

The board of trustees will at all times comply with Idaho law regarding the efficient and cost-effective purchasing of goods, services, and public works construction by competitive bidding, as appropriate. Further, the district will purchase goods and services from vendors with a significant Idaho economic presence when possible.

Before entering into a contract which requires competitive bidding pursuant to Idaho Code §§33-601 and 67-2800 et seq., the board may utilize the following supplemental procedures in addition to specific procedures outlined in Idaho Code §§67-2805 or 67-2806. Nothing herein is intended to conflict with statutory requirements and other district policies.

## **DEFINITIONS**

For purposes of this policy, the following definitions apply:

“Bid” means a written offer to perform a contract to sell or otherwise supply property, services or public works construction in response to a solicitation.

“Bid Closing” means the date and time advertised, after which no further bids will be accepted by the district. Any bid received after the bid closing will be returned, unopened, to the bidder.

“Bidder” means an individual or entity that has submitted a bid in response to a specific solicitation on a specific item or items of property to be acquired by this district or for work services to be performed on behalf of the district.

“Contract,” for purposes of the prohibition of environmental, social and governance standards in public contracts set forth herein, means an agreement for the provision of goods or performance of services in exchange for remuneration between the district and another party that has a value of one hundred thousand dollars (\$100,000) or more that is to be paid wholly or partially from district funds.

“Contractor” means a bidder who has been awarded a contract by the district under this procedure. For purposes of the prohibition of environmental, social and governance standards in public contracts set forth herein, Contractor also means any person or entity who has entered or is attempting to enter into a contract, as defined herein, including but not limited to a construction manager licensed pursuant to Idaho law and design-build entities as provided in Idaho Code §67-5701 et seq.

“Environmental, social, and governance standards” means standards that would screen or score contractors based on subjective ethical or sustainability criteria unrelated to the specifications of a contract or the qualifications of a contractor.

“Lowest Responsible Bidder” means the responsible bidder whose bid reflects the lowest acquisition price to be paid by this district, except that when specifications are valued or

comparative performance examinations are conducted, the results of such examinations and relative score of valued specifications will be weighed, as set out in the specifications, in determining the lowest acquisition price.

“Request for Proposal (RFP)” means the written specifications setting forth the goods or services to be purchased upon which a bid can be submitted and the procedures for submitting such bid.

“Solicitation” means an invitation to bid, a RFP or a request for quote issued by the district for the purpose of procuring goods, services or public works construction.

### **PREPARATION OF RFP**

A RFP setting forth the specific needs and requirements for the construction, repair, or improvement of real property, purchase of services, or purchase or repair of any equipment or other personal property for which the bid is sought will be drafted and approved by the board. A rating sheet setting forth the weight, calculated as a percentage, to be given each of the elements in the RFP will be included in the RFP.

In those instances when the district issues an RFP for the construction, repair or improvement of public works, public buildings, public places, or other work, the following will be provided:

1. Written plans and specifications of the work to be performed or materials furnished will be available for review by all interested and prospective bidders.
2. The plans and specifications, when applicable, will include the number, size, kind, and quality of materials and service required for the contract.
3. The plans and specifications shall not specify or provide the use of any articles of a specific brand or mark, or any patented apparatus or appliances when other materials are available for such purposes and when such requirements would prevent competitive bidding. In the event that brand names or other identifying information is included in the plans and specifications, such identification shall be used solely for the purpose of communicating the expectation of a quality level and shall not be interpreted as requiring use of a particular item.

### **LOWEST RESPONSIBLE BIDDER**

The following factors will be considered in determining the lowest responsible bidder:

1. The bid amount;
2. Compliance with administrative requirements of the bidding process;
3. Requisite licensure of the bidder;
4. Meeting prequalification standards, if applicable; and

5. For public works contracts, verification that the bidder holds a current Idaho public works license, or will hold such license at the time of award of the contract; and verification of the bidder’s previous and existing compliance with all other laws relating to public works, including employment practices set forth in Idaho Code §44-1001 et seq.

Unless precluded by law, the district may also consider any of the following factors in determining the lowest responsible bidder:

1. Specific needs and requirements identified in the RFP;
2. Project costs;
3. Financial solvency of the individual or corporation bidding;
4. Prior work experience, if any, between the individual or entity and the district, including the quality of performance of previous contract or services;
5. Demonstration of the ability, capacity, and skill of bidder to perform the work required;
6. The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
7. Listing of the names and addresses of all subcontractors and providing assurance of appropriate licenses or certificates;
8. Posting and verification of a bid bond, including a payment and performance bond, if required;
9. Unique product features, warranties, product performance records, future product maintenance or service requirements;
10. An innovative solution offered for purchases of goods or services; and
11. Such other information related to the performance of the contract as deemed appropriate.

