



**Newport-Mesa**  
Unified School District

# PURCHASING HANDBOOK

*Inspire. Educate. Elevate*

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## Introduction

The purpose of this handbook is to provide information about the policies and operating procedures for Procurement, Competitive Bidding, and Related Services in support of the educational goals of the Newport-Mesa Unified School District.

Policies and procedures identified in this handbook comply with all State and Federal Laws, regulations of the District's Governing Board, and represent the best business and purchasing practices applicable to school districts and other governmental agencies throughout the State of California.

The following information should be used as a guide to District resources and services that are available to assist your procurement and contracting requirements. Purchasing staff members are available to help you in a variety of ways, including preparation of purchase requisitions, sourcing products and services, publishing requests for proposal, preparing bid packages and processing competitive bids, processing warehouse stores orders, creating and reviewing specifications and establishing terms and conditions for purchased products and services, among others.

Purchasing Department staff members, their contact information, and responsibilities can be found on the [NMUSD website](#).

Thank you.

Purchasing Department  
Newport-Mesa Unified School District

# Mission Statement

Our mission is to provide the acquisition of equipment, supplies, materials, and services needed to ensure academic success throughout the District. By doing so, we continue to practice and educate our sites in the matter of being fiscally responsible but nevertheless provide the highest level of professional and timely service to all school and administrative sites; to provide the lowest price possible without sacrificing quality or service; and to maintain a positive work environment for purchasing associates and co-workers.

## **Accomplishing Objectives**

The objectives in the mission statement will be accomplished by:

- Maintaining a collaborative effort among buyers, suppliers, and internal customers.
- Complying with public contract code and other related regulations.
- Listening to our internal customers and their concerns.
- Being receptive to new ideas and purchasing concepts.
- Educating internal customers about principles of effective purchasing practices and product standards.

## **Responsibilities**

- Purchase equipment, supplies, materials, and services for school and administrative sites as cost effectively as possible.
- Develop and process bid packages and related contracts and board agenda items for construction and maintenance projects and acquisition of equipment and supplies.
- Coordinate construction and maintenance projects through the Project Facilitation Process developed in conjunction with Maintenance and Operations and Accounts Payable.
- Facilitate the management of forms with the Warehouse.
- Participate, along with the Warehousing Department, with the return of equipment for disposal, receiving into BusinessPlus and product returns to suppliers.

## Purchasing Code of Ethics

- Give primary consideration to the interest of the School District by which we are employed.
- Apply objective practices, seeking to obtain the maximum benefit for each tax dollar spent.
- Maintain fairness in all dealings with qualified vendors, contractors, material suppliers, service providers and employees.
- Provide courteous and professional behavior to vendor representatives and others.
- Apply continuous improvement practices.
- Cooperate with all organizations and individuals who conduct business with the District.
- Foster and promote ethical and legal trade practices.



# Purchasing Processes

## Purchasing Policy

Newport-Mesa USD operates with a centralized Purchasing program. While school and administrative sites initiate requisitions in BusinessPlus, the District's order processing and financial system, a purchase order, properly numbered, authorized, and signed by the Purchasing Department is the only document by which the District obligates itself to a vendor. The Purchasing Department is the only entity authorized to sign and issue purchase orders. This policy is supported by California Education Code section 42632, which requires that school purchases have District approval prior to the receipt of goods and services.

In order to conduct business with NMUSD, the District recommends vendors familiarize themselves with all of the State of California applicable codes, rules and regulations that affect the acquisition of goods and services for school districts.

## Before You Buy

The first step in acquiring goods or services for your site is to define your needs. In essence, what problem, need, request or challenge do you want to solve? Once this is determined, you can develop a detailed specification for use in the purchasing process.

A specification may include any or all of the following:

- Quantity
- Model Numbers
- Color
- Training Requirements
- Maintenance Requirements
- Estimated Price or Total Cost and Unit of Measure
- Freight Charges
- Measurements

The Purchasing Department is available to assist in finding sources for goods and services. It maintains a database of vendors. Many items are available through existing District or piggyback bids and CMAS contracts that allow the District favorable terms, conditions, and pricing. Formal bids may require a lead time of up to three months before they are available for use (see Competitive Bid Summary for terms and conditions). While school sites and administrative offices initiate purchase requisitions, the Purchasing Department must review and execute the final purchase order.

## **Creating the Purchase Requisition**

Requisitions are created using BusinessPlus. A requisition will include the following information:

- Actual vendor or dummy vendor if not in BusinessPlus database.
- Requisition number that is created by BusinessPlus
- Account Line
- “Ship to” location and code
- Buyer code
- Requestor name
- Date materials or services are needed
- Quantity and description of materials or services being ordered
- Unit of measure
- Unit price
- Estimated freight charges if known
- Sales tax
- Special delivery instructions, as necessary
- Warranty Information

After the approval process moves through BusinessPlus, the appropriate buyer will receive the requisition for final evaluation and approval. Upon approval, the Purchasing Department will print purchase orders for distribution to vendors, contractors, suppliers, consultants, or service providers. A requisition alone does not obligate the District to a purchase, as it is not a signed, approved purchase order.

