Purchasing: Bid Requirements

General

This regulation describes bid requirements. The purpose of this regulation is to provide written guidance for ensuring that the District uses sound business practices in spending public money and complies with both state and federal purchasing regulations as appropriate. It is the right and responsibility of the Purchasing Department to call for competitive bids or quotes as necessary to safeguard public money and trust.

Procurements using state/District funds: Between $40,000 and $75,000, informal competition is required and quotes must be obtained from at least three different sources in writing or by telephone, and be recorded for public view. Formal bids are required for purchases over $75,000. Formal bid tabulations (scoring results) will be provided to the Board of Directors for bids involving purchases of over $200,000.

Procurements using federal funds must follow the procedures in Section XII of this regulation.

Competitive Solicitations Encouraged

The use of competition for District purchase is encouraged because it has been proven to result in reduced purchasing costs. District employees may request assistance from Purchasing in obtaining informal quotes for goods and services up to the formal bid threshold (currently $75,000), or may obtain informal quotes themselves in coordination with Purchasing. Formal bids will be conducted by the Purchasing Department.

I. Key Requirements for Requisitions

Proper preparation of the requisition in Lawson Requisition Center is a key success factor. A “ready” requisition contains the following essential elements:

a. Requirements documentation such as specifications or statement of work (what is needed?)
b. Cost estimates, number of units, and source of funding.
c. Delivery or performance schedules.
d. List of known sources of supply.
e. Required clearances and approvals.

Depending on the type and nature of the requirement, the following additional elements may also be necessary:

a. Special conditions, provisions, or circumstances that must be considered.
b. Justification for other than full and open competition (e.g. sole source).
c. Statement of need for pre-bid conference or site visit.

II. Key Elements of a Solicitation Document

Normally, it is the responsibility of the Purchasing Department to prepare solicitation documents, including written quotes, formal bids and requests for proposal. At a minimum the solicitation document needs to include:

a. General and special instructions to bidders.
b. The District’s General terms and conditions.
c. Any other relevant special terms and conditions.
d. Specifications and/or requirements of the goods and services needed.
e. Description with sufficient specificity of what is to be purchased and in what quantity.  
f. Price sheets.  
g. Any relevant cost and non-cost considerations.  
h. Evaluation and award criteria.  
i. Signature page.  
j. An advertisement must be placed in a statewide newspaper for all bids over $75,000.  
k. Bids must be posted on the District Purchasing web page and/or the Public Purchase on-line system.  
l. Responses must be recorded.  
m. Contract must be awarded to the lowest responsive responsible Bidder.  
n. Cancellation of a solicitation must meet certain criteria.  
o. Negotiations are only allowed with the lowest responsible bidder.  
p. Responses must be received no later than the stated due date and time. Late bids will not be considered and may be returned to the Bidder unopened or retained at the District’s option.  
q. The solicitation requirements may only be changed or amended if the change is issued prior to the bid opening.  
r.  
III. Evaluation Criteria  The following evaluation criteria are required:

a. Responsiveness - Bidder conformed to all solicitation requirements.  
b. Responsibility - Bidder is qualified and capable of fulfilling contract obligations.  
c. Pricing or cost factors—Pricing of responsive Bidders is evaluated.  
d. Non-cost factors - Non-cost factors (such as service or delivery) of responsive Bidders is evaluated.  

IV. Informal Competition—Request for Quote (RFQ)

RFQ. Use an RFQ when a formal solicitation is not required, but a competitive quotation is required or desirable.  

Written RFQ. Often used for soliciting quotes when the end user knows precisely what goods are needed but does not necessarily require in-depth evaluation of non-cost considerations beyond the Bidder’s ability to meet the required delivery schedule. The following elements should, at a minimum, be included in an RFQ:  

a. Administrative information: name, address (including room number), and phone number of school or department, and any special shipping instructions.  
b. Standard terms and conditions of the contract (usually a purchase order).  
c. Any special terms and conditions.  
d. The purchase description.  
e. Product or service specifications.  
f. Evaluation and award criteria (usually price and delivery).  
g. Delivery requirements  
h. Destination address.  
i. Quantity of units needed  

A minimum of three quotations are to be secured. If fewer than three sources are solicited, the reasons are to be explained in writing and included in the Purchase Order File. The RFQ must identify a due date and time. Late responses will not be considered.
a. The RFQ may be changed or amended, provided the modification is issued prior to the due date and time specified.
b. The contract is to be awarded to the lowest responsive and responsible quote.

