



# South Bend Community School Corporation

## Department of Financial Services

### Auditor's Office

**TO:** All Supervisory Employees, Fund & Grant Supervisors, Administration Building Staff, School Treasurers

**FROM:** Marlaina Johns, Director of Internal Audits

**DATE:** May 19, 2025

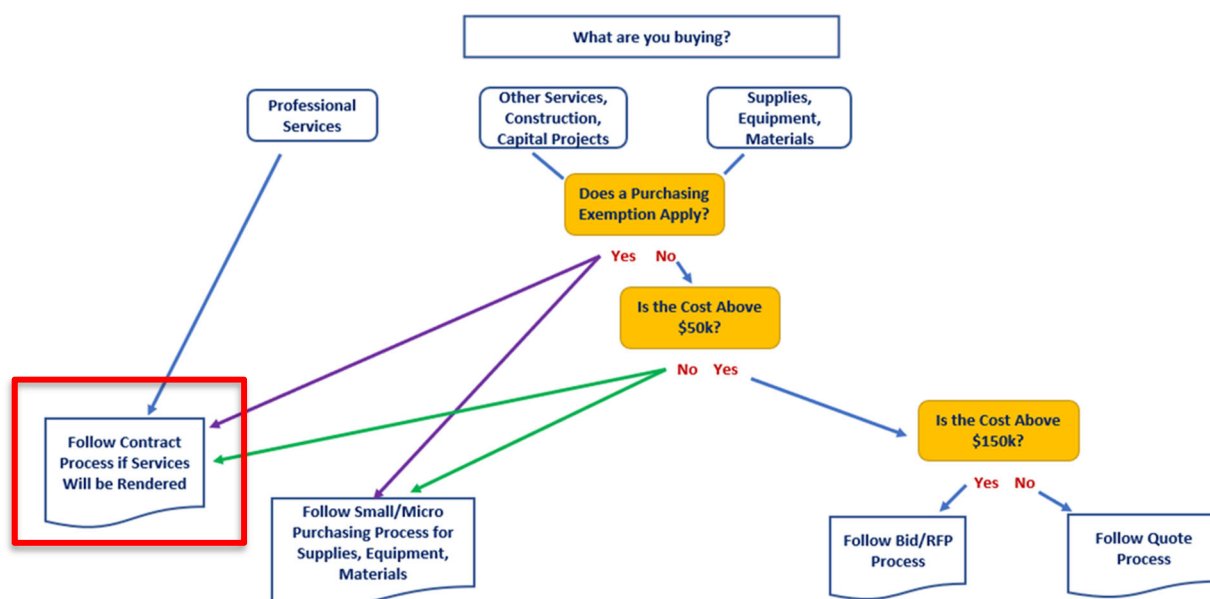
**RE:** Purchasing Contract Process & Requirements

As we have been holding trainings and meetings with individuals across the district, some areas of confusion have been shared with the Finance team. Please review the below to understand the following: the difference between a Contract and a Memorandum of Understanding (MOU); delineation in Contract approval workflows; & examples of items requiring a Contract.

This information supplements the previously shared purchasing guidelines from our CFO. It addresses the area enclosed in red in the diagram below regarding the contracts process.

This information applies to expenditures from all funds, grants, extra-curricular accounts, volunteer activities.

This information will be included in the next version of the Internal Controls Manual; due to be distributed in June 2025. The current Internal Controls Manual is available on our website.



## CONTRACTS vs. MEMORANDUMS OF UNDERSTANDING

### Memorandum of Understanding (MOU)

A MOU is generally used to indicate a future intention and identify key points of services or a project. It is essentially a proposal document used to detail a potential agreement in the future.

MOUs should be used sparingly, if at all. MOUs are not necessary, *but contracts are*.

MOUs typically include:

- an introduction describing the reason for the agreement,
- purpose describing process,



## South Bend Community School Corporation Department of Financial Services Auditor's Office

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- scope of project,
- roles & responsibilities of each party,
- timeline of project,
- cost of project,
- oversight & terms of the agreement,
- signatures upon approval.

MOUs are generally non-binding documents. If the decision is to move forward with a MOU's proposed services, a contract must then be created before services are rendered.

### Contracts

*A contract is required for all services that SBCSC receives from non-employees.* A contract would come after a MOU was agreed upon (if applicable). Not every contracted service will have a MOU, but every service needs a Contract. Unlike most MOUs, a contract is a legally binding document.

Contracts shall outline:

- parties involved,
- services to be provided,
- scope of work,
- compensation & payment terms,
  - contracts for services must include:
    - number of hours the vendor is allowed to invoice at an identified cadence,
    - the hourly rate,
    - the duration of the contract,
    - the number of people
    - the total allowed to be billed under the contract
      - 5 hours per week, for 30 weeks, at \$15/hr, for 3 people would be a maximum amount of \$6,750 for the contract
      - 20 hours per week, for 20 weeks, at \$20/hr, for 4 people would be a maximum amount of \$32,000 for the contract
      - 40 hours per week, for 35 weeks, at \$25/hr for 5 people would be a maximum amount of \$175,000 for the contract
- effective and end dates,
- confidentiality & non-disclosure notices,
- termination clause,
- liability and indemnification,
- intellectual property rights (if applicable),
- signatures upon approval.