## **Unauthorized Purchases**

In accordance with California Education Code section 42632, only authorized individuals appointed by the Governing Board may financially obligate the Newport-Mesa Unified School District. The District requires issuance of a signed purchase order prior to a vendor providing services or materials, including Internet vendors.

The Purchasing Department shall conduct or supervise all purchase transactions for the District. In the event that an unauthorized purchase is made, the following applies:

- Any purchaser of supplies, equipment, or services by staff members, without a prior purchase order approved by the Purchasing Dept., may not be paid for by the District.
- Purchases made in the name of the District without an authorized purchase order shall be considered an obligation of the person making the purchase and not an obligation of the District. Deliveries of materials or services, which are made without an approved purchase order or contract, are made at the Seller’s risk.

## Open Purchase Orders

The requisition for an open purchase order must have:

- “Not to exceed” amount
- Valid dates for the fiscal year
- Names of employees authorized to sign for and/or pick up orders from vendors
- A full description of the materials being ordered

Signed packing lists and/or signed invoices by the employee making the pickup must be forwarded to the Accounts Payable Department the first working day after the purchase is made or goods received. The purchase order number must be indicated on all invoices and packing lists. If the receiving documents are delayed to Accounts payable, payments to vendors may be delayed.

## Changes to Purchase Orders (Change Orders)

There may be a need to add an additional dollar amount to the original purchase order. There are many different reasons to change the original PO amount, for example, the vendor may have changed prices, or an open purchase order has been depleted. Change orders are facilitated by creating a change order requisition in BusinessPlus using Vendor Number V7804039, cross referencing the original purchase order number. After the normal approval process, the assigned buyer will add the change order to the original purchase, thus increasing the value of the original purchase order. To enact the change order, the original purchase order is reprinted, which identifies the newly added line item(s). However, please note that the District Policy states, **that you can only add no greater than 15% of the original PO Dollar amount to the PO Change Request. If Change Order is over 15% of the original requested dollar amount, a new PR must be submitted for the full requested amount.**

## Dummy Order

A Dummy purchase requisition (vendor is not in BusinessPlus) is created using Account Number V7803897. In the body of line item one, the originator should identify the name, address and phone numbers of the vendor using code IT in the right column of the screen. All other aspects of the requisition follow purchase requisition protocols. Upon receipt of the order, the assigned buyer will add the vendor in BusinessPlus, converting the Dummy vendor to the actual vendor, and process the purchase order.

### **Disclaimer:**

Before requesting or purchasing items and before submitting a PR from a Dummy vendor, please clear it with Purchasing first.



## Requesting Checks for Vendors

Occasionally there is a need to purchase supplies or equipment from vendors which will not accept a purchase order, however, this method is strongly discouraged unless there is absolutely no other choice because of the unique nature of the product. In this event, you must complete a "Request for Check" form for an advance payment and the purchase order must contain information about the advance payment requirement. Please follow the steps below:

- Obtain an exact written price quote and an invoice from the vendor. Verbal quotes are not allowed. Original invoices are most preferred, faxed copies are least preferred.
- Complete the requisition and purchase order process in BusinessPlus, including the reason for the request for an advanced check to the vendor.
- Forward a copy of the purchase order to Accounts Payable.

## Commonly Used Object Codes

While there are numerous object codes available for use (as part of the 14-digit account line), this section identifies some commonly used codes:

- 4301 Instructional Supplies
- 4350 General Supplies
- 5620 Contract Services

The following object codes required a fixed asset tag:

- 4401 New Equipment Non-Capitalized
- 4406 New Equipment Non-Capitalized
- 4409 New Equipment Non-Capitalized
- 6401 New Equipment Capitalized
- 6403 Vehicle Lease/Purchase Capitalized
- 6406 Equipment/Computer Capitalized
- 6409 Equipment/Software Capitalized

The District's Chart of Accounts contains a complete listing of the Pseudo Code Structure Layout (14 digits):

Fund XX  
Site XX  
Function XX  
Cost Center XXXX  
Object Code XXXX

## **Warehouse Stock Orders (Stores)**

The District's central warehouse carries over 100 inventory items listed in the "Stores" catalog. These items are available to sites and departments for purchase without doing a purchase requisition to an outside vendor. There are six categories of items in the catalog:

- General Office and Art Supplies
- Health Supplies
- Physical Education Supplies

In order for a site or department to place an order for these items, a "Stores Order" must be created in BusinessPlus. Stores Orders are different than Purchase Requisition and are entered using a different method. Stores Orders must contain the following:

- Description (destination of order)
- Purchaser's name
- Date
- Ship to ID
- Quantities
- Items numbers from catalog
- Account numbers

Once a Stores Order is entered, the site prints it to the Warehouse printer where Warehouse personnel print it and fill and deliver the order. These orders are usually filled within a one to two-day period and delivered on the normal scheduled delivery day of the site or department. Once an order is filled it is automatically charged to the account line on the order.

Returns may be processed for anything purchased within the fiscal year. For example, if an item was purchased in June the site would not be allowed to return it in August. In order to request a return, the site or department would need to fill out the "Stores Return for Credit" form, which can be found on the District website under Forms under Purchasing. Once completed, the form should be mailed or faxed to the Purchasing Department, which will review it and then issue to the Warehouse personnel to arrange for pickup. After the item has been picked up and returned to warehouse stock, the merchandise will be credited back to the site.