The Purchasing Department will use Public Purchase on-line system for soliciting written RFQs.

**Oral Quote.** Oral quotes, such as a telephone quote, may be sufficient for many small purchases and is often the most efficient procurement method. An example would be phoning three plumbing supply companies for oral quotes on repair parts. A written solicitation may be more advantageous when:

a. Increased competition is desirable.
b. The specification or statement of work is too involved to be adequately communicated orally.
c. A quote is needed for multiple items and to protect against the possibility of any misunderstanding.
d. Procurement process integrity and transparency may be warranted.
e. When conducting an RFQ, the Purchasing Department’s standard purchase order bid terms should be incorporated by reference in the solicitation (or other document if getting oral quotes) and provided to the Bidder. Inclusion of these provisions in the solicitation (and later, in the purchase order by reference) is intended to ensure that potential suppliers understand that the District's terms and not a supplier’s commercial contract terms will govern any resultant contract and subsequent purchase order.

V. **The Formal Sealed Bid Process** As much as is practical, purchases should be based on competitive bids. A formal sealed bid procedure should be used as standard procedure for solicitations in excess of $75,000. The key elements of a successful formal sealed bid process are outlined in the following sections.

a. **Basic Solicitation Information.** The solicitation document should include:

1) Title  
2) Reference number  
3) Initial contract term  
4) Possible extensions and maximum contract duration  
5) Authorized and/or potential users of the resulting contract  
6) Procurement coordinator contact information

b. **Instructions to Bidders** The solicitation should include a section that details instructions to Bidders, such as specific preparation instructions, pre-bid conference or site visit requirements (if any), Bidder communication requirements, solicitation due date and time, response submittal address and/or location.

c. **Purpose Statement** Provide a clear statement of the purpose, existing environment, and perceived need, as well as any other background about the procurement which may be appropriate (e.g., historical usage trend, external influences).

d. **Scope Statement** Describe the range and parameters of products and/or services that will be available to be purchased under the resulting contract.
e. **Product and/or Service Specifications** Specifications should be articulated to promote competition by identifying minimum functional requirements. Specifications should:

1) Be written to describe the need to be fulfilled.
2) Emphasize performance rather than design. 3) Include performance expectations.
4) Include only features needed for an item’s intended use.
5) Identify the essential characteristics of the item to be purchased.
6) Allow for competition to the maximum extent practicable.
7) Capture industry input but not be written by any specific bidder.
8) Allow for commercial, off-the-shelf products if possible.
9) Avoid any requirement that may needlessly favor a specific supplier.

f. **Evaluation and Award Section** Describe in detail how solicitation responses will be evaluated and how the award will be determined. This may include responsiveness check, cost and noncost consideration, weighting factors, total cost of ownership calculations, and responsibility factors such as references, experience, staffing, and quality assurance. (See RCW 39.26.160).

VI. **Pre-Bid Conferences and Site Visits** Pre-bid conferences and site visits provide an opportunity for dialogue between the requisitioning school or department and the vendor community. Both facilitate the timely exchange of information to enable the school or department and vendors to clarify solicitation requirements. In addition, any need for changes in specifications or solicitation requirements may be addressed to facilitate a more competitive environment, meet industry standards, or better define District needs. Pre-bid Conferences and Site Visits are most appropriate when:

a. Specifications or customer requirements are highly technical or complex in nature and the likelihood of a misunderstanding is significant.
b. A site walk-thru is desired.
c. The potential benefits outweigh the expenditure of time, cost or resources involved.
d. Vendors request a Pre-bid conference.
e. The award will be based upon an array of non-cost considerations.
f. Goods or services have not previously been contracted for or the vendor community is unfamiliar with the District’s unique requirements.
g. A determination has been made that such action is in the District’s best interest.