Every non-employee person or agency who is providing services to SBCSC needs to have a current, signed contract in place **prior to**:

- a Purchase Order being created, and
- prior to providing services.



## South Bend Community School Corporation Department of Financial Services Auditor's Office

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### APPROVALS REQUIRED

*Contracts can only be approved by the Superintendent or the School Board. Additionally, the Legal Department must review any Contract or MOU that requires an Opinion of Counsel, or any Contract/MOU waiving any legal rights of the Corporation or Board. The Legal Department must maintain electronic copies of all contracts.*

#### Approvals, by type, are as follows:

- MOUs must be reviewed and approved by the Superintendent then the School Board.
- Contracts less than \$50,000 (fifty thousand dollars):
  1. may be approved by the Superintendent, and require
  2. formal Board approval (add to list of contracts at next board meeting)
- Contracts greater than \$50,000 (fifty thousand dollars):
  1. must be approved by the School Board in a separate presentation (formal process where they have the opportunity to ask questions)

### CONTRACTS TO BOARD DOCS & SHARE DOCUMENTATION

Once completed, approved, and signed by all parties, all contracts need to be:

- uploaded to Board Docs.
- copy to the Legal Department
- the department receiving the services or goods
- Finance needs a copy at time of PO creation

### EXAMPLES OF WHEN CONTRACTS ARE NEEDED

- A non-employee who is working for SBCSC in any capacity. This includes:
  - a previous employee who is working as a contractor/vendor,
  - an individual who is tuning our pianos,
  - utilizing a consultant,
  - referee services, etc.
- A business who is providing services to SBCSC. This includes:
  - plumbing services,
  - electrical services,
  - HVAC services,
  - tutoring services,
  - training for employees,
  - contracted nursing services,
  - pest control, etc.

#### Examples of when Contracts are NOT Needed:

- Purchasing Supplies/Equipment
  - buying equipment and installing it ourselves
    - if the purchased equipment is installed by a 3<sup>rd</sup> party, you would need a contract for the installation portion
  - buying tuning equipment for a piano
    - if a 3<sup>rd</sup> party is tuning the piano, you would need a contract for the service
  - purchasing a new scoreboard



## South Bend Community School Corporation Department of Financial Services Auditor's Office

- if the scoreboard requires installation by a 3<sup>rd</sup> party, you would need a contract for the installation

### PURCHASING THRESHOLDS

When entering into contracts, be sure to follow the correct purchasing procedure based on the contract amount.

When creating a contract for services, your contract must identify the total amount the vendor is allowed to invoice (ie. identify a limit). The contract must specify the number of hours the vendor is allowed to invoice at an identified cadence, the hourly rate, the duration, and the number of people.

Examples:

- 5 hours per week, for 30 weeks, at \$15/hr, for 3 people would be a maximum amount of \$6,750 for the contract – use *Micro Purchase Type* and no quote is needed
- 20 hours per week, for 20 weeks, at \$20/hr, for 4 people would be a maximum amount of \$32,000 for the contract - use *Small Purchase Type* Procedure of 3 quotes
- 40 hours per week, for 35 weeks, at \$25/hr for 5 people would be a maximum amount of \$175,000 for the contract – use *Large Purchase Type* Procedure of competitive bidding

### General Purchasing Guidelines – IC 5-22-8-2, IC 5-22-8-3, IC 5-22-9

Purchase Type	Dollar Threshold	Procedure Required
Small	\$50,000 and less	No quote needed.
Quote	\$50,001-\$150,000	Obtain 3 quotes unless there is a special circumstance. Follow most restrictive
Bid/RFP	\$150,001 and above	Competitive Bidding Process as mandated by the State unless there is a special circumstance.

### Federal Purchasing Guidelines - §200.320 (using Federal dollars)

Purchase Type	Dollar Threshold	Procedure Required
Micro	\$10,000 and less	No quote needed.
Quote	\$10,001-\$150,000	Obtain 3 quotes unless there is a special circumstance. Follow most restrictive
Bid/RFP	\$150,001 and above	Competitive Bidding Process as mandated by Federal guidelines unless there is a special circumstance.

### EMERGENCIES

In the event of emergencies (threats to public health, welfare, and safety), the purchasing agent may make a special purchase outside of normal procedures. When possible, approval should be obtained from Chief Financial Officer and/or Superintendent prior to proceeding.

Upon declaration of an emergency, which must be declared in minutes of the board, the Board may contract for a public work project without advertising for bids if bids or quotes are invited from at least two entities know to deal in the public work required.

We hope that this helps to clarify some of the confusion. If you still have questions, please reach out to the Finance Department for help!