## **U.S. Mail**

Outgoing mail is processed every afternoon by the Warehouse personnel and delivered to the Post Office for mailing. Interoffice mail is distributed around the District on a daily basis by Warehouse personnel. Outgoing mail is picked up and taken to the warehouse for processing on a daily basis by warehouse personnel.

## **JIT (Just-in-Time) Orders**

JIT orders are for office and classroom supplies. The JIT process is designed for next day delivery of supplies. In addition to quick delivery, JIT offers other benefits not associated with regular purchases. Whereas regular buyout orders are a one-time purchase, JIT orders are facilitated using an Open PO for Southwest School and Office Supply only.

Office Depot Open POs allow for multiple purchases on an as needed basis, each purchase typically listing several items, precluding the creation of multiple buyout PO's and the requirement of carrying a large inventory of supplies at the school or administrative site.

Through the competitive bid process, the District has awarded office and school supplies to Southwest School and Office Supply for up to a three-year period, reviewed annually and approved by the Board of Education.

## **Merchandise Returns to Vendor**

All orders by District purchase order that need to be returned to vendors are processed by the Purchasing Dept. However, there is a \$25 threshold to be eligible for the return. If the product to be returned is valued at \$25 or less, then the site is to keep or discard the item, but not physically return the item.

The following information is required when contacting the appropriate buyer:

- Vendor Name
- Purchase Order Number or Requisition Number
- Reason for the return (If broken or damaged, please provide a complete description)

Do not send "return merchandise" to the warehouse without prior approval from Purchasing. Each buyer will request a return authorization from the vendor and subsequently arrange for the physical return to the vendor. In the event of the return not meeting the dollar threshold, then the buyer will request a credit only from the vendor.

## **Maintenance Agreements (Copiers and other Office Equipment)**

Copier and printer maintenance agreements are facilitated through the Purchasing Department via the District's Lease equipment agreement. The MA's include toner supplies, repairs, and parts, but not staples or paper.

Maintenance agreements for more complex equipment, i.e., elevators, are documented by a District Service Agreement or the service provider's agreement form, depending on which form serves the District's interest more favorably.

## **Surplus Property Disposal (TOE—Transfer of Equipment)**

School and administrative sites prepare the Transfer of Equipment (TOE) Request form, then send the form to the Warehouse, which schedules pick up of the equipment. The Purchasing office accumulates the TOE forms for the purpose of requesting the Board of Education to approve the disposal of the equipment. Subsequently, the equipment is removed from the district's asset data base and the district disposes of the equipment through its previously approved methods of disposal, such as the Liquidation Company, E-waste Co, General Auto Auction, and Inter-Scholar and in compliance with state regulations.

## **Vendors' Communication with Sites Policy**

The District requires vendors to communicate directly with the Purchasing Department on all purchasing related matters, including sales calls, sales presentations, price quotes, promotions, catalog distributions, returns, exchanges and substitutions. Vendors are not allowed to contact school or site personnel without the express permission of the Purchasing Department. In all dealings the Purchasing Department maintains a fair and competitive environment in its approach to acquiring goods and services.

## **New Vendors**

To be placed on the District's vendor or bidder's list, a new vendor must register on the Purchasing Dept. page of the District's website. Because of the number of suppliers and vendors the Purchasing Department conducts business with, submitting a request letter does not guarantee a vendor will be notified every time a quotation or bid for that particular commodity or service is sent out or published. Vendors are advised to regularly check the legal notices section of the Orange County Register for published bid notices or the District's website at [www.nmusd.us/bids](http://www.nmusd.us/bids).

A contract or purchase order (P.O.) authorized by the Purchasing Department are the only methods by which the district obligates itself to a vendor. Therefore, vendors are strongly advised not to provide materials or services to the District without first obtaining an authorized purchase order from the Purchasing Department. Purchases made in the name of the District without an authorized purchase order or contract may be considered a donation to the District or a personal obligation of the person making the purchase and not an obligation of the District.

Upon receipt of an authorized purchase and the subsequent delivery of materials or services, invoices must include the following information:

- 1) Purchase Order Number
- 2) Date of Invoice
- 3) Invoice Number
- 4) Bid Number, if applicable
- 5) Appropriate Purchase Detail
- 6) Vendor Remittance Information

Invoices lacking the required information are subject to delay or return for correction. All school purchases are subject to California sales tax. Vendors may expect payment within (30) thirty days of billing, provided proper compliance with invoicing procedures.

Vendors are required to provide Material Safety Data Sheets (MSDS) from manufacturers for all products that are hazardous, as defined by California Code, Title 8, General Industry Safety Orders, Section 5194.

## **Statements of Work**

Written statements of work are used in the public bidding, RFP, and quote process to describe the required level of quality, quantity, delivery, and specifications. In addition to the statement of work, certain terms and conditions governing purchases are also outlined in the District's bid, RFP, quote and purchase order and Service Agreement forms and attachments. For more information, please contact the Purchasing Department.

