposes of this procedure, small purchase procedures are those relatively simple and informal procurement methods for securing equipment or supplies that cost more than the amount qualifying as a micro-purchase but do not have a cost which exceeds the current School Code threshold for bidding, or in the case of services other than construction, maintenance, or repair on school facilities, where the total cost does not exceed the $250,000 federal Simplified Acquisition Threshold at which formal competitive bidding or competitive proposals are required. Small purchase procedures cannot be used for purchases of equipment or supplies or for construction, repair, or maintenance services costing more than the School Code's bid threshold because the School Code requires formal competitive bidding at that level of cost.

The base amount at which bidding is required under state law for purchases of equipment, supplies and construction, maintenance, or repair services on school facilities is adjusted for inflation annually, and the amount most recently established and published in the Pennsylvania Bulletin shall apply. (24 P.S. Sec. 120)

The federal simplified acquisition threshold at which competitive bidding or competitive proposals are required is adjusted periodically by the Federal Government, and the threshold most recently established and published in the Federal Register shall apply if other than $250,000. (48 CFR Subpart 2.1).

State law does not require competitive bidding for the purchase of services other than construction, maintenance, or repairs on school facilities. Regardless of total cost, small purchase procedures, including a request for proposal (RFP) procedure, may be used for procurement of such other services except when the estimated total cost will be at or over the federal threshold at which formal competitive bidding or competitive proposals are required ($250,000).

If small purchase procedures are used, written or telephonic price or rate quotations are obtained from at least three qualified sources and records of quotes are maintained.

Formal Competitive Bidding

Publicly Solicited Sealed Competitive Bids:

For purchases of equipment or supplies, or of services for construction, maintenance, or repairs of school facilities, sealed competitive bids are publicly solicited and awarded to the lowest responsive and responsible bidder as provided in Board policies when the total cost is estimated to be exceed the current bid threshold as defined in the School Code.

Note: The amount at which formal competitive bidding or competitive proposals are required by federal regulations is much higher than the base amount at which the School Code requires competitive bidding. Therefore, the lower base amount specified by the School Code, as annually adjusted, is used to determine when bidding will be used for purchases of equipment or supplies, or for obtaining services for construction, maintenance, or repairs on school facilities. (24 P.S. Sec. 120)

State law does not require bidding for the purchase of services other than construction, maintenance, or repairs on school facilities regardless of total cost. For procurement of such other services for federally funded purposes to which the UG applies, formal competitive bidding or competitive proposals will be used when the estimated total cost will be at or over the federal threshold of $250,000.

The federal simplified acquisition threshold at which competitive bidding or competitive proposals are required is adjusted periodically by the Federal Government, and the threshold most recently established and published in the Federal Register shall apply if other than $250,000. (48 CFR Subpart 2.1)

For procurement of services costing at or over the $250,000 federal threshold other than for construction, maintenance, or repairs on school facilities, the use of competitive sealed bidding is considered feasible and appropriate when:

1. A complete, adequate, and realistic specification or purchase description is available;

2. Two or more responsible bidders are willing and able to compete effectively for the business; and

3. The procurement lends itself to a firm fixed-price contract and the selection of the successful bidder can be made principally on the basis of price.

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
State law does not require public school entities to solicit competitive bids for services other than construction, repairs or maintenance of school facilities, for which competitive bidding is required if the cost will be a base amount exceeding the current bid threshold as defined in the School Code. State law allows competitive proposals relating to work on facilities in lieu of bidding only in the context of guaranteed energy savings contracts.

Federal regulations allow the use of competitive proposals as an alternative to formal competitive bidding when conditions are not appropriate for the use of sealed bids.

In the case of services other than for construction, repairs, or maintenance of school facilities costing less than that threshold, the district may use small purchase procedures or micro-purchase procedures as applicable based on total cost. An RFP process can also meet or exceed the small purchase competition requirements under state law for the acquisition of services other than for construction, repairs, or maintenance of school facilities, and can be

used if the total cost will be less than $250,000.

When permitted, 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. Competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair, and reasonable compensation. The district shall comply with other applicable state and federal law and regulations, Board policy, and administrative regulations regarding purchasing; the district may consult with the school solicitor or other qualified counsel in determining the required process for purchasing through competitive proposals when necessary.