**REVIEW OF BIDS**

All bids received will be date and time stamped to ensure they were received prior to the bid closing. All bids received after the bid closing will be returned, unopened, to the bidder and will not be considered for award of the contract. After the bid closing, at the time and place stated in the advertisement for bids, bids will be opened, recorded, and made available for inspection. Any interested person may attend the bid opening.

For purchases of public works construction, only those bids submitted by bidders with a current Idaho public works license at the time of bid closing will be considered.

The superintendent or designee may appoint an individual or panel, with appropriate expertise, to review and evaluate, pursuant to the rating sheet, all accepted bids. The rating sheet will

designate the weight, calculated as a percentage, to be attached to each element set forth in the RFP, which will be applied by the reviewing panel in evaluating each bid.

### **AWARD OF THE CONTRACT**

Based on the rating of the bids, the superintendent will make a recommendation to the board at the next regularly scheduled board meeting after the rating has been completed, unless it is determined a special board meeting to review the bids is appropriate. Such recommendation may include:

1. A recommendation that the board contract with the lowest responsible bidder, as determined by the rating sheet;
2. A recommendation to reject all bids;
3. A recommendation to reject all bids and re-bid; or
4. After finding it to be a fact, a recommendation to adopt a resolution declaring that the goods can be procured more economically on the open market; or
5. If two (2) or more bids are the same and the lowest responsive bids, a recommendation to accept the one the board deems in the best interest of the district.

Upon a majority vote of the board, the contract will be awarded to the lowest responsible bidder, as determined by the board. No contract will be accepted or denied based on environmental, social, and governance standards as defined herein. The district will enter into a contract that incorporates the terms set forth in the RFP and the successful bid response. Written contracts will be prepared for all major construction and repair projects, signed by the board chairman on behalf of the district.

An acceptable bid or offer and a district purchase order may constitute the only contract necessary for the purchase of supplies, equipment, and minor repairs of construction projects, except that the successful bidder must meet all conditions included in the RFP.

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

A contractor not selected for a contract with the district may assert non-compliance with Idaho Code §67-2347 (prohibition of environmental, social, and governance standards in public contracts) as a basis to challenge the award of the contract under administrative and legal processes otherwise applicable to the award of the contract.

**BIDDING RELIEF**

In the event a bidder made a mistake on a bid, the district will determine if the bidder is entitled to relief from the bid. Bidders will be granted relief from the bid if the bidder established to the satisfaction of the district that the following occurred:

1. A clerical or mathematical mistake was made;
2. The bidder gave this district written notice within five (5) calendar days after the opening of the bid of the mistake, specifying in the notice in detail how the mistake occurred; and
3. The mistake was material.

The district will document the receipt of the request for relief, its review of the bid, and any action taken by the district. The report will be filed with the superintendent and will be available for inspection as a public record.

In the event the district determines that relief is to be granted as set forth above, it will return any bid security filed with the district or agent thereof. Bidders who did not satisfy the conditions for relief shall forfeit any bid security. Additionally, any bidders failing to execute a contract, and not satisfying the conditions of a mistake shall forfeit any bid security.

Any bidder claiming a mistake, or who forfeits a bid security, is prohibited from participating in any re-bidding of the same project on which the mistake was claimed, or security forfeited.

**NON-MATERIAL BID IRREGULARITIES**

Non-material irregularities in the bid will be waived by the district, and the bid will not be rendered non-responsive. The following will apply in determining whether non-material irregularities exist:

1. Clerical errors, such as obvious arithmetic errors, must be discernible from the bid documents. If the errors can be corrected, the bid will be considered responsive. The revised bid amount will be used in evaluating the bid.
2. Both the error and the bidder’s intent must be readily discernible from the bid documents.
3. The correction or waiver of non-material irregularities must not affect the relative standing of, or be otherwise prejudicial to other bidders.

**PROHIBITION AGAINST BID SPLITTING**

Neither the district, nor any of its employees, will split or separate purchases or work projects for the purpose of evading any laws of the State of Idaho, which require competitive bidding.



**LEGAL REFERENCE:**

Idaho Code Sections

- 33-601 – Real and Personal Property; Acquisition, Use or Disposal of Same
- 44-1001 et seq. – Public Works
- 54-1901 et seq. – Public Works Contractors
- 54-4501 et seq. – Public Works Construction Licensing
- 59-1026 – Willful and Knowing Avoidance of Competitive Bidding and Procurement Statutes; Civil Penalties
- 67-2326 through 67-2333 – Joint Exercise of Powers
- 67-2347 – Prohibition of Environmental, Social, and Governance Standards in Public Contracts
- 67-2800 et seq. – Purchasing by Political Subdivisions

Education Department General Administrative Regulations, 2 CFR 200.319(c)

**ADOPTED: January 11, 2021**

**AMENDED: August 14, 2023**