A vendor may expend considerable time and money presenting a product or service to the District in the desire to make a sale. The purchase may eventually be made by competitive bid according to the Public Contract Code and other regulations. The expenses incurred by a vendor for designs, samples, demonstrations, drawings, layouts, or travel do not guarantee that the District will purchase from the vendor.

## **Public Bid Process**

### **Basis for Bid Award**

Based on Public Contract Code, the District awards bids to the lowest qualified responsible bidder. This means the lowest priced bidder who offers the best responses in quality, fitness, capacity, and trustworthiness to the requirements of the proposed work. Such factors as delivery, time, quality, compatibility, references, experience, parts and service, freight costs, among others, influence an award to the "lowest qualified responsible bidders."

A "responsive" bid/proposal is one that conforms to the requirements of the statement of work, specification(s), solicitation, instructions and the District's contractual terms and conditions and Public Contract Code. This would also include such factors as completeness of the quotation and bid forms, inclusion of references and attachments and completion of required responses.

Informal quotes, bids or proposal for goods and/or services may be requested and received verbally and/or in writing by mail, e-mail, and facsimile. Informal bids apply to purchases below the formal bid limits described herein.

## **Policy Guidelines for Major Purchases and Public Bidding**

1. If a purchase is less than \$5,000, supplier can be sole sourced if the District has previous positive experience with the supplier. However, the project initiator has the option to obtain three proposals. The project will require approval according to current procedures.
2. If a purchase is greater than \$5,000, but less than \$114,800, the purchase initiator will obtain a minimum of three proposals/quotes. The Deputy Superintendent, Chief Business Official or the Superintendent may waive this requirement in an emergency.
3. Purchases exceeding \$114,800 will be subject to Board approval and the competitive bidding process.

### **Competitive Bidding Summary**

#### **PCC 20111(a). Public purchases goods and services exceeding \$114,800**

- Purchase of equipment, materials, or supplies
- Services, Non-construction

Note: Projects in this category typically do not require a Notice to Proceed and Notice of Completion, since the purchase is facilitated by P.O. and no construction is conducted. The bid threshold is adjusted annually by the State Dept. of Education.

#### **PCC 22000-22045 Public works under CUPCAA**

##### **Prequalified Contractors List**

The Newport Mesa Unified School District shall create and maintain a list of prequalified Contractors for all transactions between zero (\$0) and Two Hundred Thousand Twenty Dollars (\$220,000) in the following manner.

1. Annually in November, the Purchasing Department shall create and maintain a list of Prequalified Contractors as follows.
  - a. A written notice shall be published in all construction journals specified by the commission as well as any other locations that the Purchasing Department deems appropriate. At least one of the trade journals must be chosen for publication from either the local area trade journals or from the local builders' exchange publications.
  - b. The District's publication shall invite all licensed contractors to submit their name to the Purchasing Department through on-line vendor registration.
  - c. The Purchasing, Maintenance & Operations and Facilities Departments will review contractors that meet predetermined State and District acceptance criteria for inclusion on the list of qualified bidders for each calendar year.
  - d. This list of contractors will be identified according to categories of work.
2. At the completion of the calendar year, the list will be deemed completed, and a new list will be prepared in the same manner to begin on January 1<sup>st</sup> of the next calendar year.

3. Contractors may at any time during a calendar year request to be added to the list of prequalified contractors.

### **Projects from \$0 - \$24,999**

For all jobs from zero (\$0) to Twenty-Four Thousand Nine Hundred Ninety-Nine Thousand Dollars (\$24,999) the Newport Mesa Unified School District shall utilize the following procedures.

1. The Facilities, Purchasing and Maintenance & Operations Departments will have the discretion to select from the list of prequalified contractors, any contractor they deem to be in the best interest of the District and have a written quote submitted from them.
2. Facilities or Maintenance & Operations will then submit to Purchasing a requisition with the prequalified contractor's quote.
3. Purchasing will then process the requisition into a purchase order and return a copy of that purchase order to the contractor.
4. A minimum of three quotes are required for all jobs. All quotes or e-mail communication showing attempts to receive quotes must be provided to purchasing.

### **Projects from \$25,000 - \$74,999**

For all jobs from Twenty-Five Thousand Dollars (\$25,000) through Seventy-Four Thousand Nine Hundred Ninety-Nine Dollars (\$74,999) the Newport Mesa Unified School District shall utilize the following procedures.

1. The Facilities, Purchasing and Maintenance & Operations Departments will have the discretion to select from the list of prequalified contractors, any contractor they deem to be in the best interest of the District and have a written quote submitted from them.
2. Upon selection of the contractor as well as the submission of their quote, the Facilities or Maintenance & Operations Department will have Purchasing create and provide to the contractor the "Public Works Small Project Contract."
3. Facilities or Maintenance & Operations will then submit to Purchasing a requisition.
4. Purchasing will then process the requisition into a purchase order once the contract and bonds are received from the contractor and return a copy of that purchase order with a copy of the fully executed "Public Works Small Project Contract" to the contractor.
5. A minimum of three quotes are required for all jobs. All quotes or e-mail communication showing attempts to receive quotes must be provided to purchasing.