VII. **Release of Information** Throughout the solicitation process, Purchasing Department personnel must not provide any information that might give one Bidder an advantage over others. Should a Bidder request clarification whether written or oral, no additional information with regard to the solicitation is to be provided to one Bidder that is not available to all others. Any clarifications should be done through a formal written amendment.

**Solicitation Amendments** After release of a solicitation, any changes made to it prior to the due date and time must be done through issuing a written amendment by posting it on the District Purchasing Department web page and/or posting it on the Public Purchase on-line system. Any oral communication is not binding.

VIII. **Receipt and Opening of Responses**

a. **Response Time** Responses must be received at the Purchasing Department no later than the due date and time. To preserve the integrity of the procurement, the Purchasing Department is to time
and date stamp a properly sealed Bidder response upon receipt to confirm timely receipt. A late response cannot be considered and will be returned un-opened to the Bidder or retained at the District’s option.

b. **Signed** An authorized signature page must include an original or electronic signature to be considered responsive. A signed copy of an authorized signature page may be accepted separately if it is received no later than the bid closing date and time. In general, a response lacking an appropriate signature on an authorized signature page will be rejected. However, purchasing personnel may consider responses which include satisfactory evidence of the Bidder’s intent to be bound by the terms of their response such as a signed cover letter. A response which is neither signed nor includes satisfactory evidence of bidder’s desire to be bound by terms and conditions shall be rejected by purchasing personnel after review of all documents included in the response. If the Purchasing Department is using a digital or electronic signature in the bid, a response which is submitted electronically and/or includes a digital signature may be accepted provided it otherwise meets solicitation requirements.

c. **Sealed** A response which is not received in a sealed envelope will be rejected. This includes all envelopes which are secured by metal clasp or twist tie string, or otherwise allow for unauthorized access. A Bidder delivering an unsealed response may correct the deficiency provided it is submitted no later than the due date and time.

d. **Disclosure** Responses and all associated documentation are confidential and must not be disclosed until after contract award.

e. **Mistakes and Withdrawal** Mistakes in bids or proposals detected prior to the due date and time may be corrected by the Bidder by withdrawing the original bid or proposal and submitting a corrected bid or proposal to the purchasing activity before the due date and time. If there is not sufficient time prior to the due date and time to withdraw the original bid or proposal and submit a corrected bid or proposal, the bidder, or an authorized representative, may correct the mistake on the face of the original bid or proposal provided that the corrected bid or proposal is time stamped by the Purchasing Department upon resubmission prior to the due date and time. Bidder mistakes in a bid or proposal detected after due date and time may not be corrected. If the Bidder submits evidence in writing satisfactory to the Purchasing Department that a mistake has been made by the Bidder in the calculation of its bid or proposal, the Purchasing Department may allow the bid or proposal to be withdrawn provided that the claim of mistake and supporting documentation is provided within three business days after the due date and time. Compliance with this section within the specified time limit shall relieve the Bidder of forfeiture of its bid guarantee. If the Purchasing Department subsequently reissues the solicitation, the Bidder having made the mistake may not participate in that solicitation. An authorized Bidder representative is permitted to withdraw its response before the due date and time by submitting the withdrawal request in writing. Withdrawn responses will be returned unopened to the Bidder.

**IX. Evaluating Responses** The core elements typically evaluated in determining the successful Bidder are responsiveness, responsibility, and lowest cost, although the District may consider other factors authorized by law. (See RCW 39.26.160)

a. **Evaluation Committee** Responses are often evaluated by a committee. To protect the integrity of the solicitation process evaluators should each complete a Declaration of Conflict of Interest and Confidential Information form provided by the Purchasing Department. The completed forms will be placed in the bid/contract file. Evaluators should be informed that bid information submitted to
b. **Responsiveness Evaluation**  Responsiveness means compliance with the requirements of the solicitation. When determining responsiveness, the responses must be evaluated consistent with the solicitation requirements, including specifications and contractual terms and conditions. Absolute conformity is not required but a response must substantially comply with the material aspects of the solicitation. A response that fails to conform to the material requirements of the solicitation is to be rejected. The Bidder is to be notified of the reasons for such rejection. However, the Purchasing Department, at its discretion, may waive an informality in a response. An informality is defined as an immaterial variation from the exact requirements of the competitive solicitation, having no effect or merely a minor or negligible effect on quality, quantity, or delivery of the supplies or performance of the services being procured, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to bidders. Common mistakes that result in a nonresponsive determination include:

