The board strives to obtain high quality services at a reasonable price through the bidding process employed by the school system. This policy describes state and local requirements. Any contracts funded with federal funds must also be made in accordance with the terms and conditions of the federal award and all applicable requirements of federal law and regulation, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Guidance") issued by the U.S. Office of Budget and Management. (See also policy 8685, Federal Grant Administration.) Any contracts funded with local funds must be made in accordance with the local standard terms and conditions.

A. STANDARDS FOR PARTICIPATION IN CONSTRUCTION CONTRACTS

All contracts formally or informally bid will be awarded to the lowest responsible bidder, taking into consideration quality, performance, reliability, and the time specified in the bids for performance of the contract. Contracts will contain a provision stating that the contractor and contractor's subcontractors, if any, must comply with the requirements of G.S. Chapter 64, Article 2. Prior to bidding, contractors may be required to prequalify if the board has elected to use this process. No contract may be entered into with a restricted company, as listed by the state treasurer in accordance with G.S. 147, art. 6E or 6G, except as permitted by those laws.

The board prohibits discrimination against any person or business on the basis of race, color, ethnic origin, sex, disability, or religion. In addition, in accordance with G.S. 143-133.5, the board prohibits discrimination against a bidder or contractor for being party to, refusing to be party to, adhering to, or refusing to adhere to an agreement with a labor organization. The superintendent is required to conduct contracting and purchasing programs so as to prevent such discrimination.

The board will grant a North Carolina resident firm providing architectural, engineering, surveying, construction management at-risk service, design-build services, or public-private construction services a preference over a nonresident firm, if the home state of the nonresident firm has a practice of granting a preference to its resident firms over North Carolina resident firms. Any preference granted to a resident firm will be in the same manner, on the same basis, and to the same extent as the preference granted by the nonresident firm's home state. The school system's bid documents will require that nonresident firms disclose and describe any construction contract preferences granted by the firm's home state.

B. BIDDING METHODS

The board may request bids for contracts for building projects using single prime, multi-prime (separate prime), construction management at-risk, dual bidding, design-build, design-build bridging, and public-private partnership methods, as permitted by law. The superintendent shall make a recommendation to the board as to the method(s) that should

be used for a particular project.

If the superintendent believes the project cannot be reasonably completed under the methods authorized by G.S. 143-128, the superintendent shall so inform the board and make the recommendation to the board that it approve the use of alternative methods. Upon board approval, the superintendent shall submit to the State Building Commission a request to use an alternative contracting method along with supporting documentation.

C. FORMAL BIDDING

Construction and repair work requiring the estimated expenditure of $500,000 or more will be advertised for bid and will be awarded through formal bidding procedures. Dividing contracts to lower the expenditure amounts so as to evade these requirements is prohibited. The board authorizes the use of newspaper advertisement, electronic advertisement, or both for formal bids; however, the superintendent has the authority to determine which method will be used for a specific purchase or categories of purchases. The superintendent shall establish formal bidding procedures consistent with this policy and applicable law and make the procedures available to all bidders or potential bidders.

D. INFORMAL BIDDING

Informal bids will be obtained for construction and repair contracts between $30,000 and $500,000. Quotations from contractors may be solicited by telephone or in writing. Informal bids are recommended, but not required, for construction and repair work costing less than $30,000.

Dividing contracts to lower the expenditure amounts so as to evade the informal bidding requirements is prohibited. The superintendent shall develop informal bidding procedures consistent with this policy and applicable law and make the procedures available to all bidders and potential bidders.

E. APPROVAL

All formally bid construction contracts must be reviewed by the board attorney. The superintendent shall consult with the board attorney in developing standard form contracts for informally bid construction projects.

Any construction or repair contract involving expenditures in excess of $100,000.00 must be reviewed by the board attorney and approved in advance by the board unless provided otherwise in board policy. Unless otherwise prohibited by statute or regulation, the superintendent or designee is authorized to enter into construction or repair contracts involving amounts up to $100,000.00. Change orders for construction and repair contracts will be subject to the requirements of policy 9030, Facility Construction, not this provision.

F. RECORDS AND REPORTING REQUIREMENTS

Records of all informal or formal bids received will be maintained and will be available for public inspection. Such records should include the date the bid is received, from whom it is received, and what project it is for. The records will document why the selected contractor was the lowest responsive, responsible bidder if the contractor was not the low bidder.

The superintendent must submit required reports to the State and provide reports to the board on the progress being made towards reaching the board's goals.

G. DISPUTE RESOLUTION PROCESS

The board establishes the following dispute resolution process to resolve issues arising out of construction and repair projects or contracts related to such projects. The dispute resolution process may be used by any party involved in the construction project for those disputes in which the amount in controversy is at least $15,000.

Prior to initiating litigation concerning a dispute, parties to the dispute must do the following: (1) submit the dispute for review by the superintendent or other designated school official and the project architect, as appropriate, and (2) participate in mediation, if the matter cannot be resolved by school officials and the architect. The cost of the dispute resolution process will be divided between the parties to the dispute. If the board is a party to the dispute, the board will pay at least one-third of the cost.

Legal References: 2 C.F.R. 200.317-200.326; G.S. 64 art. 2; 115C-521, -522; 143-64.31 and art. 8; 147 art. 6E, art. 6G

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