

BOARD RESOLUTION
BENCHMARK CURRICULUM PURCHASE

Feaster Charter School - Resolution No. 5.31.23-2

WHEREAS, Title 2, Code of Federal Regulations Section 200.320(b) and California Public Contract Code Section 20111(a) require public agencies to utilize the competitive bidding process for expenditures with public funds unless certain exceptions apply; and

WHEREAS, Title 2, Code of Federal Regulations Section 200.320(c) permits noncompetitive procurement if the item sought is available only from a single source; and

WHEREAS, California Public Contract Code Section 3400(c)(3) permits public agencies to call for a designated material, product or thing by specific brand in order to obtain a necessary item that is only available from one source; and

WHEREAS, California Public Contract Code Section 20118.3 permits a school district to purchase “supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of [its schools] without taking estimates or advertising for bids”; and

WHEREAS, after thorough research of available options, District charter school Mae L. Feaster (“Feaster”) Charter School desires to purchase Benchmark Education supplemental curriculum (“Curriculum”) utilizing federal Elementary and Secondary School Emergency Relief (“ESSER III”) funds; and

WHEREAS, the Curriculum is unique, and thereby only available from one source, because Public Contract Code section 3400 permits public entities to make an exception to the public bidding requirement when the necessary products, hardware, equipment, materials, supplies, software and/or accessories are only available from one source; and

WHEREAS, the Curriculum meets the exceptions to competitive bidding requirements set forth in Public Contract Code Section 20118.3 because Benchmark Curriculum is the sole provider of the curriculum needed for our program; Benchmark Curriculum provides the English learner lessons Feaster Charter is currently utilizing and the consumable resources required for the lessons, only created by Benchmark Curriculum; and

WHEREAS, the Curriculum is best suited to serve the unique needs of District students and staff; and

WHEREAS, competitive bidding requirements would not produce any advantage for the District.

NOW, THEREFORE, BE IT RESOLVED that the Board of Education finds that the Curriculum is unique and meets the sole source public procurement exceptions as cited in Title 2, Code of Federal Regulations Section 200.320(c) and California Public Contract Code Section 3400(c)(3); it would not produce any advantage for the District to comply with competitive bidding requirements in this case; and it is in the District’s best interest to authorize a sole source contract to Benchmark Education for its Curriculum.

BE IT FURTHER RESOLVED that the Board of Education finds that the public bidding exception requirement sets forth in California Public Contract Code Section 20118.3 applies.

BE IT FURTHER RESOLVED that the Board of Education delegates to District staff the authority to take all necessary steps required to contract for the Curriculum as set forth herein.

PASSED AND ADOPTED this 31st day of May , 2023 , at a regular meeting by the following vote,

to wit:

AYES:
NOES:
ABSENT:

Attest:

Clerk/Secretary of the Governing Board