1) Bidder fails to provide or submit all information as required.
2) Bidder does not possess the required credentials, qualifications, certifications, personnel, equipment, or resources to be eligible for consideration.
3) Bidder fails to meet the minimum specification requirements.
4) Bidder fails to accept the terms, conditions, or requirements of the solicitation.
5) Bidder will not accept an award unless the solicitation terms and conditions are modified or altered.
6) Bidder indicates that it will only accept an award for all line items when the solicitation allows award by line item or aggregate grouping of line items.
7) An authorized signature page is not signed and there is no satisfactory evidence submitted prior to due date and time which clearly indicates the Bidder’s desire to be bound by his/her bid such as a signed cover letter.
8) The item bid does not meet the stated specifications and the Bidder has not indicated the item bid is an alternate.

c. **Responsibility Evaluation**  Responsibility means whether the Bidder has the apparent ability to successfully perform the contract. Factors used in determining responsibility include the Bidder’s capability, skill, experience, and reputation. RCW 39.26.160 sets out specific criteria that must be given consideration when determining responsibility.

Additional criteria may be listed in the solicitation document, such as submission of references, financial statements, certifications, etc. The solicitation document must clearly set forth the requirements and criteria that the District will apply in evaluating bid submissions.

d. **Price and Cost**  In determining lowest bidder, other factors may need to be considered beyond proposed pricing to arrive at the lowest total cost to the District such as:

1) Transportation, delivery, and installation charges.
2) Life cycle costing or energy efficiency of the product throughout the anticipated life of the product.
3) Environmental factors.
4) Warranty, maintenance, parts, and training.
5) Trade-in credit.
6) Preferences and adjustments – Prompt Payment, Reciprocity, and Recycled Material.

These factors are explained below.

1) Transportation, Delivery and Installation Transportation costs include the fee charged for transporting and handling the goods to be supplied, delivery fees and installation charges.

2) Life Cycle Costing Whenever there is reason to believe that applying the "life cycle costing" technique to bid evaluation would result in lowest total cost to the District, first consideration must be given to the bid with the lowest life cycle cost which complies with specifications. "Life cycle cost" means the total cost of an item to the District over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner.

3) Warranty, Maintenance, Parts and Training Ensuring that the product(s) supplied will successfully perform throughout its intended useful life may have an associated cost that impacts the total cost to the District. Accordingly, in determining the lowest bidder, it may be appropriate for the evaluation to consider warranty, maintenance repair, training, equipment upgrades, supplies, replacement parts or other related costs.

e. Other Evaluation Phase Considerations Prior to Award

1) Decision to Re-bid or Cancel In accordance with RCW 39.26.160, a solicitation may be canceled and all bids rejected before award but after bid opening only when the Purchasing Department Manager determines in writing that:

   a. Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation.
   b. Specifications, terms, conditions, or requirements have been revised.
   c. The supplies or services being contracted for are no longer required.
   d. The solicitation did not provide for consideration of all factors of cost to the Purchasing Activity.
   e. Bids received indicate that the needs of the Purchasing Department can be satisfied by a less expensive article differing from that for which the bids were invited.
   f. All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the Purchasing Department cannot determine the reasonableness of the bid price.
   g. No responsive bid has been received from a responsible bidder; or the bid process was not fair or equitable.
   h. If any of the above criteria apply to the solicitation and an award is not consistent with the District’s best interests then cancel the bid and: Notify Bidders of the cancelation.