### **Projects from \$75,000 - \$220,000**

For all jobs from Sixty Thousand Dollars (\$60,000) through One Hundred Ninety-Nine Thousand Nine Hundred Ninety-Nine Dollars (\$199,999) the Newport Mesa Unified School District shall utilize the following "Informal Bid" procedures.

1. Facilities or Maintenance & Operations will gather all project plans and specifications for submission to the Purchasing Department.
2. The Purchasing Department will issue a notice to all pre-qualified contractors inviting them to provide informal bids by the specified date and time as follows:
  - a. Only those pre-qualified vendors within the applicable trades will be notified.
  - b. All projects will be assigned a "Job #" that is unique to that project.
  - c. The lowest submitted estimate shall be awarded the job by the District.

- d. Upon award, the contractor will be required to complete the “CUPCCAA Informal Bid Project Contract,” submit Payment and Performance Bonds and provide proof of insurance.
- e. Once all required documents have been received, Purchasing shall return to the contractor a fully executed copy of the agreement along with the Purchase Order. This combination of documents will be considered the Notice to Proceed, contingent upon direction by the Facilities or Maintenance & Operations Departments.

### **Projects from \$200,000+**

For all jobs from Two Hundred Thousand Dollars (\$200,000) and over, the District shall use the Formal Bidding Process as specified in the California Education Code and Public Contract Code.

## **Federal Program Procurement Guidelines**

Procurement is a multistep process for acquiring the best possible goods and services at the lowest possible price. The Newport Mesa USD will purchase goods and services for use in Federally Funded Programs in compliance with Title 2, *Code of Federal Regulations (2 CFR)*, sections 200.318–200.326; Title 7, *Code of Federal Regulations (7 CFR)*, parts 210 and 220; and all applicable state and local rules.

When making procurement decisions, the Newport Mesa USD will follow the following four fundamental principles of procurement:

1. Comply with the Buy American Provision by purchasing, to the maximum extent possible, agricultural commodities and products grown and processed in the United States.
2. Understand and comply with federal, state, and local requirements.
3. Ensure that full and open competition exists to the maximum extent possible as outlined in 2 *CFR*, Section 200.319(a).
4. Award contracts to responsible and responsive bidders.

### **Methods of Procurement (only refer to applicable procurement methods)**

#### **1. Micro-purchase Method (2 *CFR*, Section 200.320[a])**

Micro-purchases may be awarded without soliciting competitive quotations or comparing prices among qualified suppliers if the following two conditions are met:

- The aggregate value of a single transaction is **\$10,000.00** or less.
- Newport Mesa USD staff considers the price to be reasonable. Documentation (e.g., receipts and invoices) must be maintained for three years plus the current program year or until the next California Department of Education (CDE) review, to document costs that are reasonable.

The Newport Mesa USD will distribute micro-purchases equitably among qualified suppliers to the extent practical. The Newport Mesa USD will ensure that purchases are made at a



variety of stores. The Newport Mesa USD will not limit its purchases to only one store unless it is not practical to equitably distribute (e.g., due to the distance of another store from the district office).

Micro-purchases are not intended to be used to avoid a small, informal, or formal procurement.

## **2. Small Purchase Method (2 CFR, Section 200.320[b])**

The small purchase method is used to procure goods and services when the aggregate value of the purchase is equal to or less than the small purchase threshold adhered to by the Newport Mesa USD. The Newport Mesa USD does not have a local small purchase threshold; therefore, the Newport Mesa USD is required to adhere to the federal small purchase threshold of \$250,000, effective August 1, 2018. The Newport Mesa USD will check the Federal Acquisition Regulation (FAR), Part 2, on the FAR web page at <https://www.acquisition.gov/?q=browsefar> annually on January 1 to verify the federal small purchase threshold.

The Newport Mesa USD will follow the following steps when conducting procurements using the small purchase method:

- **Step 1:** The Newport Mesa USD will develop and provide a clear and accurate description of the technical requirements of the goods or services to be procured from potential sources per 2 CFR, Section 200.319(c)(1), including the requirement to comply with the Buy American Provision per 7 CFR, sections 210.21(d) and 220.16(d) when procuring food. The same specifications will be provided to each potential vendor so that each vendor can provide price quotes on the same goods or services.
- **Step 2:** Price or rate quotations will be obtained from a minimum of two responsible and responsive sources. Price quotes must be documented in writing per Newport Mesa USD's policy.  
Newport Mesa USD Small Purchase Quotation forms and other forms of written quotes submitted by potential vendors will be retained by the Newport Mesa USD with other related procurement documentation (e.g., invoices) for the term of the contract plus extensions and three additional school years, or until the next review by the CDE, whichever is longer.
- **Step 3:** The Newport Mesa USD will evaluate the written quotes received based on stated evaluation criteria in order to determine responsiveness.
- **Step 4:** The Newport Mesa USD will evaluate the written responses and references received based on stated evaluation criteria to determine responsibility.
- **Step 5:** The Newport Mesa USD will award small purchases to the lowest priced responsible and responsive vendor.
- **Step 6:** The Newport Mesa USD will monitor the contract to ensure goods or services solicited for are the ones received, and all deliverables are met per 2 CFR, Section 200.318(b).