If this method is used, the following requirements apply:

1. 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.

2. Proposals must be solicited from an adequate number of qualified sources.

3. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

An alternative form of competitive proposal is permitted only for qualifications-based procurement of architectural and engineering services, in which price is not a selection factor and reasonable compensation is negotiated after source selection. This alternative is not permitted for procurement of other types of services.

Competitive proposals shall be evaluated by the Business Manager based on factors including but not limited to cost, experience of the contractor, availability, personnel qualifications, financial stability, minority business status, women's business enterprise status, labor surplus area status, project management expertise and understanding of District needs. Evaluations shall be completed in a timely manner, documented, and shall be reviewed by the Board.

Contract/Price Analysis
The district performs a cost or price analysis in connection with every procurement action in excess of $250,000, including contract modifications. (2 CFR §200.323(a)).

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 Business Manager must come to an independent estimate prior to receiving bids or proposals (2 CFR §200.323(a)). As part of the

analysis, the Business Manager will enact established business practices which may include evaluation of similar prior procurements and a review process.

Negotiated Profit
In any procurement in which there has been no price competition, or in which a cost- analysis is performed, profit must be negotiated separately as an element of price. Accordingly, solicitations of bids, proposals or quotes shall require that bids, proposals, or quotes be limited to costs other than profit, and exclude profit.

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 CFR §200.323(b))

When profit must be negotiated as a separate element of the total price, it shall be negotiated by the Business Manager.

Noncompetitive Proposals (Sole Sourcing)
Procurement by noncompetitive proposals means procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

1. The item is available only from a single source.

2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation. An **emergency** exists whenever the time required for the Board to act in accordance with regular procedures would endanger life or property or threaten continuance of existing school classes.

3. The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the district.

4. After solicitation of a number of sources, the district determines the competition is inadequate.

In addition to standard procurement procedures, the district will document the grounds for using the noncompetitive method in lieu of an otherwise required competitive method of procurement, which may include written confirmation from the contractor as the sole source of the item. Documentation must be submitted to and maintained by the Business Office.

All noncompetitive proposals will ultimately be approved by the Board. The district may utilize legal advice from the solicitor regarding noncompetitive proposals.

Profit must be negotiated separately for noncompetitive proposals, and a cost or price analysis will also be performed for noncompetitive proposals when the price exceeds $250,000.

Purchase Cards
The district approves the use of procurement cards for permissible purchases by designated employees to improve the efficiency of purchasing activities, reduce processing expenses, improve controls for small-dollar purchases, and streamline contractor payment.

Procurement cards may be used for purchases under federal programs. The use of procurement cards is governed by Board policy and established administrative regulations.

Full and Open Competition
All procurement transactions must be conducted in a manner providing full and open competition consistent with 2 CFR §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, the following:

1. Placing unreasonable requirements on firms in order for them to qualify to do business.

2. Requiring unnecessary experience and excessive bonding.

3. Noncompetitive pricing practices between firms or between affiliated companies.

4. Noncompetitive contracts to consultants that are on retainer contracts.

5. Organizational conflicts of interest.

6. 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.

7. Any arbitrary action in the procurement process.

Minority Businesses, Women's Business Enterprises, Labor Surplus Area Firms
The district must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include: (2 CFR §200.321)

1. Placing qualified small and minority business, and women's business enterprises, on solicitation lists.

2. Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources.

3. Dividing total purchasing requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.

4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises.

5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

6. Requiring the prime contractor, if subcontracts are let, to take the affirmative steps listed above.

Geographical Preferences Prohibited
The district 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 district 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 district must not preclude potential bidders from qualifying during the solicitation period.

Solicitation Language
The district 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 at all 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 as a means 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 offerors must fulfill and all other factors to be used in evaluating bids or proposals.