Document the Purchase File and explain how the decision making process that leads to the decision conforms to RCW 39.26.160.
f. **Negotiation** Consistent with RCW 39.26.160, after the opening of bids, the Purchasing Department may not reject all bids and enter into direct negotiations to complete the planned acquisition. However, the Purchasing Department and requisitioner can enter into negotiations exclusively with the lowest responsible Bidder in order to determine if the lowest responsible bid may be improved. Improvement may include but is not limited to:

1) Pricing.
2) Delivery or scheduling.
3) Payment Terms.
4) MWBE Participation.
5) Other provisions.

Negotiation of the following is not allowed:

1) Scope of work.
2) Bid specifications.
3) Terms and Conditions.
4) Other bid requirements.

X. **Contract Award** Upon award, all Bidders that responded to the solicitation will be notified of results. Notification to Bidders may be through the Public Purchase on-line system, facsimile, e-mail or U.S. Postal Service. Regardless of notification method used, timely (same day) action should be taken to notify all Bidders of the award decision. Evidence of notification of all Bidders must be maintained in the Bid/Contract file. Note: Consistent with WAC 200-320-405, after bids, quotes or proposals have been received, all such information becomes the property of the Purchasing Department and shall not be released or otherwise distributed until after the evaluation has been completed and final award(s) announced.

a. **Protests** The Purchasing Department is responsible for responding to protests related to any procurement they conduct. Protests are normally not allowed more than five business days after notification of the award decision.

b. **Prevailing Wages** Purchases for services made under delegated purchase authorities may be subject to the Department of Labor and Industries (L&I) prevailing wage requirements in RCW 49.28. Where applicable, solicitation and contract documents must contain prevailing wage requirements. Based on L&I guidance, the Purchasing Department will determine the applicability of prevailing wage requirements to specific acquisitions of goods and purchased services. L&I provides information on specific current prevailing wage rates for applicable job classifications/locations.

XI. **Public Works** Public Works contracting requirements are covered in RCW 39.04. This RCW should be referenced by the Purchasing Department in order to determine specific competitive bid requirements that apply to different scenarios.

a. **Small Works Roster Contract Procedures**. The RCW allows for a limited public works process which is defined in RCW 39.04.155. The Purchasing Department will ensure that these contract procedures are met when the small works roster is utilized.
b. **For Limited Public Works Projects** estimated to cost less than $35,000 the Superintendent (delegated to Purchasing Department) may solicit electronic or written quotations from a minimum of three contractors from the small works roster. The contract may be awarded to the lowest responsible bidder pursuant to the factors listed in RCW 39.04.155. After an award is made, the quotations received are open to public inspection and are available by electronic request. The superintendent shall attempt to distribute opportunities for limited public works projects equitably among contractors willing to perform in the District. The District will maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four months under the limited public works process, including the name of the contractor, the contractor’s registration number, the amount of the contract, a brief description of the work and the date the contract was awarded. A project may not be divided into parts in order to qualify for the limited public works process.

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

d. Formal written contracts shall be prepared for all major construction and repair projects. Such contracts shall be signed by the Superintendent on behalf of the District after the contracts award has been approved by a majority vote of the board with action recorded in the minutes of the board meeting. All contracts shall provide that, in the event of a suit by the District to enforce the terms of the contract, venue for the suit shall be laid in the county in which the District is located and that, if the District is successful in the suit, the court may order reimbursement of the District's attorney's fees and court costs in such amount as the court deems reasonable. The contract shall contain a proviso requiring the contractor to prohibit any of its employees who has ever been convicted of or pled guilty to any of the child related felonies from working where he/she has contact with public school children. The contract shall also provide that failure to comply with this requirement is grounds for immediate termination of the contract.

XII. **Procurement Using Federal Funds**

When federal funds are used for procurement of **goods** (furniture, supplies, equipment and textbooks):

- Purchases of $10,000 or less do not require quotes. However, the district must consider the price to be reasonable, and, to the extent practical, distribute purchases equitably among suppliers.
- Purchases between $10,000 and $75,000 must be procured using price or rate quotations from three or more qualified sources.
- Purchases of $75,000 or more must be publicly solicited using sealed bids.