The Newport Mesa USD will check for any changes to the micro-purchase and small purchase thresholds approved by the federal awarding agency.

### 3. Formal Purchase Methods (2 *CFR*, Section 200.320[c][d])

The formal purchase method, used to procure goods and services when the estimated purchase price is above the federal small purchase threshold, is currently set at above \$250,000 effective August 1, 2018. Both Invitation for Bid (IFB) and Request for Proposal (RFP) methods are used by the Newport Mesa USD. The Newport Mesa USD will check the FAR, Part 2, web page at <https://www.acquisition.gov/?q=browsefar> annually on January 1 to verify the federal small purchase threshold.

The terms of formal contracts will be one year. Contracts may be renewed for up to three (3) total years for the purchase of goods and five (5) total years for the purchase of services. Renewal options will be mutually agreed between Newport Mesa USD and the awarded contractor.

The Newport Mesa USD will complete the following steps when conducting formal procurements:

- **Step 1:** The Newport Mesa USD will describe how it performs a **cost or price analysis (2 *CFR*, Section 200.323)** for every procurement in excess of the federal small purchase threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the Newport Mesa USD will make independent estimates before receiving bids or proposals to ensure the bids or proposals received are reasonable.
- **Step 2:** The Newport Mesa USD will develop a written solicitation, which will incorporate:
  - A clear and accurate description of the technical requirements for the goods or services to be procured per 2 *CFR*, sections 200.319(c)(1) and 200.320(c)(d).
  - The requirement to comply with the Buy American Provision per 7 *CFR*, sections 210.21(d) and 220.16(d)
  - All requirements that the offerors must fulfill, and all other factors (IFBs and RFPs) and their relative importance (RFPs only) used in evaluating bids or proposals per 2 *CFR*, sections 200.319(c)(2) and 200.320(c)(d) to judge responsive and responsible firms.
  - Instructions for responding vendors
  - The general terms and conditions of the contract
- **Step 3:** The Newport Mesa USD purchasing director will advertise the solicitation in print and on websites no less than 14 Days prior to the deadline for submission of bids and proposals.

- **Step 4:** The Newport Mesa USD FSD and purchasing director will open bids resulting from IFBs at the time and place prescribed in the solicitation. RFPs will be opened according to Newport Mesa USD's determination.

The Newport Mesa USD and purchasing director will evaluate offers from responding firms by using the evaluation criteria outlined in the solicitation for both IFBs and RFPs. If there is not a minimum of two respondents, the Newport Mesa USD and purchasing director will review the solicitation to ensure that it is not limiting competition as outlined in 2 *CFR*, Section 200.319, and consider expanding advertising efforts before reissuing the solicitation or accepting the single bid.

The offers will be ranked based on cost only for IFBs and on evaluation criteria (i.e., technical criteria) and cost for RFPs for all responsible and responsive responders. Newport Mesa USD and purchasing director must describe their written method used to conduct a technical evaluation of all proposals received, as required by 2 *CFR*, Section 200.320(d)(1) for RFPs only. The Newport Mesa USD purchasing director will negotiate the technical aspects of each RFP prior to negotiating the cost aspect of the RFP. Any or all bids may be rejected if there is sound documented reason.

- **Step 5: Responsible and Responsive Contractors (2 CFR, Section 200.318[h])**

The Newport Mesa USD will award contracts only to responsive and responsible contractors possessing the ability to conform to all of the stated terms and conditions and 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. Newport Mesa USD defines responsive as respondent conforms to all of Newport Mesa USD's stated terms and conditions and defines responsible as respondent is capable of performing successfully under the terms and conditions of the contract.

- **Step 6:** The Newport Mesa USD will award the contract to the responsible and responsive bidder who offers the lowest price for IFBs. All IFBs will result in a firm, fixed-price contract.

For RFPs, the Newport Mesa USD will award the contract to the responsible and responsive respondent whose proposal is most advantageous to the Newport Mesa USD, with price and other factors considered. All RFPs will result in either a fixed-price or cost reimbursable contract. **Cost plus a percentage of cost contracts will never be used.**

- **Step 7:** The Newport Mesa USD will monitor the contract per 2 *CFR*, Section 200.318[b] by:
  - Overseeing deliveries to ensure that the goods solicited for were received
  - Periodic on-site visits to ensure services solicited are being satisfactorily performed

- Reviewing the contract's terms, conditions, and deliverables monthly to ensure that they are being met and done so in accordance with all federal, state, and local rules
- Ensuring that discounts, rebates, and credits in cost reimbursable contracts are provided

#### **4. Noncompetitive Procurement Method (2 CFR, Section 200.320[f])**

The Newport Mesa USD will only enter into a noncompetitive agreement when one or more of the following circumstances apply:

- The item is available only from a single source.
- An emergency exists, and the urgency for the requirement will not permit a delay resulting from competitive solicitation.
- The Newport Mesa USD received prior approval from the CDE after submitting a written request to the CDE with justification for conducting a noncompetitive procurement.
- After solicitation from a number of sources, competition is determined inadequate.

#### **Purchasing Cooperatives and Intergovernmental Procurement (2 CFR, Section 200.318[e])**

The Newport Mesa USD may choose to make purchases through a cooperative agreement with a group of other schools to increase purchasing power or the Newport Mesa USD may piggyback on contracts awarded to a vendor from another school district when all procurement principles are followed.