Avoiding Acquisition of Unnecessary or Duplicative Items
The district must avoid the acquisition of unnecessary or duplicative items. Additionally, consideration must be 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 any 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 and Cooperative Purchasing
To foster greater economy and efficiency, the district enters into state and local intergovernmental agreements where appropriate for cooperative purchasing or use of common or shared goodc Commonwealth Procurement Code. (53 Pa. C.S. Ch. 23; 24 P.S. 521; 62 Pa. C.S. Ch. 19)

When procuring supplies or services for federally funded purposes to which the UG applies, the district shall verify that the organization conducting the procurement pursuant to such agreements complies with the applicable procurement methods, requirements, and standards of the UG as outlined in this procedure.

Use of Federal Excess and Surplus Property
The district 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 district 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 district may not subcontract with or award subgrants to any person or company who is debarred or suspended. For all contracts over $25,000, the district verifies that the contractor with whom the district intends to do business is not excluded or disqualified. (2 CFR Part 200, Appendix II, and 2 CFR §180.220 and 180.300)

All successful contractors must provide written certification that they have not been suspended or debarred from federal projects. The Business Manager will be responsible for verification. Such verification may include accessing the online federal System for Award Management (SAM) to determine whether any relevant party is subject to any suspension or debarment restrictions.

Maintenance of Procurement Records
The district must maintain 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.

Maintenance of records of procurement will be governed by Board policy and the district's established records retention schedule.

Time and Materials Contracts
The district 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 district 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 district must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

Settlement of Issues Arising Out of Procurements

The district 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 district of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

Protest Procedures to Resolve Dispute

The district maintains protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency. Protest procedures will be acted on in accordance with current state law and regulations, established district administrative regulations, and the advice of the solicitor.

Food Service Notes:

Exemption from Bidding for Perishable Food Items -

The School Code exempts purchases of perishable food items from bidding requirements. Bidding for perishable food items is required only if the cost would be at or over the federal threshold at which formal competitive bidding is required ($250,000). Small purchase procedures may be used for purchases below $250,000, or micro-purchase procedures for purchases below $10,000. Use of bidding should be considered as an option if it is feasible

and likely to result in cost savings. (24 P.S. Sec. 504(d))

Geographic Preferences -
The district is permitted to apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When a geographic preference is applied, the district has discretion to determine the local area to which the geographic preference option will be applied.

Unprocessed locally grown or locally raised agricultural **products** means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons): vacuum packing and bagging (such as placing vegetables in bags or combining two (2) or more types of vegetables or fruits in a single package); the addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish; and the pasteurization of milk. (7 CFR Sec. 210.21, 215.14a, 220.16)

Buy American
The district shall purchase, to the maximum extent practicable, domestic commodities or products for food service purposes. The term domestic commodity or product means: (7 CFR Sec. 210.21, 220.16)

1. An agricultural commodity that is produced in the United States; and

2. A food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

Mandatory Contract Clauses
The following provisions shall be included in all cost reimbursable contracts for food services purchases, including contracts with cost reimbursable provisions, and in solicitation documents prepared to obtain offers for such contracts: (7 CFR Sec. 210.21, 215.14a, 220.16)

1. Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates, and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority;

    a. The contractor must separately identify for each cost submitted for payment to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or

b. The contractor must exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification;

2. The contractor's determination of its allowable costs must be made in compliance with the applicable departmental and program regulations and Office of Management and Budget cost circulars;

3. The contractor must identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the state agency, the school food authority may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually;

4. The contractor must identify the method by which it will report discounts, rebates, and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and

5. The contractor must maintain documentation of costs and discounts, rebates, and other applicable credits, and must furnish such documentation upon request to the school food authority, the state agency, or the department.

Contracts with Food Service Management Companies
Procedures for selecting and contracting with a food service management company (FSMC) shall comply with guidance provided by the Pennsylvania Department of Education, Division of Food and Nutrition, including standard forms, procedures, and timelines for solicitation, selection and approval of proposals and contracts. (7 CFR Sec. 210.16, 210.19, 210.21, 215.14a, 220.16)

Pre-Plated Meals
Procedures for selecting and contracting with contractors of pre-plated meals shall comply with guidance provided by the Pennsylvania Department of Education, Division of Food and Nutrition, including standard forms, procedures, and timelines for solicitation, selection and approval of proposals and contracts. (7 CFR Sec. 210.16, 210.19, 210.21, 220.16)