When federal funds are used for procurement of **services**:

- Purchases of $10,000 or less do not require quotes. However, the district must consider price to be reasonable, and, to the extent practical, distribute purchases equitably among suppliers.
- Purchases between $10,000 and $250,000 must be procured using price or rate quotations from a reasonable number of qualified sources.
- Purchases of $250,000 or more must be publicly solicited using sealed bids.

Procurement by **noncompetitive** proposals only appropriate when:
• Available from a single source (sole source)
• Public emergency
  • Expressly authorized by awarding or pass-through
  • agency in response to written request from district
• After solicitation of a number of sources, competition is determined inadequate.

The district must maintain documentation supporting the applicable circumstance for noncompetitive proposals.

**Suspension and Debarment**

Before entering into federally funded vendor contracts for goods and services that equal or exceed $25,000 and any subcontract award, the district will ensure the vendor is not suspended or debarred from participating in federal assistance programs.

The superintendent will establish bidding and contract awarding procedures consistent with state and federal law.

**Conflict of Interest**

No employee, officer or agent may participate in the selection, award or administration of a contract supported by federal funds if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

No employee, officer or agent of the district may solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to subcontracts, except as authorized under Regulation 1610R or Policy 5251. Violation of these standards may result in disciplinary action including, but not limited to, suspension, dismissal or removal.

**Certification Regarding Lobbying and Disclosure of Lobbying Activities**

A certificate regarding lobbying activities must be completed for all new and renewal contract years when the contract exceeds $100,000. This requirement is applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding $100,000 in Federal Funds.

The submission of this certification is imposed by section 1352, Title 31, U.S. Code and will be included in District bid and contract terms and conditions for purchases using Federal Funds.

**XIII. Indirect Costs**

**Policy Statement**

Tacoma Public Schools (TPS) recognizes that providers of contracted services and grantees may incur necessary overhead or administrative costs in the conduct of their work that either cannot be directly attributed to funded activities, or that are unreasonably complex to isolate, such that the burden of identifying these costs far eclipses the effort required. As a publicly funded agency, it is also
incumbent upon TPS to maximize the proportion of its funding that directly serve its purpose, while minimizing the proportion of funding that supports overhead or administrative costs. Accordingly, TPS will pay indirect costs up to a maximum of 10 percent of total direct costs for funded contracts and grants.

**Definitions**

Costs may be classified as either direct costs or indirect costs depending on the nature of the activity and the nature of the expense.

**Direct Costs** – Expenses that are incurred solely for the sponsored project and that can be specifically attributed to the project should be considered direct costs. Costs that would not be incurred if the contract or grant did not exist are often indicative of direct costs.

**Indirect Costs** – Expenses that would be incurred regardless of whether a contract or grant is awarded are often indicative of indirect costs. Examples of indirect costs may include facilities, accounting, human resources, payroll, legal, and information technology. Costs normally considered indirect by the contractor or grantee should not be separately included as direct costs.

There are two types of federal indirect costs. A restricted rate is used for any federal program that has a “supplement, not supplant” requirement, which means the federal money is used to supplement the amount of money that a district has to spend on a particular program, and is not used “in place of” state/local funds. An unrestricted rate is used for programs that do not have a “supplement, not supplant” requirement.

The district is not required to claim any or all of the indirect amount they are entitled to, but may claim up to the full amount, as long as it is included in the district’s approved budget. The indirect rate may be applied to all allowable direct expenditures that will be claimed under a particular grant award, less some exceptions (e.g., indirect costs will only be applied to the first $25,000 of an individual contract).

**Exceptions**

Exceptions to this policy may be made as required by federal, state, or local law or grant management policy, such as in the case of flow-through of federal grant funds to a sub-recipient agency with a federally-negotiated indirect cost rate.
RCW 39.30.060 Bids on public works — Identification, substitution of contractors
2 CFR 200.318 – General Procurement Standards
34 CFR 80.36 Procurement
34 CFR 85 Debarment and Suspension