While intergovernmental agreements can benefit the Newport Mesa USD, the Newport Mesa USD may only enter into an intergovernmental agreement with a local government (e.g., school district). Newport Mesa USD may also join or piggyback onto a cooperative when that agreement was procured and awarded consistent with federal and state procurement regulations.

The Newport Mesa USD purchasing director and local counsel will carefully review the solicitation issued by a cooperative. The Newport Mesa USD purchasing director and local counsel will ensure the procurement of the contract, and the contract itself, complies with applicable federal, state, and local procurement rules. The Newport Mesa USD purchasing director and local counsel will confirm that the addition of their purchasing power to the procurement does not create a material change in scope or in services.

For cooperative purchasing, the Newport Mesa USD purchasing director must maintain a copy of the solicitation and contract, proof of advertising, and bid award documents (e.g., evaluation documentation) from the lead entity on file for the term of the contract, plus any extensions, and three additional school years.

For piggybacking, the Newport Mesa USD purchasing director must obtain prior written permission from the lead entity awarding the bid and the vendor who was awarded the bid. A copy of the solicitation and contract, including the piggyback clause, proof of advertising, and bid award

documents (e.g., evaluation documentation) must be retained for the term of the contract plus extensions and three additional school years.

A copy of all documents listed above will be made available during a procurement review.

**Buy American Provision (7 CFR, sections 210.21[d] and 220.16[d]; U.S. Department of Agriculture Policy Memorandum SP 38-2017)**

Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 Public Law 105-336 added a provision, Section 12(n), to the National School Lunch Act (NSLA) (42 *United States Code* Section 1760[n]), that requires all school food authorities (LEA) to purchase, to the maximum extent practical, domestic commodities or products. Section 12(n) of the NSLA defines a domestic commodity or product as an agricultural commodity (i.e., meat/meat alternate [M/MA], grain, fruit, vegetable, and fluid milk) or processed product (i.e., processed food product that includes components that contribute to a reimbursable meal, such as a chicken patty that contains an M/MA and grain component) that is processed in the United States using substantial agricultural commodities that are produced in the United States. Substantial means that over 51 percent of the final processed product consists of agricultural commodities that are grown domestically. Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.

When funds are used from the nonprofit school food service account, LEAs must ensure that procurement transactions for food products comply with the Buy American Provision requirement in 7 CFR, sections 210.21(d) and 220.16(d), whether food products are purchased by LEAs or entities that are purchasing on their behalf.

**Note:** The LEA is not required to adhere to the domestic requirement for foods that are not creditable food components.

In compliance with this policy, the Newport Mesa USD will ensure that the solicitation and contract language include the requirement for domestic agricultural commodities and products and retain records documenting any exceptions in advance of accepting deliveries. Implementation of the Buy American Provision by Newport Mesa USD will be ensured by:

- Including the Buy American Provision requirement in food bid specifications, IFBs, RFPs, contracts, purchase orders, and other procurement documents issued
- Monitoring the contract to ensure that the domestic products solicited are the ones received
- Requiring suppliers to provide certification of domestic origin for all food products, from bids and proposals through receipts and invoices
- Conducting monthly reviews on storage facilities to ensure the domestic products received are the ones solicited for and awarded

Exceptions to the Buy American Provision will be used as a last resort and are only allowable for one of the two exceptions listed below and outlined in further detail in the USDA Policy Memorandum SP 38-2017: Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program.

- The product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality.
- Competitive bids reveal the costs of a United States product are significantly higher than the nondomestic product as determined by Newport Mesa USD over 15% percent higher.

The Newport Mesa USD or vendor must document exceptions to the Buy American Provision requirement prior to accepting each and every nondomestic agricultural commodity or product. This documentation must be on file for at least the current year plus three years and must be made available during an on-site administrative review and an off-site procurement review.

The documented exception will include the following:

- A description of the nondomestic item
- Alternative domestic commodities or products that the Newport Mesa USD considered, or the vendor offered and the reason they were not substituted for the nondomestic item
- A synopsis of what third-party verification (e.g., USDA Agricultural Marketing Service Run a Custom Report web page at <https://marketnews.usda.gov/mnp/fv-report-config-step1?type=termPrice>) was done by the vendor or the Newport Mesa USD to determine cost and availability
- Documentation by the vendor or the Newport Mesa USD outlining the price of both domestic and nondomestic commodities or products or lack of availability to justify the exception
- The dates that the: (1) vendor informed the Newport Mesa USD of the nondomestic commodity or product, (2) Newport Mesa USD agreed to accept this food item in advance of delivery, and (3) commodity or product was received by the Newport Mesa USD

### **Small and Minority Businesses, Women’s Business Enterprises (2 CFR, Section 200.321)**

The Newport Mesa USD purchasing director will ensure that minority businesses, women's business enterprises, and labor surplus area firms are used, when possible, by taking the following affirmative steps:

1. Placing qualified small and minority businesses 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 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 organizations such as the Small Business Administration and the Minority Business Development of the Department of Commerce
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section

### **Duplication of Goods or Services (2 CFR, Section 200.318[d])**

The Newport Mesa USD will avoid the acquisition of unnecessary or duplicative items by determining whether the goods or services are necessary and ensuring that their purchase does not duplicate items or bids that the Newport Mesa USD already has in place. The Newport Mesa USD will provide the Newport Mesa USD purchasing director with documentation justifying that the purchase of all goods and services requested are required and not duplicative prior to conducting a procurement.

### **Competition (2 CFR, Section 200.319[a] [1–5, 7])**

The Newport Mesa USD will conduct all procurement transactions in a manner providing full and open competition. Situations where competition is limited will be avoided by the Newport Mesa USD. Some of these situations 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
- Organizational conflicts of interest
- Specifying only a brand name product instead of allowing an equivalent product to be offered
- Any arbitrary action in the procurement process

When a procurement has been properly conducted, and there is only one respondent, Newport Mesa USD will evaluate the scope of work or services requested to determine whether they were too restrictive by contacting potential respondents who did not participate, and by reviewing the requested services for possible modification. Newport Mesa USD will then resolicit. If, after the second solicitation, there is only one respondent, Newport Mesa USD will move forward with that award.

### **Brand Name or Equivalent (2 CFR, Section 200.319[a][6])**

When using a brand name or product code in the specification, the Newport Mesa USD will adhere to the following procedures:

- The Newport Mesa USD will ensure that the description in the specification will always include a clause that an equivalent product is acceptable.

- A copy of the specified brand or code will be posted on the Newport Mesa USD website by the purchasing director so vendors can verify that the product they are bidding on is actually an equal.
- Vendors bidding an item as an equal product to the brand name specified will be required to provide the Newport Mesa USD with a product specification sheet and a sample of the product to ensure that the product is an equal product to the brand name specified.

### **Contractor Involvement (2 CFR, Section 200.319[a])**

The Newport Mesa USD will ensure objective contractor performance and eliminate unfair competitive advantage by excluding contractors that develop or draft specifications, requirements, statements of work, and IFBs and RFPs from competing for such procurements. The Newport Mesa USD will maintain documentation to prove that the appropriate procurement procedures were used, and that the final selection is the most efficient and economical for the Newport Mesa USD.

### **Clear and Accurate Description of Technical Requirements Required (2 CFR, Section 200.319[c] [1–2])**

The Newport Mesa USD will have written procedures for procurement transactions. These procedures will ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service being procured and will not contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service being procured and minimum essential characteristics and standards. A **brand name** or **equivalent** description may be used as a means to define the performance or other salient requirements of procurement. The specific desired features of the named brand must be clearly stated, along with all requirements which the offerors must fulfill, and all other factors to be used in evaluating bids or proposals.

### **Bid Protest (2 CFR, Section 200.318[k])**

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

All solicitations over the Simplified Acquisition Threshold must include bid protest language. The Newport Mesa USD accepts a prospective bidder's protest to a bid award if the protesting party believes the award is not in compliance with the law, does not follow bid procedures, or does not meet bid specifications. A protest must be filed with the Newport Mesa USD designated point of contact for that bid. Such protests must be made in writing and received by the Newport Mesa USD Purchasing Office within five calendar days of bid opening date and shall include all documents supporting or justifying the protest. The protesting party e-mail or deliver copies of the protest to the Newport Mesa USD Purchasing Office. A bidder's failure to file the protest documents in a timely manner shall constitute a waiver of their right to protest the award of the contract.



## **Maintenance of Records (2 CFR, Section 200.318[i])**

The Newport Mesa USD will maintain records sufficient to detail the history of the procurement. 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, a copy of the solicitation and contract, the basis for the contract price (the bidding history), rationale and approval for noncompetitive procurements, any contract amendments, billing and payment records, and a history of contractor claims and for the full term of the contract plus extensions and three additional school years, or until the next review by the CDE. The CDE and USDA reviewers shall have full access to and the right to examine all procurement documentation occurring during this time period.

## **Contract Management (2 CFR, Section 200.318[b])**

The Newport Mesa USD must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

## **Certifications (including, but not limited to 2 CFR, Appendix II)**

The Newport Mesa USD will require any successful respondent to provide proof of having and maintaining, during the life of any contract with the Newport Mesa USD, Public Liability and Property Damage Insurance to protect themselves and the Newport Mesa USD from all claims for personal injury, including accidental death, as well as from all claims for property damage arising from the operations any contract that the Newport Mesa USD enters into.

The Newport Mesa USD will not enter into a contract with any company or individual that has been debarred or suspended. The Newport Mesa USD will require that vendors and potential vendors certify their compliance with the Lunsford Act, which prohibits anyone required to register as a sex offender under Article 27A of Chapter 4 of the General Statutes from knowingly being on the premises of any school.

Vendors that are awarded contracts are required to submit a completed Debarment and Suspension Certificate, and Disclosure of Lobbying Activities. These forms must be completed prior to commencement of work.

## **Contact Information**

For questions and concerns regarding procurement solicitations, contract evaluations, and awards, please contact the following Newport Mesa USD staff:

Purchasing Director: 714-424-5000

This institution is an equal opportunity provider.